Contemporary Hong Kong Politics
Governance in the Post-1997 Era
Edited by Lam Wai-man, Percy Luen-tim Lui, Wilson Wong and Ian Holliday
Contemporary Hong Kong Politics

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Book

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“At first glance, Square Word Calligraphy appears to be nothing more unusual than Chinese characters, but in fact it is a new way of rendering English words in the format of a square so they resemble Chinese characters. Chinese viewers expect to be able to read Square Word Calligraphy but cannot. Western viewers, however are surprised to find they can read it. Delight erupts when meaning is unexpectedly revealed.”

— Britta Erickson, The Art of Xu Bing
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Foreword

Richard C. BUSH

When you think about it, Hong Kong has a rather peculiar political system. It is not in any sense a government “of the people” and “by the people”. Instead it was designed by outsiders. The foundation was a British technocratic colonial administration with mechanisms for consultation with the indigenous Chinese elite. As the outgoing sovereign — Great Britain — negotiated its exit with the successor sovereign, the People’s Republic of China (PRC), it sought to create checks against the arbitrary exercise of state power, an imperative made all the more pressing by the events in China in June 1989 and thereafter. But it was Beijing regime (another group alien to the territory) that controlled the writing of the Hong Kong Basic Law, which included some of those British checks but also imposed checks of its own, to ensure that political forces that it feared would not come to power. For in writing the charter for Hong Kong, the Chinese leadership was also operating under the dark shadow of Tiananmen. It did not wish to see the PRC’s new special administrative region (SAR) become a base for subversion against Communist Party rule. Chris Patten, the clever, final representative of the departing sovereign, fought a rearguard action to expand the elements of popular rule in the new political system but in the end Beijing got its way.

The system that emerged is definitely a liberal system, one in which civil and political liberties are protected. As some chapters of this volume make clear, there are sometimes struggles to define the boundary between individual freedom and the power of the state (the Article 23 episode was the most obvious). That the Central People’s Government has on occasion intervened in these struggles introduces a layer of complexity unknown elsewhere. Yet these struggles are at the margin and are not unknown in other liberal systems. Moreover, the Hong Kong system is one that performs relatively well in facilitating economic growth, providing social services, preserving the rule of law, and limiting corruption — again, far from perfect but still better than other systems in other parts of the world.

On the other hand, this is a system where the people do not pick their leaders by elections under universal suffrage, and it is those sorts of elections that more than anything else are thought to make a democracy a democracy. They are the ultimate mechanism by which such systems render accountability
on leaders’ performance. The reason to deny universal suffrage seems simple: the government in Beijing has wanted to ensure that the outcomes of leadership selection are to its liking — or, to be more precise, are not to its disliking — and so wrote the Basic Law accordingly. More broadly, PRC leaders have set tests of political loyalty (“patriotism”) for those who participate in Hong Kong politics.

The issue that has roiled Hong Kong politics ever since reversion is whether a system that is by and large liberal and effective but not democratic can be legitimate in the eyes of the public it is supposed to serve (can it be truly a “government for the people”?). Or is leadership selection through universal-suffrage elections a necessary (but not sufficient) condition of a legitimate political system? The question is not one to be approached ideologically or without due consideration. It can be argued, for example, that the advantages that incumbents (both presidential and legislative) enjoy in the United States makes it excessively difficult to hold them to account for poor performance. Why, to continue the point, should American voters have to wait eight years to have a realistic chance to drive from power a party that has made significant mistakes, simply because its president could use his or her White House advantage to win an easy re-election?

There is another reason that the degree of legitimacy of a liberal, effective but non-democratic system is not an idle question. Perhaps the best we can expect politically in those parts of the People’s Republic of China directly now ruled by the Chinese Communist Party (CCP) is just such a system. The current leadership claims a technocratic capacity that its predecessors lacked. The CCP is more likely to allow civil and political liberties than it is to put its monopoly of power at risk through elections. So a Hong Kong where the people genuinely applaud technocratic competence, appreciate their freedoms, and accept the absence of contests for political power might be the kind of system that Hu Jintao or his successor might be willing to see replicated throughout China.

So far Hong Kong people don’t like freedom without democracy. In polls, a comfortable majority consistently support universal suffrage. So does the United States government. In the interests of transparency, let me say that I believe that a transition to democracy could occur without endangering the stability for which Hong Kong is justly famous. Moreover, I think, China has hurt itself by blocking that transition, for it damages its image, not only in Hong Kong and Taiwan but also internationally. It also denies itself the chance to use a democratic Hong Kong as a test-bed for political change in other metropolitan areas of China. At this point, in my view, all Beijing would have to do to solve this issue is set out a timetable for the movement towards universal suffrage early in the next decade.

There is no way of knowing whether China’s leaders will take that electrifying step. Yet whatever they do, one may argue that it makes sense for leaders, civil society, and publics in Hong Kong to work now to improve the political system that exists. On the one hand, if a transition to democracy occurs, it will be more likely to succeed if there is a foundation of institutions to serve as the pilings of the new order. Indeed, where democracy is deficient around the world today, it is
because the transition to democracy has not been followed by the consolidation of
democracy, a key element of which is institutionalization. Many of the institutions
that Hong Kong will need exist already, some in a rather immature form. They
can be improved to minimise the gap between transition and consolidation.

On the other hand, until a transition to democracy (whenever it comes)
occurs, there can usefully emerge mechanisms for measuring the performance
of leaders and of the technocracy in the absence of the elections that render
accountability. A sophisticated media, public opinion, civil society can all
perform these functions. Although these measuring mechanisms may not have
the legitimacy of elections (which themselves can have their defects), they still
have their value. And their effectiveness should be improved whenever possible.

Hong Kong is blessed with outstanding scholars who possess the analytic
skills to assess the SAR’s unique political system. This volume is a good example of
those scholars in action. Whether they are assessing Hong Kong’s institutions or
the performance of the government, they make a significant contribution to our
understanding. Whether readers wish to gauge the “measurement mechanisms” of
institutions in Hong Kong today or the readiness those institutions for a transition
to democracy some time in the future, there is much to learn in the pages that follow.

Richard C. BUSH
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Foreword

KUAN Hsin-chi

This book represents a major effort of the Hong Kong Political Science Association, in collaboration with its members and friends, to reach out to the Hong Kong community and attempt to stimulate students of Hong Kong politics to think more and debate about issues pertinent to the governance of Hong Kong. I expect this textbook to make a significant contribution to civic education in Hong Kong. Readers will acquire a basic understanding of how our daily life is affected by public policies such as taxation, health, education, and urban development. They will learn how policies in turn are shaped by politics. Given the critical nature of the chapters, students of this book are exposed to an array of analytical perspectives to political and policy problems. These perspectives are important for the cultivation of citizenship in a pluralist society.

We have here a comprehensive and competent survey of political institutions, major policy areas and their internal as well as external environments. For a collective volume like the present one, it is a rare achievement that the authors follow more or less a common framework. Most chapter topics start with a synopsis of the historical background, followed by description of the major patterns of the current situation, occasional clarifications of concepts, approaches and theories, and an assessment of trends of development. The core issue of effective, fair and legitimate governance provides the common thread to ensure coherence of the book. On the whole, the chosen tasks of the contributors to this volume have been successfully accomplished.

Part I, “political institutions”, occupies a central place in the book. The implicit assumption of this part is that institutions, i.e. the executive, legislature, judiciary, civil service, and local advisory bodies, matter in the governance of Hong Kong. The analysis of governance is concentrated on the issue of policy making, to the neglect of policy implementation. On the issue of policy making, the relationship among the institutions is a major factor affecting the governance of Hong Kong. The key concept relevant to all relations is “the executive-led government”. The follow-up issues of governance can then be aligned through assessing the contribution of pertinent relationships to the executive-led government.
Chapter 2 makes a distinctive argument that the executive-led government has been replaced by the executive-driven government. This is regarded as the main cause for ineffective governance. Under the executive-driven government, the executive (no matter how it is composed) can govern effectively only if it can secure majority support in the Legislative Council through constant efforts of coalition building. Such support is not ensured by institutional means, but by persuasion and performance. As a result, support is unstable and unreliable. As a remedy, the author places his hope on the emergence of professional political leaders and a mature party system. The latter is nevertheless not an institutional source for an executive-led government. It is difficult to understand how its availability can overcome the institutional inertia of the executive-driven government. The remedy of a mature party system depends on the definition of maturity that is not given. It can probably work only if the same party or coalition of parties controls both the executive and the legislature. This boils down to the institutional choice between the presidential form and the parliamentary form of government, a political development issue recently raised by Mrs Ip Lau Suk-yee.

The chapter on the Legislative Council by Percy Lui has its focus on and strength in the problems of capacity and performance. We can better examine further whether the concept of “executive-led government” mandates a weaker legislature or in what ways governance can be improved by a mixture of a strong executive and a strong legislature.

The rule of law and judicial independence are cherished principles for the people of Hong Kong. Chapter 4 alerts the reader to the challenges that the inherent conflicts between the Hong Kong and the Mainland legal systems (I would add legal culture) pose to those principles. It reminds us too that the issue of governance in Hong Kong cannot be confined by the boundaries of Hong Kong only. The role of Hong Kong’s judiciary in governance consists not only in the judicial review of acts of the local executive and legislature, but also in its constitutional jurisdiction over acts of the NPC and the SCNPC according to the Basic Law.

The role of the civil service constitutes the key topic of Chapter 5. We are told that, albeit no longer dominant in the political system as under colonialism, the civil service system is still influential in the governance of Hong Kong. An important question ensues. While some institutional changes, say the Accountability System for Principal Officials (ASPO), have stripped the civil service system of its traditional dominance, what accounts for its continued influence? Is any institutional factor involved?

Local, advisory and statutory bodies are perhaps the least studied institutions in the literature about politics in Hong Kong. Chapter 6 thus provides an important addition to the field. Looking back in the colonial era, these bodies’ main contribution to the governance of Hong Kong consisted in serving as the bridge between the policy-making centre of the political system and the society. In the case of district and municipal councils, they also functioned as a surrogate for democratic reforms. With the advance of electoral, party and parliamentary politics, these
bodies have suffered varying degrees of abridgement in their political influence. Whether recent reforms of these bodies can improve governance remains to be seen.

Institutions covered in Part II of the book are popular subjects for textbooks. This volume however distinguishes itself in the conceptual emphasis on their function of intermediation between society and politics and the processes by which they operate. Individuals and families rarely react to political stimuli in any direct manner. Their perceptions, preferences and actions are mediated by social groups, political parties, and in a modern society most importantly, by the mass media. Given the persistent underdevelopment of political parties and the party system (Chapter 7), civil society and mass media assume a much greater role in the governance of Hong Kong than their counterparts overseas. As elaborated in Chapters 8 and 9, they facilitate the struggle over the political discourses and mobilise political participation. Thus, what and how the public think about politics and whether and how effective their demands and support are transmitted to the government are largely filtered through these institutions. Their aggregate impact on governance is however difficult to assess. Individually speaking, the weak and polarised party system can hardly be expected to effectively contribute to the consensus building in the public policy process. The civil society is admittedly vibrant but oftentimes too fragmented to exert a united front in the process of governance. Commercialisation and increased political partisanship of the mass media may compromise its intermediation role but facilitate the kind of governance as dominated by established political and business interests. In this case, the mass media may run the risk of becoming the transmission belt of the ruling class.

Part III offers an excellent analysis of three major policy areas. The authors are commended for their choice of the political logic for the understanding of public policies. In this light, policies reflect the power configuration of society. The authoritative distribution of benefits and burdens among individuals and families through public authority is the result of the interplay of political influences. In Chapter 10, Wilson Wong and Sabrina Luk show that the major redistribution in Hong Kong through the fiscal system is not from the higher income group to the lower income group but from the middle class to the lower income group. Both Paul Wilding (Chapter 11) and James Lee (Chapter 12) mentioned the immense political influence of property developers on government housing policies, especially in terms of what the author calls “the residualisation of government responsibility”. The hegemony of the “economy first” ideology at the expense of social policy is, in the words of Wilding, a dysfunctional approach to governance. For Lee, urban policy involves a complex structure of interest (and I would like to add “values” too) articulation. Besides, the policy-making process in urban development and management is dominated by a circle of rentiers seeking to protect their private interests in land and housing. The issue of governance is hence complicated in this instance. On the one hand, the decline of governability during the weak administration under Tung Chee-hwa ushered in a growth of civil activities and organisations in the urban policy area. On the other hand, it remains
to be seen whether the government can succeed in enhancing governability in this policy area through the building up of channels for community participation, such as the Council for Sustainable Development. In a nutshell, the issue of governance in this part of discussion boils down to the structure of political participation in the policy process. It is a major issue that is very relevant to the current debates about political reforms, generally summarised in the controversial questions of democratisation versus “balanced participation”. While the first is meant to empower the common people, the latter protects the interests of the establishment. Thus, tensions are inevitable. The concluding chapter of the book is of the view that, short of “full democracy”, all other meaningful reforms should be undertaken immediately to make the institutions of policy making more open, transparent, and accountable. This category of reforms includes a more equitable fiscal system, informed and open policy debates, and citizen participation at the community level. This is well taken but, in line with the political logic espoused in the book, any progress of the proposed reforms certainly depends on the extent to which the government can free itself from the political influence of the rich.

Part IV deals with the political environments of the governance of Hong Kong. With an export-oriented economy and a dependent polity, the external parameters could be regarded as even more important than the internal ones. A proper view of the environments per se would require an examination of the perceptions of and the policies towards Hong Kong of different kinds of actors in the external environments and their capability to deliver these policies. These factors then constitute the different kinds of opportunities for and constraints on Hong Kong in shaping its adaptive behaviour with consequences for its governance. The first chapter in this part provides a succinct picture of socio-economic integration between Hong Kong and China as well as a rare and comprehensive catalogue of different kinds of communication and coordination channels between the two places. With this very useful information in mind, the author poses a puzzle as to why the pronounced increase in communication and coordination has not prevented the outbreak of demonstrations and protests based on value conflicts (human rights, democracy and autonomy) and mutual mistrust. To the present writer, the solution to the puzzle lies in the inter-governmental nature of the communication channels. Inter-governmental communication, no matter how effective, simply does not translate into a better communication between governments and the people. For Yep, the author of the chapter, the cause for the gap between the increase in formal communication mechanisms and socio-political stability can be traced back first to Beijing’s prescription for Hong Kong as an economic city, together with the CPG’s bias towards the business sector. The simplistic view of the relations between China and Hong Kong was harboured by Chief Executive Tung Chee-hwa is also held responsible for the mismatch.

Chapter 14 by Ting Wai and Ellen Lai offers excellent questions about the “one country, two systems” experiment in the global context, apart from a detailed description of the Hong Kong policies of the US, the European Union
and Japan. They begin with the fundamental change of Hong Kong’s geopolitical status in 1997 when Hong Kong was transformed from a part of the West to a part of China. Then, they posit an argument about the convergence of Western and Chinese interests in preserving the status quo. This implies that before 1997, the interests of the Chinese government and its counterparts in the West were divergent. The thesis of convergence however does not square well with the perceived dilemma for Hong Kong whether to become a more Chinese society or remain international. Apparently, there are different kinds of interests of China and the West and these kinds of interests operate at different levels of the field of Sino-Western-Hong Kong relationships. The authors have indeed touched upon the different expectations of the Chinese and the Western stakeholders of the role and status of Hong Kong. The structure of China’s political order works as an overriding constraint on Hong Kong. The tenets of this order are the leadership of the Chinese Communist Party, the principles of national independence and territorial integrity, and the fundamental goal of national unification. Therefore, as the authors state it, China welcomes economic but not political internationalisation of Hong Kong. I would like to add that when it comes to politics, China wants the people of Hong Kong to be more nationalistic and patriotic. For the Western powers, however, the “principle of continuity” is paramount, i.e. keeping Hong Kong as it was before 1997, albeit now under Chinese sovereignty. This status quo has an institutional dimension in the rule of law, civil liberties, human rights, and a free and fair market with a level playing field. These interests diverge between the West and China and have to be weighed against the common interests in Hong Kong’s role as an intermediary between the two worlds, its stability and prosperity, and a favourable business and investment environment. I would submit that the true challenge to the development of Hong Kong in the Sino-Western relationship does not lie in the bifurcated choice of being a Chinese or an international city, but rather in a synthetic choice of being both Chinese and international at the same time. We must recognise the fact that the ascendance of the Chinese character of Hong Kong is inevitable given the increasing socio-economic integration with China, the growing influence of Chinese culture and mores, the intensified political and administrative cooperation across the border, and the inclusion of Hong Kong in China’s five-year plans. Yet on the other hand, the growing presence of Western governments, businesses and non-governmental organisations in Hong Kong and the forces of globalisation should also be conducive to the strengthening of its international role and status. The only remaining concerns are the policy positions of the SAR government and its counterpart in Beijing. At the end of the day, an ultra-nationalistic policy and interventionist style of governance may jeopardise the prospect for a healthy dual character of Hong Kong as an international city with Chinese characteristics.

A final word is in order. This book is a must-read for anyone interested in contemporary politics in Hong Kong. As a convenient entry to the subject matters, it is especially useful for general education teachers and students. They will find
the book readable, informative, analytical and stimulating. The questions and readings appended to the chapters will help readers to grow in skills and knowledge.

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Acronyms and Abbreviations

ADPL  Association for Democracy and People’s Livelihood
AO    administrative officer
ASPDMC Alliance in Support of Patriotic Democratic Movements of China
ASPO  Accountability System for Principal Officials
ATV   Asia Television Limited
BL    Basic Law
CBD   central business district
CCP   Chinese Communist Party
CE    chief executive
CEPA  Closer Economic Partnership Arrangement
CFA   Court of Final Appeal
CNAPS Center for Northeast Asian Policy Studies
CP    Citizens’ Party
CPG   Central People’s Government
CPGLO Central People’s Government Liaison Office
CPI   Corruption Perceptions Index
CPU   Central Policy Unit
CRC   Cooperative Resource Centre
CS    Chief Secretary for Administration
CSSA  Comprehensive Social Security Assistance
DAB   Democratic Alliance for the Betterment and Progress of Hong Kong
      (formerly Democratic Alliance for the Betterment of Hong Kong)
DB    district board
DCFC  District Council Functional Constituency
DP    Democratic Party
EC    Election Committee
EIU   Economist Intelligence Unit
EPP   Enhanced Productivity Programme
ExCo  Executive Council
FC    functional constituency
FS    Financial Secretary
**Acronyms and Abbreviations**

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<th>Acronym</th>
<th>Description</th>
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<td>GAD</td>
<td>gender and development</td>
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<td>GC</td>
<td>geographical constituency</td>
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<td>GDETO</td>
<td>Hong Kong Economic and Trade Office in Guangdong</td>
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<td>HA</td>
<td>Housing Authority</td>
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<td>HKAS</td>
<td>Hong Kong Affairs Society</td>
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<td>HKCSI</td>
<td>Hong Kong Civil Society Index</td>
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<td>HKCTU</td>
<td>Hong Kong Confederation of Trade Unions</td>
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<td>HKFTU</td>
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<td>HKMA</td>
<td>Hong Kong Monetary Authority</td>
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<td>HKPA</td>
<td>Hong Kong Progressive Alliance</td>
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<td>HKSAR</td>
<td>Hong Kong Special Administrative Region</td>
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<td>HKSARG</td>
<td>Hong Kong Special Administrative Region government</td>
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<td>HKUPOP</td>
<td>Hong Kong University Public Opinion Poll</td>
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<td>HOS</td>
<td>Home Ownership Scheme</td>
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<td>ICAC</td>
<td>Independent Commission Against Corruption</td>
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<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<td>ISD</td>
<td>Information Services Department</td>
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<td>JCPDG</td>
<td>Joint Committee for the Promotion of Democratic Government</td>
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<td>JPART</td>
<td>Journal of Public Administration Research and Theory</td>
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<tr>
<td>LDF</td>
<td>Liberal Democratic Foundation</td>
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<td>LegCo</td>
<td>Legislative Council</td>
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<td>MP</td>
<td>Meeting Point</td>
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<td>MPF</td>
<td>Mandatory Provident Fund</td>
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<td>MTR</td>
<td>Mass Transit Railway</td>
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<td>NCCPC</td>
<td>National Committee of the Chinese Political Consultative Conference</td>
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<td>NGO</td>
<td>non-governmental organisation</td>
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<td>NPO</td>
<td>non-profit organisation</td>
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<td>NIC</td>
<td>newly industrialised country</td>
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<tr>
<td>NPC</td>
<td>National People’s Congress</td>
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<td>NPCSC</td>
<td>National People’s Congress Standing Committee</td>
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<td>NPM</td>
<td>new public management</td>
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<tr>
<td>OCMFA</td>
<td>Office of the Commissioner of the Ministry of Foreign Affairs</td>
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<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
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<td>PAR</td>
<td>Public Administration Review</td>
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<td>PLA</td>
<td>People’s Liberation Army</td>
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<td>PLC</td>
<td>Provisional Legislative Council</td>
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<tr>
<td>PR</td>
<td>proportional representation</td>
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<td>PRC</td>
<td>People’s Republic of China</td>
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<td>PRD</td>
<td>Pearl River Delta</td>
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<td>PSC</td>
<td>Public Service Commission</td>
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<td>QANGO</td>
<td>quasi-autonomous non-government organisation</td>
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<td>RC</td>
<td>Regional Council</td>
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<td>REIT</td>
<td>real estate investment trust</td>
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<td>RMB</td>
<td>Renminbi</td>
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<td>RTHK</td>
<td>Radio Television Hong Kong</td>
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<td>SAO</td>
<td>Senior Administrative Officer</td>
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<td>SAR</td>
<td>Special Administrative Region</td>
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<td>SARS</td>
<td>Severe Acute Respiratory Syndrome</td>
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<td>SC</td>
<td>Standing Committee</td>
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<td>SCNPC</td>
<td>Standing Committee of the National People’s Congress</td>
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<td>SD</td>
<td>sustainable development</td>
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<td>SDU</td>
<td>Sustainable Development Unit</td>
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<td>SJ</td>
<td>Secretary for Justice</td>
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<td>SPMS</td>
<td>Service Performance Monitoring System</td>
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<td>SSU</td>
<td>Secondary Students’ Union</td>
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<td>TDC</td>
<td>Trade Development Council</td>
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<td>TVB</td>
<td>Television Broadcasts Limited</td>
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<td>UC</td>
<td>Urban Council</td>
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<td>UDHK</td>
<td>United Democrats of Hong Kong</td>
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<td>UIA</td>
<td>Union of International Associations</td>
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<td>UK</td>
<td>United Kingdom</td>
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<td>WKCD</td>
<td>West Kowloon Cultural Development</td>
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Following China’s military defeat at the hands of Britain in the first and second Opium Wars (1839–42 and 1856–60), Hong Kong was placed under British colonial rule. It was within this context that Hong Kong experienced World War I, World War II, postwar refugee influxes, the embargo on young communist China in the 1950s, two significant riots in the 1960s, and an economic upswing in the 1970s. By the time of China’s resumption of sovereignty on 1 July 1997, in accordance with Sino-British Joint Declaration, Hong Kong had become one of the world’s leading cities.

The first chief executive, Tung Chee-hwa, launched the Hong Kong Special Administrative Region (SAR) administration by setting up grand development plans for the city. From a pledge to provide 85,000 housing units each year to proposals for a Cyberport science park and a Chinese medicine centre, Tung attempted to institute longer-term visions for a city renowned for transience and pragmatism. Unfortunately, many of these plans were derailed or modified because of objective problems or reluctance among the people of Hong Kong, who were either not ready or of a different mind than Tung. Various crises, ranging from economic to epidemiological, have plagued the place since 1997.

Economically, Hong Kong suffered from the Asian financial crisis that began in Thailand straight after Hong Kong’s handover in July 1997, and generated a period of economic turbulence and decline in the city. GDP fell by 4.8% in 1998 and by 2.6% in 1999. An increase of 3.4% in 2000 proved to be short-lived, and was followed by declines of 1.4% in 2001, 1.8% in 2002 and 2.2% in 2003 (Hong Kong Census and Statistics Department, 2004: Table 18.1). However, the increase of 5.1% in 2004 looked more solid (Hong Kong Census and Statistics Department, 2005). The unemployment rate (not seasonally adjusted) rose from 4.7% in 1998 to 7.9% in 2003 (Hong Kong Census and Statistics Department, 2004: Table 2.2), though by September 2005 it had fallen back to 5.7% (Hong Kong Census and Statistics Department, 2005). If economic prosperity had served the colonial government well as a buffer against political challenges, the Tung administration was not so fortunate.
Further, social inequalities appear to have increased over the years. The Gini coefficient, commonly used to indicate income inequalities, is a value between “0” and “1”, with “0” representing a state of absolute equality and “1” absolute inequality. In Hong Kong it went up from 0.518 in 1996 to 0.525 in 2001, ranking the city above only 16 developing countries from South America and Africa (World Bank, 2001: Table 2.8). In 2004, however, the coefficient dropped to 0.5 (Wikipedia, 2004). It is commonly believed that political space in Hong Kong has been greatly constricted since 1997. For example, attempts to legislate Article 23 of the Basic Law, Hong Kong’s mini-constitution, were widely perceived as threats to individual freedom and subsequently aroused substantial public controversy. The arguments culminated in a demonstration on 1 July 2003, in which half a million of Hong Kong’s people took to the streets to voice their grievances. On 1 July 2004, another demonstration attracted 200,000 participants according to the figures of the Hong Kong Police Force. People have accused the SAR government of missteps leading to Hong Kong’s economic decline, deterioration of the rule of law, and sluggish development of democratisation. Data collected by Civic Exchange showed that in June 1997, 66% of respondents were satisfied with the overall performance of the government. Satisfaction then plunged to 30% in August 2000, and to 20% in November 2003 (Civic Exchange, 2004: Tables 9 and 10). However, figures revealed by the Hong Kong University Public Opinion Poll (HKUPOP) in May 2005 revealed a change in direction, with satisfaction climbing back to 35.4% (HKUPOP, 2005). Added to these difficulties were some unprecedented health considerations, notably Severe Acute Respiratory Syndrome (SARS), which exposed the government’s inability to cope with crisis and a lack of coordination between departments.

On 10 March 2005, while Hong Kong appeared to be well on the road to economic recovery, rumours about Tung’s resignation for health reasons were finally confirmed. By gaining the nomination of more than 700 of the 800-member Election Committee that is entrusted with electing the chief executive, Donald Yam-kuen Tsang, formerly chief secretary of the SAR government and, as commonly called, a “long-term old battery” of the Hong Kong colonial government, replaced Tung as the second chief executive unopposed. While Hong Kong people are looking to Tsang to lead Hong Kong down the road of recovery, it is necessary to review the experiences of the SAR over the past eight years. This chapter will outline the general context of changes in Hong Kong since 1997 and introduce the volume’s structure and chapter material.

Sino-British negotiations and the Basic Law

Negotiations between China and Britain about the sovereignty transfer began informally in 1979, when Hong Kong Governor Murray Maclehose made an official visit to Beijing. In 1984, the two countries signed the Joint Declaration
stating that the British administration of Hong Kong would end in 1997. Hong Kong would become a special administrative region under Chinese sovereignty without British intervention. Also, its way of life, system of laws, and justice would be maintained for at least 50 years. The Sino-British Joint Liaison Group was subsequently established to ensure the effective implementation of the Joint Declaration. In 1990, the Basic Law was promulgated, restating the principles of “high autonomy” and the unprecedented model of “one country, two systems” for ruling Hong Kong (Box 1.1). The general framework of governance laid down by the Basic Law was highly similar to the colonial government’s: continuing elitist rule, executive-led government, laissez-faire economic policy, a capitalistic way of life, protection of individual freedoms, and limited democracy (Box 1.2). The belief enshrined in the Basic Law is that there is much value in the colonial legacy, which includes clinging to the social goals of stability and prosperity, administrative efficiency, political neutrality of civil servants, the rule of law, and gradual political reforms. The interesting question for post-1997 governance is to what extent “one country, two systems” can be successful given the legacy and the constraints of the Basic Law.

**Box 1.1 One country, two systems**

The principle of “one country, two systems” was proposed by Chinese leader Deng Xiaoping in 1984 during Sino-British negotiations over the future political arrangements of Hong Kong. It stipulates that Hong Kong can continue to practice capitalism with a high degree of autonomy for 50 years after 1997, and that its basic way of life shall remain intact.

**Box 1.2 The Basic Law**

The Basic Law is the constitutional document for the Hong Kong SAR. It was promulgated by China in 1990 and came into effect on 1 July 1997 when Hong Kong, formerly a British colony, was returned to China. The Basic Law consists of nine chapters with 160 articles, and three annexes. The enshrined principles include “one country, two systems”, “a high degree of autonomy”, and “Hong Kong people ruling Hong Kong”. Also, it stipulates the systems practiced in Hong Kong, such as the continuation of its capitalist system and way of life, and protects the rights and freedoms of its residents.

Although the central government of the People’s Republic of China (PRC) planned to maintain stability and continuity in both pre- and post-handover governance in Hong Kong, its plans were interrupted by the arrival of Chris Patten as Hong Kong governor in 1992. Patten made significant political and
administrative reforms in response to citizens’ demands for quality governance, which also indirectly resonated with the people’s desires for democracy. For example, government departments and agencies were required to publish annual performance pledges to enhance their accountability to citizens. Also, in the 1995 Legislative Council (LegCo) election, Patten deliberately redefined the functional constituencies (FCs), making more than 1.1 million individuals eligible to vote. In the 1991 election, only around 70,000 people had been able to vote in FCs. The Chinese central government viewed all of these proto-democratic moves with concern. As tensions heightened in 1996, China appointed a Provisional LegCo, which soon reversed all of Patten’s pro-democratic reforms.

Relations with China

Since the handover, the principle of high autonomy has been basically respected and the Hong Kong people’s trust of the central government is high. When asked whether they were satisfied with the performance of the PRC government in dealing with Hong Kong affairs, 45% of the respondents expressed satisfaction in June 1997, 68% in June 1998, and even amidst the Article 23 controversies in mid-2003 the central government still enjoyed a satisfaction rate of 57% (Civic Exchange, 2004: Table 38). Another poll conducted by the HKUPOP showed that, in December 2005, 44.4% of respondents trusted the Beijing central government whereas 23.7% stated “50/50” (HKUPOP, 2006).

It is true that China has been highly restrained in ruling Hong Kong, and criticisms of governance in Hong Kong have generally not come from the central government but rather from pro-Beijing elites in Hong Kong, such as certain delegates of the National People’s Congress (NPC) and a few individual Chinese officials. Still, the relationship between Hong Kong and China has been one of mutual testing of limits and mutual accommodation. In particular, since the Robert Chung incident in 2000, China had had a growing tendency to get involved in Hong Kong’s affairs due to Tung’s maladministration (Lo, 2001: p. 265). In this incident, the assistant to the chief executive was accused of intervening with the academic freedom of Chung, a scholar at the University of Hong Kong active in conducting public opinion polls, via Vice-Chancellor Cheng Yiu-chung.

Since the Robert Chung incident, the Standing Committee of the National People’s Congress (SCNPC) has intervened in public controversies over whether Hong Kong can have universal suffrage. Although the Basic Law makes universal suffrage an ultimate goal, it does not set a date for achieving it. Immense mobilisation from the pro-democracy camp sought to make this effective in the 2007 chief executive election and the 2008 LegCo elections. However, in April 2004, the SCNPC decided that Hong Kong would not have universal suffrage for either election. The SCNPC’s ruling aroused public worries about the violation of Hong Kong’s autonomy and about the ruling as a precedent for Beijing’s
intervention into Hong Kong’s reforms of voting rights. Public concern was heightened following the resignation of several radio talk-show hosts who had been highly critical of the central and SAR governments. All of them alleged that they had received threats from Chinese government officials whom they understood were conveying to them the central government’s messages.

If political intervention from Beijing is like a stick attempting to rectify political incorrectness in Hong Kong, economic advantages presented to Hong Kong are like carrots serving to pacify the people. In fact, there has been a growing economic integration between Hong Kong and China, particularly since 2003. For example, the Closer Economic Partnership Arrangement (CEPA) was signed in June 2003. CEPA is an economic agreement that aims to strengthen trade and investment cooperation between Hong Kong and the Mainland. By signing the CEPA, the two sides agree to progressively reduce or eliminate tariffs, non-tariff barriers, and other discriminatory measures on all trade and services, and to promote trade and facilitate investment.

Global relations

Hong Kong’s global relations are particularly important with regard to Taiwan, where the SAR serves at least two political functions. On the one hand, Hong Kong was supposed to showcase “one country, two systems” to Taiwan. However, this has failed, partially because of Taiwan’s inherent mistrust of the PRC government, and partially because of the series of economic, social, and political problems that have besieged Hong Kong since 1997. On several occasions, politicians from Taiwan pointed to Hong Kong’s situation as evidence that Taiwan should maintain its political autonomy. In 2003, for example, then Taiwan President Lee Teng-hui commented that Hong Kong’s plight “should serve as a warning to Taiwan that freedom and democracy can never coexist under China’s authoritarian regime”. Current President Chen Shui-bian also remarked that “Hong Kong’s future is doomed under the model” (*Taipei Times*, 18 August 2003: p. 1).

On the other hand, Hong Kong was to help pave the way for national reunification by bridging the gap between China and Taiwan. Although the Democratic Progressive Party successfully came to rule Taiwan after the 2000 presidential election, SAR officials such as former Secretary for Constitutional Affairs Michael Ming-yeung Suen still claimed that “pragmatic contacts” between Hong Kong and Taiwan would be maintained. However, the relations between Hong Kong and Taiwan since 1997 have become relatively restricted. In general, the SAR government has been quite cautious in dealing with Taiwan, frequently refusing visa extensions or entry visas for important Taiwan politicians.

Even after 1997, the world maintains an active interest in Hong Kong because of its economic and strategic value. In fact, unabated world attention on Hong Kong has put additional pressure on post-1997 governance. The
United States passed the Hong Kong Policy Act in 1992, which reiterated US support for democratisation and pledged an active role in maintaining Hong Kong’s confidence and prosperity. A Hong Kong Policy Act report is periodically prepared by the US Department of State. Similarly, in Britain the government presents reports to Parliament every six months on implementation of the Joint Declaration.

Hong Kong continues to maintain trade relations with various countries, with China in 2004 remaining the largest import market (HK$918.3 billion) and re-export market (HK$850.6 billion). Regarding domestic exports, the United States was Hong Kong’s largest market (HK$38.6 billion), closely followed by China (HK$37.9 billion) (Hong Kong Census and Statistics Department, 2005). While China’s significance in Hong Kong’s trade is incontrovertible, there are some worries about whether this indicates a trend of “sinicisation” and thus diminishing its cosmopolitan character.

Government institutions

Executive

The executive-led principle has continued to guide the government since 1997. The executive remains in control of the legislature, while the legislature is not equipped with reciprocal powers (Cheung, 2002: p. 44). Under the Basic Law (Article 48), the chief executive is entrusted with the power to sign bills and budgets, to decide on government policies, to appoint or remove holders of public offices and judges, and so on. Also, he or she can veto the laws passed by LegCo, and dissolve LegCo in order to resolve deadlocks (Articles 49 and 50). Given the design of the Basic Law, good governance will only be achieved under several conditions, including the capable leadership of the chief executive (Scott, 2000). However, the Tung administration was obviously not popular. Poll results showed that the public rating of Tung, with “0” indicating absolutely not supportive and “100” absolutely supportive, decreased from 52.4% in July 2001 to 36.2% in July 2003. It climbed back to 46.4% in July 2004 and 47.9% in March 2005, but was still below 50 (HKUPOP, 2005).

Tung made some attempts to augment his leadership, notably by introduction of the Accountability System for Principal Officials (ASPO) in 2002. The ASPO aimed to facilitate coordination of the formulation and implementation of policies, to select the best individuals to hold principal positions, and to enhance cooperation between the government and LegCo. With the implementation of the ASPO, the membership of ExCo comprised 14 principal officials who were directors of bureaux appointed under the accountability system and five non-officials (Loh, 2002: pp. 13–37) that came to include two political party chairmen. Principal officials are employed under non-civil-service contracts. The most senior
civil servants in each of the bureaux have been renamed “permanent secretaries”, and their main role is to provide support to the principal officials in running the bureaux and departments. Also, the role of the Central Policy Unit (CPU) was strengthened. In the colonial government, the CPU functioned as a relatively neutral policy research body but, under the ASPO, it has emphasised the roles of policy advising and government image building, as well as actively participating in the making of public opinion.

There is much evidence that the ASPO has not really succeeded. ExCo members had vested interests and political allegiances, which made it difficult for them to work as one body. In the Article 23 saga, for example, James Tien, chairperson of the Liberal Party, withdrew from ExCo to avoid having his party support the government’s unpopular legislation. This demonstrated that ExCo, restructured under the ASPO, was unable to strengthen political support for the executive and the executive’s capacity of rule. Further, the CPU was involved in numerous controversial events, for instance conducting a survey that contained questions that were blatantly biased against democrats (Ming Pao, 25 June 2004).

Civil service reform continues. This involves a series of attempts to reduce the number of civil servants, contract out more government services, and cut pay. These attempts built up considerable tension, which rendered Tung’s governance even more difficult. In July 2002, around 20,000 civil servants from over 100 civil service unions joined a march protesting against the government’s decision to enforce pay cuts by pushing through controversial legislation.

When Tsang took office as the second chief executive of Hong Kong in July 2005, he was generally welcomed by Hong Kong citizens. In February 2006, he obtained 67.4% public support. The levels of public support for principal officials have also reached historic heights, with almost all of them attaining a rating above 50 (HKUPOP, 2006).

Tsang’s stated intention is to promote social harmony. Evidently, the assumption is that a harmonious society is both beneficial and desirable. Tsang is also expected to promote economic development and better governance, and to bridge the gap between the people and the government, and between the legislature and the executive. In order to achieve these goals, he restructured ExCo in November 2005 by appointing eight new non-official members, including Anthony Bing-leung Cheung, an academic who was formerly active in both the Meeting Point (MP) and the Democratic Party (DP) and is currently the chairman of SynergyNet, a policy think tank. Tsang also reintroduced the position of convener, hoping that this arrangement would facilitate better communication within the council. The membership of the Commission on Strategic Development, tasked with discussing political reform, was substantially expanded to 158. In addition, Tsang proposed establishing a new position to assist heads of bureaux. The positions are to be created for young politicians to enable them to acquire more direct political experience and understanding of government administration by working within the government. It is hoped that, when the time is right, these assistants can stand for election to LegCo.
Legislature

The SAR’s first LegCo lasted from 1998 to 2000, and comprised 60 seats, including 20 directly-elected seats returned by geographical constituencies (GCs), 30 FC seats, and 10 seats returned by members of the 400-member Selection Committee, which also elected the first chief executive. The second LegCo had a term of four years running from 2000 to 2004. In this term, the number of GC seats increased from 20 to 24, while the number of seats returned by members of the 800-member EC decreased from 10 to six. The number of FC seats remained unchanged. The third LegCo serves from 2004 to 2008. Out of the 60 seats, 30 were returned by GCs, and 30 by FCs.

The post-1997 LegCo in Hong Kong has been hindered in its effectiveness notably by two restrictions stipulated in the Basic Law imposing restrictions on private members’ bills, and creating separate voting mechanisms. Since 1997, while legislators can present private members’ bills, they are forbidden to propose bills that involve public expenditure, issues of political structure, or operation of government. Also, bills related to government policies need the written consent of the chief executive (Basic Law, Article 74). Research points out that between 1991 and 1997, the private members’ bill became a powerful tool for legislators to push for substantial policy change. However, the number of private members’ bills significantly decreased to zero in 1997–98, one in 1998–99, one in 1999–2000, and three in 2000–01 (Sing, 2003: pp. 30–32).

Regarding the separate voting mechanism, legislators can propose bills, motions, or move amendments to government bills. However, such issues are not decided by a simple majority of the votes of the members present. Since 1997, members are divided into two blocks: FC and other members. Before a motion or an amendment to a government bill can be passed, it must be supported by a simple majority of the votes of both blocks (Basic Law, Annex II). The effect is to further diminish the power of directly elected members, as the votes of 16 FC members are sufficient to block any amendment. FC legislators tend to represent narrow interests, and are in general conservative in their political outlook. When the executive raises motions, bills, or amendments to bills, legislators do not need to vote according to this procedure. They can be passed by a simple majority of all members who are present. Between 1998 and 2001, in total, 69 motions were rejected that would have passed had LegCo voted as one body (Sing, 2003: pp. 32–33).

The constraints placed on the legislature have adversely affected not only its effectiveness, but also cooperation among legislators and political camps, as well as the legislative-executive relationship. In essence, the past few years have seen LegCo divided into pro-democracy, pro-Beijing or conservative, and unaffiliated camps, which compete for public publicity, and engage in confrontations and mutual name-calling — all of which have decreased the popularity of the legislature in the public’s eyes. Polls in April 2004 showed that only 15.2% of respondents...
expressed satisfaction with the performance of members of the second LegCo in Hong Kong, whereas 31.8% said “50/50” and 39.2% felt dissatisfied. Regarding the performance of members of the third LegCo, only 28.3% indicated satisfaction on October 2005, while 36.9% stated “50/50” and 22.5% were “dissatisfied” (HKUPOP, 2005). However, fairly speaking, although LegCo has been rife with confrontations during the last few years, it has also served as a venue for expressing distinct political views, thus maintaining a tradition of pluralism.

The legislative-executive relationship has been tense in the post-1997 period. Although the elected legislators have a mandate and the executive does not, the elected legislators are in a permanent minority position under the design of the Basic Law (Davis, 2003; Sing, 2003). The concerns for LegCo remain how to improve its effectiveness and the legislative-executive relationship. However, the possibility of improvement appears remote given the existing imbalances in the structure of power.

The fifth report of the Constitutional Development Task Force released after Tsang’s assumption of office escalated the heat of debates on political development. Although providing no roadmap of democratic development, the report contained several significant reform initiatives. It was proposed that, in 2007, the membership of the Election Committee for the chief executive be expanded from 800 to 1600. With regard to the formation of LegCo in 2008, the number of seats will be expanded from 60 to 70. Five of the new seats will be returned by GCs through direct elections, while the other five seats will be returned by the District Council Functional Constituency in FC elections. In this way, the political power of District Council members will be enhanced. However, the reform proposal failed to pass in LegCo.

**Local government**

At the local government level, the two municipal councils (the Urban and Regional Councils) were abolished amidst public controversies at the end of 1999 on the grounds that the structures were unnecessary. Before their abolition, the councils were valuable venues for public participation, and served as the second tier of government administration between the first tier (the executive, the legislature, and the judiciary) and the third tier (the District Boards, renamed the District Councils in 1999). The District Boards were established in 1982. In Patten’s time, all official and appointed seats in the District Boards were abolished, but that was reversed after 1997. The term for the first post-handover District Councils lasted from 1999 to 2003. There were 390 elected seats, 27 ex officio seats, and 102 appointed seats. In the second term of the District Councils, the number of elected seats was increased to 400. Despite the increase, the District Councils have remained an advisory mechanism in the government.
In reviewing the development of government institutions since 1997, the core question is whether or not Hong Kong’s institutions have adapted and developed in a way that helps governance. It appears that, in spite of the experience gained over the last eight years, there is still plenty of room for improvement. This question is addressed more fully in the chapters that follow.

Governing ideologies and public policy ethics

After 1997, Hong Kong witnessed a series of transformation of the SAR government’s governing ideologies and public policy ethics. The following sections give a general outline of developments in these areas.

Executive-led principle

Since 1997, the executive-led principle has remained dominant in Hong Kong’s governance. However, the meaning of an executive-led government appears to be evolving. On the one hand, it could mean a presidential-style government led by the chief executive and ExCo, with an apolitical civil service responsible for policy implementation. On the other, it could mean a government led by the chief executive and civil servants, where members of ExCo are only advisers; a government dominated by bureaucrats. While the executive-led principle assumed leadership by the governor and civil servants during colonial times, since 1997 it has usually been taken to mean governance by the chief executive and ExCo.

After the introduction of the ASPO, the Tung administration appeared to have settled into a more presidential interpretation of an executive government. For example, the chief secretary has had little opportunity to make policy decisions in recent years, in contrast to the power of that position during colonial times (Cheung, 2002: p. 63; Loh, 2002: pp. 16–17; So and Chan, 2002: p. 377). Further, both Chinese officials and the SAR government have reiterated the importance of maintaining an executive-led government because the principle has suffered from so many challenges from major political actors.

Rule of law

Although the government has repeatedly stressed the importance of the rule of law, events in the post-1997 period that have aroused public concerns about whether the rule of law remains intact. For example, in 1999, the government actively solicited the SCNPC’s reinterpretation of the Basic Law provisions so as to overrule the SAR Court of Final Appeal’s earlier decision to grant right of abode in Hong Kong to children born in the Mainland to parents with Hong Kong
permanent resident status. Nevertheless, on the whole, the pre-1997 legal system has been preserved in Hong Kong, in the sense that more than 99% of the pre-existing laws are still in force, and lawyers and judges continue their professions in exactly the same manner as before (Chen, 2002: p. 83).

**Soft authoritarianism**

Many examples illustrate the “soft authoritarianism” of the SAR government (So and Chan, 2002: 380–381; So, 2002: pp. 413–417). For instance, the Provisional LegCo sought to revive certain repressive provisions of the Public Order Ordinance and the Societies Ordinance that had been repealed by the colonial regime before 1997. These laws stipulated that demonstrations with more than 30 participants must seek a no-objection notice from the police; associations should register for governmental approval; and the concept of national security was introduced as a criterion for the police to decide whether or not a demonstration or an association should be approved. Moreover, it has become common during demonstrations for the police to deploy a disproportionately large amount of force, videotape the demonstrators, and make public threats that the government reserves the right to prosecute law-breaking protestors in the future.

**Self-censorship, political correctness and press freedom**

Post-1997 Hong Kong saw a tendency on the part of the SAR government to become more “politically correct” in the eyes of the central government. For instance, in the handling of Falun Gong followers in Hong Kong, one secretary for security labelled them as preaching heretical teachings, even though they had not committed any legal infringements or caused harm to others in society. The passage of a Chief Executive Election Bill in 2001 that explicitly empowers the central government to dismiss an elected chief executive “under any other circumstances” than those already specified in the Basic Law was commonly seen as a unilateral surrender of Hong Kong’s local autonomy. Further, freedom of the press has sometimes seemed to be under threat, as seen in the criticisms from pro-Beijing elites about the role and principle of editorial independence for Radio Television Hong Kong (RTHK), a government-funded radio station that has produced many programmes critical of government policies.

**Nationalism and depoliticisation**

It is commonly believed that the SAR regime has been active in promoting the public’s sense of community and introducing nationalism as a correlate of ideal
citizenship. For example, the Hong Kong SAR government carried out a series of measures to strengthen Chinese elements in the existing school curriculum. School textbook publishers were provided with guidelines advising them to observe the “one China” policy. Since 1998, Putonghua, the national language of China, has been taught in all primary schools, and civics has been made available as an elective subject in Secondary One to Three (Morris et al., 2000: p. 249). Ironically, in parallel to the attempts of renationalisation, the government embarked on depoliticisation measures to contain political conflict. The strategy was driven notably by Tung’s distaste for politics, and his belief that in Hong Kong, economic goals should precede political ones (Cheung, 2002; Lau, 2002; Lam, 2004, 2005).

**Ethics of self-reliance and economic efficiency**

In post-1997 Hong Kong, good citizens are encouraged to be productive, independent, and “proactive” in acquiring economic skills so as to be useful to Hong Kong’s economic recovery. This emphasis on self-reliance explains why Comprehensive Social Security Assistance (CSSA) recipients who are able-bodied people and could work are perceived as a problem, and welfare recipients have been stigmatised. The CSSA provides a safety net for the unemployed and poor. Driven by the fear that the recipients will become dependent on the government, the Active Employment Assistance Programme under the Support for Self-Reliance Scheme offers them job retraining and job-hunting assistance.

The question for Hong Kong today is: Will the development of governing ideologies and ethics bring about a more effective and just governance? It is evident that the SAR government has undergone tremendous changes in these areas and is still adjusting in order to achieve the best fit to meet the demands of the people, the central government, and, at the same time, the requirements of efficient and effective governance.

**Civil society**

Despite all the problems that have confronted the SAR since 1997, its civil society remains vibrant. Several trends are evident. First, the political strategies adopted by the people to express their political views have become more action oriented. Demonstrations have become an extremely popular way to express opinion. Second, the participation of social and professional groups in politics has increased, including groups of accountants, property agents, legal professionals, and so on. Third, forms of political participation have been expanded. From traditional channels such as demonstrations, voting, and developing contacts with government officials, the period has also witnessed the growing popularity of some radio talk shows that serve as a mouthpiece of the people. When the
political space for these programmes diminished, cyber politics developed as an alternative venue for the expression and articulation of political views. Fourth, because of the competition between different political camps and political ideas in the post-1997 period, civil society has had a chance to reconsider its core values. There is a growing articulation of overall social and political goals in society, as witnessed by the large proportion of people demanding universal suffrage for the 2007 chief executive election and 2008 LegCo elections. Another illustration of the growing articulation of common goals in society is the call for a defence of Hong Kong’s core values, such as freedom of speech and democracy, by a group of professionals and academics provoked by such incidents as the resignation of the talk show hosts.

By contrast, the development of political parties in Hong Kong has not been as positive. The last few years have seen an increase in the number of political parties and groups. However, people have a lot of complaints about their effectiveness. Ironically, the Article 45 Concern Group, formed after the demonstration on 1 July 2003, and led by several famous barristers, is presently the most popular political group, way ahead of established political parties, such as the pro-democracy DP and the pro-Beijing Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) (formerly the Democratic Alliance for the Betterment of Hong Kong, renamed since merging with the Hong Kong Progressive Alliance in April 2005).

However, poll results show that political groups are in general unpopular. Public approval ratings for political groups in May 2004 were 54.3% for the Article 45 Concern Group, 53.7% for the pro-democracy Confederation of Trade Unions, 53.2% for the DP, and 51.6% for the pro-Beijing Federation of Trade Unions. In November 2005, the Article 45 Concern Group still came in first in popularity with a rating of 53.8%, followed by the Federation of Trade Unions with 52.7%, the Confederation of Trade Unions with 51.7%, and the Hong Kong Association for Democracy and People’s Livelihood at 49.7% (HKUPOP, 2006). It remains to be seen whether the Article 45 Concern Group will retain its popularity rating after its transformation into a political party, the Civic Party, on 19 March 2006. Although political parties have failed to meet the expectations of many, they themselves are not solely to blame. Scholars point out that the various legal and institutional constraints on political parties, and the antipathy of the Beijing and SAR governments towards pro-democracy political parties and party formation in Hong Kong generally, have contributed to their marginalisation (Lau and Kuan, 2002; Yep, 2003).

Structure of this book

In the chapters that follow, we aim to provide a comprehensive and critical analysis of Hong Kong’s government and politics since the 1997 handover, covering four
main topic areas: political institutions, mediating institutions and political actors, policy environment, and the political environment. This volume analyses whether the model of “one country, two systems” and post-1997 governance have been successful in each area, and the reasons for success or failure.

Part I, Political Institutions, contains five chapters. Chapter 2 examines the establishment and functions of the executive, its relations with LegCo, and emerging executive reforms. Chapter 3 discusses LegCo’s history, composition, powers and functions, constraints and effectiveness, as well as ways to strengthen its capacity. Chapter 4 reviews the hopes, doubts, and challenges faced by the judiciary in the post-1997 period, and asks whether it will be able to maintain its independence and other fundamental principles. Chapter 5 traces the development of civil service reform over the past few years, and offers an evaluation of its overall effectiveness and possible new directions of development. Chapter 6 describes local government, advisory committees, and statutory bodies, and examines their contribution and significance to SAR governance as well as their limitations.

Part II, Mediating Institutions and Political Actors, contains three chapters. Chapter 7 describes the development of political parties and the electoral system in Hong Kong, and analyses the problems that have confronted their development. Chapter 8 studies the characteristics of civil society and important civic and political organisations, and examines the challenges of making Hong Kong’s civil society into a more effective watchdog of the government. Chapter 9 provides an analytical account of the concept of public opinion, and the media’s role and performance in the process of public opinion formation. Further, it investigates the effects of the media, and the relationship between public opinion, media, and social formations.

Part III, Policy Environment, also contains three chapters. Chapter 10 traces the development of economic policy in Hong Kong since 1997, and explores the economic challenges confronting the government. Chapter 11 introduces the basics of the areas of social policy, considers the social policy dilemmas of the government, and the main features of social policy. Chapter 12 uses the urban political economy approach to examine the factors that have influenced urban policy development, and cites important examples of urban policy as points of political contestation in the post-1997 period, arguing that institutional support for public interest articulation in urban policy has been inadequate.

Part IV, Political Environment, contains two chapters. Chapter 13 provides an overview of the extent of social and economic integration between Hong Kong and the Chinese mainland and formal communication channels between the two governments, tracing the development and causes of growing tensions. Chapter 14 studies the changing international role and status of Hong Kong after 1997. Although Hong Kong remains a part of the international community, there have been observable degrees of “sinicisation”, which lead the authors to question whether processes of internationalisation and sinicisation will conflict with each other in the future.
The concluding chapter presents a summary evaluation of Hong Kong governance since 1997, and provides a roadmap of possibilities for achieving a more effective, fair, and legitimate governance for Hong Kong in the future.

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### QUESTIONS

1. How would you describe the overall political context in Hong Kong after the political handover in 1997?
2. In what ways should governance in Hong Kong be further improved? What are the areas deserving particular attention?

### USEFUL WEBSITES

Hong Kong University Public Opinion Programme
http://www.hkupop.hku.hk

Hong Kong SAR
http://www.info.gov.hk

The Hong Kong Transition Project
http://www.hkbu.edu.hk/~hktp
FURTHER READING


PART I

Political Institutions
(Chapters 2 to 6)
Summary introduction

The first part of this volume examines the political institutions of the Hong Kong Special Administrative Region (HKSAR), including the executive, the legislature, the judiciary, the civil service, and the local, advisory and statutory bodies.

In Chapter 2, Li Pang-kwong discusses the scope of activities of the HKSAR executive. The executive is comprised of the chief executive (who is assisted by the Chief Executive’s Office and supported by 14 principal officials), the Executive Council (ExCo), and executive departments and agencies. Li reviews the details of how the executive functions and its relationship with the legislature. He also examines whether the practice of “executive-led government” is in decline. According to Li, the colonial executive-led government has been replaced by the executive-driven government after the 1997 handover. Li details events that caused such a transformation. Finally, Li looks at factors (like the immaturity of the party system) that are unfavourable to effective governance and suggests ways to construct a viable and workable governing system for the HKSAR.

In Chapter 3, Percy Luen-tim Lui examines changes to the membership composition of the HKSAR Legislative Council (LegCo) and reviews how these changes affect its performance (in terms of assertiveness). He then studies the functions and powers of LegCo such as lawmaking, overseeing the government’s performance, and approving the government’s annual budget. Next, Lui investigates the performance of the second HKSAR LegCo and concludes that its performance was less impressive than the 1995–1997 LegCo. He details why the HKSAR LegCo is unable to perform as effectively as the pre-handover LegCo. After that, he suggests methods (such as amending Article 74 of the Basic Law, reforming the committee and panel systems, and strengthening the staff support system) to improve the functioning of the HKSAR LegCo in the future.

In Chapter 4, Benny Y. T. Tai first discusses the fundamental principles of HKSAR’s legal system, which include common law system, rule of law, judicial independence, and the protection of human rights. After which he examines two new institutional arrangements that were introduced after the handover, namely the power of final adjudication (vested with the Court of Final Appeal) and the power of the Standing Committee of the National People’s Congress (SCNPC) to interpret the Basic Law. Tai argues that the SCNPC’s power to interpret the Basic Law has established an institutional link between the HKSAR legal system and the Chinese legal system. After the handover, the struggle of the HKSAR judiciary focuses on how it should resolve the inherent conflict between these institutional arrangements. Finally, Tai studies the impact of SCNPC’s interpretation of the Basic Law on the HKSAR courts. He observes that the judiciary is able to maintain the principle of rule of law and human rights of the Hong Kong people if matters it adjudicates do not involve the interests of the central authorities. Tai asserts that, in the long run, judicial autonomy in Hong Kong will be hurt by frequent interpretation of the Basic Law by the SCNPC.
In Chapter 5, Wilson Wong studies an influential political institution in the HKSAR — the civil service. Wong examines the structural and systemic features of the civil service and the special role that its top guns — the administrative officers — play in the governance of Hong Kong. He argues that civil servants were powerful political actors both before and after the handover and they were seen (and still regard themselves) as the guardians of public interests. Wong then analyses the reforms of the civil service. These reforms include the Accountability System for Principal Officials (which reduces the political influence of civil servants), public sector reform and civil service reform (which were inspired by ideas of the new public management movement initiated in Western industrial countries). He further assesses the impacts of these reforms on the civil service system. Wong concludes his study by pointing out that civil service remains an influential actor in the governance of the HKSAR, yet it is too early to tell whether its reforms will lead to a better system of government.

In Chapter 6, Ian Holliday and Glenn K. H. Hui look at HKSAR’s local government system and its complex web of local, advisory and statutory bodies. From the mid-1980s to 1999, Hong Kong’s local government system comprised of two tiers, the Urban and Regional Councils (with policy-making power in three major areas: sanitation, food and hygiene, and sports and recreation) and the 18 District Councils (known as District Boards before 2000) which advise the government on local affairs. With the abolishment of the two municipal councils in 2000, the District Councils became the sole tier of local government. Next, Holliday and Hui study the functions of Hong Kong’s several hundred advisory and statutory bodies. These bodies perform a range of public functions such as overseeing the management and delivery of public services in sectors like health care and housing. Others regulate matters like elections and broadcasting. Finally, Holliday and Hui review changes that have taken place in these local and advisory systems and assert that under the executive-led government system, no major reform to these systems will take place in the near future.
The sudden resignation of Tung Chee-hwa as chief executive (CE) of the Hong Kong Special Administrative Region (HKSAR) in March 2005 surprised Hong Kong. Donald Tsang, the former chief secretary for administration, won the CE by-election on 16 June 2005. He was then appointed by the Central People’s Government (CPG) and assumed office on 21 June 2005. Handpicked by former President Jiang Zemin, Tung had earned the trust of the CPG. Unfortunately, the performance of Tung’s government was regarded by many of his fellow citizens as far from satisfactory. The reasons for the under-performance were various. The 1997 Asian financial crisis provided too much of a challenge and burden for the newly-formed HKSAR government. Tung himself, under-prepared and ill-equipped to lead the executive, found it hard to mount a prompt and effective response to the crisis. The institutional design for selecting the CE and forming the executive was also flawed. This chapter therefore examines the establishment and functions within the executive branch of the HKSAR. How the CE and the executive govern, and their interaction with the Legislative Council in terms of general policy-making and budgetary decision-making processes, are also discussed. Lastly, possible developments and the emerging reforms are considered.

Role and functions of the executive

Every political system has an executive branch to act as the central policy-making mechanism. While other branches of government are involved in the policy-making process in one way or the other, the executive enjoys an edge because of its dominant institutional position. The executive holds the upper hand in initiating policy, shaping the public mood in favour of its proposals, aligning resources for effective implementation, and achieving the intended objectives. The other two main branches of government, the legislature and the judiciary, tend to play a passive role. It is no exaggeration to say that anything other than legislation, budget approval and adjudication of conflicts may fall within the jurisdiction of the executive.
The executive is usually headed by a single individual, such as a prime minister or a president. The head of the executive is supported by a cabinet of ministers or secretaries in policy formulation and decision making. Each minister or secretary is empowered to coordinate and supervise departments with responsibility for policy implementation and law enforcement. Positions in the executive are usually filled by politicians, while departments are usually staffed by civil servants or bureaucrats. In practice, however, their roles often overlap. Nevertheless, politicians are ultimately responsible for policy. Hong Kong is unusual, because before the introduction of the Accountability System for Principal Officials (ASPO) in July 2002, there was no clear demarcation between the roles of politicians and bureaucrats (Box 2.1). The design of the British colonial and immediate post-1997 political system allowed bureaucrats to play political roles, which eventually led to the domination of the executive by bureaucrats.

Box 2.1 Accountability System for Principal Officials

With the support of the CPG, the HKSAR government implemented the ASPO from 1 July 2002. The reform seeks to resolve the mismatch between the civil-servant senior and bureau secretaries, and the political demands and accountability put on them. An equally important reason is to enable the CE to form his own governing team without the restriction of having to choose from inside the civil service. The ASPO applies to the three senior secretaries and 11 bureau secretaries. With the reform:

- the CE can nominate candidates for these posts from within or outside the civil service, to be appointed by the CPG;
- the principal officials are employed on non-civil service terms and may leave office if required by the CE with one month’s notice, their term of employment should not exceed that of the CE;
- the principal officials are accountable to the CE and hold full responsibility for success and failure within their policy portfolios, they may even step down if there is serious policy failure or grave personal misconduct;
- all the principal officials are appointed concurrently as official ExCo members.

Since the reform, the chief secretary for administraton and the financial secretary have lost their “permanent” supervision power. Instead, they may coordinate some policy areas “as and when delegated” by the CE.

Given that the executive combines formal roles with the informal power of individuals and the complicated interactions among them, its actual operation varies from time to time and from place to place. In the United Kingdom, for example, relations between the prime minister and other cabinet members may vary depending on individuals’ seniority, popularity, charisma and so on. The
The prime minister may be either “first among equals” or “first above equals” in the cabinet’s decision-making process. Within the cabinet system, there are likely to be a few agencies with more power and influence in deciding policy and supervising other ministries and departments. These agencies have been termed the “core executive”. In the UK, the core executive is said to include the Prime Minister’s Office, Cabinet Office, Treasury, Foreign and Commonwealth Office, and others (Burch and Holliday, 2004).

The Hong Kong executive: positions, offices and functions

The HKSAR’s executive branch is headed by the CE, who is assisted administratively by the Chief Executive’s Office. The CE’s work is supported by the principal officials (three senior secretaries and 11 bureau secretaries), who are responsible for policy formulation and supervision of subordinate executive departments within their portfolios. During the temporary absence of the CE, the chief secretary for administration (CS), the financial secretary (FS) or the secretary for justice (SJ) deputises. Among the principal officials, the CS and the FS each maintain a sizable office to assist them to carry out their duties. Under each policy bureau are a number of executive departments that are responsible for policy implementation, law enforcement and delivery of government services.

The CE is returned by an election committee and is appointed by the CPG. The first CE Election Committee formed in 1996 had only 400 members. The second, formed for the 2002 election, had 800 members. Currently, the Election Committee is composed of four sectors of 200 members. Each sector is further divided into subsectors that return a fixed number of members either by election or by nomination. In 2003, the electorate of the whole Election Committee was 163,445 persons (149,922 individual electors and 13,523 corporate electors), excepting those of the National People’s Congress subsector, the LegCo subsector, and the Religious subsector. The size of franchise varied from 88 corporate electors in the Hotel subsector to 58,553 electors in the Education subsector (Constitutional Development Task Force, 2004: Appendix 1). The number of members returned in each subsector also varied with 11 in the Catering subsector being the lowest. On top of the 664 Election Committee members returned by 35 subsectors, there were 96 ex-officio members (36 Hong Kong deputies to the National People’s Congress and 60 LegCo members) and 40 members nominated by the Religious subsector (Chief Executive Election Ordinance (Chapter 569, Laws of Hong Kong) Schedule). As LegCo rejected the government’s constitutional reform proposals on 21 December 2005, the number of Election Committee members for the next CE election will remain at 800.

To stand for election, a candidate must secure nomination from at least 100 Election Committee members. In the 2002 CE election, Tung Chee-hwa received 714 nominations. In the 2005 CE by-election, Donald Tsang received 674 nominations. In both cases,
competing candidates were effectively prevented from standing. After the election, the CE elected has to be formally appointed by the CPG before assuming office. In other words, the CE elected is required to go through the acceptance test conducted by the CPG.

The CE enjoys a wide variety of powers in governing the HKSAR. Some are constitutional and are defined in the Basic Law (BL) and other constitutional and legal documents. Others are partisan and are generated by the support base in the CE’s governing coalition, for instance in LegCo (Mainwaring and Shugart, 1997; Shugart and Mainwaring, 1997). The CE’s constitutional powers can be further subdivided into legislative powers, including introduction of legislation, budgetary powers, package veto (override) and decree power, and non-legislative powers, including cabinet formation and dismissal, appointment of public officials, and dissolution of the legislature. The exercise of some constitutional powers by the CE may need the approval or endorsement from the legislature, e.g. legislation.

The CE is assisted administratively by the CE’s Office, which in March 2006 had an estimated establishment of five directorate posts and 91 non-directorate posts (Hong Kong, 2006: Head 21). The work of the CE’s Office includes advising the CE on policy formulation and coordination, coordinating mass media and public relations strategy, and managing Government House and the CE’s official and country residences. The office also provides administrative support to ExCo.

Other than the administrative support rendered by the CE’s Office, the CE is assisted by the principal officials in policy formulation and in supervising the daily operations of the executive departments and agencies. The CE is empowered to nominate candidates, and the CPG reserves the right of appointment. Principal officials are employed on non-civil-service terms, and their term of office should not be longer than that of the CE. Within their own portfolio, they have to account to the CE for policy success and failure, and may have to step down for serious policy failure or grave personal misconduct. The three senior secretaries are the chief secretary for administration (currently Rafael Hui Si-yan), the financial secretary (currently Henry Tang Ying-yen) and the secretary for justice (currently Wong Yan-lung). The eleven bureau secretaries cover the civil service; constitutional affairs; education and manpower; environment, transport and works; health, welfare and food; home affairs; housing, planning and lands; security; commerce, industry and technology; economic development and labour; and financial services and treasury.

Before the adoption of the ASPO in July 2002, the CE did not have a direct line of command to the bureau secretaries, but had instead to work through the CS and the FS. The bureaux were divided into two groups headed and coordinated either by the CS or the FS. Therefore, the CS and the FS had prominent roles to play because all the bureaux were placed under their direct supervision, and any policy proposal was required to be tabled and discussed by the CS’s Committee before submission to ExCo for approval. The CS’s Committee thus served as
the coordination hub within the Government Secretariat, and provided bureau secretaries and department heads with a place to review and assess policy progress, to consider policy proposals and mediate their policy conflicts, and to discuss current public concerns that may have an impact on policy planning (Miners, 1998: p. 90).

This situation started to change with the introduction of the ASPO in July 2002, which was designed to assert the power of the CE following repeated policy and personality clashes between CE Tung Chee-hwa and CS Anson Chan. Since 2002, the CS and the FS have been deprived of direct supervision over the bureaux, but they may coordinate the work of certain policy areas “as and when delegated by the CE” (HKSARG, 2005). The previous powerful CS’s Committee is still there (currently called the Policy Committee) but its significance in vetting and screening policy proposals submitted by the bureau secretaries has been decreased tremendously because it no longer enjoys a veto power over policy proposals, and the secretaries can submit policy proposals to ExCo even without the committee’s support (Burns, 2004: p. 80). However, there has been no growth in support for the CE’s Office. As a result, the CE and the CE’s Office are overburdened as the direct traffic between the CE and the bureau secretaries has expanded tremendously.

The CE, the CS and the FS are jointly supported by the Central Policy Unit (CPU) in terms of policy advice and long-term strategic planning. One of the CPU’s major tasks is to help draft the CE’s annual policy address. The CPU is staffed by about 20 full-time contract staff and civil servants, and has about 40 part-time members from all walks of life providing public and expert views on public and social issues. The CE is also advised by the expanded Commission on Strategic Development over “Hong Kong’s long-term development needs and goals”. In November 2005, the commission had four official members and 152 non-official members, who were subdivided into four committees: the Executive Committee, the Committee on Governance and Political Development, the Committee on Social Development and Quality of Life, and the Committee on Economic Development and Economic Cooperation with the Mainland.

The combined staff establishment of the CS’s Office and the FS’s Office outnumber that of the CE’s Office, amounting to an estimate of 500 persons (35 directorate posts and 465 non-directorate posts) in March 2006 (Hong Kong, 2006: Head 142). Among the six programmes under the offices of the CS and the FS, the Administrative Wing absorbed over 60% (321 out of nearly 505) of the total estimated establishment as at March 2007.

For many years, only the three senior secretaries served as ex-officio ExCo members. However, since the adoption of the ASPO in July 2002, principal officials have been appointed to serve concurrently as official members of ExCo. Initially this diluted the influence of non-official ExCo members and allowed a policy consensus arrived at in the Policy Committee to dominate ExCo debate. However, in November 2005 the non-official majority in ExCo was restored when CE Donald
Tsang appointed eight additional non-official members, bringing their total number to 15. These appointments did not require formal endorsement by the CPG. In addition, bureau secretaries in their capacities as official ExCo members “can opt to attend [ExCo meetings] only when items on the agenda concern their portfolios” (2005–06 Policy Address, para. 16).

According to Article 54 of the Basic Law, ExCo’s function is to assist the CE in policy making. The CE is required to make policy decisions in ExCo meetings (CE-in-Council) (Box 2.2). If the CE chooses to ignore a majority view of ExCo, he is required to minute the reason(s) for doing so. On 7 June 2005, Donald Tsang revealed to the press during his CE by-election campaign that there were no more than five times that the governor or the CE had failed to accept the advice of ExCo members since his own involvement dating back to 1995. ExCo’s role is equivalent to that of a cabinet, however, not every ExCo member can fully participate in the whole policy-making process. Indeed, some non-official ExCo members with party representation in LegCo have often complained publicly that they are only allowed access to policy information just before the ExCo meeting. In November 2005, Donald Tsang thus decided to let non-official members participate in the initial stage of policy formulation of all the 11 policy bureaux.

**Box 2.2 The Chief Executive and ExCo**

In making policy, the CE is assisted by the Executive Council (ExCo). The CE is required to consult ExCo “before making important policy decisions, introducing bills to the Legislative Council, making subordinate legislation, or dissolving the Legislative Council”. Thus, all major policy decisions are made by “the CE in Council”. If the CE chooses not to accept a majority view of ExCo, he is required to put on record his reason(s). Members of ExCo are appointed by the CE from among “the principal officials of the executive authorities, members of the Legislative Council and public figures” who are both Chinese citizens and permanent residents of Hong Kong with no right of abode in any foreign country. Their term of office cannot exceed that of the CE who appoints them. There is no fixed number for ExCo membership; at the start of 2006 there were 14 official and 15 non-official members. The 14 official members were the three senior secretaries and 11 bureau secretaries, while the 15 non-official members were leaders of political parties and trade unions, and prominent professionals. The appointment to ExCo of party and trade union leaders whose affiliated parties or groups have had a sizable presence in LegCo since 1998 signifies the coalition-building efforts of the HKSAR government, aimed at securing LegCo support for government initiatives.

Currently, each bureau is headed by a politically-appointed principal official, supported by a group of civil servants headed by one or more permanent
secretaries. For those principal officials who are not former civil servants, they may have difficulty in working with the bureau because of personality or policy clashes. Still more important is the lack of a cohesive policy package owned by the whole governing team. As a result, internal conflicts over policy priority and resource alignment are inevitable. This situation may persist for a while, as there is no such arrangement for the principal officials to bring in their own political team.

The number of permanent secretaries depends on the size of the bureau. For example, there is only one permanent secretary in the Constitutional Affairs Bureau, while there are three in the Environment, Transport and Works Bureau. The post of permanent secretary was created only after the introduction of the ASPO in July 2002. Their major functions include: to assist the principal officials in formulating policies and securing public and legislative support, to steer and coordinate the executive departments under their portfolios and to liaise with other bureaux for effective policy implementation, to assist in acquiring and deploying resources, and to monitor public needs and aspirations and propose changes to existing policies if necessary (Constitutional Affairs Bureau, 2002).

Executive departments are one level down from the bureaux. In 2006, there were some 67 executive departments and agencies. Each bureau supervises a number of executive departments or agencies, depending on its portfolio. For example, there is one executive department for the Constitutional Affairs Bureau to supervise, while there are nine for the Commerce, Industry and Technology Bureau (HKSARG, 2005). These executive departments or agencies are headed by a senior civil servant and are responsible for policy implementation, service provision and law enforcement.

The executive in action

Policy initiatives can come from the CE and the principal officials. In addition, CE Tung in 1997 designated three non-official ExCo members to lead policy reforms in housing, elderly services and education. The arrangement was extended in November 2005, when CE Tsang allowed non-official members to have specific portfolios and be briefed by the bureau secretaries concerned throughout the policy formulation process. Policy initiatives proposed by bureaux need to be submitted to the Policy Committee before they are put before ExCo for formal approval. If the proposed initiative needs legal advice or is a piece of legislation, the Secretary for Justice and the Department of Justice will be consulted. Every policy has to be decided in an ExCo meeting. If a policy initiative involves budget and/or legislation, LegCo’s endorsement is required. After going through all the necessary procedures, approved policy initiatives are referred back directly to the relevant bureau and/or department for implementation.
In the financial decision-making process, the FS has a major role to play. When preparing the annual budget, the FS has to follow the direction set in the CE’s policy agenda and by the Public Finance Ordinance. Suggestions for resource allocation and applications for resources from bureaux and executive departments for the coming financial year are invited before a high-ranking resource allocation meeting is convened to decide on the matter. After the resource allocation meeting, bureaux and executive departments or agencies are required to prepare their own draft estimates, which are then scrutinised by the Treasury Branch. These budget requests from the bureaux and executive departments, if endorsed, are consolidated to form the draft estimate. A public consultation on the raising of government revenue for the coming financial year, especially with LegCo members, is also scheduled before the formal decision. Afterwards, the Estimates of Revenue and Expenditure is laid before LegCo by the FS, who will then deliver the annual budget speech, which contains the budgetary proposals and moves the adoption of the Appropriation Bill.

Given their prominent role in the policy-making process, the CE, ExCo, the CS and the CS’s Office, the FS and the FS’s Office, the SJ and the Department of Justice, secretary for financial services and the Treasury, and the Treasury Branch may be regarded as the core executive of the HKSAR.

The executive in the Legislative Council

Even though a long list of powers has been entrusted to the CE and the executive to establish new policies, or to maintain prevailing ones, successful exercise of these powers largely depends on the size of the CE’s legislative support, and the degree of responsiveness of LegCo members to the CE’s policy preferences. Therefore, how to cultivate majority support in LegCo is a critical issue for the CE, who is formally not allowed to have any party affiliation.

In 1998–2000, 41 out of 60 LegCo members were part of the CE’s governing coalition. In 2000–04, 39 legislators supported the CE. In 2004–08, the number of legislators in the governing coalition was 35. However, this is only a general indicator of the CE’s legislative support base. The actual distribution of votes in a division over a specific bill or motion can be highly dependent on the subject matter. While nearly all the bills and budgets proposed by the executive have been supported and approved by LegCo, a few cases indicate the vulnerable situation of the CE and the executive.

The first case was an on-street parking fee increase from HK$2 to HK$4 for 15 minutes proposed in the Revenue Bill of 1999 and deliberated by LegCo on 8 July 1999. The division was 27 to 26 in favour of the fee increase. Given that 27 votes did not constitute an absolute majority of the 54 members present during the division, the item was rejected. Much the same happened in the election of the chairperson of LegCo’s Finance Committee on 6 October 2004. Emily Lau
The term “executive-led government” has been used widely in Hong Kong, but there has yet to be a clear conceptualisation of it (Box 2.3). In the context of policy making before 1997, and especially before 1985, the governor and the executive occupied an extraordinary position, with the prerogative to constitute LegCo. It is therefore no surprise to learn that government-initiated bills and budgets were not challenged seriously in LegCo up to the mid-1980s.

Under the Basic Law, LegCo must be constituted by election (Article 68). However, the CE and the executive have still held the upper hand in shaping policy decisions by having a nearly exclusive power to initiate policy and budgetary proposals, and a passive and fragmented legislature that rarely opposed them (Li, 2001: pp. 89–92). Given the separated formation of the executive and the legislature, and the possible presence of an opposition majority in the legislature, a new relation between the executive and the legislature has emerged, and the traditional concept of “executive-led government” is no longer useful in understanding the political dynamics of the HKSAR. In order to capture the changing executive-legislature relationships, a typology aimed at differentiating executive-led government, executive-driven government and divided government using two criteria can be proposed: whether the legislature is constituted by the executive, and whether the governing coalition or the opposition is in a majority.
The former criterion is defined by the constitution, while the latter is driven by the politics of the day.

Under executive-led government, the executive is vested with the power to constitute the legislature, and the legislature is dominated by pro-government political figures by default. It is normal to expect that the executive will use its power to form a pro-government legislature. Even though the executive may appoint opposition leaders to the legislature, they will always be in a minority. This is the type of government that was present almost throughout British colonial rule, except from September 1991 onwards.

However, the HKSAR government still has the nearly exclusive power of initiating policy and budget. The government can take the lead to break the policy status quo and to align public resources with its preferred programmes and policies. Given its privileged constitutional position, the government can still drive the government machine along its preferred route, but subject to the approval or endorsement of LegCo. Whether the electors will vote in a pro-government legislative majority and whether the legislative approval or endorsement of the executive’s initiatives is forthcoming are highly dependent on the politics of the day. Since 1997, the same political coalition has controlled the executive and the majority seats in the legislature. Thus, Hong Kong has had unified government.

In a nutshell, the inability of the executive to constitute LegCo has signified the transformation of “executive-led government” into “executive-driven government.”

### Box 2.3 Executive-led government

“Executive-led government” describes the dominant position held by the executive in the governance of Hong Kong in general, and in executive-legislature relations in particular. The exact meaning of the term varies. It is a concept derived from the political system and institutional design of Hong Kong under British colonial rule from 1842 to 1997. The dominant position of the executive headed by the governor was supported by the fact that the executive was vested with the power to constitute LegCo.

According to Clause VI of the Letters Patent and Clause XIII of the Royal Instructions, LegCo was composed of the official and non-official members up to 1985. The official members were themselves government officials, while the non-official members were nominated by the governor and were appointed by the secretary of state in London. The official members were in the majority up to 1976 (including the governor who was concurrently the president of the LegCo) and were required to support any initiative from the executive except when otherwise permitted by the governor. The non-official members seldom challenged government’s initiatives openly or unanimously because their continued service to the LegCo was depended on Crown’s pleasure. Because of having such a prerogative, the governor could impose his will on LegCo if he wished to do so.
government”. The government has to build up its majority coalition in LegCo by persuasion and performance, not by institutional default. Whether Hong Kong will have a unified or divided government (Fiorina, 1996), depends on dynamic interactions among the CPG, the executive, LegCo, political parties or groups, and the electors under the institutional framework of the Basic Law. The CPG will definitely be the heavyweight player in this dynamic interaction process.

**Developments ahead**

No political system can avoid reforms. Accompanying the sovereignty transfer from Britain to China in 1997 was the introduction of a new constitutional and political order established by and stipulated in the Basic Law. The extensive appointment system that the authoritarian colonial political system relied on has been replaced by an election system that serves as a new political rule of allocating political power. The political system has thus gone through a “revolutionary” reform, leading to the emergence of a new type of political order based on a more symmetric power relationship among branches of government. The rolling back of the executive (in terms of the formation and direct control of LegCo by the executive) and the bringing back of the legislature (in terms of its veto power, and the political dynamics and legislative competition which results) into the political arena signify the transformation of the political system. Whether intended or not, these systemic transformations have their own logic of development. From this perspective, two major directions of evolution can be identified: popular election of the CE, and the upgrading of the governing capability of the HKSAR government.

Given that amending the election method of the CE touches upon the sensitive issue of power distribution and redistribution, and the possible loosening of the control of the CPG, it is not likely that there will be significant reform in the near future. However, there is still an urgent need for a viable and workable governing system that is conducive to the effective governance of Hong Kong. Among others, the immaturity of the party system and political leadership are two major aspects of concern. The visibility of the lack of capable political leaders has become higher since the HKSAR government failed to respond effectively to several crises and public demands in the late 1990s and early 2000s. The lack of leadership is apparent, but the cause may not be known to many people. The poor political judgment and the under-preparation of the leaders of the HKSAR government, and the under-performance of the inexperienced political appointees after the adoption of the ASPO in July 2002 have, in one way or another, caused problems in governance, and have antagonised the generally passive but occasionally assertive general public.

These problems are structurally driven. The principle of “Hong Kong people ruling Hong Kong” is not supported by a correspondingly vigorous mechanism
to produce capable political leaders. On the one hand, the demand for quality political leaders is not just expected but even desperate, as there was no such supply under British rule. On the other hand, there is no systemic and formalised mechanism to recruit a pool of updated political leaders who are capable of acting and interacting in an entirely new political and electoral game. Unfortunately, political recruitment has not been regarded as a top priority by the CPG and the HKSAR government.

The adoption of the ASPO in July 2002 and the under-performance of some political appointees afterwards have further caused alarm about the political recruitment process. The original idea of adopting such a reform was to untie the CE’s hand in appointing senior and bureau secretaries (principal officials). This was a logical development because any incoming CE should not be forced to choose among the senior civil servants for his own governing team, especially when that CE has a policy vision and agenda that are quite different from those of senior civil servants. Plus, there is the benefit of asserting the political neutrality of senior civil servants, who were involved in the decision-making process but were not accountable for what they did politically before the reform in July 2002.

Because of the sudden demand for more political leaders to fill posts at the secretary level, the issue of whether there is an ample supply of quality political leaders in the society have emerged. Unfortunately, it seems that Tung Chee-hwa had limited access to local political leaders, and encountered difficulty in finding suitable leaders to fill these posts. These issues reflect a more fundamental question of political recruitment.

In general, the CPG and the HKSAR government have not paid due attention to the political recruitment issue. This is indicated by the lack of a credible mechanism through which a governing team will emerge from each round of the CE election. In order to support the working of this mechanism, there should be sufficient supply of leaders in the political community. Unfortunately, the function of political parties in training and recruiting leaders has been overlooked and, worse still, the establishment of political parties was discouraged by the CPG until the early 1990s. There was also the problem of the negative attitude of the CPG and the HKSAR government towards party politics in general, and the absence of a ruling party or a party-based governing team in Hong Kong in particular. The lack of an institutional push for both a mature party system to develop and a pool of professionalised political leaders to emerge have crippled the effective governing of Hong Kong. If Hong Kong really is to strengthen its governing capacities and capabilities not only by words but also by performance, a properly-designed mechanism and a series of related measures aimed at nurturing the growth of a pool of updated political leaders should be in place.

Without the availability of credible and capable political leaders, the CE and his governing team may have difficulty in transforming their policy vision and preferences into enforceable programmes, even though they are equipped with
The inability to rule and the lack of a team spirit by the executive are furthered demonstrated by the policy inconsistency among bureaux and frequent infighting in the core executive. What was missing from Tung Chee-hwa and his governing team in 1997–2005 was partisan power in LegCo, and perhaps in the wider society, and a consolidated and effective governing team. But more important is the fact that these shortcomings have their roots in the contradictory institutional design of the political system in general, and the under-development of the political recruitment mechanism and party system in particular.

REFERENCES


QUESTIONS

1. What are the differences of the roles and functions of bureaucrats and politicians?
2. What are the reasons for the short supply of political leaders in Hong Kong?
3. Discuss the pros and cons of the adoption of the ASPO in July 2002.
4. What is the impact of the differential seat share between the official and non-official members of ExCo on the decision-making process?
5. How accurate is the term “executive-led government” in describing the privileged position of the CE and the government in the policy-making process of the HKSAR?

USEFUL WEBSITES

Bilingual Laws Information System:

Chief Executive’s Policy Address:
http://www.policyaddress.gov.hk

Government and Related Organisations of the HKSAR:
http://www.info.gov.hk/orgindex.htm

Hong Kong Yearbook:
http://www.info.gov.hk/yearbook/

Preparatory Committee for the Hong Kong Special Administrative Region of the National People’s Congress:
http://www.hkbu.edu.hk/~pchksar/

The 2005 Chief Executive Election of the HKSAR:

The 2005 Election Committee Subsector By-elections of the HKSAR:

The Basic Law of the Hong Kong Special Administrative Region:
http://info.gov.hk/basic_law/flash.html

The Budget of the HKSAR Government:
http://www.budget.gov.hk


What is a legislature? What are its functions? A legislature is an institution that represents the people in the governmental process. As direct democracy is not practical in today’s complex and multi-racial society, people have no choice but to delegate the governing responsibilities to representatives whom they elect openly, freely, and regularly. The functions and powers of the legislature are usually enshrined in a constitutional document or constitutional conventions. In addition to representing the people in the governmental process, legislatures also make laws, control public finance, and monitor the performance of the executive branch.

This chapter looks in detail at Hong Kong’s Legislative Council (LegCo). It also discusses methods that can strengthen the capacity of LegCo and help it perform its duties better. The first section briefly examines the history of LegCo and its current membership composition. The second section discusses how membership composition affects LegCo’s functioning, and studies its functions and powers under Hong Kong’s Basic Law. The third section reviews constitutional constraints on the capacity of LegCo, and studies the second-term HKSAR LegCo to see how constitutional restrictions on its capacity affected its performance. The final section studies methods that would strengthen the capacity of LegCo.

The HKSAR Legislative Council

LegCo was established under British rule in 1843, with four official members (including the governor who was president and member). It was mainly an advisory body to the governor (History of the Legislative Council, 2005). As the years went by, LegCo has developed into a modern parliament. It makes laws, controls public finance, and monitors the performance of the government. LegCo’s assertiveness (reflected in its determination and confidence in monitoring the behaviour of the government) was at its highest after the 1995 LegCo election. The last colonial governor, Chris Patten, introduced constitutional reforms that practically opened all 60 seats of LegCo for direct election. China’s displeasure...
with Patten’s unilateral political reform eventually led to the dismantling of LegCo on 1 July 1997.

In December 1996, China established the Provisional Legislative Council (PLC), which functioned as the HKSAR’s legislature the minute China resumed sovereignty over Hong Kong. The legitimacy and legality of the PLC were in grave doubt, and it was subjected to several lawsuits bought by critics. Though the court later upheld the PLC’s legality (on the grounds that its establishment was endorsed by the National People’s Congress (NPC), the highest organ of state power), Beijing knew very well that it was not well received by the Hong Kong people. Hence the term of the PLC was limited to one year. The first HKSAR LegCo was constituted on 24 May 1998. The 1998 LegCo elections entrusted the HKSAR legislature with the popular mandate and legitimacy that its predecessor, the PLC, was never been able to get.

**Composition of the HKSAR Legislative Council**

Members of LegCo, except in the PLC and the first HKSAR LegCo (which was elected for only two years), are elected to a four-year term through different election methods. In the second-term HKSAR LegCo (2000–04), members served four-year terms and were returned through three different categories: geographical constituencies (GC) (24 in total, elected on a one-person-one-vote basis), functional constituencies (FC) (30 in total, elected on an indirect elections basis), and Election Committee (EC) (six in total, elected by the 800-member EC, which also elected the second-term chief executive). In the third-term LegCo (2004–08), members are composed of GCs and FCs only; each category occupies 30 seats. Table 3.1 details the breakdown of the membership composition of LegCo from 1997–2008.


<table>
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<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>Geographical Constituencies (GC)</td>
<td>0</td>
<td>20</td>
<td>24</td>
<td>30</td>
</tr>
<tr>
<td>Functional Constituencies (FC)</td>
<td>0</td>
<td>30</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Election Committee (EC)</td>
<td>60</td>
<td>10</td>
<td>6</td>
<td>0</td>
</tr>
</tbody>
</table>

* (All 60 members of the Provisional Legislative Council were elected by the 400-member Election Committee which also elected the first-term Chief Executive of the HKSAR.)

From Table 3.1, one might get the impression that political powers are equally distributed among the GCs and FCs. However, when we examine the composition of FCs, we notice that political powers are not equally distributed...
among different sectors. Political power lies disproportionately in the business sectors. The business sectors exert more influence than any other in the public policy-making process through legislators returned by FCs (Table 3.2).

**Table 3.2** Composition of the third-term HKSAR LegCo (2004–08) and the election methods

<table>
<thead>
<tr>
<th>(a) 30 members returned from geographical constituencies (voting system: list system of proportional representation), including:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hong Kong Island (6), Kowloon East (5), Kowloon West (4), New Territories East (7), and New Territories West (8).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>(b) 30 members returned from functional constituencies (voting systems: “first past the post” method applies to all functional constituencies, except for the four special functional constituencies (marked with *) where the “preferential elimination” method of voting is adopted). Each of the following functional constituencies has one seat (except for Labour, which has three):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heung Yee Kuk*; Agriculture and Fisheries*; Insurance*; Transport*; Education; Legal; Accountancy; Medical; Health Services; Engineering; Architectural; Surveying and Planning; Labour; Social Welfare; Real Estate and Construction; Tourism; Commercial (First); Commercial (Second); Industrial (First); Industrial (Second); Finance; Financial Services; Sports, Performing Arts, Culture and Publication; Import and Export; Textiles and Garment; Wholesale and Retail; Information Technology; Catering; District Council.</td>
</tr>
</tbody>
</table>


The composition of LegCo determines how it positions itself and functions. In brief, LegCo is more assertive when more democrats are elected, and vice versa. No wonder when the former chief executive, Tung Chee-hwa (July 1997–March 2005) learnt that the pro-democracy camp won only 25 of the 60 LegCo seats and that the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB, formerly Democratic Alliance for the Betterment of Hong Kong, which merged with the Hong Kong Progressive Alliance on 16 February 2005), the flag-carrier of the pro-government and pro-Beijing political parties, had replaced the Democratic Party (DP), the flagship of the pro-democracy political parties, as the largest political party in LegCo, he commented that the result was “good and comfortable” (*South China Morning Post*, 14 September 2004).

We can better understand the impact of a change in membership composition on the functioning of LegCo when we compare the performance of the 1985 and 1991 LegCo. Before the 1991 LegCo election, appointed legislators and officials controlled 30 of the 57 seats. They could pass whatever measures the government wanted. However, among the 60 seats in the 1991 LegCo, the government could only control 22 (18 appointed members and four *ex officio* members). Naturally,
the 1991 LegCo was more assertive than its predecessor. This was not only because
of the increasing number of democrats, but also because it was the last term of
LegCo that still had appointed members. The appointed members who wanted
to serve in LegCo again in 1995 would need to appeal to the public instead of to
the governor. Thus, they no longer needed to vote in line with the government’s
position. Understandably, the 1991 LegCo brought great frustration to senior
civil servants, who were used to getting what they wanted without much difficulty
(Check-Milby, 1995: p. 180). In short, the change in the composition of the 1991
LegCo’s membership began a new era in the history of LegCo. Never before had
the Hong Kong people seen so many open conflicts and disagreements between
the government and LegCo. Comments were even made that the territory was
facing a serious problem of ungovernability.

After the establishment of the HKSAR, the indirectly elected PLC maintained
a harmonious relationship with the executive branch. This was so because among
the PLC’s 60 members, only four were from the moderate democratic political
party, the Hong Kong Association for Democracy and People’s Livelihood. The
rest of the PLC members were mostly pro-government. As Sonny Lo (1998: p. 79)
oberves, the PLC was “more an arm of the administration than a watchdog of the
government”. The first item of business of the PLC soon after its swearing in on
1 July 1997 was the suspension of a number of ordinances (primarily on labour
rights) passed by the democratically elected 1995 LegCo at the eleventh hour of
British rule.

The HKSAR government knew very well that it would be harder to
accomplish these unpopular policy agendas when the first-term HKSAR LegCo
was constituted in 1998. By then, democrats and government critics would most
likely be members. The government was right in its prediction. A record high
turnout rate (53.29%) helped the pro-democracy camp to win 15 of the 20 GC
seats. This change in the composition of LegCo again transformed LegCo from
the submissive PLC to one that was not afraid of confronting the executive branch
when necessary.

In October 2005, in the fifth report of the Constitutional Development Task
for the Methods for Selecting the Chief Executive in 2007 and for Forming the Legislative
Council in 2008), the government proposed that the number of seats in the 2008
LegCo be increased from 60 to 70. In accordance with the National People’s
Congress Standing Committee’s Decision of 26 April 2004 (which stipulated that
the ratio between members returned by GCs and FCs should be 50:50), these 10
new seats were to be equally divided between GCs and FCs. The government also
proposed to let the District Council Functional Constituency (DCFC) return all
the five new FC seats, increasing its representation from one to six. According to
the government, its proposals would not create any “traditional” FCs representing
sectoral interests. All the new FC seats would go to DCFC, “which have a solid public
mandate and relatively high level of democratic representation” (Government
However, the government press release failed to point out that if the proposal were adopted, the ratio of seat distribution would probably be tipped towards the pro-government camp. In the current LegCo, seat distribution between the pro-democracy and pro-government camps is about 42:58. Since about one quarter of the DC members are appointed by the chief executive, the membership composition of the DCFC is inclined towards the pro-government camp. It was thus very likely that all five new FC seats would go to the pro-government camp. Moreover, because of the proportional representation electoral system, the pro-democracy camp was not likely to get all five new GC seats. This is one of the reasons why the government’s proposal was deeply unpopular, and was ultimately voted down in LegCo on 21 December 2005.

**Powers and functions of the Legislative Council**

The Basic Law grants a wide range of powers to LegCo to carry out its functions, including the powers to enact, amend or repeal laws; to examine and approve government budgets; to approve taxation and public expenditure; to debate the chief executive’s policy addresses and issues of great public interests; to raise questions on the work of the government; to endorse the appointment and removal of the judges of the Court of Final Appeal and the Chief Judge of the High Court; to receive and handle complaints from the public; to impeach the chief executive; and to summon persons. LegCo also has informal powers that are not stipulated in the Basic Law, such as influence on government policies and finance.

The influence of LegCo on public policy and public finance is greatest when it has the support of the public opinion and when major political parties are united. For example, in October 2003 the government was forced to shelve a land departure tax proposal as the two largest political parties in LegCo, the DP and the DAB, opposed it. The government’s proposal was also not well received by the public, as many people need to cross the border on a daily basis. The government knew that without the support of the major political parties, the proposal would not stand a chance of becoming law. As Chris Yeung observes, without sufficient support from LegCo, any government policy runs the risk of defeat, regardless of its merits (South China Morning Post, 29 October 2003). Likewise, without the support of LegCo, any government plan to increase its revenue would be defeated. For instance, the government’s various attempts to unfreeze more than 3,000 government fees and charges (like business registration and water charges) in the past few years were unsuccessful due to the opposition of political parties in LegCo.

The core duty of LegCo is to represent the people in the governmental process. LegCo’s major functions are enacting laws, controlling public expenditure and monitoring the government’s performance.
ENACTING LAWS

Legislation is enacted in the form of bills. Both the government and legislators may introduce new legislation, or bills to amend or repeal existing legislation. Though legislators can initiate legislation through the mechanism of private members’ bills, they are only allowed to introduce bills that do not relate to public expenditure or the political structure or the operation of the government (Article 74, Basic Law). As almost any change in the existing law would involve additional public expenditure, or affect the operation of the government, an absolute majority of the bills considered by LegCo in the past (the first and second terms HKSAR LegCo) were not initiated by legislators but the government.

The process of enacting a law consists of three readings of the bill in LegCo. The First Reading is a formality with the Clerk to LegCo reading the short title of the bill. During the Second Reading of the bill, LegCo, through a bills committee, will examine the bill clause by clause, and make amendments to it if necessary. When all the clauses have been thoroughly examined, and amendments, if any, made, the bill will be read a third time. The Third Reading is usually a formality. When a bill has been given three readings, it becomes a piece of enacted law. Unless a later date has been specified, it may take effect after it is signed by the chief executive and promulgated in the Gazette (for details, see Legislative Council Annual Report 2003–2004: 31–32).

CONTROLLING PUBLIC EXPENDITURE

The power of the purse rests with LegCo, which, through its Finance Committee, approves or rejects government funding requests or new taxation proposals. The Finance Committee consists of all members of LegCo except the president. The chairperson and deputy chairperson of the committee are elected by and from among its members. The power of LegCo is apparent when it scrutinises the government’s annual budget and funding requests. The financial secretary prepares and submits the government’s budget to LegCo in March, which is then examined carefully by LegCo’s Finance Committee. When the budget is approved by LegCo, the government has the money to finance its programmes. If government departments have underestimated their expenditure in a given financial year, or if unforeseen causes of additional expenditure have arisen, they have to turn to LegCo again for additional appropriation.

The Finance Committee is an effective tool for LegCo to check on the government because it has final say on all items of government expenditure. Put simply, if LegCo has the will to monitor the government’s performance seriously, it also has the means to do so.
MONITORING THE GOVERNMENT’S PERFORMANCE

Like its Western counterparts, LegCo has the constitutional duty to monitor the government’s performance. Article 64 of the Basic Law stipulates that the HKSAR government “must abide by the law and be accountable to the Legislative Council of the Region: it shall implement laws passed by the Council and already in force; it shall present regular policy addresses to the Council; it shall answer questions raised by members of the Council; and it shall obtain approval from the Council for taxation and public expenditure”. The spirit of Article 64 is in line with the practice found in liberal democracies where monitoring every act of the government is the solemn duty of the legislature. LegCo relies on the following means to discharge its watchdog function:

Private members’ bills

The private member’s bill is the only tool that legislators have to initiate legislation. Before the handover, legislators could use them to participate in or influence the policymaking process. However, after the handover, constrains stipulated in Article 74 and Annex II of the Basic Law greatly weakened the utility of this tool. For a private member’s bill to become a law, it needs to go through the same process as a government bill, that is, with first, second, and third readings, and the signature of the chief executive. However, unlike a government bill which only requires a simple majority vote of the members of LegCo present, the passage of private members’ bills requires a simple majority vote of each of the two groups of members present: members returned by FCs and those returned by GCs (Annex II). Moreover, Article 74 of the Basic Law prohibits legislators from putting forward bills that affect public expenditure, political structure, or government operations unless the chief executive has given his or her written consent to the introduction of the bills.

Debates, motions and questions

Debates, motions and questions (including the Chief Executive’s Question and Answer Session, during which legislators ask the CE about government policies and various public issues) are means through which legislators raise questions regarding government policies; urge the government to follow-up issues of great public concern; check against the performance of the government; and the like. In every session, LegCo holds numerous debates on the chief executive’s policy proposals (Policy Address Debate); the government’s annual revenue and expenditure proposals (Budget Debate) and all the motions moved at LegCo meetings (Other Debates). For example, during the 2003–04 LegCo session LegCo debated 59 motions moved by its members (Legislative Council Annual Report 2003–2004, Appendix 4).

What exactly is a motion? Motions are the mechanism through which most of LegCo’s business is transacted. For instance, amendments to bills are effected by
way of motions. During the 2003–04 LegCo session, government officials moved a total of 25 motions to either make or amend subsidiary legislation, and all were passed (Legislative Council Annual Report 2003–2004: pp. 32–33). Legislators may move motions which do not have legislative effect. During the debate on the motion, legislators can express their views on public issues or call on the government to take certain actions to address issues of great public concern. Another way for LegCo to monitor the government’s performance is through “Questions”. Legislators may ask government officials questions at LegCo meetings. In general, questions are aimed at seeking information on government actions on specific problems or incidents and on government policies. They are also raised for the purpose of monitoring the effectiveness of the government. No more than 20 questions, excluding urgent questions that may be permitted by the president of LegCo, may be asked at any one LegCo meeting. Replies to questions may be given by designated public officers orally or in written form. For questions seeking oral replies, supplementary questions may be asked by any legislator to elucidate the answer (Questions, available at the LegCo web page, http://www.legco.gov.hk/general/english/counmtg/yr04-08/question.htm).

Committees, select committees, and panels

LegCo performs its functions of scrutinising bills, controlling public expenditures, and monitoring the work of the government through a system of committees and panels. Unlike legislatures in Western democracies, LegCo does not rely on a well-developed system of standing committees to carry out its work. Instead, it depends on 18 non-permanent panels. LegCo only has three standing committees, namely the Finance Committee, Public Accounts Committee, and Committee on Members’ Interests (for details of the duties of these committees, see Legislative Council Annual Report 2003–2004, Chapter 3). In performing its watchdog function, the most powerful tool of LegCo is the “select committee”. LegCo may, by resolution, appoint one or more select committees for in-depth consideration of matters or bills referred by the council. Select committees where so authorised by LegCo, may summon persons to testify or give evidence. If summoned, an official must appear before the committee and testify under oath unless the chief executive decides that in the light of security and vital public interests, that official should not testify or give evidence before LegCo or its committees (Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region, 80(b)). Put differently, the select committee has the power to obtain answers that would not be made available under normal LegCo meetings. However, by the start of 2006 the third-term HKSAR LegCo had not yet established any select committees. The major mechanism that LegCo depends on in discharging its duties is the panel with non-permanent status. In the third-term HKSAR LegCo, 18 panels were established to monitor, examine, and discuss in details on issues relating to the policy areas of their corresponding bureaux (Table 3.3). These panels give views on major legislative or financial proposals before their formal introduction.
into LegCo or the Finance Committee. A panel may appoint subcommittees to study specific issues. Each panel is headed by a chairperson elected by and from among its members (Legislative Council Annual Report 2003–2004: p. 41). The chairperson holds a casting vote, making this an important position. There were reports that the election of the tough democratic legislator, Emily Lau Wai-hing (New Territories East), to head the Finance Committee caused discomfort to the HKSAR government and officials from the central government’s liaison office (South China Morning Post, 13 October 2004). On the key Constitutional Affairs Panel, a record 57 legislators are currently members, making this the largest panel in LegCo history. In total, 11 (61.1%) of the 18 chairpersons of the panels are pro-government legislators.

Table 3.3 Panels of the third-term LegCo (2004-08)

<table>
<thead>
<tr>
<th>The 18 LegCo panels</th>
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<tbody>
<tr>
<td>1    Administration of Justice and Legal Services</td>
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<tr>
<td>2    Commerce and Industry</td>
</tr>
<tr>
<td>3    Constitutional Affairs</td>
</tr>
<tr>
<td>4    Economic Services</td>
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<tr>
<td>5    Education</td>
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<tr>
<td>6    Environmental Affairs</td>
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<tr>
<td>7    Financial Affairs</td>
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<tr>
<td>8    Food Safety and Environmental Hygiene</td>
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<tr>
<td>9    Health Services</td>
</tr>
<tr>
<td>10   Home Affairs</td>
</tr>
<tr>
<td>11   Housing</td>
</tr>
<tr>
<td>12   Information Technology and Broadcasting</td>
</tr>
<tr>
<td>13   Manpower</td>
</tr>
<tr>
<td>14   Planning, Lands and Works</td>
</tr>
<tr>
<td>15   Public Service</td>
</tr>
<tr>
<td>16   Security</td>
</tr>
<tr>
<td>17   Transport</td>
</tr>
<tr>
<td>18   Welfare Services</td>
</tr>
</tbody>
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The Legislative Council in action

This section examines constraints that the Basic Law has imposed on LegCo, and then reviews the performance of the second-term HKSAR LegCo, focusing on three main dimensions: initiating legislation that challenges the government’s policy agenda; controlling public finance; and monitoring the performance of the government.
Restrictions on the powers of the Legislative Council

Two major restrictions on the powers of LegCo are Article 74 of the Basic Law and the separate vote count system stipulated in Annex II of the Basic Law. Article 74 practically forbids legislators from proposing any bills of political significance without the prior consent of the chief executive. Naturally, no CE would approve the tabling of private members’ bills if they posed serious challenge to government policies, or forced the government to act against its will. While the government’s inclination to uphold its authority is understandable, it is equally the case that the legislature has a solemn duty to see that the government is acting for the best interests of the people. A restriction on legislators’ capacity to initiate private members’ bills weakens the capability of LegCo to perform its functions.

The second restriction concerns the vote count system stipulated in Annex II of the Basic Law. The system, requiring separate majorities on private members’ bills among both GC and FC members, makes it very difficult for such bills to pass. To defeat an initiative taken by any legislator, all it takes is 16 votes out of the 30 votes of either group of legislators, which should not be a difficult threshold for the major political parties to reach. Predictably, a weak legislature, rather than a strong one, results from this vote count system.

Performance of the second-term Legislative Council

Initiating alternative legislation proposals

The restrictions on private members’ bills have weakened legislators’ ability to effectively put forward alternative legislation proposals to challenge the government’s policy agenda. With reference to the 1995–97 LegCo, it is fair for us to conclude that the private member’s bill is no longer an effective tool. In 1995–97, 53 private members’ bills were tabled, and 26 were passed. The 53 private bills made up 23.2% of all the bills tabled in LegCo (228) in 1995–97 (Ma 2002: p. 355). By contrast, from October 2000 to July 2004, legislators proposed a total of 17 members’ bills. The president of LegCo allowed only three to be tabled (the Rules of Procedure of the Legislative Council grants the president the authority to decide whether a private member’s bill is in violation of Article 74). Four were not allowed to be tabled. The other 10 were tabled with the written consent of the chief executive. Thus, a total of 13 members’ bills were tabled from 2000 to 2004, which was only about 6% of the total bills (225) tabled. More importantly, all 13 bills concerned only the operation of private companies and did not challenge any government policy. As Ma (2002: p. 356) points out, private members’ bills ceased to be a policy tool of LegCo after 1997.

Article 74 and Annex II also made it very difficult for members of LegCo to successfully amend government legislation proposals in 2000–04. Among the 218
bills passed in the second-term HKSAR LegCo, only 11 had amendments moved by legislators. Again, the 1995–97 LegCo provides a point of comparison. In 1995–97, members’ amendments had a success rate of 71%. In 1998–2000, only 14.7% of the members’ amendments were passed. It is worth noting that among the 87 members’ amendments vetoed in 1998–2000, 17 of them in fact received simple majority support but were vetoed because of the separate vote count system (Ma 2002: p. 357). In sum, the second-term HKSAR LegCo performed poorly in terms of initiating legislation that could challenge the government’s policy agenda.

CONTROLLING PUBLIC FINANCE

LegCo has the constitutional power to approve or reject the government’s plans to spend or raise money. Without the approval of LegCo, the government would not be able to fund its projects, and it would have no legal authority to raise new money. When the major political parties in LegCo are united in opposing the government’s funding requests, they can force the government to make policy concessions. For example, in May 2001 the government was forced to withdraw a $177 million bird flu compensation and loan package when the unionists, members of the DP and DAB indicated that they would vote down the package. A majority of LegCo members were opposed to the package because it was not providing financial assistance for poultry workers, but for their bosses. The government resubmitted the package five days later, with new proposals (such as bigger loans and rent concessions) to encourage stall owners to compensate their employees. Legislators were satisfied with these new proposals and endorsed the government’s new compensation package. (South China Morning Post, 26 and 30 May 2001). Members of LegCo may also use the power of purse to ask the government to reconsider its policies. For instance, the government agreed to withdraw its plan to build a $4 billion exhibition centre at Chek Lap Kok after it was criticised by legislators as “ill-thought” during a Finance Committee meeting. Mike Rowse, director-general of investment promotion whose department oversaw the project, agreed to withdraw the plan and return to LegCo for funding approval after refining it (South China Morning Post, 22 December 2001). LegCo was also effective in preventing the government from raising government fees or new taxes. The government was compelled to drop its plan to raise an $18 land departure tax. It is also moving cautiously with its plan to introduce a sales tax, which is unpopular with the public and major political parties in LegCo. Both the Liberal Party and DAB urged the government to continue the freeze on government fees, introduce tax cuts, and drop the idea of sales tax when they met with Financial Secretary Henry Tang in November 2004 (South China Morning Post, 12 November 2004). Overall, the second-term HKSAR LegCo was more effective in monitoring the government’s expenditure and revenue-raising plans than in initiating alternative policies that challenge the government’s policy agenda.
Monitoring the Performance of the Government

LegCo relies on committees, panels, questions, motion debates, and sometimes select committees to monitor the performance of the government. However, the institutional design of these mechanisms has weakened their capacity to effectively monitor the work of the executive branch. Select committees were seldom used in the second-term HKSAR LegCo. Unless there were cases of great public concern that had escalated into protracted controversies, the resolution to set up select committee could be easily be voted down by pro-government legislators. In the years 2000–04, two select committees were set up; one was the Select Committee on Building Problems of Public Housing Units and the other was the Select Committee to Inquire into the Handling of the Severe Acute Respiratory Syndrome [SARS] Outbreak by the Government and the Hospital Authority. At the end of their investigations, these committees published reports which reprimanded officials responsible for mishandling the problems (http://www.legco.gov.hk/yr03-04/english/sc/sc_bldg/reports/bldg_rpt.htm and http://www.legco.gov.hk/yr03-04/english/sc/sc_sars/reports/sars_rpt.htm). The report of the SARS Select Committee generated a huge public outcry over the then secretary for health, welfare and food, Dr Yeoh Eng-kiong, who later resigned, stating that “in order to demonstrate my political accountability … I should resign” (The Standard, 8 July 2004).

In 2000–04, the second-term HKSAR LegCo members asked 2,411 questions (both oral and written). The number of questions asked in 2000–02 was 1,199, a 14% decrease compared with the 1,394 questions of the 1998–2000 LegCo (Ma, 2002: p. 362). In 2002–04, LegCo members asked 1,212 questions, which was again less than the 1394 questions of the 1998–2000 LegCo. The effect of such a decrease in the number of questions asked is difficult to quantify. However, it is clear that the upward trend in the number of questions asked in LegCo meetings in the 1990s was discontinued in the second-term HKSAR LegCo.

As far as motion debate is concerned, there were 217 motion debates without legislative effect moved by the second-term HKSAR LegCo members. Motion debates, as Ma (2002: p. 360) points out, are an ineffective means in pressuring the government. This is because the separate vote count system has made it difficult for members to pass substantial and controversial motions. For example, the motion debate moved by Emily Lau (New Territories East) on 8 October 2003 calling on the chief executive to step down was voted down by members from the FCs. Likewise, the motion debate moved by Albert Ho Chun-yan (New Territories West) on 19 May 2004 regretting the decision of the Standing Committee of the National People’s Congress to rule out universal suffrage in the years 2007 and 2008 was also voted down by members from the FCs. Overall, other than inflicting humiliation on the executive, a motion debate is not an effective tool to check the behaviour of the government.
Strengthening the capacity of the Legislative Council

Although Annex II of the Basic Law stipulates that the method for forming the HKSAR LegCo may be amended after 2007, the decisions of the Standing Committee of the National People’s Congress on 26 April 2004 (also known as the April 26 Decision) ruled that the 2008 LegCo must be composed of members from both the GCs and FCs, and that their ratio should be 50:50. Moreover, the April 26 Decision also ruled that the separate vote count system should remain intact. In light of these constraints, what else can be done to strengthen the capacity of LegCo? Three changes are conceivable.

First, to empower the legislature to function properly, restrictions which Article 74 of the Basic Law has imposed on LegCo’s power should be removed. Second, committee and panel systems should be reformed. Third, the staff support system (mainly the LegCo Secretariat) should be strengthened. Unless all these issues are addressed together and promptly, the HKSAR LegCo will not be able to discharge its duties effectively.

Amending Article 74 of the Basic Law

The April 26 Decision has ruled out the chance to reform the vote count system. The only leeway here is to amend Article 74, which has imposed too many restrictions on legislators’ power to introduce private members’ bills. Restrictions on legislators’ exercising of such power before the handover were already adequate in limiting irresponsible legislative behaviour or preventing the emergence of a legislative-led governmental system. Article 74 practically forbids legislators from proposing any bills of political significance without the prior consent of the chief executive. If one looks at evidence found in Hong Kong’s colonial history, one would agree that private members’ bills indeed would empower the HKSAR LegCo to function effectively.

The first important private member’s bill was introduced in and passed by LegCo in November 1993. Despite the government’s opposition, legislators passed the “Public Officers (Variation of Conditions of Service) (Temporary Provisions) Bill”. As Norman J. Miners (1994: p. 3) reports, the bill suspended for six months the implementation of a government personnel policy. The original policy allowed certain expatriate officers employed on contract terms to transfer to local terms of employment when their contract expired. The government opposed the bill on the ground that public personnel policy was a matter that fell within the prerogative of the executive. Nevertheless, when the bill was passed, the governor did not veto it but signed it into law. Consequently, the Civil Service Branch was obliged to revise its policy. Since then, many other private members’ bills have been proposed.
The colonial government interpreted the proliferation of private members’ bills as a serious threat to the principle of “executive-led government”. However, one should not easily accept that claim. In fact, when Hong Kong was still a British colony, there were sufficient checks and restraints upon legislative power. For example, clause 24 of the *Royal Instructions* (one of colonial Hong Kong’s two constitutional documents) required legislators to obtain the governor’s authorisation before introducing private members’ bills which involved an increase in public expenditure and/or a reduction in the government’s future revenue. A similar restriction was written into the *Rules of Procedure* of the HKSAR LegCo (Clause 31, “Restriction on Motions and Amendments” of the *Rules of Procedure*). Such a restriction is already an adequate measure to ensure that: (1) public expenditure would not be increased (or government revenue decreased) unexpectedly; (2) government policies would not be changed drastically; and (3) the executive’s powers would not be undermined seriously by the legislature.

In short, under Article 74, legislators cannot initiate bills of any political or policy significance. Moreover, as Article 74 forbids legislators from proposing bills related to “political structure or the operation of the government”, they cannot introduce amendments to government legislation for the latter are almost invariably related to “the operation of the government”. To sum up, to restore the HKSAR LegCo’s capacity to perform its duties efficaciously, restrictions listed in Article 74 should all be removed.

**Reforming the committee and panel systems**

Around the world, different kinds of committee systems are utilised to help legislatures cope with their ever-increasing workloads. By means of them, legislators can develop specialised knowledge of policy areas by participating in committee activities of their choice. This specialised knowledge in turn enhances a legislature’s capacity vis-à-vis the executive branch. Specifically, with the help of committee systems, legislatures can discharge their duties more effectively.

Strong committee systems are indispensable for legislatures to operate competently. However, LegCo’s current committee system is far from strong, as it has only three standing committees. Although there is no great pressure for LegCo to reform its committee and panel system, it cannot afford to be complacent about its capacity. Considering the growing volume and complexity of legislation that LegCo will be facing in the future, the current underdeveloped committee system is insufficient.

LegCo’s panels, while functioning like committees, do not have the status of standing committees. The problem with the panel system is its lack of a permanent status, which is certainly not satisfactory. In reviewing studies on eight legislatures located in different parts of the world, such as the United States, the
United Kingdom, and Italy, Malcolm Shaw (1979: p. 380) observed that “over
time, legislatures have tended to progress from a tendency to utilise ad hoc
committees to a tendency to utilise permanent committees”. Shaw argues that
“strong committee systems tend to be mainly permanent, while weaker committee
systems tend to have a larger ad hoc component” (Shaw, 1979: p. 380).

Experience elsewhere also shows that a well-developed standing committee
system can strengthen legislators’ and legislatures’ capacity for scrutinising and
influencing the activities of government departments. In the United Kingdom,
for example, Michael Jogerst (1993: p. 216) finds that the House of Commons’
new committee system (which was adopted in 1979) has provided Parliament
and its members: (1) added opportunities to acquire expertise and specialist
knowledge for committee members; (2) more informed debate and discussion in
the chamber; (3) and another forum for the opposition to criticise government
policies. Reports of the committees are increasingly referred to in debate because
they present a “House view” on a subject which the government cannot easily
discredit as representing the views of the minority opposition.

In light of overseas experiences, one may argue that LegCo’s ability to
function properly will be weakened unless it has institutionalised a well-defined
standing committee system. The easiest way to do so is to convert the current
panels into standing committees. Under the new system, panels would be
replaced by permanent standing committees which would continue to scrutinise
corresponding government policy bureaux. The Security Committee would follow
closely activities and policy suggestions of the Security Bureau, for example. In
short, the committees’ functioning would be similar to their predecessors, which
is examining the work of government departments and the effects of government
policies falling within their jurisdictions. Overall, to increase its capacity, LegCo
must reform its existing committee and panel system.

**Strengthening LegCo’s staff support system**

It goes without saying that no legislature or committee system can work
competently without sufficient staff support. The principal goal behind providing
staff support to a legislature is to make it less dependent on the executive branch
for information and expertise needed in scrutinising legislation or overseeing
activities of the government. As at 31 March 2004, the LegCo Secretariat
comprised nine divisions employing 313 staff members (Report on the Activities
of the Legislative Council Commission 2003–2004: p. 8). This small agency is all that
LegCo’s committees, panels, and members can rely on for staff support. The
Secretariat provides members of LegCo and their staff with:

(i) secretariat and support services (the Council Business Division 1–3),
(ii) legal advice (the Legal Service Division),
(iii) research and reference services (the Research and Library Services
Division),
(iv) support service to enable legislators to deal with complaints and representations lodged with the Redress System of LegCo (the Complaints Division),

(v) publicity service such as the development and implementation of a public information and education programme on LegCo, and handling enquiries from the press and the public (the Public Information Division), and

(vi) translation service in respect of questions, motions, papers, minutes and other papers (the Translation and Interpretation Division).

(For details of the responsibilities of each of these divisions, see The Secretariat, at LegCo’s web page, http://www.legco.gov.hk/general/english/sec/corg_ser/corg_ser.htm.)

To compensate the inadequacy of staff support to legislators, each legislator is entitled to a monthly allowance of about HK$120,000 for general and district office expenses (Apple Daily, 6 December 2004). This is hardly enough if a legislator wants to hire experienced staff or maintain a team of researchers to study policy issues of his or her interest.

It is beyond dispute that a modern legislature needs a well-coordinated and developed system of staff support to meet its responsibilities. The case of America is instructive. In the United States, members of Congress are usually supported by more than 10 employees (Moen and Copeland, 1999: p. 159). Buttressing these personal resources are the specialised staffs of committees and the support agencies. As Eleanor G. Lewis and Frederick H. Pauls (1992: p. 18) point out, collectively these staff help to shape legislation, keep members informed, conduct research, inquire and investigate, organise hearings, draft reports, and help legislators to conduct their day-to-day legislative activity effectually. In sum, LegCo should start thinking about how it could strengthen the capacity of its Secretariat so as to provide greater support to its members. The United States’ three-tier (personal, committee, and support agencies) support system is an example that LegCo should turn to for ideas to reform its Secretariat.

Conclusion

This chapter has discussed how changes to the membership composition of LegCo would affect its functioning and performance. From the experiences of the 1991, 1995–97, PLC (1997–98) and the first- and second-term’s HKSAR LegCo, one can observe that the more democrats elected to LegCo, the higher its degree of assertiveness, and vice versa. The most telling example was the PLC, which, since its membership was mostly composed of pro-government legislators, was more like a lapdog than a watchdog of the government.

The chapter has also considered the performance of the second-term HKSAR LegCo. The assessment shows that LegCo’s capacities to discharge its
duties have been weakened by restrictions stipulated in the Basic Law, most notably Article 74 and Annex II. Article 74 has made it very difficult for the legislature to initiate alternatives that challenge the government’s policy agendas. Likewise, the separate vote count mechanism stipulated in Annex II has made it very hard for legislators to propose amendments to government-proposed legislation. To remedy this unsatisfactory situation, several methods have been suggested, including removing the restrictions stipulated in Article 74, reforming the committee system, and strengthening LegCo’s staff support system.

REFERENCES


QUESTIONS

1. What are the major functions of a legislature? Which of these functions do you think are most important for a legislature? Why?

2. Among the major functions of the legislature, which do you think LegCo performs the best? Why?

3. What are the implications of changes to the membership of LegCo for its functioning?

4. Discuss in what ways do the existing constitutional restrictions imposed on LegCo affect its functioning?

5. Suggest some methods to strengthen the functioning of LegCo. Support your answer with examples.

USEFUL WEBSITES

The HKSAR Legislative Council
http://www.legco.gov.hk

Hong Kong SAR Government Information Centre
http://www.info.gov.hk/eindex.htm

United States Congress
http://www.access.gpo.gov/congress/

The United Kingdom Parliament
http://www.parliament.uk

FURTHER READING


Press, pp. 349–374. This book chapter examines the executive-legislative relations in Hong Kong after 1997. It discusses the various channels that LegCo may utilise to influence the governance of the HKSAR. Ma’s article points out that a weak legislature is harmful for the future of HKSAR governance.


*Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region*, http://www.legco.gov.hk/general/english/procedur/content/rop.htm. This document details regulations that govern how LegCo should conduct its business. These regulations also apply to those who attend LegCo’s meetings.
Since the 1997 handover, the Hong Kong judiciary has been caught in a number of controversies that raise hopes, doubts and challenges about whether it can maintain its independence and other fundamental principles under Chinese sovereignty. The judiciary started its constitutional journey with high hopes to maintain the rule of law, a high degree of autonomy and human rights in Hong Kong. However, the first decade after the handover has been a journey on a tightrope. Sensitive rulings had to be made on various politically divisive issues. From the constitutionality of the Provisional Legislative Council to the right of abode of Mainland children, a difficult balance had to be struck. After many years of struggle, however, the Hong Kong judiciary has managed to preserve Hong Kong’s judicial autonomy to its fullest possible extent under the constraint of “one country, two systems”.

Fundamental principles of Hong Kong’s legal system

The struggle of the Hong Kong Special Administrative Region judiciary can be summarised as its realisation that it is walking a new journey carrying old baggage. How to balance the new and the old is the challenge.

The requirement to carry this old baggage is expressly provided for in the Basic Law of the HKSAR, the constitutional document of Hong Kong. Article 8 states that the laws previously in force in Hong Kong including the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained. The fundamental principles of the legal system can be found in these laws. Article 19 of the Basic Law provides that the courts of the HKSAR shall have jurisdiction over all cases in the HKSAR, except where restricted by the legal system and principles previously in force. Though stated in a negative manner, the intention of the Basic Law is clear: that fundamental principles of the pre-handover legal system will be maintained. Article 81 of the Basic Law provides that the judicial system previously practiced in Hong Kong shall be maintained. Article 87 provides that in criminal or civil proceedings the principles previously
applied in Hong Kong and the rights previously enjoyed by parties to proceedings shall be maintained.

What are these fundamental principles? There is no question that the rule of law is the most important principle. Many other principles are derived from it. It is not expressly stated, but one may find it implied everywhere in the Basic Law. In the crudest way to express the principle of the rule of law, a government may only exercise those powers authorised by law and in the manner so provided in law (Box 4.1). Article 16 of the Basic Law provides that the HKSAR shall be vested with executive power. It shall, on its own, conduct the administrative affairs of the HKSAR in accordance with the relevant provisions of the Basic Law. In many other provisions in the Basic Law, the phrase “in accordance with law” can also be found.

There are various levels of understanding to this principle. The basic level is “existence of law”. There must be laws to govern different fields of government and individual activities. The second level is “regulation by law”. The government will use law as its main mechanism of governance. The third level is “governmental powers limited by law”. Governmental powers are constrained by law and any governmental act that has no legal basis could be invalidated by an independent judiciary. These levels of the understanding of the rule of law do not impose any requirement on the substantial content of the law. The highest level is “justice attained through law”. Law should provide protection to everyone’s individual freedom and allow the weak in the society to have a minimum share in the resources of the society.

Derived from this crude expression of the rule of law are two other related principles: (i) the law must be applied equally and (ii) there must be a mechanism to ensure the government will only exercise powers in accordance with law. Article 25 provides that all Hong Kong residents shall be equal before the law. Article 35 provides that Hong Kong residents shall have the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel.

To be an effective check on executive powers, the courts need two institutional arrangements. The first is independence of the judiciary. Judicial independence is such a famous principle that it is often regarded as fundamental, but it too is derived from the rule of law (Box 4.2). This fundamental principle is stated in three articles of the Basic Law (Articles 2, 19 and 85). Specific institutional requirements on the appointment (Articles 88 and 92), dismissal (Articles 89
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and 90), terms of service (Article 93) and judicial immunity (Article 85) are also expressly provided in the Basic Law.

The second institutional arrangement is the power of judicial review, which has two aspects. The first is judicial authority to review administrative decisions and acts and invalidate those that are not in accordance with law. This is not expressly provided for in the Basic Law. The second aspect is judicial authority to review legislative acts on their compatibility with the Basic Law. This is again not expressly provided for in the Basic Law. Article 11 merely provides that no law enacted by the legislature of the HKSAR shall contravene the Basic Law. It is generally accepted that the HKSAR courts have these two aspects of the power of judicial review.

The relationship between the common law and the rule of law is not too clear. The common law may be taken as only a legal method, which emphasises the use of precedents in judicial reasoning and adversarial procedures in adjudication. However, the common law may also include the substantial values recognised by the courts (Box 4.3). The rule of law is one of these common law principles. Nevertheless, both meanings of common law are incorporated in the Basic Law and are fundamental principles that the Hong Kong judiciary must maintain.

Article 8 provides that the laws previously in force in Hong Kong including the common law and rules of equity are maintained. Article 84 provides that the courts of the HKSAR may refer to precedents of other common law jurisdictions.

**Box 4.2 Judicial independence**

The judiciary is independent from the executive authorities, legislature and all external bodies in adjudication so that it can make decisions impartially. To ensure judicial independence, the procedure to appoint, promote and dismiss judges must also be protected from external influence. The terms of service of judges must be secure and attractive enough to discourage corruption or pressure. The judiciary also needs to have financial autonomy to maintain its integrity.

**Box 4.3 Common law**

Common law is a legal method and a set of principles and values developed by the English courts. The legal method is to rely on precedents and adversarial procedures of adjudication. The principles cannot be summarised in a few sentences, but values like the rule of law, individual rights, fair procedure and equity are incorporated in common law. Common law has been exported to many other legal systems, where modifications to the method and values of common law have evolved and developed.
Another fundamental principle is protection of human rights. This baggage is not very old, as it was added only in 1991 when the Hong Kong Bill of Rights Ordinance was enacted to incorporate the International Covenant on Civil and Political Rights (ICCPR). Though Article 39 provides that the provisions of the ICCPR as applied to Hong Kong shall remain in force and shall be implemented through the laws of the HKSAR, the Chinese government seems to hold a view that human rights protection should not be part of the old baggage that the Hong Kong judiciary is responsible for maintaining.

**Changes in the judiciary after the handover**

The new journey taken by the Hong Kong judiciary after the handover can be characterised by two new institutional arrangements. The first is the power of final adjudication. The only notable change to the structure of the HKSAR courts after the handover is that a new Court of Final Appeal (CFA) was established in Hong Kong (Table 4.1). Before the transfer of sovereignty, cases in Hong Kong were appealed to the Judicial Committee of the Privy Council at London. Since the handover, the HKSAR enjoys the power of final adjudication (Articles 2, 19 and 82). It is exceptional for a regional court to enjoy this power of final adjudication. Hong Kong’s legal system is thus separated from that of the Mainland. However, the separation may only be partial if we consider the second new institutional arrangement.

The second new institutional arrangement is the power of the Standing Committee of the National People’s Congress (SCNPC) to interpret the Basic Law. In adjudicating cases, if the CFA needs to interpret a provision of the Basic Law concerning affairs which are the responsibility of the Central People’s Government, or concerning the relationship between the central authorities and the HKSAR, and if such interpretation will affect the judgment on the case, the CFA is required to seek an interpretation of the relevant provisions from the SCNPC (Article 158, Basic Law). The SCNPC is not a judicial organ but a political institution. It is alien to the common law system for a political institution to enjoy the power to interpret law, but this is an integral part of the Chinese constitutional system (Article 67(4), Constitution of the People’s Republic of China). The SCNPC’s power to interpret the Basic Law establishes an institutional link between the Hong Kong and the Chinese legal systems (Box 4.4).

Since the handover, the key struggle within the Hong Kong judiciary has focused on how it should resolve the inherent conflict between these two new institutional arrangements.
### Table 4.1 Structure and jurisdiction of the HKSAR courts

<table>
<thead>
<tr>
<th>Name</th>
<th>Jurisdiction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court of Final Appeal</td>
<td>Hears appeals on civil and criminal matters from the Court of Appeal and the Court of First Instance.</td>
</tr>
<tr>
<td>Court of Appeal</td>
<td>Hears appeals on all civil and criminal matters from the Court of First Instance and the District Court. Also hears appeals from Lands Tribunal and various tribunals and statutory bodies. Together with the Court of First Instance, they form the High Court.</td>
</tr>
<tr>
<td>Court of First Instance</td>
<td>Has unlimited jurisdiction in both civil and criminal matters. Also hears appeals from Magistrates’ Courts, the Small Claims Tribunal, the Obscene Articles Tribunal, the Labour Tribunal and the Minor Employment Claims Adjudication Board. For criminal trials, judges of the Court of First Instance sit with a jury of seven (nine on the special direction of the judge).</td>
</tr>
<tr>
<td>District Court</td>
<td>Hears civil disputes of a value between $50,000 and $1 million. Criminal jurisdiction is limited to seven years’ imprisonment.</td>
</tr>
<tr>
<td>Magistrates’ Courts</td>
<td>The seven Magistrates’ Courts (Eastern, Kowloon City, Kwun Tong, Tsuen Wan, Fanling, Shatin and Tuen Mun) exercise criminal jurisdiction over a wide range of indictable and summary offences meriting up to two years’ imprisonment and a fine of $100,000.</td>
</tr>
<tr>
<td>The Family Court</td>
<td>Deals mainly with divorce cases and related matters such as maintenance and the welfare of children.</td>
</tr>
<tr>
<td>The Lands Tribunal</td>
<td>Deals with cases arising from tenancy disputes and matters in relation to building management. Also hears applications for the determination of compensation caused by land resumption, appeal against the assessment of rateable value/government rent or market value of property under the Housing Ordinance.</td>
</tr>
<tr>
<td>The Labour Tribunal</td>
<td>Hears cases concerning employment where the amount of claim exceeds $8,000 for at least one of the claimants in a claim or where the number of claimants in the claim exceeds 10. Hearings are informal and no representation by lawyers is allowed.</td>
</tr>
<tr>
<td>The Small Claims Tribunal</td>
<td>Hears claims within its jurisdiction of up to $50,000. Hearings are informal and no representation by lawyers is allowed.</td>
</tr>
<tr>
<td>The Obscene Articles Tribunal</td>
<td>Determines and classifies whether or not an article or other matter publicly displayed is obscene or indecent.</td>
</tr>
<tr>
<td>The Coroner’s Court</td>
<td>Conducts inquests into unusual circumstances causing death.</td>
</tr>
<tr>
<td>The Juvenile Court</td>
<td>Hears charges against children and young persons under the age of 16, except in cases of homicide. Also has the jurisdiction to make care and protection orders in respect of young persons under the age of 18.</td>
</tr>
</tbody>
</table>
Indirect conflict over jurisdiction

The first conflict between the jurisdiction of the HKSAR and the Mainland courts came just a year after the handover. It did not involve the HKSAR courts directly, because they did not have a chance to give a ruling on the conflict. Cheung Tze-keung, nicknamed “Big Spender”, and his gangsters were suspected of involvement in a series of criminal acts in Hong Kong and in the Mainland. Cheung and some of his gangsters were Hong Kong residents. They were arrested in China and prosecuted on various offences. Some of the charges concerned acts committed purely in Hong Kong. The lawyer representing Cheung wrote a letter to Elsie Leung, the then secretary for justice, requesting her to take action to have Cheung’s trial transferred to Hong Kong as some of the offences were allegedly committed in the territory. The secretary for justice rejected the request on the ground that the Mainland courts had jurisdiction as the gangsters had committed offences that occurred purely in the Mainland. Later, it transpired that the Mainland court did not just consider the acts committed in Mainland by Cheung and his gangsters, but also acts committed in Hong Kong. Nonetheless, the secretary still refused to assert jurisdiction against the Mainland courts. In another case, a Mainland resident was suspected to have murdered five Hong Kong residents in Hong Kong. He escaped back to China and was arrested there. The secretary for justice again refused to make a request to the central authorities to have the suspect transferred to the HKSAR for trial. Similar reasons were given.

In these two cases, the HKSAR government failed to assert jurisdiction even though the Basic Law provides that the HKSAR courts have jurisdiction over all cases in the territory (Article 19). They illustrate the passivity of the HKSAR courts in any conflict of jurisdiction with the Mainland court. According to the
Basic Law, the Department of Justice of the HKSAR controls criminal prosecution and is free from any interference (Article 63). If the secretary for justice as the head of the Department of Justice decides not to assert jurisdiction on behalf of the HKSAR, there is nothing that the HKSAR courts could do. The same applies to other cases within the HKSAR if the secretary decides not to prosecute.

**Direct clash of jurisdiction**

The CFA did not adopt the same avoidance attitude as the HKSAR government when it had the chance to consider whether Hong Kong courts have the power to examine legislative acts of the NPC and the SCNPC in terms of their consistency with the Basic Law, and to invalidate any inconsistent act. In this regard, a clash was caused by the establishment of the Provisional Legislative Council (PLC). Because the Chinese and British governments could not come to an agreement on the composition of the last Legislative Council under colonial rule, the SCNPC proclaimed that the Legislative Council elected in 1995 had to be terminated on 30 June 1997, and could not become the first Legislative Council of the HKSAR as originally provided under the Basic Law. The PLC was set up to fill the constitutional vacuum by various decisions made by the NPC and the SCNPC. However, the constitutionality of the PLC was challenged, as this institution was not expressly mentioned in the Basic Law. If the PLC were unconstitutional, the constitutionality of all the laws enacted by the PLC would also be in question.

In the first batch of cases concerning the right of abode of Mainland children, the CFA had to consider the constitutionality of amendments to the Immigration Ordinance enacted by the PLC, which denied the right of abode to many Mainland children. Even though the CFA confirmed the constitutionality of the PLC, it asserted that the HKSAR courts have the power to review the legislative acts of the NPC and the SCNPC. If they were found to be inconsistent with the Basic Law, the HKSAR courts could hold them invalid. The CFA based its principle concerning the jurisdiction of the HKSAR courts as against the NPC and the SCNPC on its understanding of the nature of the Basic Law. The Basic Law as the constitution of the HKSAR, like other constitutions, distributes and delimits powers as well as providing for fundamental rights and freedoms. Laws that are inconsistent with the constitution are of no effect and are invalid. The HKSAR courts granted with independent judicial power under Hong Kong’s “high degree of autonomy” must have the power to determine questions of inconsistency and invalidity when they arise even if it is against the NPC and the SCNPC.

This decision was immediately criticised by four Mainland legal experts who were all involved in the drafting of the Basic Law. Their views were clearly endorsed by the Chinese government. They criticised the CFA for putting itself above the NPC and the SCNPC, saying the jurisdiction of the CFA could not be extended to Beijing, and the Basic Law had not granted it such authority. Such power of
review asserted by the CFA was sovereign in nature and it was ridiculous that the CFA could have such power. The most serious criticism was that the judgment would transform Hong Kong into an independent political entity.

The secretary for justice then made an application to the CFA requesting a clarification concerning the constitutional jurisdiction of the HKSAR courts. The CFA accepted the application in an unusual manner and exercised what it considered to be the inherent authority of the court to make a clarification. In the clarification, the CFA restated its original principle, but from another side of the same coin, that the HKSAR courts have no power to question the authority of the NPC and the SCNPC to do any act, in accordance with the Basic Law and the procedure therein.

It seems that the Chinese government was satisfied with the CFA’s clarification and the constitutional crisis was resolved. In this encounter, the CFA’s authority suffered the first blow. At the beginning, the CFA positioned itself as the guardian of Hong Kong’s rule of law and of its high degree of autonomy. Faced with a challenge from Mainland legal experts, the CFA did not compromise very much. However, it became clear to the CFA that it could not be too idealistic, and the weight it had given to political expediency might still not be enough. It also became clear that the HKSAR government would not be a reliable partner in defending Hong Kong’s rule of law and high degree of autonomy.

**The SCNPC interpretation and its impact**

If this blow to judicial autonomy was not fatal, how the HKSAR government dealt with the CFA’s decisions in the right-of-abode litigation gave a more serious blow. The amendments to the Immigration Ordinance enacted by the PLC had two controversial components. The first amendment was to set up a procedural barrier to prevent an influx of Mainland children into Hong Kong to exercise their right of abode immediately after the handover. In effect, all Mainland children had to have a one-way exit permit issued by the Public Security Bureau in the Mainland before they could come to Hong Kong to exercise their right of abode, even if they were entitled to enjoy the right of abode in the HKSAR under the Basic Law. As there was already a quota system regulating entry into the HKSAR from the Mainland, the intention of this amendment was to ensure that these children would come to the HKSAR in an orderly manner. The second amendment was to limit the number of persons eligible for right of abode under Article 24(3) of the Basic Law by excluding those who were born before their parents became permanent residents of Hong Kong.

The CFA invalidated the first amendment on the ground that the HKSAR, with its high degree of autonomy, must have the power to admit people who under its constitution are its permanent residents. The amendment had devolved this power from the HKSAR and let the Mainland authorities make the relevant
decisions. The CFA also invalidated the second amendment, relying this time on the importance of protecting the right to family union as given under Article 23 of the ICCPR. Protection of human rights was considered by the CFA to be one of the purposes of the Basic Law. In addition to being the guardian Hong Kong’s rule of law and high degree of autonomy, the CFA also positioned itself as the guardian of human rights in Hong Kong.

The HKSAR government considered these decisions of the CFA as not reflecting the true legislative intent of the Basic Law. Justified by the claim that the CFA’s decisions might allow 1.7 million newly eligible persons to become permanent residents of the HKSAR, the chief executive requested the SCNPC to interpret the relevant provisions of the Basic Law. The decisions of the CFA were in effect overruled by the SCNPC when it issued that interpretation. This was the first time that the SCNPC exercised the power to interpret the Basic Law. Coming much earlier than most people expected, just two years after the handover, it had long-term implications for Hong Kong’s judiciary autonomy.

First, the CFA, though named as the “final” court of Hong Kong, now realised that it might not be really “final”. Its decisions could still be overruled by the SCNPC, a non-judicial organ, through a reinterpretation of the relevant provision of the Basic Law. This would be unthinkable under a common law system in which the power of interpretation is an integral part of the power of adjudication and cannot be separated. Having the power of final adjudication must mean having also the power of final interpretation. Under the new constitutional order of the HKSAR where a common law legal system meets a socialist and civil law legal system, the power of final adjudication must be understood in a different manner. The CFA must face this legal reality.

Second, Article 158 of the Basic Law provides that the SCNPC is vested with the power of interpretation of the Basic Law. Many people believed that the SCNPC would only interpret the Basic Law upon a referral from the CFA and would not exercise the power directly. The right-of-abode interpretation made it clear that this was a wrong understanding of the power of the SCNPC to interpret the Basic Law. Even though the SCNPC has not exercised this constitutional power to interpret laws very often, it is prepared to use this power to advance what it considers to be proper for Hong Kong.

Third, the CFA in considering the substantial issues of the cases needed to interpret two provisions of the Basic Law. One provision is within the limits of the HKSAR’s autonomy, but the other is a provision concerning the relationship between the central authorities and the HKSAR. The CFA developed a “predominant provision test” to guide the determination of the conditions on which would it seek an interpretation from the SCNPC. According to this test, the CFA will look at the nature of the predominant provision if there are two Basic Law provisions involved in the adjudication. If the predominant provision is not one concerned with the responsibilities of the central authorities or the relationship between the central authorities and the HKSAR, then there is no
need to seek an interpretation. Based on this test, the CFA decided that the predominant provision in the cases was not such a provision and therefore there was no need to seek an interpretation. However, the SCNPC in the right-of-abode interpretation stated that the CFA was wrong not to seek an interpretation though it had not provided an alternative legal test. Nevertheless, in a subsequent right-of-abode case the CFA, while applying the new interpretation of the SCNPC of the relevant provisions of the Basic Law, accepted that it would have to revisit the predominant provision test in the future. Article 158 concerns the interpretation of the Basic Law, but is itself also subject to the power of interpretation of the SCNPC. The CFA does not have any final power to determine the legal principles on how to interpret the Basic Law. Now the SCNPC still tolerates the principles developed by the CFA, but if it were to lay down detailed rules of interpretation in the future, the CFA cannot help but follow.

Fourth, before arriving at its decisions, the CFA had to develop a basic principle for interpreting the Basic Law: the purposive approach. In ascertaining the true meaning of the instrument, the courts must consider the purpose of the instrument and its relevant provisions as well as the language of its text in the light of the context. Context is of particular importance in the interpretation of a constitutional instrument. The purpose of a particular provision may be ascertainable from its nature or other provisions of the Basic Law or relevant extrinsic materials including the Joint Declaration. The context of a particular provision is to be found in the Basic Law itself as well as relevant extrinsic materials including the Joint Declaration. Assistance can also be gained from any traditions and usages that may have given meaning to the language used.

What is controversial is not the approach itself but the specific “purposes” of the Basic Law arrived at by the CFA. To the CFA, the Basic Law has three main purposes. The first is to distribute and delimit governmental powers. The second is to establish the HKSAR as an inalienable part of the People’s Republic of China under the principle of “one country, two systems” with a high degree of autonomy, in accordance with China’s basic policies regarding Hong Kong as set out and elaborated in the Joint Declaration. The third purpose is to give to Hong Kong residents the full measure of fundamental rights and freedoms guaranteed by the Basic Law.

On the basis of these purposes of the Basic Law, the CFA reached its decisions in the right-of-abode cases, which were in effect overruled by the SCNPC. The SCNPC in its interpretation did not expressly state that the purposes of the Basic Law are not what the CFA held them to be. However, by reinterpreting the relevant provisions of the Basic Law, it is clear that the SCNPC feels that the genuine purposes of the Basic Law must be otherwise. It is not that the three purposes adopted by the CFA are not purposes of the Basic Law, but from the SCNPC’s perspective, the Basic Law has three other overriding purposes that were overlooked or at least under-emphasised by the CFA. The first purpose is to provide the legal basis for the People’s Republic of China to resume the exercise
of sovereignty over Hong Kong. The second purpose is already included in the first one, which is to allow the People’s Republic of China to exercise sovereignty over Hong Kong. The third purpose is to maintain stability and prosperity in Hong Kong. In case of conflict between the purposes adopted by the CFA and those emphasised by the SCNPC, the latter must prevail, as the SCNPC can uphold its understanding through its power of final interpretation.

Fifth, the right-of-abode interpretation was not actually initiated by the SCNPC, but was made upon a request from the chief executive of the HKSAR. The chief executive as the head of the HKSAR and the HKSAR executive could not interfere with the adjudication and judicial deliberation in the Hong Kong courts because that would be a direct affront to judicial independence. What is not allowed at the front door should also not be done via the back door. Thus, the HKSAR government should have guarded the back door for the Hong Kong courts. However, in the event it was the HKSAR government that opened the back door and invited an interpretation from the SCNPC. The Hong Kong courts could no longer rely on the HKSAR government to protect their autonomy. The right-of-abode controversy did not involve any conflict between the sovereignty and the high degree of autonomy of the HKSAR. Even for this kind of issue, the HKSAR government was willing to sacrifice judicial autonomy to political expediency. If there were a direct conflict between Mainland’s and HKSAR’s interests, the HKSAR government would not be a trustworthy partner in protecting Hong Kong’s judicial autonomy as well as other aspects of autonomy.

**Constitutional positioning and repositioning**

In the first batch of right-of-abode cases, the CFA positioned itself as the guardian of Hong Kong’s rule of law, high degree of autonomy and human rights. These ideals were dashed by the right-of-abode interpretation. The CFA had to reposition itself after it learned more about the deeper meaning and reality of the new constitutional order of Hong Kong. Several new strategies were adopted.

First, the CFA accepted the authority of the SCNPC to interpret the Basic Law even outside the framework of Article 158 of the Basic Law. Actually, the CFA did not have any choice. As the SCNPC is the highest constitutional organ within the Chinese constitutional system to interpret law, and the HKSAR is an integral part of the Chinese constitutional system, the HKSAR courts must submit to the authority of the SCNPC. The CFA even agreed to revisit some constitutional principles to reconfirm the supreme constitutional authority enjoyed by the SCNPC.

Second, if there is a possibility that its decision may invite another interpretation from the SCNPC, the CFA will try to avoid the issue and decide the case without touching on any sensitive provision of the Basic Law. The CFA in another batch of right-of-abode cases redefined its approach of interpreting
the Basic Law, and decided the cases by relying more on the literal meaning of the constitutional text and avoided the sensitive “purposes” of the Basic Law. In a subsequent case challenging the constitutionality of the provision of the National Flag and National Emblem Ordinance, the CFA rejected the challenge by simply following a typical analysis of human rights cases. By relying on a human rights analysis, the CFA managed to avoid a very sensitive constitutional question, which if decided wrongly might invite an interpretation by the SCNPC. The question is whether the CFA has the power to invalidate the provision of the National Flag and National Emblem Ordinance which is not purely a local legislation but was enacted in accordance with Article 18 and Annex III of the Basic Law to apply a national law to the HKSAR. The same avoidance strategy of the HKSAR government has been reluctantly adopted by the CFA.

Third, among the three guardianships, the CFA has to set a priority. In order to protect Hong Kong’s high degree of autonomy and human rights, the CFA must first preserve its judicial independence and judicial authority. This requires the maintenance of the rule of law in Hong Kong. The greatest threat to the rule of law is perceived to be another interpretation by the SCNPC. This explains why the CFA has tried to avoid this even at a cost of less human rights protection in Hong Kong. Guardianship of the rule of law comes before the other two guardianships.

Fourth, if the possibility of interpretation by the SCNPC is remote, the CFA will still strive to fulfil its vision and decide the case accordingly. The CFA will guard human rights if there is no conflict with its more important constitutional position as the guardian of Hong Kong’s rule of law. Indeed, the CFA has not been slow in developing new legal principles and doctrines to provide more protection to Hong Kong people’s rights. A good example is the doctrine of substantive legitimate expectation. The CFA is the first court of final appeal among common law jurisdictions that has recognised this doctrine, which it has used to allow some Mainland children to have their claims for right of abode in Hong Kong be reconsidered by the HKSAR government.

Fifth, even in a case that may involve a sensitive provision of the Basic Law, the CFA will still try to achieve a sense of justice according to its understanding of the purposes of the Basic Law by developing some non-constitutional legal principles. In the last batch of right-of-abode cases involving Mainland children, constrained by the SCNPC interpretation, the CFA had no choice but to deny the applications of Mainland children who were in similar situations to children in the first batch. However, the CFA innovatively imported an English common law principle of substantive legitimate expectation to resolve the dispute. Though the majority of the applicants still could not establish their right of abode, the new doctrine allowed a number of applicants to have their right-of-abode applications reconsidered by the Director of Immigration in light of the applicants’ legitimate expectation that the director had expressly promised to implement the decisions of the CFA in the first batch of right-of-abode cases. What could not be done via
the route of constitutional law, the CFA achieved partially via the less politicised route of administrative law.

**New challenges**

The Hong Kong judiciary under the leadership of the CFA started its constitutional journey with an understanding of the nature of the Basic Law, which might have been “too naïve and too simple”. The lesson it learned from the political reality caused it to adjust its understanding, and make it more practical and realistic, though some will criticise the CFA for submitting to political pressure and giving up its principles. Accepting the constitutional constraints under the Basic Law and “one country, two systems”, the CFA strove for an optimum achievement of its original visions for Hong Kong. The CFA’s positioning may not be perfect, as perfection can never be achieved in politics, but the level of judicial autonomy that it has secured might be the highest attainable level.

Since the handover, judicial review has entered into the day-to-day language of Hong Kong citizens. People in general believe that the Hong Kong judiciary, in exercising its power of judicial review, will be able to impose legitimate and constitutional constraints on legislative and administrative powers. If the matter does not involve the interests of the central authorities, the Hong Kong judiciary under the leadership of the CFA will be able to provide sufficient protection to Hong Kong’s rule of law, and the human rights of Hong Kong people.

However, the CFA may have to further fine-tune its positioning to adapt to new challenges that it must face along this constitutional journey. One of the greatest challenges in the future is how the CFA will reframe its constitutional jurisdiction to review the compatibility of legislative acts of the National People’s Congress and the SCNPC with the Basic Law. As the Chinese authorities have already questioned this constitutional authority, it is very likely that the CFA will have to reluctantly accept this limitation on its constitutional jurisdiction. Another challenge is how the CFA will revisit the legal test in determining whether there is a need to seek an interpretation from the SCNPC in adjudicating a case if it involves one or more than one provision of the Basic Law. As the SCNPC has already stated that the predominant provision test is wrong, the CFA must develop an alternative principle.

In 2005 Tung Chee-hwa resigned from the office of chief executive. A new chief executive had to be elected within six months. Article 46 of the Basic Law provides that the term of office of the chief executive shall be five years. There is no specific provision in Article 53 and other articles of the Basic Law on the length of the term of the re-elected chief executive. To many people in Hong Kong, it was clear and unambiguous that the length of the term of the re-elected chief executive should also be five years. However, after several legal experts in the Mainland expressed their opinions that the term of office should be the remaining
term of Tung’s original term of office, two years, the HKSAR government adopted the understanding of the Mainland legal experts and introduced a bill into the Legislative Council to amend the Chief Executive Election Ordinance. The amendment added a provision to provide that a chief executive who fills a vacancy will serve the remainder of the term of the predecessor. Judicial review actions were initiated to challenge the constitutionality of the amendment, and the then acting chief executive, Donald Tsang, submitted a report to the State Council requesting it to refer Article 53 to the SCNPC for interpretation. The controversy was resolved by the SCNPC’s interpretation that the re-elected CE would serve the remaining two-year term.

From this controversy, we see that the Hong Kong judiciary can be pre-empted by the HKSAR government from making any ruling on the constitutionality or legality of any law or any governmental acts if it seeks an interpretation from the SCNPC on relevant provisions of the Basic Law. Through such an interpretation, the unconstitutionality or illegality of the law or governmental act, which are challenged in the judicial review action, could be easily removed. The Hong Kong judiciary is as powerless as the citizen who has started the judicial review proceeding. In the long run, judicial autonomy in Hong Kong will be hurt by more frequent interpretation of the Basic Law by the SCNPC.

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2. How far are “rule of law” and “a high degree of autonomy” maintained in Hong Kong?
3. What is the proper role of the Hong Kong judiciary in the new constitutional order?
4. Does the power of interpretation of the Basic Law by the SCNPC infringe the judicial autonomy of the HKSAR?
5. What is the prospect for judicial autonomy of the HKSAR?

**USEFUL WEBSITES**

Constitutional Law of Hong Kong
http://law.hku.hk/hkconlaw/
Hong Kong Constitutional Law: Sourcebook
http://law.hku.hk/clsourcebook/
The Basic Law
http://www.info.gov.hk/basic_law/
Judiciary of the HKSAR
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**FURTHER READING**

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The civil service, an important part of all modern governments, plays a particularly important role in politics and governance in Hong Kong (Scott 2005; Burns 2004; Cheung 1998; Miners 1998). It is not only in charge of policy implementation. Many senior civil servants, particularly administrative grade officers, are policymakers with substantial political power and influence. Indeed, the current chief executive (CE), Donald Tsang, was a long-time career civil servant. The Hong Kong political system was designed by the British colonial regime to be bureaucrat-dominated. Since the 1997 handover, however, the civil service has faced many challenges and changes. On the one hand, the power of bureaucrats has been checked by the rise of the business tycoons to possess less political power than they enjoyed under the British. On the other hand, the Accountability System for Principal Officials (ASPO), introduced in 2002, has seen political appointees replace career civil servants as the top officials in each policy bureau. Internally, the civil service has also been subject to many reforms. Nevertheless, bureaucrats remain influential political actors in Hong Kong’s political system. With the recent dramatic shift of Hong Kong’s governing paradigm by the Central People’s Government (CPG) to the “administrative state” model, administrative officers (AOs) have once again been given a key steering role.

This chapter examines the roles and functions of the civil service in the changing political context of Hong Kong in the post-1997 era. It first examines the special role of the civil service, including the administrative grade, in the governance of Hong Kong. Then, it looks at structural and systemic features of the civil service, and discusses how they are related to political roles and functions. Finally, it examines the reforms of the post-1997 era, and analyses how they impact on the civil service as well as the politics of Hong Kong as a whole.

Bureaucratic governance

During the colonial period, in the job interview of the AO, interviewees were
often told that “theoretically, you can become the governor” (Apple Daily News, 18 March 2005: p. A23). This highlights the very unusual and special role of the civil service before 1997. Officials were not simply public servants, but actually the masters of the political system (Cheung, 1998). Until democratisation reforms were introduced in the late 1980s, Hong Kong was ruled mainly by civil servants. No direct elections were allowed in the Legislative Council (LegCo) until 1991 and even then only 18 of the 59 seats were put aside for direct election. With the exception of Chris Patten, the last governor of Hong Kong (1992–97), the governor himself was a civil servant, though he was drawn from the British administration rather than from the Hong Kong civil service.

The political system in the colonial period was basically made up of four key institutions or actors: the governor, the civil service, the Executive Council (ExCo) and LegCo. The civil service was a key part of this system (Box 5.1). Like the ExCo of the HKSAR, the colonial ExCo was mostly advisory in nature. Although the governor was constitutionally required to consult ExCo on all important matters, he was never obligated to follow its majority opinion (Miners, 1998: pp. 74–75). LegCo often served as no more than a rubber stamp as the governor held the ultimate power of appointment.

<table>
<thead>
<tr>
<th>Box 5.1 Civil service</th>
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<tr>
<td>This term is sometimes used interchangeably with bureaucracy, but they actually have some marked differences. “Civil service” is generally used to refer to the people as a whole working for the government, who are managed under the civil service system. It is a special personnel system with the main purpose of ensuring the civil servants can maintain their professionalism and objectivity in making decisions without being subject to pressures from within or outside government.</td>
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Under the leadership of the governor, many major public policy decisions were actually formulated by the civil servants who served as policy secretaries. With such a systemic arrangement, it was obvious that the political system was actually a bureaucrat-dominated system with only bureaucrats but no politicians. The bureaucracy was a critical institution (Box 5.2). The absence of “politics” was often taken as one of the major characteristics of the politics of Hong Kong. For this reason, pre-1997 Hong Kong was often described as a “pure administrative state” — a state with only administration but no “politics” (Harris, 1988) — or a “bureaucratic polity” — a political system run mainly by the bureaucrats (Lau, 1982). In effect, it was a liberal governing under an authoritarian system, or a form of “soft authoritarianism” (So and Chan, 2002). The function of the pure administrative state was to replace democracy so as to reduce the demand for democratisation (Wong, 2004). As it turns out, ironically, the use of bureaucracy to replace or delay democratisation has been a major feature of the governance of Hong Kong, not only for the pre-1997 era but also in the post-1997 era.
Box 5.2 Bureaucracy

Bureaucracy is a form of organisation which is often associated with government, as many government departments adopt this form, though it can also be found in the private sector. According to Max Weber, a famous German sociologist, bureaucracy has the major features of high formalisation, high differentiation and high centralisation. Its key advantage is the maximising of efficiency and control. But many contemporary scholars contend that bureaucracy only maximises efficiency under certain circumstances.

Although the post-1997 era is the main focus of this chapter, it is worthwhile and of high reference value to understand the pre-1997 system. One of the key objectives of the Basic Law drafters was to preserve the features of the British colonial government as much as possible in order to maintain the stability and advantages of the system after the handover (Ghai, 1999). To the Chinese government, the transfer of sovereignty was once taken as no more than a change of the flag flying over government headquarters in Central (Lo, 2001). As a result, although there have been changes in the composition and institutional arrangements in the political authorities, the changes in their major functions and roles have been much less dramatic. To a large extent, in the formal system prescribed by the Basic Law, most of the power is still concentrated in the hands of the CE and the executive branch he heads, which is called an “executive-led system”, and this has become one of the features that the Chinese government has strongly defended in the political development of post-1997 Hong Kong. Nevertheless, it should be noted that gaps often exist between the prescribed formal political system and actual governance.

Despite the transfer of sovereignty and the related changes, civil servants continue to serve as powerful political actors even after the handover. It is true that the political influence of the business tycoons has been greatly enhanced, as seen in having Tung Chee-hwa serve as the CE and his political appointees as the principal officials under ASPO, but civil servants continue to maintain a strong political position. First, “business-politicians” are still greatly outnumbered by civil servants in the government apparatus. Before ASPO, the CE, as an “outsider” in government, often found himself incapable of mastering the entire bureaucracy with the help of just a few advisors in his office and ExCo. Even after ASPO, only a total of 14 principal officials are politically appointed, which is still a very small number of positions and is unable to sufficiently penetrate the policy-making layers of the civil service. Besides, owing to their expertise and experience, civil servants are often found irreplaceable for policymaking by the businessman-politicians which can be reflected by the fact that former civil servants are still occupying a majority of the positions in ASPO and are considered as strong contenders for the future CE position.
For the CPG, the administrative state model was an attractive option for governing post-1997 Hong Kong. With memories of the British colonial legacy in mind, it is often believed by both Chinese officials and some citizens in Hong Kong that one of its most appealing strengths is being capable of governing an active civil society and an advanced economy, with good protection of freedom and rights. All this is done under an authoritarian political structure where formal constitutional power and the ultimate right of intervention are reserved by the bureaucrat-dominated government and self-restraint is the major check on its power. In other words, under the administrative state model, the British successfully replaced democracy with bureaucracy in the sense that a closed, elitist, and hierarchical bureaucratic system could deliver similar policy outputs of a democratic system (Wong, 2004). In examining the administrative state model more closely, the key officials are actually the AOs. Bureaucracy is a very hierarchical organisational structure, and not all civil servants are equal. AO is a grade in the civil service (Box 5.3) — the most elite and the most superior group. In the structure of the HKSAR government, there are two layers of organisation. In the first layer are the policy-making bureaux. The executive departments, responsible for implementing the policies set by the bureaux, are grouped under their related bureaux. For example, the Customs and Excise Department, the Hong Kong Police Force, the Fire Services Department, the Immigration Department, the Correctional Services Department, are all grouped logically under the Security Bureau. With the domination of administrative officer in the administrative state model, like in other bureaux, the AOs occupy all major policy-making positions, except only the policy secretary position, which is a political appointment after ASPO, in the Security Bureau. The AOs will even head some of the departments under the bureaux. For example, the Customs and Excise Department is currently headed by Tong Hin-Ming, who is a member of the AO grade.

Like other grades in the civil service, the AO grade is in general a closed system in which there is little built-in lateral entry, and no formal bridging system from other grades. Under the Civil Service Reform, a direct recruitment exercise at the rank of Senior Administrative Officer (SAO) was introduced for the AO grade in 2001. However, due to fierce opposition from the AO grade and other reasons, the outcome of the recruitment was not satisfactory, with only four candidates being selected (Burns, 2004: p. 139). No further exercise of direct recruitment at the non-entry level has been conducted since then. With limited lateral entry, most AOs are recruited at the entry level and then promoted to the senior ranks.

In theory, there is “in-service recruitment” for the AO grade to which the officers in other grades may apply. However, it may not be taken as a real bridging system because officers in other grades applying through in-service recruitment can only be exempted from part of the written examination (Burns,
Like all candidates coming from outside the government, they still have to go through most of the selection process and be evaluated independently by the selection panel, made up mostly of AOs themselves. Also, in practice, only very few officers from other grades can successfully enter the AO grade through the in-service recruitment and, for some years, none of the in-service candidates was successful. Furthermore, until 1996, in-service recruitment was open for the executive officer grade only, and up to now only four grades in the civil service have been eligible under this scheme. Thus, there is no major and direct bridging system to allow officers in other grades to be transferred or promoted to the AO grade based on outstanding performance. In fact, the grade system in the civil service as a whole is so strict and rigid that bridging among different grades is uncommon and difficult. Bridging is typically only allowed under special and restricted conditions, and operates on a very limited scale. In December 2005, there were a total of 572 AOs, and seven ranks or levels of hierarchy in the grade (Table 5.1).

Table 5.1 Administrative Officer Grade: grade structure and establishment

<table>
<thead>
<tr>
<th>Rank</th>
<th>No. of posts*</th>
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<tbody>
<tr>
<td>Administrative Officer Staff Grade A1 (D8)</td>
<td>18</td>
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<tr>
<td>Administrative Officer Staff Grade A (D6)</td>
<td>13</td>
</tr>
<tr>
<td>Administrative Officer Staff Grade B1 (D4)</td>
<td>31</td>
</tr>
<tr>
<td>Administrative Officer Staff Grade B (D3)</td>
<td>43</td>
</tr>
<tr>
<td>Administrative Officer Staff Grade C (D2)</td>
<td>177</td>
</tr>
<tr>
<td>Senior Administrative Officer</td>
<td>157</td>
</tr>
<tr>
<td>Administrative Officer</td>
<td>133</td>
</tr>
<tr>
<td>Total</td>
<td>572</td>
</tr>
</tbody>
</table>

*Including permanent posts and supernumerary posts, except those created on a temporary basis to accommodate replacement for officers on various types of leave or to be held against vacant permanent posts.

Source: Civil Service Bureau, HKSAR Government.
The administrative state model in Hong Kong reflects closely one particular model of governance. In their study of the relationship between politicians and bureaucrats, Aberbach, Putnam, Rockman (1981) discussed two completely different models of governing: the governance model and the politics model. The politics model endorses a pluralistic conception of the public interest and affirms the legitimacy of conflicts among different social groups. It also takes contest among competing forces and divergent groups as an inevitable and healthy pathway towards defining and realising the public interest. Under this model, elected politicians in a pluralistic democracy should be entrusted with the task of governing. By contrast, the governance model entrusts bureaucrats with the governing role. It holds that only rulers who are “above politics” and free from short-term electoral pressure can understand and protect the real and long-term public interest. It therefore endorses an elitist and even authoritarian approach to policymaking in which career and non-elected bureaucrats, as an elite group and an intellectual class, serve as the guardian of public interest.

Hong Kong is highly resembling this governance model, and officers in the administrative grade are groomed to be the statesmen. Although AOs are not elected, to a large extent they function as politicians in attaining the political roles of interest aggregation and interest articulation in society. They are expected to be extremely sensitive to public opinion and even to predict citizen demands in order to prevent political mobilisation and reduce the public urge for democratisation.

As part of the British colonial legacy, it is generally believed that there are at least two major advantages in government by AOs. First is their ability to balance competing and different sectoral interests in society. Backed by the civil service system, AOs are not directly connected with particular interests in society, and are relatively free from either political pressures outside the government or managerial pressure within government. This helps to reduce their bias towards any particular interest in their judgment. Second, AOs are trained as generalists, rather than specialists, and are frequently rotated among different bureaux and departments in their career (Scott, 1988). This ensures that they will not suffer from “tunnel vision” in viewing policies from the specific and partial perspective of a particular bureau. This helps them develop a broader horizon in public policies and builds up their loyalty to the entire government, not a particular policy, department or profession (Box 5.4).

Combining these two advantages, supposedly, it means that AOs form probably the only group in Hong Kong able to develop a long-term vision of the public interest, without being biased by any particular interests and views, and at the same time given the authority to fulfill such a vision (Cooper and Lui, 1990). That is one reason why Anson Chan, the former chief secretary for administration and one of the most popular political figures in Hong Kong, who
Box 5.4 Generalist and specialist

Grades in the Hong Kong SAR government can be classified into two types: generalists and specialists. Generalists, including AO, executive officer, and clerical officer, can serve in different departments, while specialists, due to their specialised skills, usually can only serve in one particular department. Because of the governing philosophy of “generalist on top, expert on tap”, many of the leading positions in government are expected to be taken up by generalists, particularly AO.

is also a former member of the AO grade, is widely known as the “conscience of Hong Kong”. Inferring from all these features, the AO grade is often taken as a de facto political party in Hong Kong, known as the “AO party”. As the current election law does not allow the CE to be affiliated with any political party, it is not possible for a real governing party to emerge under the executive-led system in Hong Kong. Under this structural deficiency, the “AO party” becomes the most powerful group which actually meets many of the criteria for defining a political party in Western democratic countries.

The AO system, together with other strategies like the “administrative absorption of politics” in which many social and business elites are coopted into a big web of advisory committees, plus the principle of limited social and economic intervention, contributed to the British colonial legacy of political stability in an era of unprecedented economic growth (Goodstadt, 2000; Lau, 1982; King, 1975). It is however questionable whether the governance model is still suitable and applicable for Hong Kong, given its more advanced social and economic development and after its gradual but continued democratic reforms since the 1990s (Lo, 2001; Sing, 2001). Moreover, it always remain one of the biggest structural dilemmas in the administrative state model that without facing the risk of being replaced in a competitive election, it is doubtful what can ensure that the unchecked but powerful bureaucrats will not abuse and misuse their power.

Systems and institutional mechanisms

The civil service is taken as the “conscience” of Hong Kong, but aside from the personal commitment of the civil servants, at least part of the conscience is built on an institutional level — particularly the civil service system. The civil service system is designed and constructed to ensure that civil servants can make the best decisions based on their own expertise and judgment, without being threatened or biased by both internal and external pressures (Ingraham, 1995).

The civil service system consists of several essential and interrelated features (Rosenbloom and Kravchuk, 2004: chapter 5). Firstly, civil servants are granted
tenure, and working in the civil service is taken as a career, not a job. Tenured civil servants are given extremely high job security and cannot be removed unless they have committed very serious mistakes. Due process following major legal principles and procedures must also be gone through before any disciplinary action can be taken. With the protection of tenure, civil servants can often speak truth to power without the fear of having their job threatened.

The idea of taking working in government as a life-long career also enhances the development of the “conscience”. Civil servants are often recruited at the entry level and at a young age while they do not have any substantial experience of working outside government. Once they have joined the civil service, they are expected to spend the rest of their working life inside government and go straight to retirement after leaving government without joining the private sector. All these factors minimise the connection civil servants can have with the sectoral interests, and help to ensure they will not make decisions during their tenure as a civil servant with the intention of benefiting previous or future employers.

Another feature constituting the institutional conscience is the emphasis on merit in the recruitment, promotion and other management functions of the civil service (Ingraham, 1995). Only the best person for the position will be hired or promoted, and all other factors except the suitability and ability of the person in mastering the job should not be considered. The emphasis on merit is meant to attain the highest level of efficiency in the operation of the government machinery. This also leads to depoliticisation of the civil service and limitation of managerial discretion in government (Hood, 1991). The supremacy of the principle of merit implies that the operation of the civil service should not be interfered with by political pressures from all branches of government. For example, it is considered inappropriate for the CE to bypass the formal selection procedures, including open and competitive civil examinations, to decide who should serve in the civil service, except for the few politically appointed posts under the ASPO.

An independent monitoring authority, the Public Service Commission (PSC), is set up to ensure that the principles of merit are followed properly in the daily functioning of the civil service. Another important office playing a significant role in ensuring the integrity of the civil service is the Independent Commission Against Corruption (ICAC). Similar to the PSC, the ICAC operates independently of the government bureaucracy to monitor the performance of the civil service and report directly to the CE. Since it was set up in 1974, in addition to fighting corruption in Hong Kong society, it has done a remarkable job in cleaning up corruption in many government departments, particularly the Hong Kong Police Force. According to the well-known Corruption Perceptions Index (CPI) of Transparency International, an international non-governmental organisation devoted to combating corruption, in 2005 Hong Kong ranked as the second “cleanest” society in Asia, second only to Singapore.

However, depoliticisation of the civil service is not political neutrality. The political neutrality of the civil service is more a myth than a reality in Hong Kong.
As most of the senior civil servants are policymakers themselves, they are not politically neutral in the sense that they do have to decide who would gain and who would lose in making policies. In Hong Kong, the term “political neutrality” is often intentionally misused by civil servants themselves to fend off political interference and challenges from other branches in policymaking in order to maintain the high autonomy of civil servants in the administrative state model of governing. At the same time, the popularity of the term “politically neutral” to describe the civil service also reflects the well-received role of the civil service in serving as the “conscience of Hong Kong” in which the civil service is trusted to be “above politics” and to always act in an non-partisan manner in policymaking to serve the real public interest of Hong Kong.

Limitation of managerial discretion, meaning that the public managers in government enjoy much less power than their counterparts in the private sector, is another major feature of the civil service system (Kettl, 1997). This allows civil servants to make decisions based on the best of their expertise without the fear of managerial pressure coming from the top in government. In the civil service, there is relatively little room for managers to manage, and decisions on pay, recruitment, promotion and many other managerial functions are often made using well-established mechanisms based on the principles of merit, objectivity and scientific rationality. For this reason, managers in the public sector are traditionally called “administrators”, not managers, as they are often taken to be responsible for administrating the system by following well-defined procedures and standards, without being allowed to exercise their own judgment and personal views.

One outstanding example of the limitation of managerial discretion in the civil service is its disciplinary system. It is never adequate and appropriate to discipline a civil servant based on the decision and discretion of the managers. Instead, the civil servants needed to be proved “guilty” by well-defined and legally-based procedures. Due process, following legal principles including the rights of hearing and appeal of the civil servants, and presumption of their innocence, must be gone through before any disciplinary action can be taken. Under this legally-oriented disciplinary system, which places a high value on the protection of the rights of the civil servants, very few civil servants are actually dismissed each year. In 2004–05, in a civil service with about 160,000 employees, only 59 were dismissed or had their service terminated, which was even lower than the 119 civil servants who died in service in the same year. Limitation of managerial discretion, which is essentially done by taking power away from the managers, has helped to build up the institutional conscience, though it is hard to deny that tolerance of inefficient and ineffective employees may be higher in government due to the difficulty of disciplinary action. However, there is little doubt that the civil service system has contributed to the extraordinarily high stability of the civil service. In 2004–05, only 296 civil servants chose to resign from the government, which represented an extremely low drop-out rate of less than 0.2%.
Bureaucracy: Root of the structural features in government

Bureaucracy provides another analytical lens for understanding the civil service and public organisations in Hong Kong. Bureaucracy, the organisational form proposed by German sociologist Max Weber (Gerth and Mills, 1958), is a major blueprint on which the governments in Hong Kong and other major countries were originally built. According to Weber, bureaucracy is the best form of organisation in maximising efficiency, control, and reliability. There are a few key structural features in an “ideal type” bureaucracy (Rosenbloom and Kravchuk, 2002: chapter 4): high formalisation, high centralisation and high complexity. Formalisation refers to the extent to which the structure of an organisation and its procedures are formally established in written rules and regulations. The government in Hong Kong, like those of many countries, is highly formalised, as it mainly operates via rules and regulations, which are backed up by legislation. In addition, communication inside government should be in a written format in order to be considered “official”. The second structural feature of bureaucracy is high centralisation which means a large degree of power and authority is concentrated in the higher levels of the hierarchy. The third distinctive feature of bureaucracy is its high complexity, which is measured in terms of the number of subunits, levels, and specialisations. There are two dimensions of organisational complexity: horizontal differentiation — the specialised division of labour across subunits and individuals — and vertical differentiation — the number of hierarchical levels in an organisation or the “tallness” or “flatness” of the organisation.

The HKSAR government is a highly complex organisation on both horizontal and vertical dimensions. Horizontally, there are eleven policy bureaux and more than 60 departments and major offices. All of them are highly specialised by policy area or function. In fact, the grades in the civil service are also highly specialised, including grades as specialised and well-defined as typist, lift operator and proofreader. With the exception of a few generalist grades, including the administrative grade, executive officer grade and the clerical grade, which are more mobile across tasks and departments and more multi-skilled, most grades in the government are specialists, such as police officers and firemen, assigned to a single department or required to conduct one well-defined task. Under the concept of bureaucracy, specialisation can generate expertise and efficiency, as each department or each grade is focused only on a single task it should excel at.

Vertically, many departments are tall organisations, with many levels of hierarchy in the organisational chart. An advantage of being tall is minimising the span of control, which is the ratio between supervisor and his or her subordinates in each layer of hierarchy, to enhance both control and overall efficiency in the department. This vertical complexity is also observed in the seven-rank structure of the AO grade.
Typically, a civil servant will join the public bureaucracy via an open and competitive process, which commonly includes written examinations and interviews. But instead of joining the civil service as a whole, an individual needs to apply for a specific grade as all positions are so classified. After successfully joining the grade, the civil servant will spend the rest of his or her career climbing up the rank ladder in a specific grade. How much salary the civil servant earns depends on grade, rank and seniority, which are usually measured by years of service. For those who are lucky and outstanding, they may one day reach the highest rank in their grade. For the AO grade, it is “administrative officer staff grade (A1)”. However, as each grade is a closed system, civil servants cannot be transferred to a different grade, regardless of their performance. Here it should also be noted that as more and more people working for the government are hired by contract and are not regulated and protected by the civil service system, the term “civil service” becomes more ambiguous and it is getting more difficult to define who is a civil servant.

Ironically, while bureaucracy was taken as the best form of organisation for enhancing efficiency in the past, it has started to be considered more as a problem than a solution in recent decades (Welch and Wong, 2001; Kettl, 1997). When a task is highly predictable and there is a stable organisational environment, the most efficient way of accomplishing the task can be specified into rules and regulations and then be enforced by the bureaucracy. However, the emergence of globalisation and the arrival of a post-industrial economy have generated changing tasks and a dynamic environment which demand high speed of adaptability from an organisation, which a bureaucracy is very poor at due to its structural constraints (Welch and Wong, 2001). The structural features of a bureaucracy — the rigid rules, lack of horizontal communication, slow decision-making process in dealing with exceptions and uncertainties — make it hard to cope with change and crisis in the new era, such as the bird flu and SARS crises experienced by Hong Kong. Under this context, governments around the globe which have modelled their structures on a bureaucracy are under tremendous pressures for reform, and the HKSAR government is no exception.

Reforms

Since the civil service plays both a political and an administrative role in Hong Kong, two main types of reform have been targeted at the civil service since the 1997 handover.

The most important political reform of the civil service, not only for the post-1997 era but also in the political development of Hong Kong, is the ASPO reform, which has shaken the role of the administrative grade in the governance of Hong Kong. On the administrative front, “new public management” (NPM) reforms are pushed aggressively by the government, but resisted strongly by civil
service unions. NPM reforms belong to the larger new right movement in Western industrial countries, which is anti-bureaucracy, anti-big government, anti-welfare state, pro-business and pro-market (Pollitt and Bouckaert, 2000; Kettl, 1997; Hood, 1991).

**Accountability System for Principal Officials**

The ASPO reform was adopted by CE Tung Chee-hwa in 2002, when he formally started his second term. The major content of the system is using political appointees of the CE to replace civil servants, mainly AOs, to be principal officials who head the policy bureaux. The official reason for the adoption of the ASPO is to enhance the political accountability of the principal officials, and this is exactly the reason for terming it an “accountability system” (Burns, 2005). It was stated by the CE that as civil servants are protected by the civil service system and permanent in employment, they could not be removed for taking up the political responsibility of policy failures. If they were replaced by political appointees, those appointees would be more responsive to the policy direction and more accountable to the public as they could be removed if they were found responsible for any policy failure.

However, in reality, it is widely believed that one of the major reasons for CE Tung to introduce the ASPO was to enhance his political influence by sharing more power with the administrative grade in policymaking. Before ASPO, it was the standard practice to appoint civil servants as the principal officers and non-civil servants were appointed only when such talent was not available inside the government. Thus, Tung was a lonely outsider in government, as most of the policymaking positions were occupied by the AOs who were permanent civil servants and could not be easily removed by him.

Tung often found it difficult to implement policy initiatives unless he got the support of the “AO party”. It did not take long for him to realise that there were many fundamental differences between him and the “AO party” in policies (Lo, 2001). Nevertheless, to pacify the AOs, the new political appointees under ASPO did not replace them literally, as they are added as an additional layer on the top of the organisational structure of the policy bureaux, with the original AO heading the bureau being retitled as “permanent secretary”.

ASPO has broken the monopoly of the AOs in policy making by shifting more power to the CE. However, it is questionable whether ASPO can really enhance political accountability and governance. On the one hand, ASPO does allow the CE to remove unpopular principal officials, and some unpopular principal officials did step down from office under the system, including the former financial secretary Antony Leung and the former secretary for security Regina Ip. ASPO is actually a form of ministerial system which has been practiced in almost all democratic countries (Burns, 2005). However, unlike those countries, in Hong
Kong the executive is not popularly elected and the legislature plays no role in the appointment and removal of the principal officials. Therefore, there is no institutional safeguard to ensure that the principal officials will be accountable to the public, not just the CE, and unpopular principal officials will be removed whenever they lose the trust of the public. The question of “accountable to what” also poses a problem. There is no clear division of areas of accountability and responsibility between the political appointees and the AOs under ASPO, and many AOs still need to attend LegCo meetings on the behalf of principal officials to defend government policies as well as taking criticisms after the adoption of ASPO. ASPO, with its unclear division of labour and the taking away of the career enhancement opportunities to the policy secretary level for the administrative grade, has had a negative impact on the morale of AOs.

The effect of ASPO on governance is equally unclear and ambiguous. Although in theory it allows the CE to select individuals loyal to him and sharing his vision to be the principal officials, the party system is weak and underdeveloped in Hong Kong. This makes it extremely difficult for the CE to find individuals who think alike and have a strong connection with LegCo to become principal officials to ensure policy coordination and smooth executive-legislature relationship in enhancing governance.

Public sector reform and civil service reform

There are two major types of NPM-oriented administrative reforms in Hong Kong. The first, “public sector reform”, is more about reducing the size and scope of government to make market or private-sector-like organisations the major mode of resource allocation in society and agents of production and delivery for public services. The second, “civil service reform”, holds that management systems and skills used in the private sector should be introduced so that the government itself can learn from business, which is supposed to be more efficient and superior.

Public sector reform started in 1989, but it is very clear that the changes and impact created by the reform have continued well beyond the handover. The essence of public sector reform is redefining the role of the public sector and the private sector and deciding the best form of government intervention, whenever it is found necessary (Sankey, 2001). For functions that should be more appropriately taken up by the private sector, the government should off-load them, which often leads to the downsizing of government through privatisation. For example, in 2003, the government ceased indefinitely the home ownership scheme as it decided that the private market was a better mechanism to provide target groups with their housing needs.

Table 5.2 shows some of the largest government departments in Hong Kong in 2005 according to their manpower strength. It is clear that the HKSAR government has played a major role in providing critical services to the public.
Many of those services, such as law and order, will not be normally provided by the private sector. Besides, for services like education and housing, if the government does not provide them, the poor will have no or very limited access to the services, as they will usually find similar services provided by the private market unaffordable.

However, under the lens of public sector reform, the role of the public sector in providing services, particularly those which are available in the market and can be produced more cheaply by it, is not only re-examined but also put under a much stricter scrutiny. Even for policy areas in which the government has a role to play, the form of government intervention may vary. For example, government may subsidise a service but contract out its production to the private sector. The Housing Department has contracted out the management of many public housing estates to private management firms. Similarly, the Social Welfare Department has contracted out many of its services to the non-profit sector. With contracting out, redundant civil servants can be removed through measures such as voluntary retirement schemes. The number of civil servants has dropped by more than 20% from a peak of more than 190,000 in 2001 to less than 160,000 in 2005 (Table 5.3).

The public sector reform report of 1989 also classified three different types of service (core services, support services, and commercial services), three types of pricing strategy (free, partial-cost recovery, full-cost recovery), and four types of executive agency (traditional departments, trading fund departments, public corporations, and non-departmental public bodies). In general, the more a service moves towards the nature of commercial services, the more its cost should

<table>
<thead>
<tr>
<th>Department</th>
<th>Civil servants</th>
<th>(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hong Kong Police Force</td>
<td>31,573</td>
<td>(20.2)</td>
</tr>
<tr>
<td>Food and Environmental Hygiene Department</td>
<td>10,453</td>
<td>(6.7)</td>
</tr>
<tr>
<td>Fire Services Department</td>
<td>9,109</td>
<td>(5.8)</td>
</tr>
<tr>
<td>Housing Department</td>
<td>8,062</td>
<td>(5.2)</td>
</tr>
<tr>
<td>Leisure and Cultural Services Department</td>
<td>6,970</td>
<td>(4.5)</td>
</tr>
<tr>
<td>Correctional Services Department</td>
<td>6,533</td>
<td>(4.2)</td>
</tr>
<tr>
<td>Immigration Department</td>
<td>5,894</td>
<td>(3.8)</td>
</tr>
<tr>
<td>Education and Manpower Bureau</td>
<td>5,773</td>
<td>(3.7)</td>
</tr>
<tr>
<td>Post Office</td>
<td>5,389</td>
<td>(3.4)</td>
</tr>
<tr>
<td>Customs and Excise Department</td>
<td>4,825</td>
<td>(3.1)</td>
</tr>
<tr>
<td>Department of Health</td>
<td>4,767</td>
<td>(3.1)</td>
</tr>
<tr>
<td>Social Welfare Department</td>
<td>4,756</td>
<td>(3.0)</td>
</tr>
<tr>
<td>Others</td>
<td>52,118</td>
<td>(33.4)</td>
</tr>
<tr>
<td>Total</td>
<td>156,222</td>
<td>(100)</td>
</tr>
</tbody>
</table>

Source: Civil Service Bureau, HKSAR Government
be recovered by user fee, and the less control government should have over it. For example, the Hospital Authority, a non-departmental public body, was set up in 1991 to manage the hospitals in Hong Kong. Under the framework of public sector reform, the government made the Mass Transit Railway (MTR), a public corporation, into a publicly listed company in 2000. By the same token, in November 2005 it publicly listed the Link Management Limited, a company responsible for managing the shopping malls and carparks of the Housing Authority.

While public sector reform is well-intentioned in terms of maximising efficiency, there are many controversies in terms of its impact (Pollitt and Bouckaert, 2000; Kettl, 1997). How to balance the concerns for efficiency and equity in the reform is always a tough act. The government is often criticised for using public sector reform as a means to retrench the welfare state in Hong Kong, and step down from its obligations of providing good quality but reasonably priced services to the public. For example, privatisation of the Water Supplies Department is strongly opposed by the public because of concerns about huge increases in water fees once the government stops the current heavy subsidisation.

Another major problem of public sector reform is the diffusion of responsibility and the weakening of public accountability when major public services involving the public interest are transferred to non-traditional government departments (Milward, 1996). Many become unresponsive to the government but at the same time not subject to market discipline as they are often the monopolistic supplier of the service in the market. Besides, the claim that public sector reform can reduce the size of government is not supported by empirical evidence so far. While the size of the civil service has shrunk significantly, the budget of the government has not. This implies that the reform itself does not make government smaller. It mainly replaces it with a “hollowed out” state in which services are provided by private contractors rather than civil servants.

### Table 5.3 Size of the Hong Kong Civil Service, 2001-05

<table>
<thead>
<tr>
<th>Year</th>
<th>Civil Service personnel (% change)</th>
<th>Public expenditure (% as of GDP)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>198,000 (–0.3%)</td>
<td>HK$ 278.4 millions (21.9%)</td>
</tr>
<tr>
<td>2002</td>
<td>183,500 (–7.3%)</td>
<td>HK$ 273.2 millions (21.5%)</td>
</tr>
<tr>
<td>2003</td>
<td>177,700 (–3.2%)</td>
<td>HK$ 287.2 millions (22.9%)</td>
</tr>
<tr>
<td>2004</td>
<td>163,000 (–8.3%)</td>
<td>HK$ 286 millions (22.5%)</td>
</tr>
<tr>
<td>2005</td>
<td>156,222 (–4.2%)</td>
<td></td>
</tr>
<tr>
<td>Change</td>
<td>41,778 (–21.1%)</td>
<td></td>
</tr>
</tbody>
</table>

**Sources:** Estimates, Government Budget, various years; Civil Service Bureau, HKSAR Government.
In 1999, the Civil Service Bureau issued a consultation document “Civil Service Reform: Civil Service into the 21st Century”, outlining the blueprint and the major directions for reforming the civil service. Following the NPM approach, many of the proposed reforms were almost the direct opposite of the ideals of the civil service system. Major reform initiatives include using contract to replace tenure, which would severely weaken the permanent nature and job security of the civil service. Moreover, private sector management concepts such as performance pay, lateral entry, and voluntary and management-initiated retirement schemes have been introduced. It is true that some of those reforms are long overdue. For example, some grades in the civil service system such as typists and lift operator are obviously obsolete, and should be included in the scope of the voluntary retirement scheme. However, many of the reforms become controversial as the downside of directly transplanting private sector systems and techniques to the public sector, especially the negative impact on the “institutional conscience”, did not seem to be carefully thought through by the reformers (Wong, 2004).

Taking performance pay as an example, it is often hard to define performance in the public sector, as government has multiple and often conflicting objectives, some of them are tangible and measurable but some of them are not. However, NPM reform gives managers a freer hand in rewarding employees as long as definable and measurable outcomes are produced. This not only makes the outcomes of public organisations biased towards measurable objectives, with intangible objectives being ignored, but also gives public managers more discretion which could easily be abused at the expense of the institutional conscience.

The rise of managerial discretion or even political influence in managing the civil service can eventually dismantle and deinstitutionalise many of the existing mechanisms governing it (Wong, 2003). A well-known example of deinstitutionalisation was the use of legislation to bypass the pay review mechanism to cut civil service pay in 2003 (Cheung, 2005). The rights and benefits of the civil servants are protected by Article 100 in the Basic Law, which states that their employment conditions should be “no less favourable than before”. Although the pay cut legislation was eventually judged to be constitutional by the Court of Final Appeal in July 2005, the integrity and objectivity of the original pay mechanism have been weakened as it can now be altered and even replaced by political means. In the same way, the idea of allowing lateral entry to let staff go in and out of government more freely can induce a serious “revolving door” problem, which is the conflict of interest of civil servants in balancing the competing sectoral interests in society, a problem the civil service system tries to eliminate. As the HKSAR government faced a legitimacy crisis during Tung’s first term of office (So and Chan, 2002; Lo 2001; Sing, 2001), the pace of civil service reform slowed down in his second term. However, it does not seem that the direction of reform outlined in the consultation document has been changed.

Apart from civil service reform, other efficiency-driven administrative reforms were introduced after the handover. In 1998, the CE launched the Enhanced
Productivity Programme (EPP), which required government agencies to produce the same level of service with a smaller budget: to do more with less. Although these reforms were relatively less controversial, like the civil service reform, they often highlighted the insufficient understanding of the reformers of the nature of public administration. In EPP, for example, the reformers were actually punishing departments with the highest efficiency as they would have a hard time to reduce their budgets because they already have so little left to cut. Moreover, as many public services are labour-intensive human services in which labour cannot be easily replaced by technology, unless civil service pay can be reduced significantly, it is not easy to realise the target of money saved. But it should be noted that not all administrative reforms end up in failures or controversial outcomes. For example, the HKSAR government has launched a successful e-government reform which makes Hong Kong one of the recognised world leaders in this aspect, though there is still room for improvement in tapping the potential of e-government in enhancing citizen engagement and participation (Holliday and Kwok, 2004).

Conclusion

This chapter has highlighted the important political role of the civil service, especially the administrative grade, in the governance of Hong Kong, and it has surveyed the administrative features and reforms of the civil service in the post-1997 era. While the political role of the administrative grade has been challenged since the handover, it is clear that AOs remain influential political actors, especially after Donald Tsang, a former AO, became the new CE and the CPG adopted the administrative state model of governance. However, the return of the administrative state model is further delaying and hindering the democratisation process of Hong Kong. Over time, the administrative state should retreat to make room for the development of a healthy political party system in order to shift more power from bureaucrats to elected politicians in Hong Kong’s transition to a fully democratic system.

On the administrative role of the civil service, there is little disagreement that reforms are necessary, but it is doubtful whether NPM reforms are really the solution. There are still many conflicts and tensions between NPM reforms and the ideals of the civil service system, especially the “institutional conscience”, which are far from being resolved. It is also important for any trade-off between NPM reforms and civil service ideals to be made explicit and clear to the public before the reforms are adopted. However, until conflicts among the underlying values of the contrasting views of public administration are finally reconciled, and public sector and management reforms are backed up by strong and widely-shared public mandate, it remains a tough question whether those reforms will necessarily lead to a better system of government.
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**QUESTIONS**

1. What should be the role of the civil service in the governance of Hong Kong? Can we and should we continue the model of the administrative state in post-1997 Hong Kong?

2. Should the administrative officers (AOs) continue to play a dominant political role in policymaking in Hong Kong? If so, how should they be held accountable for their power and influence? How will this affect the development of political parties and democratisation in Hong Kong?
3. Do the post-1997 reforms of the civil service weaken its “institutional conscience”? Does “institutional conscience” enhance or impede the governance of Hong Kong?

4. What is the overall outcome of reforms in the civil service and the public sector? Are they enhancing the governance of Hong Kong (better off), creating more problems in governance (worse off), or simply replacing the old problems with new problems (trade-off)?

**USEFUL WEBSITES**

Civil and Miscellaneous Lists, HKSAR Government  
http://www.info.gov.hk/cml/

Civil Service Bureau, HKSAR Government  
http://www.csb.gov.hk

Civil Service Home, Cabinet Office, United Kingdom  
http://www.civilservice.gov.uk

Efficiency Unit, Chief Secretary for Administration’s Office  
http://www.info.gov.hk/efu/

E-government in Hong Kong  

Joint Secretariat for the Advisory Bodies on Civil Service and Judicial Salaries and Conditions of Service, HKSAR Government  
http://www.jsscs.gov.hk

Name List of Principal Officials, Permanent Secretaries and Heads of Government Departments  
http://www.info.gov.hk/info/name-e.htm

Office of Personnel Management, United States Federal Government  
http://www.opm.gov

Organisation for Economic Co-operation and Development (OECD)  
http://www.oecd.org/home/

Organisational Chart of HKSAR Government  
http://www.info.gov.hk/govcht_e.htm

Panel on Public Service, The Legislative Council  
http://www.legco.gov.hk

Public Service Commission, HKSAR Government  
http://www.psc.gov.hk

**FURTHER READING**


Burns, John (2004) *Government Capacity and the Hong Kong Civil Service*, Hong Kong: Oxford University Press. A comprehensive overview of the management systems of the civil service. Also contains very useful and updated statistics and survey data of the administrative grade.

Lau, Siu-Kai (1982) *Society and Politics in Hong Kong*, Hong Kong: The Chinese University Press. Discusses the political role of the administrative state (bureaucratic polity) and how it established linkages with society to sustain and facilitate its governing during the colonial period.


Scott, Ian (1988), Generalists and Specialists, in Scott, Ian & Burns, John (eds.) *The Hong Kong Civil Service and Its Future*, Oxford University Press, Hong Kong. Summarises the major arguments and rationale behind the personnel structure in the Hong Kong government, particularly why the generalists are given so much influence and such a superior status in the system.

In common with governance systems throughout most of the world, Hong Kong has political and administrative bodies that operate below the primary tier of government and complement the major executive, legislative, judicial and administrative agencies found there. One part of Hong Kong’s local government system is a set of District Councils and rural committees, which are mainly elected and solely advisory. In addition, the SAR has a large number of advisory committees, which draw key figures and interests into the governing process. These committees are intended to compensate for the limited democratic franchise that exists in the territory. Finally, the SAR has a set of statutory bodies performing a range of public functions. Some oversee the management and delivery of services in sectors such as healthcare and housing. Others regulate matters like elections and broadcasting.

In this chapter, we describe local government, advisory committees and statutory bodies in Hong Kong, and examine their contribution to SAR governance. Our argument is that these bodies have long been, and continue to be, significant elements of Hong Kong governance. However, they are in many ways outdated, and need to be reformed as part of ongoing attempts to bring Hong Kong governance into the 21st century.

Local government

Hong Kong has had institutions of local government since the late nineteenth century (Box 6.1). In 1883, a Sanitary Board was established to oversee sanitation, public health and housing. In 1936, population pressures and a changing political environment prompted the colonial authorities to rename it the Urban Council. In 1973, when a separate Housing Authority was formed, the Urban Council became financially independent but at the same time lost responsibility for housing matters. In 1986, when a Regional Council was created to meet rising demands from the growing population in the New Territories, some responsibilities were transferred there. From the mid-1980s onwards, the
two municipal councils, Urban and Regional, became the core institutions of
local government in Hong Kong, with policy-making power in three major areas:
sanitation, food and hygiene, and sports and recreation. Their delivery arms were
the Urban Services Department and the Regional Services Department (Miners,
1998: pp. 155–167; Lau, 2002). By the time of the handover in 1997, the budget of
the Urban Council was about HK$6 billion, and that of the Regional Council was
about HK$4 billion. Over 80% of the municipal councils’ revenues came from

Box 6.1 Local government

In most major political systems, there are elected tiers of government below
the central level. Local government is usually responsible for overseeing
both the political and the administrative affairs of, say, a city or a district.
Local government responsibilities are often found in domains such as public
transport, public recreational facilities and environmental regulation.
In some jurisdictions they may also extend to education, healthcare and
policing.

At a lower tier of local government, below the municipal councils, 19 District
Boards were also created in 1982. They were given some resources to organise
local recreational activities, but had few policy powers. They were allowed to advise
the government on local administration. In addition, they were given a mandate
to advise the public utility companies, and to ensure that their services met with
community needs and aspirations (Miners, 1998: pp. 169–177). However, their
importance has never been as great as that of the paternalistic district officers
who were key figures of British colonial government right down to the 1980s (Lo,

Finally, Hong Kong also has a series of rural committees, built on the village
headman system but given more modern features in recent decades. Here, the
key organisation is Heung Yee Kuk, which was created in 1926 as a voluntary
association of indigenous villagers opposed to government tax plans. When it
came into further dispute with the government over land policy in 1956–57, it was
disbanded and re-established on an official basis by means of the 1959 Heung Yee
Kuk Ordinance. This turned the Heung Yee Kuk into a statutory body charged with
representing opinion in the New Territories. Elected chairmen and vice chairmen
of rural committees have always dominated the Kuk. In forming the District
Boards and the Regional Council, the government included representatives of
Heung Yee Kuk as ex officio members (Miners, 1998: pp. 177–180).

When sovereignty over Hong Kong was transferred from the United
Kingdom to China in 1997, there were thus three formal tiers of government in
the territory. In the top tier were the Executive Council, the Legislative Council
and the judiciary. These were the highest and most important political bodies in
the newly-formed SAR. In the second tier were the Urban and Regional Councils, with significant resources and policy powers. In the third tier were the 18 District Boards, with some resources but very few policy powers. Below all of these formal structures were rural committees in indigenous villages.

These different bodies were constituted by various mechanisms. Appointed members were a key feature of all of them for almost the entire colonial period, and rural committees long operated on traditional modes of selection that reached back into the pre-modern history of Hong Kong. However, a gradual introduction of democratic practices was a major theme of the late colonial years. The first part of the political structure to be given a quasi-democratic base was the Urban Council. Under the colonial government, certain sectors of the population were allowed to elect representatives, who served alongside appointed and ex officio members. In 1983, for example, 15 elected representatives served together with 15 appointed members on the Urban Council. As the 1997 reversion to Chinese sovereignty approached, Hong Kong’s local government became increasingly caught up in the colonial government’s attempts to extend the democratic franchise (Miners, 1998).

When District Boards were formed in 1982, Hong Kong’s first ever direct elections were held for some of their members. Among a total of 390 members in the 18 District Boards, 132 (around one-third) were directly elected by the general public. A further 134 members were appointed, and the rest were ex officio. The chairman of each board could not be an elected member, as in the early days this post was always filled by the district officer. At the second round of direct elections held in 1985, the total number of contested seats was increased to 237. The number of appointed members remained fairly stable at 132. The number of ex officio members dropped to 57. Subsequent elections, in 1988 and 1991, had much the same breakdown of members. In 1994, under Governor Patten, all appointed seats were abolished, and the 18 District Boards were composed of 346 directly elected members, and 27 ex officio in the nine District Boards located in the New Territories (HKSAR Government, 2002). All of these ex officio members were chairmen of rural committees in indigenous villages.

Above the District Boards, in the municipal councils, elections were also introduced towards the end of the colonial period. Here, there were both indirectly and directly elected members, alongside appointed members and ex officio. Indirectly elected members were elected from among the individuals elected to District Boards. Until 1995, nine members of both the Urban and Regional Councils were elected in this way. Members were directly elected to municipal councils from 1991 onwards. As part of his political reforms, Patten abolished all appointed members of the municipal councils from 1995 onwards (Miners, 1998).

The 1997 handover prompted major changes for Hong Kong’s local government. Article 97 of the Basic Law states that what it calls district organisations “are not organs of political power”. They may be “consulted by the government
of the Region on district administration and other affairs, or ... be responsible for providing services in such fields as culture, recreation and environmental sanitation”. To reinforce the apolitical nature of local government, Chief Executive Tung reintroduced the appointed members who had been written out of the picture by Governor Patten. To the 41 elected members of the Urban Council he added nine appointed members. To the 39 members of the Regional Council he added 11 appointed members. The membership of each council was thereby raised to 50. Tung also appointed a total of 96 members to the District Boards, of whom 53 were China-appointed district advisers. The aim was clearly to dilute the influence of Hong Kong’s political parties, and to boost the executive’s hold on local government.

Tung also embarked on more fundamental reform. In 1993, the Sino-British negotiations finally succumbed to failure regarding the nature of Hong Kong’s three-tier political structure. In July 1997, the Legislative Council, the municipal councils and the District Boards all therefore became “Provisional”. Members of Hong Kong’s local government organisations were given a term of office until the end of December 1999. In his first Policy Address, Tung announced that local government would be re-evaluated (Tung, 1997: para. 147). After a consultation document had been released in June 1998, Tung formally announced in his second Policy Address that the municipal councils would be abolished at the end of 1999 (Tung, 1998: para. 148). In December 1999, the Legislative Council passed the Provision of Municipal Services (Reorganisation) Bill, which formally abolished the two councils. Most of their responsibilities were returned to the government, and vested in the newly-formed Food and Environmental Hygiene Department, and the Leisure and Cultural Services Department. At the same time, the English title of the remaining tier of local government was changed from district board to district council. The Chinese title remained unchanged.

Tung built on a legitimacy crisis for Hong Kong’s local government to advance both political and administrative reasons for abolishing the two municipal councils (Lo, 2001: pp. 250–257). Politically, he felt that the Urban and Regional Councils had become semi-autonomous fiefdoms. They had real policy power and autonomy in their own jurisdictions. Since they were independent financial bodies, they could spend money as they wanted, so long as they acted within their statutory powers. This made them rather dangerous threats to the SAR’s executive-led government. In addition, Tung asserted that the municipal councils had started to exhibit signs of administrative inefficiency. When the Regional Council decided to build a new Kwai Ching Theatre in March 1995, the estimated cost was HK$360 million. On opening in 1999, the bill for the 900-seat theatre had risen to HK$468 million. Similarly, the Yuen Long Theatre, which opened in the same year, was budgeted at HK$320 million, but eventually cost HK$565 million. Looking ahead, the 1998–99 yearbook stated that the Provisional Regional Council had plans to build the Tai Po Civic Centre, a Regional Indoor Stadium in Fanling, a Regional Council Complex at Luen Wo Hui, and the Central Library in
the coming five years. In total, the Council’s five-year plan contained 243 projects at an estimated cost of HK$10,243 million (HKSAR Provisional Regional Council, 1999). This might not have been a problem had the municipal councils not been controlled by members with party political affiliations. Tung’s feeling was that party politics had undermined their professionalism. Additional administrative problems were evident in overlapping roles and functions between the two councils and across Hong Kong’s three tiers of government. For instance, the two councils set different standards for selling sushi. In some domains, such as culture and sports, agencies like the Hong Kong Arts Development Council, Hong Kong Sports Development Board, and Broadcasting, Culture and Sport Bureau competed with the councils.

As is so often the case, apparently minor controversies served to focus debate and seal the fate of the municipal councils. One, which flared up in July 1997, immediately after the handover, concerned the external design of the planned Central Library in Causeway Bay. This pitted the Urban Council against the government, and spilled into the public domain through a public quarrel on a radio broadcast. Tung, newly installed as chief executive, pointed to the lack of professionalism in the Urban Council. The second controversial event was an outbreak of H5N1 bird flu at the end of 1997. For the first time in history, the virus spread to the human population, killing a three-year-old boy. In response, the government decided to cull all the chickens in the territory. The policy was poorly implemented and turned into something of a fiasco, though the problem could not be pinned solely at the door of the municipal councils. However, the episode did provide an opportunity for Tung to bemoan the fragmentation of policy responsibility in the domain of food hygiene, and to call for structural change (Lo, 1999).

The District Councils, Hong Kong’s sole tier of local government since 2000, retain a large number of directly-elected members. However, since the handover Tung has also restored some of the appointed members abolished by Patten. The first post-handover elections took place in November 1999, for a total number of 390 elected seats. Alongside them remained the 27 ex officio members serving in the nine District Councils located in the New Territories, plus 102 members appointed by Tung. In the second round of elections held in November 2003, an increase in population meant that the number of elected members was boosted to 400. At these elections, held in the shadow of the major 1 July protest organised to contest proposed legislation relating to Article 23 of the Basic Law, a comparatively high turnout of 44.1% of eligible voters, up from 35.8% in 1999, gave significant gains to the democratic camp. Tung defied some commentators by appointing his full quota of 102 members. Among those appointees, 59 had already served as appointed members of District Councils, more than 60 came from professions such as education, medicine, the law, engineering and social services, and more than 80 had no formal affiliation to a political party. Nobody from the pro-democracy camp was appointed. Around three-quarters of the appointees were said to have close connections with the government.
The District Councils remain purely advisory bodies. According to the District Councils Ordinance, their functions are twofold. First, they are to advise the government “(i) on matters affecting the well-being of the people in the District; (ii) on the provision and use of public facilities and services within the District; (iii) on the adequacy and priorities of government programmes for the District; and (iv) on the use of public funds allocated to the District for local public works and community activities”. Second, where funds are available, they are to undertake “(i) environmental improvements within the District; (ii) the promotion of recreational and cultural activities within the District; and (iii) community activities within the District” (HKSAR Government, 2004).

Looking at their meeting agendas and discussion items, the roles and powers of the District Councils are limited. In May 2005, Tuen Mun District Council debated the height of noise barriers at To Yuen Wai. In June 2005, Yau Tsim Mong District Council discussed a proposal relating to the “New Traffic and Transport Arrangement upon the Relocation of the Star Ferry Pier Public Transport Interchange”. In July 2005, Sham Shui Po District Council urged the government to formulate measures to address the potential danger posed to pedestrians by falling aluminium-framed windows. Nevertheless, the District Councils do perform a series of useful functions at the local level. After the SARS outbreak in 2003, for instance, they assisted Team Clean in identifying “hygiene blackspots”. In addition, District Councils are often consulted about local matters arising from the business operations of public utilities. When the Kowloon-Canton Railway Corporation opened West Rail in 2003, it consulted the relevant councils about restructuring light rail and bus services. Also in 2003, after the Legislative Council passed a bill to legalise football gambling, the Jockey Club was required to consult the District Councils about proposals to extend the opening hours of its 116 off-course betting branches.

It appears that, as the sole tier of local government in Hong Kong, District Councils are now starting to boost their profile. Once the municipal councils had been scrapped, the government began to take the District Councils more seriously, for example by sending more senior officials to attend council meetings. In 2000, senior officials from the Immigration Department attended council meetings to introduce the new Smart ID card. In 2001, Carrie Lam visited the councils as director of social welfare to brief them on current developments. Also in 2001, the acting deputy secretary for the Home Affairs Bureau attended a series of council meetings to explain government proposals to legalise football betting. In 2002, when the government was trying to enact Article 23 legislation, Regina Ip lobbied support from the District Councils, and Tung is said to have met the 18 council chairmen. In 2004, the 18 District Councils were consulted on a paper about measures for tackling avian influenza. Of course, the councils are not always listened to. Around two-thirds of the District Councils did not favour legalising football gambling, but the law was passed by the Legislative Council anyway.
Overall, however, there is some disappointment that the District Councils have not been given a larger role in Hong Kong governance. When the municipal councils were scrapped, there was talk of redistributing some powers to the District Councils, and the government even appeared to favour such a move. Some small changes were indeed made. The chair and deputy chair of each district council now sit on the District Management Committee, chaired by the district officer. There they are able to discuss issues affecting the district with officials from government departments. From time to time, limited additional funding has been allocated. In 1999–2000, for instance, an extra $13 million, amounting to about 10% on top of the regular budget, was downloaded for community activities and environmental improvement. In 2000, district officers were allowed to claim an accountable allowance of up to $10,000 per month, on top of their monthly honorarium. Behind these minor changes, however, the reality is that District Councils have very limited powers.

It is possible that things are starting to change. In July 2001, the government released a consultation document entitled Review of the Roles and Functions of the District Councils. However, few reforms were introduced as a result of this exercise. By contrast, Chief Executive Donald Tsang appears to be more committed to expanding the role of the 18 District Councils by devolving more responsibilities to them. In his first Policy Address, Tsang proposed that the District Councils be allowed to manage some local facilities such as libraries, community halls, leisure grounds, sports venues and swimming pools (Tsang, 2005). In addition, the Constitutional Development Task Force proposed that members of the District Councils be made part of the Election Committee, which is responsible for electing the chief executive, and that the number of District Council representatives in the Legislative Council be increased from one to six in 2008 (HKSAR Government Constitutional Affairs Bureau, 2005). However, this proposal, along with the government’s other constitutional reform proposals, was rejected by LegCo on 21 December 2005.

Advisory and statutory bodies

Alongside its local government structures, Hong Kong has several hundred advisory committees (Box 6.2). Dating back to the 1940s, their function is to bring into the policy process, on a strictly advisory basis, key stakeholders from across the community. Such a large number of advisory committees is not a common feature of governance systems in other parts of the world. However, the practice seems likely to continue in Hong Kong. Article 65 of the Basic Law states that “the previous system of establishing advisory bodies by the executive authorities shall be maintained”. Furthermore, in his 2004 Policy Address, Tung held that they “play an important role in supporting the administration” (Tung, 2004: para. 67). Their central function is to debate policy initiatives made by departments, which
must be submitted to advisory committees for comment. As Cheung and Wong write, the two major objectives are to “secure elite political consent and give an impression of government by consultation” (Cheung and Wong, 2004: p. 878).

Hong Kong also has 229 statutory bodies charged with a wide range of administrative functions. This is a common feature of political systems throughout the world, and is driven by the increasingly complex task of governing contemporary societies. Statutory bodies are created by a Legislative Council ordinance. For instance, in 1995–96 LegCo passed three ordinances, the Sex Discrimination Ordinance, the Disability Discrimination Ordinance and the Family Status Discrimination Ordinance, which together established the Equal Opportunities Commission as a statutory body. Other well-known bodies such as the Housing Authority and the Hospital Authority were created in a similar fashion. Statutory bodies are vested with executive authority in a given domain.

Putting Hong Kong’s advisory and statutory bodies together, the grand total in June 2005 was 509, up from 437 in 1991 and 360 in 1981. Among the 509, 229 were statutory and had therefore been established by legislation, and the rest were non-statutory and had been established by the chief executive, the 14 Principal Officials and other department heads. The 509 bodies covered a bewildering array of sectors and functions, and were categorised by the government into seven main areas: advisory boards and committees; non-departmental public bodies; regulatory boards and bodies; appeal boards; advisory and management boards of trusts, funds and funding schemes; public corporations; and miscellaneous boards and committees. The number of bodies in each category is given in Table 6.1. In analysing all seven categories in the paragraphs that follow, we begin by providing the total number found in each category in 2005. By far the largest concentration (56%) was in the first category of advisory boards and committees.

The 287 advisory boards and committees are both statutory and non-statutory. What they have in common is a function of providing the government with consultation and advice from a broad range of individuals and interests. Most of the 287 advisory boards and committees found in 2005 were non-statutory. However, 48 were statutory. Among them were counted the 18 District Councils already analysed, plus bodies like the Football Betting and Lotteries Commission, the Hong Kong Council on Smoking and Health, the Mandatory Provident Fund Schemes Advisory Committee, and the Panel of Film Censorship Advisers.
Table 6.1  Advisory and statutory bodies in Hong Kong, 30 June 2005

<table>
<thead>
<tr>
<th>Type</th>
<th>Statutory</th>
<th>Non-statutory</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advisory boards and committees</td>
<td>48</td>
<td>239</td>
<td>287</td>
</tr>
<tr>
<td>Non-departmental public bodies</td>
<td>14</td>
<td>1</td>
<td>15</td>
</tr>
<tr>
<td>Regulatory boards and bodies</td>
<td>48</td>
<td>0</td>
<td>48</td>
</tr>
<tr>
<td>Appeal boards</td>
<td>54</td>
<td>5</td>
<td>59</td>
</tr>
<tr>
<td>Advisory and management boards of trusts/</td>
<td>44</td>
<td>30</td>
<td>74</td>
</tr>
<tr>
<td>funds and funding schemes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public corporations</td>
<td>5</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Miscellaneous boards and committees</td>
<td>16</td>
<td>5</td>
<td>21</td>
</tr>
<tr>
<td>Total</td>
<td>229</td>
<td>280</td>
<td>509</td>
</tr>
</tbody>
</table>

Source: Hong Kong Legislative Council Panel on Home Affairs, 2005.

The 15 non-departmental public bodies are almost all statutory. They play an important part in government by delivering services and contributing to the policy process. In full, the 15 are as follows: Board of Directors of the Applied Research Council; Board of Governors of the Prince Philip Dental Hospital; Consumer Council; Council of the Hong Kong Academy for Performing Arts; Employees Retraining Board; Equal Opportunities Commission; Hong Kong Arts Development Council; Hong Kong Examinations and Assessment Authority; Hong Kong Housing Authority; Hong Kong Productivity Council; Hong Kong Tourism Board; Hong Kong Trade Development Council; Hospital Authority; Occupational Safety and Health Council; Vocational Training Council.

The 48 regulatory boards and bodies can be divided into four types: registration boards, licensing boards, regulatory bodies, and supervisory boards. In general, the first three types of board regulate and license their own professional members and industries. For example, a number of bodies regulate medical practice in Hong Kong. They include the Chinese Medicine Council of Hong Kong, the Chiropractors Council, the Council of the Hong Kong Academy of Medicine, the Council on Human Reproductive Technology, the Dental Council of Hong Kong, the Human Organ Transplant Board, the Medical Council of Hong Kong, the Midwives Council of Hong Kong, the Nursing Council of Hong Kong, the Pharmacy and Poisons Board, and the Supplementary Medical Professions Board. Additional bodies, such as the Council of the Hong Kong Institute of Certified Public Accountants, the Estate Agents Authority, the Housing Managers Registration Board, the Land Surveyors Registration Committee, the Landscape Architects Registration Board, the Planners Registration Board and the Social Workers Registration Board, perform similar functions of professional licensing and regulation. The final type consists of supervisory bodies which oversee and monitor a specific activity or range of activities. For instance, the Broadcasting Authority licenses and regulates television and radio broadcasters and receives complaints from the general public about television and radio broadcasts, and
the Electoral Affairs Commission monitors and regulates elections for chief executive, the Legislative Council and the District Councils.

The 59 appeal boards perform a semi-judicial function by making final decisions on whether individual appeals are valid or not. Thus, the Social Security Appeal Board provides “a means of redress for any person not satisfied with the decision of the Social Welfare Department concerning applications made under the Comprehensive Social Security Assistance” (HKSAR Social Welfare Department, 2005). During 2004–05, 244 appeal cases were heard. In 192 cases, the original departmental decision was confirmed. In 52 cases, it was reversed.

The 74 advisory and management boards of trusts, funds and funding schemes oversee the management of property held for the benefit of named beneficiaries or stated purposes. The Quality Education Fund Steering Committee oversees the disbursement of funding to primary and secondary schools under the Quality Education Fund. The Traffic Accident Victim Assistance Advisory Committee manages the allocation of funds to individuals who apply to the Traffic Accident Victims Assistance Scheme and the Traffic Accident Victims Assistance Fund.

The five public corporations are well-known bodies providing essential public services. The Airport Authority Hong Kong is in charge of the Hong Kong International Airport at Chek Lap Kok. The Managing Board of the Kowloon-Canton Railway Corporation oversees some of Hong Kong’s railroad services. Before the Mass Transit Railway Corporation was listed on the Hong Kong Stock Exchange in 2000, it too was grouped in this category. The other three public corporations are the Board of Directors of the Hong Kong Science and Technology Parks Corporation, the Board of the Urban Renewal Authority and the Ocean Park Corporation Board.

The 21 miscellaneous boards and committees form a catchall category of bodies that do not fit into any of the other six categories. Notable among them are the councils of Hong Kong’s nine universities.

When added together, the 509 advisory and statutory bodies contain 8,800 posts, though because of dual memberships only around 5,600 people actually serve. Of these, some 35% come from the business sector, up from 23% in 1995 (Cheung and Wong, 2004). Appointments are made on a very ad hoc basis. Unlike the UK, which has a Commissioner for Public Appointments, Hong Kong has created no public body to oversee or monitor appointments (Cheung, 2003). However, while the Hong Kong government has no appointment guidelines, there are some informal understandings.

A Central Personality Index, created by the Home Affairs Bureau, lists individuals who have served, are serving, or are willing to serve on advisory and statutory bodies. In June 2004, the Index contained 21,832 entries. The core principle for inclusion on the list and selection from it is said to be merit in the domains of ability, expertise, experience, integrity and commitment to public service. The government is also committed to non-discrimination on grounds of sex, age, religion, race or social background. Additionally, there is a 25% gender
benchmark. Currently the number of women serving is around 24%. Finally, there is a so-called “six and six rule”, which holds on the one hand that nobody should serve on more than six advisory and statutory bodies at any one time, and on the other that in any given advisory or statutory body no person should serve for more than six years. However, both parts of the rule are regularly broken. In March 2004, 45 individuals served on more than six committees, and around 1700 people (around 21% of the total) had served on the same board or committee for more than six years. Among those people, 272 had served for more than 10 years (HKSAR Legislative Council Panel on Home Affairs, 2004a).

When appointed to boards and committees, individuals are required to declare their professional interests and any relations they may have with other public and private institutions. However, disclosure of party political affiliation is entirely voluntary, raising some concern about the fairness and impartiality of the appointment system. Within the context of any given meeting, relevant interests must also be declared in order to prevent any “transfer of interest”. In 2002, a government report concluded that some 89% of boards and committees had achieved their objectives, and that 9% were duplicating work undertaken by government bureaux and departments. However, the government did not disclose the benchmarks by which it measured whether objectives had been achieved (HKSAR Legislative Council Panel on Home Affairs, 2002).

After the 1 July 2003 protests, the chief executive sought to manage discontent by announcing in his 2004 Policy Address a decision to bring more middle-class people into the political process (Tung, 2004: para. 72). The government subsequently proposed the formation of a consultative forum consisting of 600 middle-class people to be drawn from a variety of sectors including business, the professions and academia. In March 2005, the government also set up a public forum on the web, and invited 520 individuals drawn from different sectors to give their opinions on matters of public concern. In the early months of the forum, discussion topics ranged from big issues such as healthcare reform to small ones such as the provision of dog gardens.

Hong Kong’s advisory and statutory bodies come under the purview of the chief executive and his 14 principal officials. The secretary for home affairs (168) oversees the largest number, followed by the secretary for health, welfare and food (72). Together, these two secretaries are in charge of nearly half of the 509 bodies. The secretary for constitutional affairs (2), the secretary for justice (2) and the financial secretary (3) oversee the smallest number (Hong Kong Legislative Council Panel on Home Affairs, 2004b).

The work undertaken by advisory committees is varied. The Transport Advisory Committee has advised the government on traffic matters since 1965. As well as assessing the development of the transportation system, it approves fare adjustments for taxis, buses, green minibuses and ferries. Its Transport Complaints Unit fields public complaints and suggestions, totalling 16,299 in 2004. Since 1974, the Pay Trend Survey Committee has published annual Gross
Pay Trend Indicators, now covering some 130,000 individuals in 90 private-sector companies. On this basis, the government adjusts the pay scale for civil servants. The Advisory Council on the Environment undertakes environmental impact assessments, as in the case of the proposed spur railway line from Sheung Shui to Lok Ma Chau, running through wetland in Long Valley. In the end, a decision was taken to tunnel under Long Valley instead. A final example is the Advisory Committee on New Broad-based Taxes, created in June 2000 to examine ways of expanding Hong Kong’s tax base. One of its suggestions, released for consultation in October 2001, was to introduce a goods and services tax. Today, this committee no longer exists.

Statutory bodies have more extensive powers. The Housing Authority, established under the 1973 Housing Ordinance, is charged with developing and implementing programmes for public housing. The Hospital Authority has a similar remit in the healthcare domain. Working under the 1990 Hospital Authority Ordinance, it oversees the SAR’s 43 public hospitals, 45 specialist outpatient clinics and 74 general outpatient clinics. These are substantial bodies with significant executive responsibilities affecting the lives of almost all Hong Kong residents. The Airport Authority Hong Kong, created in 1995 under the Airport Authority Ordinance, is required to maximise the value of Hong Kong International Airport and to contribute to the wellbeing of the SAR. It thereby oversees the work of one of the biggest airports in the world. The Equal Opportunities Commission is not as large, and its resources are not so considerable. Nevertheless, it undertakes important functions in monitoring and promoting equal opportunities, and in overseeing complaints procedures. The decision not to reappoint Chairperson Anna Wu in summer 2003 was one of many controversies in which the government found itself embroiled, and was an indication of the important role statutory bodies of this kind play in Hong Kong.

In recent years Hong Kong’s advisory and statutory bodies have come under considerable public scrutiny, notably as a result of media crises that have enveloped them. In summer 2005, for instance, the Hong Kong Examinations and Assessment Authority inaccurately calculated students’ grades in the 2005 HKCEE Examination, the deputy commissioner in the office of the Privacy Commissioner for Personal Data was accused of incorrect use of travel expenses, and Patrick Yu was first appointed to and then withdrawn from the position of Director (Operations) of the Equal Opportunities Commission. At the same time, advisory and statutory bodies have become politicised as the elite figures who are appointed to them “have developed a functional power base of their own and can demand influence over policies and a share in advisory appointments as a reward for their political support of the administration” (Cheung and Wong, 2004: p. 893). Advisory and statutory bodies are therefore becoming more openly political bodies as their operational setting changes.
Conclusion

Hong Kong has a complex web of local, advisory and statutory bodies. Taken together, they exhibit several common characteristics. First, and most importantly, they are all subordinate to political institutions operating in the top tier of government, and in particular to the executive. This has been notably the case since the abolition of the municipal councils at the end of 1999, and the removal of Hong Kong’s only tier of local government with real policy power (Lo, 1999). Secondly, however, and somewhat at variance with the first point, many of these bodies have considerable functional autonomy. This is particularly true of statutory bodies established by ordinance in the Legislative Council. Thirdly, and in many ways remarkably at the start of the 21st century, not one of the 509 advisory and statutory bodies found in Hong Kong operates on a fully democratic franchise. This is of course fully consistent with arrangements found in other parts of Hong Kong governance.

Putting all this together, it is clear that these bodies make a significant contribution to Hong Kong’s executive-led government. In a very real sense, all of them truly are executive-led. However, this is not to say that they unthinkingly follow whatever line is established by the government. Rather, many of these bodies make use of their statutory independence to establish their own policy profile. In this way, they are able to fill out Hong Kong’s governance, and to ensure that nuanced differences from the policy agenda of the executive are translated into public policy. It is for precisely this reason that problems sometimes emerge and make their way into the headlines of the local newspapers and television broadcasts.

Looking to the future, it is evident that change is taking place inside many of the bodies analysed in this chapter, notably through creeping politicisation. The main question is how long it will take for these internal changes to combine with external pressures for more democracy, and generate major reform. Some limited changes are of course likely to take place. On the one hand, the appointed elements of local government structures that in most other parts of the developed world are wholly elected may in time be abolished, as was largely the case under Governor Patten. On the other, some of the advisory committees that have been created to bring talented people into the governance process on a strictly advisory basis will probably be eliminated. However, under Chief Executive Donald Tsang, Hong Kong remains strongly committed to executive-led government. The implications of this are that many of the governance arrangements surveyed here could endure for some time to come.


REFERENCES


Local, Advisory and Statutory Bodies


**QUESTIONS**

1. Does Hong Kong have a meaningful tier of local government?
2. Should Hong Kong’s local government system be restructured, and should local councils be given more powers and responsibilities?
3. Should appointment to Hong Kong’s advisory and statutory bodies take place on merit alone, or should issues like gender representation be considered? Should appointments be used by the government to reward its loyal supporters?
4. Does the Internet generate viable alternatives to the use of advisory and statutory bodies?
5. Do Hong Kong’s advisory and statutory bodies undermine democratic procedures? Should they be reformed, and should some of them be abolished?

**USEFUL WEBSITES**

District Councils
http://www.districtcouncils.gov.hk/front_e.html

Hong Kong Legislative Council
http://www.legco.gov.hk/

Home Affairs Bureau: Advisory and Statutory Bodies

Public Affairs Forum

**FURTHER READING**

Miners (1998: chaps. 11, 12) provides a classic analysis of Hong Kong’s municipal councils (now abolished) and district administration. Even though his book is now rather outdated, it is still well worth consulting. Lo (2001: pp. 250–261) contains a brief and useful overview of changes and problems in Hong Kong’s local government over the past 20 years. Lee and Ho (2003) provide useful information on advisory boards and statutory bodies, and set them in a comparative context. Cheung and Wong (2004) analyse the emergence of new forms of functional-elite politics through advisory bodies.
PART II

Mediating Institutions and Political Actors
(Chapters 7 to 9)
Summary introduction

The second part of the book examines the features, role and effectiveness of mediating institutions and political actors in Hong Kong, which include political parties and elections, civil society and NGOs, and mass media and the public opinion. These mediating institutions and political actors play a significant part in facilitating good governance. Also, they deserve attention in their own right being part and parcel of politics in contemporary Hong Kong. Together with our previous discussion of the political institutions, Part II sheds lights on the characteristics, functioning and future development of local governance and politics.

In Chapter 7, Ma Ngok describes the development of political parties and the electoral system in Hong Kong, and analyses the problems that have confronted their development. Political parties started to develop in the 1980s as a result of gradual democratisation in Hong Kong. As the talks on the political future of Hong Kong were well underway, political parties also mushroomed, which were generally divided into the pro-democracy and pro-China camps. Such a division has lasted until today, and the two camps are varied, to different degrees, in their political ideologies, and positions on labour, welfare, economic and livelihood issues. Despite their long history, political parties in Hong Kong are remarkably weak and are confronted by various obstacles, such as the anti-politics stance of the CPG. Like party development, Hong Kong’s electoral experience has also been unique. Ma traces the change of direct election formula to a proportional representation system, and its effects such as the change in campaign strategies and strategic voting. Further, he investigates the performance of the two political camps in the elections after 1997 and argues that they have more or less achieved a stable balance of power.

In Chapter 8, Lam Wai-man and Irene L.K. Tong study the characteristics of civil society and important civic and political organisations in Hong Kong, and examine the challenges of making Hong Kong’s civil society into a more effective watchdog of the government. The chapter begins with an examination of the confusing array of meanings of “civil society”. Having offered a brief historical account of the development of civil society in Hong Kong, Lam and Tong investigate the vibrancy of civil society since 1997 in terms of its scale, goals, roles and functions, extent of participation in public affairs and politics, capability of mobilisation, and extent of political influence. As argued, Hong Kong has a sizable and vibrant civic society but a somewhat underdeveloped political society due to factors such as the internal divisions in civil society itself, and the political marginalisation of civic organisations. Nevertheless, new forms of social mobilisation, such as cyber political mobilisation and Internet radio broadcasting, continue to flourish, indicating that civil society in Hong Kong is going to maintain its vitality.

In Chapter 9, Joseph M. Chan and Francis L.F. Lee provide an analytical account of the definitions of public opinion, the roles of the mass media, and how...
they may influence the government and politics of Hong Kong. Chan and Lee propose a discursive conception of public opinion that is characterised by struggles to represent public opinion and mediated by professional communicators. Although the liberal democratic ideal forms the core of media professionalism, the performance of media has been constrained by several structural factors such as the commercial nature of the Hong Kong media system and the ownership of the press. Despite suffering from occasional pressure for self-censorship, press freedom has not been severely undermined after 1997. It has been controversial whether media is a facilitator or a mobiliser in politics. In examining this question, Chan and Lee unravel four types of media effect, including agenda-setting effects, publicity effects, legitimation effects and omission effects. Then they analyse the mechanisms in the HKSAR government and the strategies it employs in influencing and mediating public opinion. Lastly, they investigate the effects of the media in the making of public opinion and collective action in Hong Kong.
When the Constitutional Development Task Force of the Hong Kong Special Administrative Region government submitted its Third Report to the Central People’s Government in 2004, the under-development of political parties was cited as an unfavourable condition for implementing full democracy in Hong Kong. Political parties in Hong Kong have a short history and are remarkably weak. Why? While parties enjoyed phenomenal growth in 1991–97, their development has been stagnant after 1997. Again, why?

Hong Kong’s electoral experience has also been special. Hong Kong has a short electoral history, but has unique electoral methods that are not adopted elsewhere. What are the major features of those electoral methods? The electoral methods have also changed a lot over the years. Why? Finally, putting parties and elections together, how have elections shaped party development in Hong Kong?

The development of party politics in Hong Kong

The development of political parties in Hong Kong was a response to gradual democratisation in Hong Kong from the 1980s in general, and to the introduction of direct election to the Legislative Council in 1991 in particular. The student and pressure group movements of the 1970s were the harbingers of the democracy movement in Hong Kong. Some of the movement leaders became leaders of the democracy movement in the 1980s, and leaders of the political parties in the 1990s. The Sino-British negotiations over Hong Kong’s future in 1982–84 politicised the Hong Kong population, and political groups were formed to comment on political issues and participate in the district board (DB) and Urban Council (UC)/Regional Council (RC) elections. The leading political groups at the time included the Meeting Point (MP) (founded 1983), the Hong Kong Affairs Society (HKAS) (1984), the Progressive Hong Kong Society (1984), the Hong Kong Forum (1984), and the Association for Democracy and People’s Livelihood (ADPL) (1986). These groups were embryonic forms of political parties in Hong
Several events in the 1980s brought better cooperation to the pro-democracy groups. Many social groups joined the movements against the building of the Daya Bay Nuclear Plant in 1986, and against the amendment of the Public Order (Amendment) Ordinance in 1987, which provided invaluable chances of cooperation for these liberal social groups. The Joint Committee for the Promotion of Democratic Government (JCPDG), the umbrella organisation of social and political groups which led the democracy movement in the late 1980s, further brought the democrats together. An important catalyst for party formation was the Beijing democracy movement in spring 1989. In that spring one million Hong Kong people took to the streets to support the Beijing movement, and more than 100 groups formed the Alliance in Support of Patriotic Democratic Movements of China (ASPDMC). The ASPDMC played an active role in providing monetary and material support to the Mainland movement, and in smuggling dissidents out of China after the 4 June 1989 crackdown. With the Beijing authorities denouncing the ASPDMC leaders as “subversives” after the crackdown, the democrats felt the need to strengthen themselves by better cohesion. In April 1990, members of the three major pro-democracy groups, the HKAS, the ADPL, and the MP, plus other pro-democracy leaders, formed the United Democrats of Hong Kong (UDHK), the first political party in Hong Kong. The major leaders of UDHK included Martin Lee, Yeung Sum, Szeto Wah, and Albert Ho. Months later, business conservatives and district-level conservatives formed the Liberal Democratic Foundation (LDF) as the major counterweight to UDHK.

For various reasons, political parties in Hong Kong entered a growth stage in 1991–97. Firstly, the landslide victory of the UDHK in the 1991 LegCo election showed the edge of an organised political party in campaigning, and showed that Hong Kong people were not that afraid of “parties” after all. Secondly, as appointed LegCo seats would be abolished in 1995, the appointed members who wanted to continue their political careers after 1995 had to run for elections, direct or functional, and organising parties was the logical outcome. Thirdly, the political debate over then Hong Kong Governor Chris Patten’s reform proposal in 1992–94 polarised the Hong Kong political scene. With immense political pressure from Beijing, politicians were forced to choose between two positions: support Patten’s reform and be seen as pro-democracy but anti-China, or oppose Patten’s reform and be seen as non-democrat and pro-China. This drove more politicians to join political parties, as there was little middle ground between the two positions.

As a result, 1991–97 saw a mushrooming of parties. In 1992, some appointed members and pro-business members in LegCo formed the Cooperative Resource Centre (CRC). Led by Allen Lee, James Tien and Selina Chow, the CRC was reorganised to become the Liberal Party in 1994. In 1992, pro-China politicians and union leaders from the Hong Kong Federation of Trade Unions (HKFTU)
formed the Democratic Alliance for the Betterment of Hong Kong (DAB). Jasper Tsang Yok-shing served as DAB chairman from 1992 to 2003, after which Ma Lik took over. In 1996, a group of pro-China business conservatives formed the Hong Kong Progressive Alliance (HKPA), which quickly absorbed the LDF in 1997, and merged with the DAB in 2005. Within the pro-democracy camp, the MP and the UDHK merged in 1994 to form the Democratic Party (DP), which since then has been the largest pro-democracy party. In 1996, some prominent democrats including Emily Lau, Lau Chin-shhek and Lee Cheuk-yan formed the Frontier, which remained a loose political organisation up until today. A group of pro-Taiwan politicians formed the 123 Democratic Alliance in 1994, which was dissolved in 2001 for lack of funds. Christine Loh formed the Citizens’ Party (CP) in 1997, but the party turned inactive after Loh declined to run for LegCo office in 2000. The newest member of the pro-democracy camp is the Civic Party, which was founded by the core members of the Article 45 Concern Group on 19 March 2006. Its party chief is Audrey Eu, a directly elected legislator and its chairperson is Kuan Hsin-chi, a well-known political scientist.

Party politics in Hong Kong

Political parties in Hong Kong can be roughly divided into two camps: pro-democracy and pro-China. Parties (or political groups) in the pro-democracy camp include the DP, the Frontier, and the ADPL. The Citizens’ Party played a minimal role after 2000. The pro-democracy camp usually adopts a more progressive attitude towards democratisation in Hong Kong. It advocates election of the chief executive and the whole LegCo by universal suffrage, and opposes functional constituencies and the appointment system in the district council. It also puts more emphasis on values such as human rights, freedom, rule of law, and stresses a higher level of autonomy of Hong Kong from the CPG. After 1997, it has generally adopted a more critical attitude towards the HKSAR government.

In contrast, the pro-China camp usually adopts a more conservative attitude towards democratisation. It usually considers stability and prosperity to be paramount, and puts comparatively less emphasis on human rights and the rule of law. The pro-China parties usually enjoy a better relationship with the CPG and the HKSAR government. Major parties within the pro-China camp include the DAB, the LP, and the HKPA.

Events such as the debate on Article 23 legislation and the interpretation of the Basic Law by the National People’s Congress Standing Committee (NPCSC) in 1999 on the right-of-abode issue illustrate the ideological difference between the two camps. Parties and politicians in the pro-democracy camp thought that the proposed Article 23 legislation would damage civil liberties, and opposed its enactment. By contrast, the pro-China camp thought that it was a constitutional and patriotic duty to enact the relevant laws, and stressed the importance of national
security over personal freedoms. When the NPCSC interpreted the Basic Law in 1999 to overturn the Court of Final Appeal verdict, ruling that children of Hong Kong citizens born in the Mainland had to get approval in the Mainland before they could come to Hong Kong, the pro-democracy camp saw it as a violation to the rule of law and the “one country, two systems” concept, and opposed the decision. The pro-China camp mostly welcomed the NPCSC decision as necessary to stem the tide of incoming Mainland immigrants.

Parties also adopt different positions on labour/welfare issues. Pro-business parties such as the LP and the HKPA are more inclined to business interests. The corollary is that they usually oppose increases in government spending, especially on welfare, they prefer low tax, and they are less sympathetic to increasing labour benefits such as the minimum wage legislation. The DP and the DAB are “catch-all parties” that claim they will take care of interests of all classes (Box 7.1). Compared to labour union confederations such as the HKFTU or Hong Kong Confederation of Trade Unions (HKCTU) led by Lee Cheuk-yan, or pro-grassroots parties such as ADPL, they are more middle-class oriented, stressing a balance between the interests of different classes. A case in point is the parties’ different positions on civil service reforms. The HKCTU and the HKFTU usually oppose privatisation and civil service streamlining, as it threatens the job security of civil servants, while the LP and the HKPA welcome the reforms as a means to reduce government expenditure. The DP and the DAB try to straddle the middle path; they agree to the general direction of civil service reform, but insist that the government’s package must provide enough protection to civil servants.

Box 7.1 Catch-all parties

Catch-all parties are parties that try to appeal to a wide range of support from various social classes or social sectors, instead of representing only one class or sector.

The parties in LegCo usually show more cooperation on economic or livelihood issues. Before 1997, ad hoc alliances of legislators sometimes put pressure on the Hong Kong government and forced policy changes. After 1997, cooperation between parties was affected by the political animosity between the democrats and the pro-China camp. In 2000–02, various political groupings in LegCo formed the “Eight Party Coalition”, which managed to put pressure on the government to adopt measures to alleviate social pain brought about by the recession. The alliance however was short-lived, as after the Accountability System for Principal Officials was set up in 2002 it ceased to function. On political issues such as democratisation and attitudes to the HKSAR government, the pro-democracy camp and the pro-government camp were invariably confrontational. The pro/anti-government divide continued to define the major political difference between parties in Hong Kong.
Party politics after 1997

After 1997, the influence and credibility of the political parties declined when compared to the 1995–97 period. In 1995–97, it was common for LegCo members to force government policy changes by private members’ bills, amending government legislation and vetoing government bills and appropriations. However, the constitutional constraints in the Basic Law imposed on private members’ bills (Article 74), and the voting-by-group rule (Annex II), made it difficult for legislators to put forward alternative policies after 1997. Moreover, pro-government members, who were loath to put too much pressure on government, took up a majority in the post-1997 LegCo. As a result, the policy influence of LegCo and the political parties was much reduced after 1997, with LegCo having merely an oversight role.

The post-1997 LegCo was also more fragmented than its 1995–97 counterpart, which further weakened the policy influence of the political parties. The three major parties, the LP, the DP and the DAB, combined to take up about half of the seats. About one-fourth of the seats belong to independents (Table 7.1). Amidst the post-1997 economic downturn, the Hong Kong public only saw partisan struggles within a fragmented LegCo, with few real effects on government policy and their own livelihood. This naturally led to great disillusionment about party politics. Political parties as an institution suffered from declining public legitimacy after 1997. In a poll in 2003, only 29.8% of interviewees expressed confidence in political parties, compared to 71.4% for the courts, 46.4% for the civil service, 45.8% for the legislature, and 41.8% for the executive (http://www.ln.edu.hk/pgp/pdf/RP03C1(3).pdf).

Table 7.1 Distribution of LegCo seats among different political groupings, 1995–2008

<table>
<thead>
<tr>
<th></th>
<th>95–97</th>
<th>98–00</th>
<th>00–04</th>
<th>04–08</th>
</tr>
</thead>
<tbody>
<tr>
<td>DP</td>
<td>19</td>
<td>13</td>
<td>12</td>
<td>9</td>
</tr>
<tr>
<td>DAB</td>
<td>6</td>
<td>9</td>
<td>9</td>
<td>12</td>
</tr>
<tr>
<td>LP</td>
<td>10</td>
<td>10</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>The Civic Party</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>6</td>
</tr>
<tr>
<td>Other Pro-Democracy Groups</td>
<td>9</td>
<td>5</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>Other Pro-China Groups</td>
<td>4</td>
<td>7</td>
<td>7</td>
<td>3</td>
</tr>
<tr>
<td>Independents</td>
<td>12</td>
<td>16</td>
<td>18</td>
<td>16</td>
</tr>
</tbody>
</table>

On the whole, while support for the whole pro-democracy camp remained at a similar level throughout the years, the DP suffered from a marked decline in voter support after 1997. There are several reasons. Factionalism within the party, culminating in many of the “Young Turks” faction leaving the DP, weakened the party and also tarnished its moral image (Box 7.2). The DP’s position on several issues, including the right-of-abode issue and civil service reforms, also affected
its support in selected sectors of the population. Political scandals involving DP leaders and members began to cast a darker image on the DP, which previously occupied the moral high ground. Under the proportional representation system, where the voters often are offered more than one choice of pro-democracy candidates, the DP began to see part of its support lured away by other democrats (Box 7.3). The setback in the 2004 LegCo election, which reduced the DP to nine seats and made it the third-largest party in LegCo, triggered a crisis and search for future direction within the party.

**Box 7.2 Factionalism**

“Factions” usually means organised sub-groups with the same political tendencies or inclinations within a political party. The degree of organisation or discipline of factions can vary from party to party and from country to country. “Factionalism” refers to the state in which parties have different factions, and struggles and bargaining between different parties become a major factor that affects decision-making within the political parties.

**Box 7.3 Proportional representation system**

A proportional representation system is an electoral system that allocates seats roughly according to the proportion of votes obtained by parties/groups/lists. A party that obtains 20% of the votes in the election is supposed to get about 20% of the elected seats under proportional representation.

In contrast, the DAB and LP had better fortunes after 1997. With the CPG becoming more popular in Hong Kong after 1997, the pro-China label became less damaging for the DAB. Its richer resources and vast district-level networks, assisted by pro-China community organisations and the HKFTU, put it in an advantageous position during elections. Over the years it has succeeded in serving as an ideological counterpoint to the democrats, developing its own rationale in being pro-China and being politically conservative, which has enabled it to attract a reasonable level of conservative supporters. Despite bearing a lot of blame for the Article 23 debacle, the DAB managed to minimise its vote loss in the 2004 LegCo election, and gained two extra seats to become the largest party in the 2004 LegCo with 12 seats.

As a pro-business party, the LP was generally loath to participate in the direct election game before 2004, especially after the setback of Chairman Allen Lee in the 1998 election. Encouraged by the sudden boost in popularity of LP Chairman James Tien due to his eleventh-hour defection during the Article 23 ordeal, James Tien and Vice Chair Selina Chow ran in the direct election in 2004 and won, giving the LP a total of 10 seats. By 2004 the LP was very ambitious, showing
intentions of gaining ground in future direct elections, which should help to alleviate the fear of the business sector towards popular elections.

Obstacles to party development

The development of party politics in Hong Kong is hindered by a number of factors. To begin with, the CPG has always been unfavourable to Hong Kong having a governing party. As early as in the 1980s, Chinese officials spoke openly against the development of party politics in Hong Kong. The CPG wanted the SAR to be governed by a nonpartisan CE and civil service arbitrating different interests, rather than a strong ruling party with deep roots in society, which might make use of its popular support to confront the CPG.

In line with this anti-party stance by the CPG, the Chief Executive Election Ordinance stipulates that the elected CE has to quit his or her party if he or she belongs to one, making it difficult to have a ruling party in Hong Kong. Former CE Tung Chee-hwa also usually refrained from appointing party politicians to major executive positions, and his successor Donald Tsang appointed only a few party members into his Executive Council. With most of the executive positions not open for electoral contestation, but rather determined by appointment, it is difficult for political parties to compete for power positions. Party politicians can only run for the office of Legislative Councillor, which is relatively powerless in the executive-dominant system of Hong Kong. It takes away a major incentive of forming and joining a political party, namely to seize political power, and makes it difficult to attract talent to join parties.

In addition, the institutional set up and changes after 1997 did not help party development. The Election Committee (EC) and functional constituency (FC) systems are inimical to party politics. With very narrow franchises, candidates for EC and FC seats usually do not need party support for mobilising voters. Sometimes party affiliation can be a liability for FC candidates, especially if the party platform runs counter to sectoral interests. In the post-1997 LegCo, about half of the FC legislators have been independents. As FC members need to defend sectoral interests in order to survive, political compromise between and within political parties becomes very difficult, and party discipline and party consolidation are undermined.

The abolition of the UC and RC in 1999 was also a blow to the political recruitment and succession of the two major parties in Hong Kong. Before 1999, members on these two financially autonomous elected bodies, which were responsible for managing cultural and recreational affairs and environmental and food hygiene, received handsome salaries that enabled them to serve as full-time politicians. By 1998, the DP had 24 UC/RC members, while the DAB had 15, representing the cream of the parties’ next generation of political leaders. The UC/RC abolition took away an important training ground for party politicians, bringing succession problems to both the DP and the DAB.
Today, political parties in Hong Kong are plagued by meagre resources, a low level of participation from the public, and a paucity of policy influence. The business sector, seeing that the political parties have limited influence, is loath to donate large funds to court the parties. This creates a vicious circle, where the non-open nature of the system means little influence for the parties, leading to inadequate support from the business and the public, which in turn further weakens the political parties’ capacity to influence public policy. It may take more fundamental institutional reforms for political parties in Hong Kong to have a healthier development.

Elections in Hong Kong

The HKSAR LegCo is constituted through a mixed system of election. From 1998 to 2004, the 60 LegCo members were elected by three different methods: geographical constituencies (GCs), FCs and EC, with the number of GC seats gradually increasing and that of EC reducing. The GC seats are elected by the proportional representation (PR) formula, using the Largest Remainder method with a Hare quota (Box 7.4). Hong Kong is divided into five constituencies, with each constituency electing three to eight legislators in the elections of 1998, 2000 and 2004. In principle, the PR system allocates seats to parties/candidates roughly according to the vote shares they obtain in the election. The PR system guarantees that the smaller parties will get represented in rough accordance to their small vote share. The Largest Remainder method and the Hare quota are commonly regarded as system parameters that are less favourable to large parties.

The FC system was instituted in 1985. It was intended to guarantee representation to business and professional leaders, who used to be appointed to LegCo by the colonial government, by a method of election. By 2004, the 30 FC seats represented the major business groups, the major professional sectors, and selected social sectors and local political institutions such as labour unions, the Heung Yee Kuk and the District Councils. Since its inception the FC system has been much criticised as giving undue political privileges to the business and professional sectors. While average citizens can cast only one vote in the GCs, business owners and professionals have more than one vote, thus violating the principle of equality of voting rights. By 2004, the 30 FC seats represented only about 200,000 electors, compared to 3.2 million voters in the direct election through GCs. Most business seats are elected by only several hundred to several thousand electors, most of them corporations, which gives rise to criticisms of FC elections as “small-circle elections”. Critics generally claim that the small number of electors make the FCs liable to manipulation and corruption. There are also few objective criteria to judge which sector or occupation should be represented, which creates endless political debates between interest groups and social sectors.
The 800-person EC elected ten legislators in 1998 and six in 2000, as well as the CE in 2002 and 2007. In the EC, 200 members came from the business sector, 200 from professional sectors, 200 from various social, religious and labour groups, and 200 from representatives of various political institutions. These EC representatives were in turn elected by corporations, groups and individuals in their own sectors in FC-like manner. On the whole, the voter population represented by the 800 EC members was no more than the 200,000 electors represented by the FCs. As a result this method of election shared similar criticisms as the FC system, as being “small-circle elections” and biased in favour of business and professional interests. The 800 EC members were given a “block vote” when they elected the legislators in 1998 and 2000, meaning that they could cast the exact number of votes as the number of candidates elected. This system in effect allows a power

**Box 7.4 Largest Remainder Formula with a Hare quota**

The Largest Remainder Formula is a method to calculate how the last seats are to be allocated under a proportional representation system. Under this system, the seats are first awarded to the parties/lists that get above the electoral quota (usually Hare or Droop quota), and the remaining seats are awarded to those who have the most remaining votes after the votes needed to reach the quota are counted. Using the Hare quota, if a constituency elects N candidates, the quota is 1/N. This is the quota required of the party/list to win a seat. That means a party/list will win one seat if it has 1/N of the votes, two seats if it has 2/N of the votes, and so on. The seat allocation for the Hong Kong Island district in the 2004 LegCo election, where there were six seats to be allocated in total, provides a good example:

<table>
<thead>
<tr>
<th></th>
<th>DP</th>
<th>DAB</th>
<th>Eu and Ho</th>
<th>Rita Fan</th>
<th>Tsang Kin-shing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vote Share</td>
<td>36.98%</td>
<td>20.95%</td>
<td>20.72%</td>
<td>18.42%</td>
<td>1.9%</td>
</tr>
<tr>
<td>Hare Quota</td>
<td>16.67%</td>
<td>16.67%</td>
<td>16.67%</td>
<td>16.67%</td>
<td>6.67%</td>
</tr>
<tr>
<td>Seat Obtained via Quota</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Remainder</td>
<td>3.65%</td>
<td>4.18%</td>
<td>3.98%</td>
<td>1.7%</td>
<td>1.49%</td>
</tr>
<tr>
<td>Seats Obtained by Remainder</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total Seats</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

**Table 7.2 Composition of the SAR LegCo, 1998–2004**

<table>
<thead>
<tr>
<th></th>
<th>GC</th>
<th>FC</th>
<th>BC</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998–2000</td>
<td>20</td>
<td>30</td>
<td>10</td>
<td>60</td>
</tr>
<tr>
<td>2000–2004</td>
<td>24</td>
<td>30</td>
<td>6</td>
<td>60</td>
</tr>
<tr>
<td>2004–2008</td>
<td>30</td>
<td>30</td>
<td>0</td>
<td>60</td>
</tr>
</tbody>
</table>

The 800-person EC elected ten legislators in 1998 and six in 2000, as well as the CE in 2002 and 2007. In the EC, 200 members came from the business sector, 200 from professional sectors, 200 from various social, religious and labour groups, and 200 from representatives of various political institutions. These EC representatives were in turn elected by corporations, groups and individuals in their own sectors in FC-like manner. On the whole, the voter population represented by the 800 EC members was no more than the 200,000 electors represented by the FCs. As a result this method of election shared similar criticisms as the FC system, as being “small-circle elections” and biased in favour of business and professional interests. The 800 EC members were given a “block vote” when they elected the legislators in 1998 and 2000, meaning that they could cast the exact number of votes as the number of candidates elected. This system in effect allows a power
bloc that controls a majority of EC members to dictate the list of candidates to be elected, which enabled the pro-China camp to dominate the EC seats in the 1998 and 2000 elections.

**Elections after 1997**

There have been three LegCo elections since 1997, in 1998, 2000 and 2004. In general, in post-1997 elections the China factor has been less important than in pre-1997 elections. In the 1991 LegCo election, the attitude of candidates to the Tiananmen crackdown and the Chinese government was the deciding factor in the election. Voters cast their vote overwhelmingly for the democrats, who took a sympathetic position towards the 1989 Beijing democracy movement, and who had a strong track record of supporting democracy in Hong Kong. Political debates during the 1995 election centred on attitudes to the Chinese government. The DAB and the pro-China camp urged voters to vote for candidates who were on good terms with, and were able to communicate with, the Chinese government, claiming that this would facilitate the political transition. By contrast, the democrats hailed their resolve in standing up to defend Hong Kong’s interests should China intervene in Hong Kong affairs. After 1997, however, the China factor became less important in Hong Kong’s elections. The lack of obvious intervention from the CPG after 1997 meant that the attitude to China had less weight in people’s minds when choosing legislators. With the HKSAR government responsible for reflecting Hong Kong’s views to the CPG, it was also difficult for pro-China politicians to claim that they were the only bridge between the CPG and the Hong Kong people.

The fading of the China factor was accompanied by the rise in salience of economic issues. With the economic downturn after the Asian financial crisis, the Hong Kong people paid more attention to bread-and-butter issues. However, judging from the platforms of the different parties in the elections after 1997, there was little difference between their socio-economic policies. As LegCo elections will not bring about a change in government, parties can strive for the most populist positions without really delivering their policies in government. As a result, while debates on economic issues and solutions to the economic plight took up more time in election forums after 1997, the political differences between the parties, in terms of attitude to the HKSAR government and towards democratisation, remained the major dividing line between candidates during elections.

Attitudes towards the HKSAR government formed the major dividing line between the major parties and candidates in all the three post-1997 elections. Out of political loyalty, the pro-China politicians adopted a pro-government position, and were invariably branded “royalists” by their political rivals during the elections. The democrats generally adopted a more anti-government position, and claimed that the pro-government politicians were to blame for post-1997 governing ills.
They claimed that electing more democrats into the legislature would mean better supervision of the HKSAR government. In contrast, the DAB usually claimed it was a stabilising force in Hong Kong, criticising the democrats as opposing the HKSAR government at all costs. It said it could engage in a rational dialogue with the HKSAR government, which would make the latter more receptive to its suggestions on government policies, whereas the democrats would oppose everything in an irrational manner and were not constructive at all.

The effect of the proportional representation system

The change of the direct election formula to a PR system after 1997 had several effects. Firstly, electoral competition became more pluralised. As PR generally increased the chance of representation for smaller parties, it attracted more candidates to participate in the post-1997 elections. In 1995, when the single-member plurality system was used, 11 of the 20 districts saw a one-on-one face-off between a democrat and a pro-China candidate. In the three post-1997 elections that used PR, each constituency had on average six or seven candidate lists, bringing about a more pluralized competition. In particular, usually each district witnessed a competition between three or four pro-democracy lists, leading to much more internal competition within the pro-democracy camp.

The PR system also led to changes in campaign strategies. Because of the larger constituency size and a higher campaign expense ceiling, candidates could use more capital-intensive means of campaigning. Large billboards in the city centre, advertisements on public transportation vehicles and stations, and newspaper advertisements became common means of campaigning. Parties and candidates devoted fewer resources to traditional labour-intensive means of campaigning such as door-to-door canvassing, pamphlets and personal contact, and paid more attention to attracting media coverage and media image packaging.

PR also led to novel campaign strategies. As the Largest Remainder formula and the Hare quota do not favour large parties to win the last seat under PR, large parties began to split into more than one list in the same constituency, to increase their chances of winning the last seat. The DP first experimented with the idea in the 2000 election, with mixed results. In New Territories East, the DP fielded two lists, led by Andrew Cheng and Wong Sing-chi respectively, which managed to win two seats in the five-seat constituency by a combined vote share of 24.4%: 16% for Cheng and 8.4% for Wong. However, the three split lists in New Territories West the same year could win only two seats, with senior incumbent Lee Wing-tat unexpectedly losing his seat.

The 2004 election saw a more complicated picture of strategic coordination within both camps. The DAB split into two lists in the Kowloon East district. The pro-democracy camp underwent a lengthy process of coordination of their candidates, again with mixed results. In some cases the different pro-democracy
lists could not agree on a formula of distributing voter support between them, so in the end they ran without real coordination on that level (for example, in New Territories West, Kowloon East and Kowloon West). In New Territories East, the pro-democracy camp managed to put most of its candidates into one list, but the result was unsatisfactory, as it expected to get at least four seats but secured only three. In Hong Kong Island, the pro-democracy camp agreed to run on two separate lists, but the “vote division” strategy failed and the democrats managed to win only three out of the six seats with about 58% of the total vote, which was seen as a strategic failure.

Strategic voting was another new phenomenon under PR. Strategic voting means a voter chooses a less-preferred candidate instead of the most-preferred one because he or she thinks the former has a better chance of winning, or because he or she believes the latter has no chance of winning or has more than enough votes to win. In all three campaigns, there were candidates who tried to convince voters that certain candidates in their camp had more than enough votes to win, and urged voters to vote for others in the same camp because they were in danger of losing. For example, in the New Territories West district in 1998, the DP tried to convince the voters that the last seat was really a contest between the third-ranked candidate of the DP and Lam Wai-keung of the Heung Yee Kuk. The DP then called on voters to dump other pro-democracy candidates whom they deemed to have no chance, and cast their votes for the DP.

Some of these strategies backfired. For example, in the last weeks of the 2000 campaign Albert Chan of the DP, who had been trailing in the polls, tried to convince voters who supported other leading pro-democracy lists to strategically switch their votes to him. As a result, fellow DP incumbent Lee Wing-tat, who was leading in the pre-election opinion polls, lost because some of his supporters believed that he had more than enough votes and voted for Albert Chan. Similarly, in the 2004 election many voters on Hong Kong Island believed that the list of Audrey Eu and Cyd Ho would safely win two seats. A lot of voters changed their minds to vote for the DP’s list at the eleventh hour, since they believed that Martin Lee, second on the DP list, was in danger of losing. By 2004, strategic voting had become a phenomenon with a real impact on campaigns and the election outcomes.

**Results in FCs and ECs**

Pro-China politicians dominated the EC seats in both 1998 and 2000. The politically conservative business sector took up one fourth of the EC representatives. There were other subsectors that were dominated by pro-China elements, including the Heung Yee Kuk (21 members out of the 800), Hong Kong’s delegates to the National People’s Congress and the Chinese People’s Consultative Committee (77 members in total), the Labour sector (40 members), and Agriculture and
Fishing (40 members). The voting method of “block vote”, which allowed each EC voter to cast his or her vote for ten candidates in 1998 and six in 2000, allowed a power bloc that controlled more than half of the EC votes to take all the EC seats. As a result, the major pro-China parties, the LP, the HKPA and the DAB, each of which controlled more than 100 votes in the 2000 EC, engaged in horse-trading and voted for a common list of candidates in the 2000 election. They swept the EC seats in 1998 and 2000. The democrats could enjoy the support of about 100 EC members, usually from various professional subsectors, but they proved inconsequential in affecting the EC results.

The results in the FC elections were more mixed. Usually about one-third of the seats would have only one candidate, who would therefore win without a vote being cast. These candidates usually belonged to the business sectors that adopt corporate voting, where the endorsement of the related chambers of commerce or business associations was vital in deciding the winner, discouraging possible challengers. In 1998 and 2000, the democrats could win only five out of the 30 FC seats. These five seats, in education, legal, health services, social services, and information technology, were all professional sectors with a wider voter base and voting on an individual basis. About half of the FC members usually did not have party affiliations, as the party label has limited effects in these elections of narrow franchise. The incumbents enjoyed an overwhelming advantage in FC elections, winning over 85% of the contests.

The FC election in 2004 was special in certain aspects. With some incumbents retiring and the democrats making a more serious effort to challenge the FC seats, the FCs saw unprecedented intense competition. In some constituencies as many as nine candidates competed, although 11 FC seats were still uncontested. The democrats succeeded in capturing two new seats in the medical and accountancy sectors, giving them control of seven of the nine professional sectors that vote on an individual basis. This showed that the professionals are generally inclined to support the democrats. In contrast, despite the democrats’ challenge, most FC seats that use corporate voting lie firmly in the hands of the pro-China camp.

**How the parties fared**

An analysis of the vote shares obtained by the different political camps in direct elections since 1991 shows that the pro-democracy camp obtained a stable share of about 60% of the votes over the years, with the conservative or pro-China camp getting about 30% (Figure 7.1) However, the DP’s weight in the pro-democracy camp declined over time, with its vote share dropping from 42% in 1998, to 35% in 2000, and an estimated 25% in 2004.

The 1998 election saw an unexpectedly high turnout rate of 53%. With a lot of voters sympathising with the democrats who had refused to run for the Provisional LegCo, the democrats obtained 64% of the votes and won 14 of the
20 directly elected seats. The DAB got 25% of the vote and duly got five seats out of 20. The DP took up a large portion of the votes and seats in the pro-democracy camp, obtaining 42.2% of the total vote and nine seats. Winning only five seats in the FCs, the democrats could only take up about one-third of the seats in the 1998–2000 LegCo, with pro-government members controlling a safe majority.

The democrats, and the DP in particular, suffered a setback in the 2000 election. Public disillusionment with the inability of LegCo and the political parties to effect changes to government policy and their livelihood led to a marked drop in voter turnout of about 10%. The increase in salience of economic issues also weakened the political appeal of the democrats, who ran on a mostly political agenda. Although plagued by a scandal involving its Vice Chairman Gary Cheng, the DAB showed remarkable mobilisation power and managed to keep its own hard core of supporters. Because of the drop in voter turnout, the DAB actually increased its vote share from 25% to 30%, by turning out almost an identical number of votes to 1998. The democrats lost about 200,000 votes, with the DP alone responsible for 170,000 of the drop. The democrats’ vote share dropped from 64% to 57%. The balance of power in the 2000–04 LegCo remained similar to that of 1998–2000.

The 2004 LegCo election was commonly hailed as a referendum on democracy for Hong Kong. The debate on Article 23 legislation and the 1 July march in 2003 put the issue of democratic reform firmly on the political agenda. The democrats pushed for election by universal suffrage of the CE in 2007.
of the whole LegCo in 2008. These demands were forestalled by the verdict on 26 April 2004 by the NPCSC, ruling that there would be no election by universal suffrage of the CE in 2007, and the proportion of FC and GC seats in 2008 would remain unchanged at 50% each. The verdict certainly took the wind out of the democrats’ sails. After the verdict, the democrats still insisted on carrying on the fight. They claimed that if they won a majority or close to a majority in the 2004 election, it would increase their bargaining power vis-à-vis the CPG in pushing for universal suffrage. In contrast, the political conservatives saw it as unrealistic to insist on universal suffrage in 2007–08, though some of them said they supported universal suffrage in 2012. The democrats’ campaign for universal suffrage in 2007–08 became a label by which voters could distinguish who belonged to the pro-democracy camp in the 2004 election. Other social and economic issues took a back seat during the campaign.

The election result was a disappointment for the democrats. Although they slightly increased their overall vote share to 60.6% and gained three extra seats to emerge with 25 in total, they fell short of winning a majority. The DAB managed a 25% vote share and gained two extra seats through narrow winning margins. Conservatives such as James Tien and Selina Chow of the LP, and Rita Fan, who ran for the first time in direct elections, got reasonable support and each won a seat. The DP lost two seats and saw its vote share drop to a mere 25%. Scandals involving its candidates during the campaign, lack of quality new candidates, and competition from other pro-democracy heavyweights all contributed to the decline in the DP’s support.

Conclusion

Party politics in Hong Kong was born and grew in the 1990s when the regime opened up for partial elections. However, it largely failed to register significant developments after 1997 due to several reasons: (a) the anti-party stance of the CPG; (b) the non-elected nature of the HKSAR government and the weakness of the legislature which generated disincentives for party development; (c) the constraints of the electoral system, including the narrow franchises of the FC and EC; (d) institutional changes after 1997, such as the UC/RC abolition. By 2004, parties in Hong Kong were fraught with their internal problems of succession, resources and development, with many citizens expressing disappointment with the performance of the parties.

The two political camps in Hong Kong achieved a stable balance of power after 1997. Elections since 1991 show that the democrats consistently got about 60% of the votes and the conservatives 30–35% in the direct election part, and that the democrats were largely unable to lay their hands on the FC seats that were elected by corporate voting. This means that the conservative camp will continue to hold a bare majority in LegCo, with the democrats in a minority of 21–25 seats.
This creates a paradox for HKSAR governance: the political grouping that enjoys majority public opinion support is rendered in a permanent minority, which will continue to create pressures for electoral and political reform for years to come.

REFERENCES


QUESTIONS

1. What were the major factors that led to the growth of political parties in the early 1990s? What are the major differences in positions among political parties in Hong Kong?

2. What are the factors that hinder further development of political parties in Hong Kong? What can the Hong Kong government do to promote party development in Hong Kong?
3. What are the major features of the electoral system in Hong Kong?

4. Compare the elections under FC and EC with that of direct election. How are the elections different? Why are they different? To what extent are these differences a result of the different nature of electoral systems?

5. If you were given the task of reforming the electoral system in Hong Kong, what would you do? What are the major problems with the current system?

**USEFUL WEBSITES**

The Democratic Party
http://www.dphk.org
Democratic Alliance for the Betterment and Progress of Hong Kong
http://www.dab.org.hk
Liberal Party
http://www.liberal.org.hk
Association for Democracy and People’s Livelihood
http://www.adpl.org.hk
The Frontier
http://www.frontier.org.hk
Article 45 Concern Group
http://www.article45.com
The Civic Party
http://www.civicparty.hk/
Registration and Electoral Office
http://www.info.gov.hk/reo
2004 Legislative Council Election
The Electoral Affairs Commission
http://www.info.gov.hk/eac/
Public Governance Programme, Lingnan University
Hong Kong University Public Opinion Programme
http://hkupop.hku.hk

**FURTHER READING**

Lam, Jermain (1997) “Party Politics in Hong Kong during the Political Transition”, *American Asian Review* XV, 4 (Winter 1997): pp. 71–95. This paper provides a good account of the origins of party formation in Hong Kong in the early 1990s. In particular, it contains adequate information on the historical background and personnel of various political parties formed in the early 1990s.

Lau, Siu-kai and Kuan Hsin-chi (2000) “Partial Democratization, ‘Foundation Moment’ and Political Parties in Hong Kong”, *The China Quarterly* 163: pp. 705–720. This paper argues that partial democratisation in Hong Kong and the nature of the political transition
drove the parties in Hong Kong to focus on China–Hong Kong relations and the issue of democratisation as the major concerns. Social and economic issues were relatively de-emphasised, which led to the shallow social roots of the parties in Hong Kong, which in turn had a negative effect on party development in Hong Kong.

Lau, Siu-kai and Kuan Hsin-chi (2002) “Hong Kong’s Stunted Political Party System”, *The China Quarterly* 172: pp. 1010–1028. This paper delineates various factors that hindered party development in Hong Kong, including Beijing’s unfavourable attitude, limited political space, non-existence of a ruling party and the absence of a cross-class coalition.

Ma, Ngok (2005) “Democracy at a Stalemate: The Third Legislative Elections in Hong Kong”, *China Perspectives* 57: pp. 40–49. This paper captures the effect of the 2004 Legislative Council elections on the political parties and political development in Hong Kong. In particular, it addresses the changing political cleavages and a trend of pluralisation in Hong Kong’s politics.

Ma, Ngok and Choy Chi-keung (2003) *Political Consequences of Electoral Systems: The Hong Kong Proportional Representation System* (選舉制度的政治效果: 港式比例代表制的經驗), Hong Kong: City University Press. This book-length work has a comprehensive review of the evolution of electoral system in Hong Kong. By comparing the 1995, 1998 and 2000 campaigns, this book also points out the electoral system’s various impacts on political and party development in Hong Kong.
On 1 July 2003, around 500,000 people in Hong Kong took to the street to protest against the government proposal to legislate Article 23 of the Basic Law, which, as some argue, demonstrated “Hong Kong–style people power” (Chan and Chung, 2004; Chan, 2005) and the vibrancy of its civil society. How true is this claim? Looking back, the challenges from the people and civil society organisations to the Hong Kong colonial and SAR governments were many, however, instances of success such as the 2003 episode are in fact quite rare. Why? This chapter explores the structure and development of civil society in Hong Kong as well as its role in governance. It argues that civil society in Hong Kong is sizable and vibrant but marginalised in its impact on governance, and Hong Kong is far from being a political society. The chapter further analyses the limitations to the development of civil society in Hong Kong with regard to its institutional environment and dominant values, and concludes with a summary of views of its possible future.

The concept of civil society

The concept of civil society, commonly referred to as the non-governmental sphere of society, is laden with controversies. Beyond the definition of civil society as “that sphere intermediate between family and state in which social actors pursue neither profit within the market nor power within the state” (Schwartz, 2003b: p. 23), there is little agreement with regard to its characteristics, composition, functions and potentials. Essentially, it is an imprecise or discursive sphere that allows citizens to freely engage with each other on issues of common concern, form associations, enter into debates, and join deliberations from diverse standpoints.

In terms of composition, civil society comprises “a network of voluntary associations through which people can work together in managing community issues” (Loh, 2003: p. 127). It consists of non-governmental or nonprofit organisations (NGOs or NPOs) and informal groups and activities, organised by citizens and participated in voluntarily, and spanning spheres as diverse as
recreational, cultural, sports, professional, labour, social services, religious, human rights, and so on. Associations could take many forms, including think tanks, community organisations, mutual aid committees, advocacy groups, consumer cooperatives, and others. Additionally, independent media and social movements are also usually considered to be chief elements of civil society.

In terms of functions and potentials, recent debates have been reinvigorated and informed by global trends and events. Since the 1980s, the concept of civil society has been capturing worldwide imagination because of its perceived potential to bring about democratic transition in hitherto authoritarian states, as part of what Samuel Huntington (1991) called “the third wave of democratisation”. The “resurrection of civil society” (e.g., O’Donnell and Schmitter, 1986) was seen as instrumental in bringing about the democratic opening in communist Eastern Europe, with civil society representing an autonomous realm, independent of state control. Also, it provides the basis for social movements and political opposition. The collapse of communism in Eastern Europe from 1989 onwards further helped turn the concept into a normative ideal (Alagappa, 2004a) that was subsequently embraced by Western governments and development agencies in the hope that better governance would result from it. For Robert Putnam (1993), civil society is the realm that allows the formation of crucial horizontal ties that bridge social cleavages, resulting in enhanced economic development and democracy.

In some parts of the world, attention to civil society gained momentum as a result of increasing disappointment with the state and lack of confidence in politicians. For example, civil society came to prominence in Japan in the 1990s, especially in the aftermath of the 1995 earthquake in the Kobe-Osaka area, when private citizens organised quickly and effectively compared with the slow official response to the quake (Schwartz, 2003a: pp. 14–15). Thus, civil society is seen to empower individuals (Schwartz, 2003b) vis-à-vis the state.

Another set of developments that has boosted the popularity of the concept since the 1980s includes global retrenchment in government, the so-called retreat of the state in its service delivery role, and, as a corollary, the emphasis on decentralisation, privatisation, community self-help, and capacity building. Empowering civil society became a convenient way to fill in the gaps in state social and welfare functions.

Under the forces of globalisation, and with the advancement of information and communications technology, the notion of a transnational and non-nation-based “global civil society” is now in vogue. This development focuses our attention beyond state-centred concerns, and calls for the building of global solidarity among governments and non-government associations alike.

In sum, civil society appears to have potential in such areas as democratisation, citizen participation and empowerment, service provision, and international cooperation. Despite disagreements over the exact ability of civil society to democratisate the political system, the very existence of a vibrant civil society is viewed positively as a manifestation of civil liberties at play and thus triggers a more
politically attentive citizenry (Schwartz, 2003b). In other words, participation in civic or social organisations is politically relevant. It helps nourish political interests and expand political knowledge. Also, civil society is often the context in which conceptions of the common good, the means to articulate common concerns, and political connections and allegiances are developed (Lam, 2004: pp. 36–41).

It is worthy of note that NGOs form a subset of civil society. “NGOs exist within a modern legal framework that creates certain rules for their bureaucratic structure, lays down requirements for their formal registration with the government and subsumes their finances within a particular tax structure” (Weller and Hsiao, 2003: pp. 164–165). The Red Cross and the YMCA are examples of this arrangement. NGO formation has been boosted by the creation of the United Nations and its agencies, and has proliferated with high-profile United Nations conferences on major issues, such as the environment, gender equality, and human rights (Weller and Hsiao, 2003: p. 165). Despite conceptual overlaps, civil society cannot simply be equated with NPOs or the “third sector”, because the idea of debate and deliberation among private citizens on matters of public concern is absent in the latter (Schwartz, 2003b: p. 35).

Civil society is further distinguished from “political society”, “the arena in which actors compete to assume power within the state — in a democracy, that would include political parties, elections and legislatures” (Schwartz, 2003b: p. 35). The former denotes a plurality of associations that do not seek state power. It is true that civil society associations may seek to influence the government policies relevant to their interests. Nevertheless, the conceptual distinction between the two indicates “there is no guarantee that civil society will transform into a mature political society when the regime opens up” (Ma, 2005: p. 5).

This distinction is particularly pertinent to Hong Kong, as the following analysis shows, where civil society in general thrives (in terms of the number of organisations and the level of civic participation) but has limited transformative capacity to become a full-fledged political society. Although, theoretically, strong civil and political societies are desirable for achieving better governance as they check and balance the power of the government and monitor its performance, these are not always achievable in every society.

A historical review

Taking civil society associations as a chief component of civil society, this section offers a general review of its development in Hong Kong from the post–World War II years to the 1990s.

Hong Kong’s civil society is politically divided. With regard to its structure, it was basically tripartite because of the varied political allegiances of the civic groups. Instead of being a united social sphere vis-à-vis the encroachment of one
single government as depicted in Western theories, the civil-society associations in Hong Kong were instead distinguishable by their political affiliations: pro-Beijing, pro-Taiwan, or pro-British colonial government. Each camp had endeavoured to counteract the influence of the respective opponent camps and governments, which had brought about a precarious balance of power among the three political forces. While some political actors were ready to act and place critical demands on the colonial government, others remained highly cooperative with and loyal to it. The colonial government was the greatest benefactor of this disunity. This situation persisted until the 1990s, when the political future of Hong Kong was eventually settled, and the influence of Britain and Taiwan in Hong Kong diminished. Thereafter, political cleavage became one between the so-called pro-China and pro-democracy camps.

Although politically divided, Hong Kong’s civil society was vibrant, as manifested by the presence of numerous social organisations and an active media, which had demonstrable organisational and mobilisation capabilities (Lam, 2004). However, some of them were highly corporatist and remained loyal partners of the colonial government in social service provision (Lee, 2005).

From the postwar years to the 1960s, a variety of traditional organisations, such as chambers of commerce, clan associations, professional associations, women’s groups, trade unions and professional organisations, had been active (e.g., Lau, 1982: pp. 130–133). By the end of 1996, 7,597 associations had registered as societies (DeGolyer, 1997), probably an under-representation since civil society

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**Box 8.1 Civil society**

The concept of civil society, commonly referred to as the sphere intermediate between family and state, is laden with controversies. It embraces a plurality of associations, ranging from groups and networks formed from primordial ties (such as clans, same-village groups), religious groups, consumer cooperatives, and advocacy groups to philanthropic and service-oriented groups. There is little agreement with regard to the composition, characteristics, functions and potentials of this sphere. Civil society is seen to have potential for democratisation, promotion of citizen participation and ownership, service provision, and international cooperation. It is distinguished from “political society”, which is the arena in which political actors organise themselves to compete for power within the state. Political society can therefore be conceptualised as a subset of civil society. As the concept evolves, students of civil society and governance have a confusing array of acronyms to contend with. They range from CBOs (community-based organisations), GROs (grassroots organisations), and CSOs (civil society organisations) to GONGOs (government organised NGOs), QANGOs (quasi-autonomous non-government organisations), DONGOs (donor-organised NGOs), and INGOs (international NGOs) (see also Weller and Hsiao, 2003: fn9).
associations in Hong Kong could also register as companies. Major nonprofit organisations remained at around 1,200 to 1,700 between the 1950s and early 1990s (Lam and Perry, 2000: p. 367).

Another study pointed out that the collective action initiated by organisations, counting only those widely reported, totalled 212 between 1949 and 1959, and 137 between 1960 and 1969, which were levels not much lower than those of the 1970s and 1980s (Lam, 2004: p. 62). Also, the scope of concern of the organisations were broad, ranging from highly politicised industrial strikes (e.g., the series of strikes initiated by left wing tramway workers in the 1950s), to actions fighting for specific social interests (e.g., the campaign for rent control), to those promoting public causes (e.g., the campaign to change the marriage laws and the equal pay movement). In addition to these, three riots (i.e., the 1956 riots, the 1966 Star Ferry riots, and the 1967 riots) happened during the period, which provided additional twists to Hong Kong’s political history (Lam, 2004). Admittedly, all these episodes had put considerable pressure on the colonial government to improve its governance.

The years after the 1967 riots, initiated by the left wing, witnessed the implementation of limited administrative and social reforms by the colonial government and the emergence of the Hong Kong identity. The traditional organisations that had been active in the 1950s and 1960s gradually gave way to new social organisations comprising mainly the younger generation. These organisations included student societies, magazine readers’ clubs, professional organisations, independent trade unions, community organisations, political commentary groups, and so on. Between the 1970s and 1980s, there were 218 well-reported significant political events (Lam, 2004: p. 62). In the 1980s, the number of collective social conflicts amounted to more than 600 (Cheung and Louie, 1991: p. 9). In fact, social movements or pressure group mobilisations happened one after another during the period, ranging from the public-sector labour movement to citizens’ rights movements (Chiu and Lui, 2000).

Although some civil society groups were politically active and critical of the colonial government, others remained important partners in governance, notably in policy formulation and actual provision of social services. This situation had

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**Box 8.2 Corporatism and statist-corporatism**

Corporatism is a means of incorporating organised interests into the processes of government (Heywood, 1997: 257). It was the outcome of the dominance of some groups and thus the state needs to pay heed to more varied political interests in the policy process. The statist element of statist-corporatism in Hong Kong refers to the state’s power to penetrate society, to prescribe its sphere of autonomy, and to decide which societal groups can be included or excluded from the corporatist relationship (Lee, 2005: 66).
persisted since the nineteenth century when Hong Kong was first ceded to Britain, when Chinese charitable organisations, traditional associations, and church organisations played a significant role. The development of welfare programmes by the colonial government in the 1970s further expanded the participation of the “nonprofit regime” in social provision, notably in education and welfare, thus forming the “statist-corporatist regime”. Although political activism once infiltrated the sector, the government, as the major funder of most of the nonprofit organisations, was both eager and able to contain the radical groups by funding more moderate organisations (Lee, 2005: pp. 59–62). So, rather than posing challenges to the legitimacy of the colonial government, a large part of the civil society associations in Hong Kong helped improve governance by taking up the social responsibilities left unfulfilled by the government, and thus legitimising the regime.

Admittedly, although social and political activism prevailed in Hong Kong’s civil society, serving to push the colonial government toward making reforms, most of the civic groups were hardly part of political society — they were not organised to compete for power within the state. They were simply deprived of the relevant political opportunities and aspirations. From the postwar years to the early 1980s, the only election open to Hong Kong’s citizens at large was the Urban Council election, but the Urban Council was merely responsible for making municipal policies regarding recreation and hygiene. With the political divisions and internal strife within civil society, plus the fact that some civic associations were close partners of the colonial government and were financially dependent on it, it is not surprising that civil society’s will to challenge the government was dampened.

Nevertheless, the limited democratic reform that came with the establishment of the District Boards (now District Councils) by the government in the 1980s further stimulated the development of civil society in Hong Kong. This, together with the ongoing negotiations on Hong Kong’s political transition and the 4 June 1989 incident (which triggered numerous local rallies and demonstrations in support of the student protestors in Beijing), made democracy a priority concern. In the 1990s, the quasi-democratic reform initiated by the former governor, Christopher Patten, and the gradual opening of the LegCo elections gave further momentum to the development of civil society and the pro-democracy camp. With the gradual retreat of pro-Taiwan groups from Hong Kong politics, the tripartite division of civil society eventually evolved into a bipolar one: pro-China and pro-democracy.

Civil society in post-handover Hong Kong

Research on civil society in Hong Kong has been scanty. This section attempts to portray civil society since 1997, using the limited information available.
Study on the third sector landscape in Hong Kong

In 2002, the Central Policy Unit (CPU) of the HKSAR commissioned a Hong Kong-wide survey of the “third sector”, based on a population of 16,662 organisations that spanned the following fourteen categories: (1) education and research; (2) professional, industry, business and trade unions; (3) district and community-based organisations; (4) civic and advocacy organisations; (5) law and legal services; (6) politics; (7) welfare services; (8) health services; (9) environment; (10) sports; (11) arts and culture; (12) religion; (13) philanthropic intermediaries; and (14) international and cross-boundary activities (CPU, 2004).

It was estimated that the third sector accounted for between 1.5% and 2.1% of the GDP and between 4.6% and 11.4% of the total work force, with a headcount of membership ranging from anywhere between 3.7 million and 8.3 million (CPU, 2004: para. 78). Altogether 8.2% of the population was estimated to be volunteers in third sector organisations (CPU, 2004: para. 97). In terms of funding, direct government subvention or grants made up the largest source (28%), followed by membership dues (18%) and private donation or sponsorship (15%) (CPU, 2004: para. 104).

Welfare or service-oriented and community-based organisations constituted the bulk of third-sector associations, while advocacy or political groups made up the least significant portion of all associations: 1.3% (CPU, 2004: para. 112). This general profile simply testifies to a sizable and vibrant civil society in Hong Kong, but a somewhat underdeveloped political society. This might be a classic case of political liberalisation (guaranteeing civil liberties) without democratisation — a vibrant associational life is permitted as long as it does not culminate in political aspirations. With regard to funding, this profile bespeaks the associations’ financial dependency on the government, which might have adversely affected their autonomy and ability to function effectively, for example, as a watchdog.

The Hong Kong Civil Society Index

The Hong Kong Civil Society Index (HKCSI) research project began in 2004 as a part of the CIVICUS (also known as the World Wide Alliance for Citizen Participation), an international NGO aimed at charting the development of civil society worldwide. In order to arrive at a comprehensive review of the status of key societal players and civil society in Hong Kong, the following studies were conducted. These included: (a) a civil society organisations survey; (b) in-depth interviews with representatives of selected stakeholder organisations spanning 14 categories of civic organisations; (c) a media review, in which two newspapers and one broadcast medium were monitored; (d) three policy impact case studies, namely that of the budgetary process, youth unemployment, and the legislation of Article 23; (e) a corporate social responsibility study, which comprised a study
of the activities of social responsibility performed by ten of the largest listed companies in Hong Kong; and (f) secondary data analysis and literature review.

Table 8.1 The sub-dimensions of the civil society diamond

<table>
<thead>
<tr>
<th>Structure</th>
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<tr>
<td>Breadth of citizen participation</td>
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<tr>
<td>Depth of citizen participation</td>
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<tr>
<td>Diversity of civil society participants</td>
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<td>Level of organisation</td>
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<td>Interrelations of civil society actors</td>
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<td>Civil society organisations resources</td>
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<td>Environment</td>
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<td>Political context</td>
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<td>Basic freedoms and rights</td>
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<td>Socioeconomic context</td>
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<td>Sociostructural context</td>
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<tr>
<td>Legal environment</td>
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<tr>
<td>State-civil society relations</td>
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<td>Private-sector-civil society relations</td>
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<tr>
<td>Values</td>
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<td>Democracy</td>
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<td>Transparency</td>
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<td>Gender equity</td>
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<td>Poverty eradication</td>
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<td>Environmental sustainability</td>
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<td>Impact</td>
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<tr>
<td>Influencing public policy</td>
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<tr>
<td>Holding state and private corporations accountable</td>
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<td>Responding to social interests</td>
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<tr>
<td>Empowering citizens</td>
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<td>Meeting societal needs</td>
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Based on the criteria used across countries by CIVICUS, HKCSI generated a “Civil Society Diamond”, in which civil society in Hong Kong was scored along four dimensions, namely, the structure of civil society, the environment in which civil society operates, the values upheld by civil society actors, and the impact of the activities pursued by the actors. Each dimension is composed of sub-dimensions that are further represented by indicators. Table 8.1 shows the sub-dimensions of the diamond (HKCSI, 2006: pp. 2–3).

The preliminary findings of the HKCSI showed that Hong Kong’s civil society was weakest in terms of structure. Within that, the weakest sub-dimensions were “depth of citizen participation” and “level of organisation” (HKCSI, 2006: p. 3). Also, not many federations or umbrella bodies of civic associations were found,
which, to a certain degree, reflected that in-depth and organised collaborations among the associations were somewhat inadequate (HKCSI, 2006: p. 3).

The environment in which civic associations were functioning was neither disabling nor enabling. Nevertheless, its socio-structural context was quite disabling because the levels of general trust, tolerance, and public spiritedness were rather low. The relationship between the private sector and civic associations was disabling due to the general lack of support from the private sector for civic associations. Also, basic freedoms and rights were somewhat disabling, as the law did not really guarantee information rights, and there had been rising concerns about self-censorship in the mass media. Additionally, the government was found to be too selective in seeking dialogue with only a small group of civic associations on an ad hoc basis (HKCSI, 2006: pp. 3–4).

Positive values were promoted in Hong Kong’s civil society at a moderate level. However, the value of democracy was practiced to only a limited extent — a majority of the civic associations did not practice internal democracy. Also, although some civic associations were active in promoting democracy, broad-based support for democracy in civil society had yet to be consolidated (HKCSI, 2006: p. 4).

In terms of impact, civil society in Hong Kong was quite effective in meeting societal needs, responding to social interests, and educating citizens. It was active in lobbying the government for service provision and empowering citizens, although its impact in these areas was restricted. Lastly, it had very limited impact on holding private corporations accountable and supportive of the development of civil society (HKCSI, 2006: p. 4).

**Box 8.3 Civil society in contemporary Hong Kong**

According to the *Study on the Third Sector Landscape in Hong Kong* published by the Central Policy Unit in 2004, the third sector in Hong Kong had a population of 16,662 organisations that spanned 14 categories. Welfare or service-oriented and community-based organisations constituted the bulk of third sector associations, while advocacy or political groups made up the least significant portion of all associations: 1.3%. The general profile simply testifies to a sizable and vibrant civil society in Hong Kong, but a somewhat underdeveloped political society. This might be a classic case of political liberalisation (guaranteeing civil liberties) without democratisation.

The Hong Kong Civil Society Index (HKCSI) research project began in 2004. It aimed at charting the development of local civil society along four dimensions, namely, the structure of civil society, the environment in which civil society operates, the values upheld by civil society actors, and the impact of the activities pursued by civil society actors. The preliminary findings of the HKCSI showed that Hong Kong’s civil society scored the lowest on the dimension of structure, which was 1.2, with “0” indicating the lowest mark and “3” the highest. The score on the dimension of environment was 1.5, and both “values” and “impact” attained 1.9.
Some observations

The findings of HKCSI alert us to the fact that although an impressive number of people in Hong Kong participate in political action, charitable donations and voluntary activities, such participation might not be sufficiently persistent and frequent. For example, a study found that over 90% of the respondents had made a monetary donation at least once in the year preceding the survey (Hong Kong Federation of Youth Groups, 2002: p. 20). However, only 22.4% of the respondents aged 15 or above had taken part in organised volunteering in the previous year (Chung, 2002). Only 11.6% of respondents claimed to belong to a civic or political organisation.

These features, together with the lack of federations and the prominence of ad hoc and issue-based coalitions, reflect the inherent weakness within civil society in terms of organisation, mobilisation, and ability to act collectively.

With regard to the extent of civil society support for democracy in Hong Kong, which is a significant indicator as to whether or not the society is able to unite on the common goal of democracy, and whether it is equipped with the ideological resources to transform itself into a political society, the situation is again of concern. Although around half a million people in Hong Kong joined the 1 July 2003 demonstration, and between 60% and 70% of people consistently expressed their wish for greater democracy in Hong Kong, democracy was not always considered suitable. When asked in the context of alternative forms of government, or alternative values, democracy did not necessarily enjoy priority in the eyes of the public. A study found that only about half of the respondents considered democracy always preferable to other kinds of government (Lam and Kuan, 2005: p. 10). Such proportion ranked the second lowest in Asia, higher than that of Taiwan but lower than all other Asian countries. In the same study, one-third of the respondents said it did not matter whether government was democratic or not, and about one-fifth preferred an authoritarian government under some circumstances (Lam and Kuan, 2005: p. 12). Further, although democracy was desirable, some people would give it up when faced with competing considerations such as a strong government with authority, economic development, and governmental efficiency (Lam and Kuan, 2005: pp. 12–13).

The extent to which civil society in Hong Kong has an impact on governance is also perplexing. Take the impressive mobilisation of civil society associations against the legislation of Article 23 in 2003 as an example. Even in the midst of a protest action as massive and as organised as that, the government still insisted on legislation against people’s will. The government backtracked only when Tien Pei-

1. The authors would like to thank the Research Grants Committee for its financial support of the study on the Formation of Political Culture and Democratization: The Case of Hong Kong (CUHK4132/04H), from which this survey (2005) derives.
chun, a member of the Executive and the Legislative Council, openly withdrew his support for the legislation, which meant the government would not muster enough votes to carry the bill.

The above examination shows that civil society in Hong Kong remains robust, mainly in terms of the number of civil society associations and the extent of involvement of actors. However, there are still concerns about the depth of participation of actors, civil society’s collective strength and unity, and its ability to influence the policy process.

Constraints

What are the constraints of the development of civil society in Hong Kong? What has hindered it from transforming itself into a full-fledged political society that can effectively act as a counterweight to the government? This section outlines four types of constraints, ranging from tangible (e.g., resources limitation) to intangible (e.g., a depoliticised value framework), as well as internal (within civil society) and external, which could shed light on the reasons for its lack of solidarity and the absence of a culture that is conducive to the growth of a political society.

It is obvious that inadequate resources and manpower are among the major constraints of the development of civil society in Hong Kong. As mentioned, the people’s levels of involvement in civil society associations are low and shallow, and only a minority of the population are members of an organisation. Membership dues do not constitute a reliable source of income; instead, most of the NPOs in Hong Kong have to depend on government subsidy (HKCSI, 2006; Lee, 2005). This dependency has been further aggravated because of the difficulty of civil society associations in obtaining private donations. The private sector’s support for the development of the third sector is also insufficient (HKCSI, 2006).

The second type of constraint highlights the internal strife and divisions of civil society in contemporary Hong Kong that undermines its collective strength. The tripartite division since the early 1950s has, since the 1990s, given way to a bipolar division between pro-China and pro-democracy camps (Lam, 2004). Civil society actors and groups are particularly divided in their views toward the Central People’s Government (CPG) and toward democratisation in Hong Kong. Such division originated mainly from their distinct political identities, different evaluations of Chinese socialism, the CPG’s role in the 4 June 1989 incident, and different expectations towards China’s Hong Kong policy (e.g., So, 2000; DeGloyer, 2001). Even within the pro-democracy camp, internal divisions have prevailed, as vividly manifested by the results of the 2004 LegCo election in which 60 seats were taken by 12 political groups, eight of which were pro-democracy (Scott and Leung, 2004: Table 7, pp. 20–21). This is why when cooperation across groups is necessary, the alliances formed are usually ad hoc and unstable, and this phenomenon impedes the process of democratic transformation.
The third type of constraint relates to the depoliticised value orientation prevalent in civil society, which has reduced the possibility of collective action. It is widely held in Hong Kong that economic development cannot coexist peacefully with political development. Despite the dubiousness of this dichotomy, the people are in general convinced that the society can choose only one of the two and favour economic development (Lam, 2004; 2005). Under a cognitive framework in which economics is in command, Hong Kong became portrayed as a land of opportunities, where everyone could benefit from partaking in its economic activities (Chiu and Lee, 1997; Wong, 1998). Also it was thought that political stability and harmony are important prerequisites to a flourishing economy, and thus should be maintained at all costs. Law-abiding behaviour of citizens is essential for a politically stable environment and hence is highly praised, despite the fact that some laws may be unjust and deserve to be challenged (e.g., Ku and Pun, 2004). As a result, political activities, particularly confrontational strategies, are stereotyped and discouraged, and activists are labelled as troublemakers. On the whole, the depoliticised discourse supported by an economic-oriented society has led to a pervasive self-imposed suppression of politics and a depoliticised identity, which function to constrict massive collective mobilisation. In the last analysis, such discourse encourages people to seek fulfilment in economic activities instead of political ones.

The fourth type of constraint relates to the marginalisation of civil society in Hong Kong. Communication channels between civil society associations and the government are not well established. Also, the impact of the associations on public policy is limited, except perhaps in the case of pro-establishment associations, such as the numerous signatory organisations in favour of the legislation for Article 23 in 2003. If local civil society actors and groups could collaborate with political parties, would the former be empowered? Unfortunately, in Hong Kong, the minimal impact of associations and political parties is actually institutionalised. Even political parties play only a minimal role in constituting the government. The chief executive is elected by only a small circle and has to be non-partisan by law. The Legislative Council is restricted in power and influence by all the legal and structural constraints placed on it, which has rendered even the largest political party in the council powerless. All these serve to make the civil society’s attempts to influence public policy rather futile.

In sum, civil society in Hong Kong is hindered in both its internal development and articulation with political society because of the lack of resources and manpower, internal divisions, the prevalence of a depoliticised culture, and the marginalisation of its role in politics. Indeed, the weak linkage between civil society and political society has weakened the ability of the former to push for democratic reforms in Hong Kong (Ma, 2005).
Shaping civil society

On a discursive level, the government has made noticeable attempts at shaping local civil society since the political transition, which has increased difficulties for the actors and groups in adjusting to the new political environment.

It is common to find government cautious of the role of the media in political mobilisation and in the constitution of public discourses. So, although freedom of press and expression in Hong Kong has been largely maintained, steps were taken by the government to ensure that the media’s influence on public policy would not get out of hand. An example comes from the controversy over the role of Radio Television Hong Kong (RTHK), a public broadcaster. Critics of the RTHK claimed that the station should promote government policy rather than produce programmes critical of the government. Another example is the resignation of three renowned radio talk-show hosts who alleged that because they were critical of the HKSAR government and the CPG, they received threats authorised by the latter. The talk-shows were popular and important platforms for articulating public opinion in the city.

The past few years have seen governmental attempts to reconstitute the Hong Kong identity for its own convenience. On the one hand, it employed depoliticisation and economic strategies to balance rising political activism in local civil society. For instance, it reiterated the importance of stability and prosperity. It identified common enemies, labelled and stereotyped them (e.g., welfare recipients, political activists, and the like). It claimed itself a benevolent ruler, willing to listen to the people but tough on issues of law and order. It adopted measures of economic absorption of politics by producing prosperity to ameliorate people’s discontent toward the government, and reiterated that Hong Kong should be an economic city instead of a political city. It boosted the economic identity of the people in the hope that this would absorb their political energies. It promoted the ideal citizen as someone who was self-reliant, economically contributive, and entrepreneurial. Under this logic, poverty was constructed more as a personal rather than a social problem. Nevertheless, the establishment of the Commission on Poverty in early 2005 may indicate the emergence of a more diverse view in the government on this matter (e.g. Lam, 2005; Ku and Pun, 2004).

On the other hand, nationalism was promoted in the hope of instilling patriotic sentiment into the Hong Kong identity (e.g. DeGloyer, 2001; Tse, 2004). For example, it repressed the assertive qualities by explicitly endorsing neo-Confucianist and Asian values. Singapore has been cited at times as exemplary of good governance and a good government-people relationship. The Hong Kong government tried to engineer a common history or memory that would sustain
the Hong Kong identity. For example, in the name of nationalism, citizens, particularly those in the pro-democracy camp, should scale down their memorial activities of the 4 June 1989 incident or simply erase this incident from Hong Kong’s collective memory (Lam, 2005).

In civic education, a process of renationalisation was witnessed that, ironically, ran parallel with the process of depoliticisation. The latter aimed at containing the influence of critical and democratic discourses prevalent in Hong Kong society since the early 1990s. For example, the SAR government carried out a series of measures to strengthen Chinese elements in the existing school curriculum. School textbook publishers were provided with guidelines advising them to observe the “one China” policy. Since 1998, Putonghua, China’s national language, has been taught in all primary schools, and civics has been made available as an elective subject in Secondary One to Three (Morris et al., 2000: p. 249). Globalism was another major theme of civic education, which, however, made it even more difficult for people to deal with the contradictory demands of being global and patriotic simultaneously (e.g. Tse, 2004).

In the social services sector, the introduction of public management reforms had the political effect of further disciplining the nonprofit sector because organisations were much more careful about maintaining a collegial relationship with the government for fear that their funding would be affected (Lee, 2005: pp. 64–65). The reforms consisted of, first, a Service Performance Monitoring System (SPMS) by which performance assessment is based on funding and service agreements reached between the Social Welfare Department and the nonprofit organisation, and a set of service quality standards. Second, a new funding system called the Lump Sum Grant System was adopted. It features a flexible funding model based on a one-line vote, in which the organisations have the flexibility to decide on their items of expenditure. Third, the government is also opening up service contracts to business enterprises for competitive bidding alongside the nonprofit organisations.

The above examples are not meant to be exhaustive but they suffice to show that the government has been cautious about the development of civil society during the post-1997 years, and it is not hesitant to exert influence on it for the convenience of governance. Indeed political activities, such as women’s movements, have been increasingly constrained by the development of a crude nationalistic discourse that emphasises unity and stability, and by a political structure that does not share power with civil society and responds only selectively to social demands (Lam and Tong, 2006: p. 7). Both the constraints and government interferences mentioned above have posed obstacles to the development of civil society in Hong Kong, and have hindered it from producing a full-fledged political society that would effectively monitor the government.
Recent trends

Some recent developments regarding civil society activities are worthy of note. The political strategies adopted by the people to express their political views have become more action oriented. Demonstrations have become an extremely popular way to express opinion. The participation of social and professional groups in politics has increased, including groups of accountants, property agents, teachers, truck drivers, chicken farmers and legal professionals. Nevertheless, there is also the tendency to use more of the non-aligned (individualistic, non-partisan) means to advance political interests, for example, via the media outlets and public opinion polls.

Forms of political participation have also expanded. From ordinary channels such as demonstrations, voting, and developing contacts with government officials, the post-1997 period has witnessed the growing popularity of some radio talk shows that serve as a mouthpiece of the people. Indeed, discursive political participation has become more and more popular.

**Box 8.4  Forms of political participation**

| Political participation refers to the activity by individuals intended to influence who governs or the decisions (e.g., the selection of government personnel, public policy aims) taken by government officials. This includes instrumental political acts (e.g., voting, signing a petition, marching in a protest) and participation in political organisations (e.g., political parties, interest groups) for expressive purposes. In terms of the form of engagement, it can be classified into conventional or unconventional or both. Conventional political activities refer to the activities operating within formal institutional channels, such as voting, whereas unconventional ones are those that influence the government from outside, such as demonstrations. |

Together with the mass media, which is often an important political player in its own right, the talk shows formulated what we call public opinion. Further, as the political space for these shows diminishes, cyber politics in the form of Internet radio and blogs (e.g., Hiradio, Inmedia, Radio71, A45 Radio), have flourished as an alternative venue for the expression and articulation of political views (e.g., Nip, 2003). Other new forms of civil society participation include activities (whether political or cultural) sponsored by think tanks (e.g., Civic Exchange, Synergynet), bookstores (e.g., Kubrick, Violet Books, Cite Bookshop) and religious groups (e.g., Catholic Commission for Justice and Peace, Hong Kong Women Christian Council).
It is important to note that citizen participation is no longer limited to the elites. The spontaneous actions of ordinary citizens (e.g., Lo Siu-lan who took the Link to court, and private individuals who protested against further reclamation of the Victoria Harbour) and residents of urban communities (e.g., the housewives who spearheaded the H15 concern group over urban renewal in Wanchai) were particularly inspiring. Even more encouraging is the participation of young people, who hitherto have been deemed the most apathetic group. The best examples are the Hong Kong Secondary Students’ Union (SSU) which mobilised tens of thousands of secondary school students in the 1 July 2003 protest, and the Green Student Council, which successfully raised society’s awareness about excessive use of plastic bags.

Lastly, because of the competition between different political camps and political ideas in the post-1997 period, civil society was prompted to reconsider its core values. Though no consensus has been reached so far, there is a growing articulation of overall social and political goals in society, as witnessed by the large proportion of people demanding universal suffrage in the 2007 chief executive election and the 2008 LegCo elections. Another illustration of the growing need for common goals in society is the call for a defence of Hong Kong’s core values (http://www.hkcorevalues.net), such as freedom and democracy, by a group of professionals and academics who were provoked by such incidents as the resignation of the talk-show hosts.

Future prospects

It appears imminent that civil society actors and groups will more actively reflect on the problems of structure and values that exist within civil society. In addition to calling for increased democracy, attempts should be made to encourage a private sector that is more supportive of the development of civil society. Citizen participation and collaboration among groups should deepen. On the other hand, it is important that those in power adopt a more progressive attitude toward power. Rather than seeing state-society relations as zero-sum, it would be mutually beneficial to regard power as mutually enabling. That is to say, by encouraging and strengthening civil society (in terms of resource and influence) the popularity and legitimacy of the regime would not suffer, but be enhanced as a result.

On the part of civil society groups and actors, it would be desirable and strategic for them to review their roles in social activism (Loh, 2004: p. 5). This is especially true if we wish to see social activism to continue to flourish, and local civil society to remain robust or acquire greater potential for political transformation. According to Moyer (2001: p. 1; Loh, 2004: pp. 5–6), there are four roles of social activists, namely, citizen, change agent, reformer, and rebel. Social activists should be ordinary citizens who give legitimation to the movement and stay supportive. Change agents promote participation of large numbers of people, consensus, and
paradigm shift, while also developing alliances and coalitions, and counteracting actions of power holders. Reformers lobby for change via political or legal channels, mobilise against backlash, and nurture and support activists and civil groups. Rebels use dramatic but non-violent action to influence political agenda, force society to face problems, and serve as the conscience of society. All four roles are important, and civil society groups and actors should find their own appropriate roles, and be tolerant of the choice of others.

Conclusion

This chapter has explored the structure and development of civil society in Hong Kong as well as its role in governance. It starts with a historical review from the postwar years to the early 1990s, and argues that the strength of Hong Kong’s civil society was curtailed, first by its internal divisions and, second, by being financially dependent on the government. It is observed that civil society is sizable and vibrant, in terms of the number of associations and the extent of participation of actors. However, worrying signs are witnessed in its development regarding the depth of participation, its collective strength and unity, and its ability to influence the policy process. In fact, civil society in Hong Kong is far from being a political society, and its development has suffered from a number of constraints. These include the limitation of resources and manpower, financial dependency on the government, internal divisions, the prevalence of a depoliticised value orientation, and the marginalisation of its role in governance. In the post-handover years, the government has been cautious about the development of civil society, and has made noticeable attempts to meddle with it for its own convenience. Despite all the constraints and government interferences, some recent changes in civil society activities are witnessed, including the expansion of forms of political participation and deliberation on core social and political values.

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QUESTIONS

1. What are the differences between civil society and political society? Why is it important for civil society to transform into a political society? What are the possible obstacles to this transformation?
2. What are the features of civil society in Hong Kong? What are the constraints on its development? What would you suggest to improve the situation?

3. How would you evaluate the government’s relationship with civil society in Hong Kong? What should the government do in this regard?

**USEFUL WEBSITES**

A45 Radio
http://www.a45radio.com

Centre for Civil Society and Governance
http://web.hku.hk/~ccsg

Civic Exchange
http://www.civic-exchange.org

Committee on the Promotion of Civic Education
http://www.cpce.gov.hk

CP Web Radio
http://www.cpwebradio.hk

Hiradio
http://www.hiradio.net

Hong Kong Core Values
http://www.hkcorevalues.net

Inmedia
http://www.inmediahk.net/public

Radio 71
http://www.radio71.hk/blog

Study on the Third Sector Landscape in Hong Kong

**FURTHER READING**


9  

Mass Media and Public Opinion  

Joseph M. CHAN and Francis L. F. LEE

Hong Kong is a media-rich society where news outlets proliferate. As far as news and public affairs media are concerned, Hong Kong residents are nowadays served by about 15 local daily newspapers, a number of international or regional papers, three radio broadcasters, two free-to-air television broadcasters, and several pay television services. Some citizens may also take popular weekly magazines, such as Next Magazine and East Week, as sources of public affairs information. Recent years also witnessed the publication of an increasing number of books about local politics and public affairs. In addition, all kinds of information sources are available on the Internet.

The media play very important roles in Hong Kong politics. In fact, the presence of the media in the political process has become so prominent that, in the years after the handover, Hong Kong government officials have, more than once, lamented that “Hong Kong is governed by the media”. This general perception is based on at least three premises: 1) many media outlets have their own agendas and are frequently critical towards the government; 2) the media effectively shape public opinion; and 3) public opinion exerts pressure on the government to conform. If these premises are valid, the media can be regarded as having a huge influence in the making of authoritative decisions on public matters, thus “the media govern”. But are these premises valid? Do the media really govern?

Such questions can only be answered if we have a good understanding of the relationship between media and public opinion in post-handover Hong Kong. This chapter begins by explaining the concept of public opinion. It then discusses the media’s role and performance in the process of public opinion formation in relation to the characteristics of the media system in Hong Kong. The question of media effects is also examined, and is followed by an analysis of whether and how the Hong Kong government responds to public opinion as expressed in and

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formed through the media. The chapter concludes by highlighting how public opinion may interact with media and social formations.

Conceptions of public opinion

In many contemporary democracies, opinion polling is the dominant way to measure “public opinion”. In Hong Kong too, polling has prospered in the past two decades as the political system was gradually democratised. Nowadays, academics, commercial companies, media organisations, civic associations, political parties, and the government form a polling industry that regularly conducts surveys on public matters. Polls constitute a regular feature of news, especially in times of policy debates.

There is no doubt that, with the proper use of sampling and other statistical techniques, opinion polls can provide us with important information about where citizens stand on various issues. Nevertheless, it is questionable if “public opinion” can simply be equated with poll findings. Conceptually, what a poll provides is an aggregation of individual opinions on issues with fixed alternatives. To equate public opinion with poll findings, therefore, is to adopt an aggregative conception of public opinion (Price, 1992). Theorists of democracy have questioned whether this aggregative public opinion, which may not be informed or reasoned, is what a democratic government should follow (Althaus, 2003). Others have argued that opinion polling is mainly a means for political leaders to manipulate the public rather than for the public to express itself (Ginsberg, 1986).

Despite these theoretical critiques, opinion polling remains dominant in democratic societies, largely because of the close connection between opinion polling and democratic elections. It is not difficult to discern the similarities between polling and voting. Both define an “opinion” as a choice among a fixed set of alternatives; both involve anonymous opinion expression; both involve aggregation of expressed opinions; both give everyone’s opinions equal weight. The survey interview, in these senses, reproduces the context of the voting booth. Opinion polls thus mirror the kind of public opinion that is given actual political power through the electoral system in established democracies. Hence, political leaders concerned with their chances of getting elected or re-elected in political races have very high incentives to pay attention to polls.

Understood in this way, one of the most important limitations of opinion polling in Hong Kong is the underdevelopment of democratic elections. As the chief executive (CE) and half of the legislature are not democratically elected, opinion polling does not enjoy the privileged status it has in established democracies. Polls can still measure and reflect the views of individual citizens in society, but public opinion as measured by polls has limited actual political influence. For example, opinion polls conducted by many university-based institutions between 1998 and 2004 showed that the then CE Tung Chee-hwa had
very low approval ratings. This did not prevent Tung from being “re-elected” in 2002 to serve a second term of office. Tung’s position as the head of the HKSAR government was first seriously shaken only in July 2003, when 500,000 Hong Kong people took to the street to protest against imminent national security legislation and government incompetence in general. This example shows that, for public opinion to influence the Hong Kong government, the mere size of the majority (as shown by polls) is not as important as the intensity of public sentiment and the organisation and manner of its expression.

This does not mean that polling is irrelevant. It remains a method of organising public expression, and poll results are often continually interpreted and reinterpreted in the public arena to support or refute different viewpoints and policy ideas. In fact, both in Hong Kong and in established democracies, the publicity and interpretation of polls are often political acts aiming to influence public opinion and public policymaking.

These considerations lead us to propose a discursive conception of public opinion, which provides a broader framework for analysing how public opinion is formed and may influence the government. This conception should be applicable to all societies, but particularly relevant to Hong Kong where democratic elections are underdeveloped. Public opinion, in this conception, is a symbolic representation resulting from a process of discursive struggles among strategic actors in the mediated public arena. The discursive conception emphasises that public opinion is something symbolically portrayed by people and groups who try to strategically advance their interests (interests of specific groups or of the public at large). A representation of public opinion involves not only an idea of where the public stands, but also arguments about why the public supports what it supports, whether public opinion might change, and sometimes, whether the public is rational or not. For example, after an election, politicians, government leaders, and commentators often provide varying interpretations of election results (such as why Leung Kwok-hung [“Long Hair”] won in the 2004 Legislative Council election). While voter turnout and who wins the election are facts, what these facts signify is often subject to debate.

Representations of public opinion may be based on different methods of organising opinion expression, such as polls, petition campaigns, or public rallies. Sometimes, politicians may articulate an idea of where public interests reside on a given issue. In other cases, politicians may invoke commonly accepted moral or cultural values. Obviously, politicians and officials often provide varying or even contradictory representations of public opinion and public interests. In this case, discursive struggles occur, as people and groups try to validate their own representations and invalidate others. When one representation dominates the public arena, it would be regarded as the consensual public opinion on the issue. This may have different degrees of correspondence to poll findings, but it is “real” as long as it is acted upon by political actors.
Nevertheless, in many cases, a consensual public opinion does not emerge. In fact, in a pluralistic society such as Hong Kong, people have different backgrounds and various kinds of affiliations. They are located differently in the social structure, belonging to different groups, and as a result they often hold vastly different values and interests. A real consensus is extremely difficult to build. In most cases, public opinion is not singular but plural. There is a continuing contest among a mix of public discourses.

Discursive struggles to represent public opinion occur mainly in an arena that is visible to the public, and mediated by professional communicators. In modern societies, mass media are the most efficient channels for government leaders, politicians, and activists to speak to the public at large. The media constitute the most important public space in Hong Kong. But this public space is not equally accessible to everyone. Access to and the content of media are regulated by journalists who, as gatekeepers of information, decide who and what is to appear in the media. Both the media and journalists thus serve as the mediators of public opinion.

**Media role and performance**

While journalists are mediators in the political communication process, they are not politicians or political party activists. Understanding the operation and performance of the media requires an analysis of journalists as, on the one hand, professional communicators having their own sets of professional norms and values and, on the other, workers within news organisations, which in turn are situated within the larger political and economic structures of the society.

**Media roles and journalistic ideals**

In a survey of professional journalists conducted in 2001, Chan and So (2003) found that more than three quarters of professional journalists in Hong Kong regard “monitoring the government” as an important media function, while about 77% of journalists think it is important for the media to “reflect public opinion”. About two-thirds of journalists regard “providing forums for public discussion” as an important media function. The other functions included in the survey questionnaire — “providing suggestions for policy making”, “promoting citizen-official communication”, and “promoting social reform” — received substantially less emphasis.

In a general sense, what these findings suggest is that Hong Kong journalists hold a liberal democratic conception of the press. The conception emphasises the provision of relevant and timely information about public affairs to citizens, a watchdog role for the media in monitoring political leaders and other power
holders in the society, and the provision of public forums in which a diverse range of opinions compete with each other in a “marketplace of ideas”. The primary role of media professionals with regard to the formation of public opinion is that of facilitator. The media should allow a plurality of politicians, social associations, and, sometimes, individual citizens to voice their views, so that different representations of public opinions can compete fairly with each other in the media space. This will allow members of the public to form their own opinions. Relatively less important is for the media to support specific policy proposals. When media organisations do have their own views on public matters, they should express them through editorials or commentary articles identified as such. News coverage, on the other hand, should remain objective and neutral.

While this is the ideal, the reality is complicated by several factors, including the existence of media outlets that do not subscribe to the ideal, structural and organisational constraints affecting journalists’ capabilities in fulfilling their ideals, internal tensions within the ideal itself, and the vagueness of several of its key elements. Journalistic objectivity, for example, is notoriously difficult to define. A news story exposing the wrongdoing of a government official can be regarded as “objective” in the sense of being based upon facts, but it is certainly not “objective” in the sense of having no value judgment. Neutrality and “reflecting public opinion” can also come into conflict when public opinions overwhelmingly favour one side of a policy. For example, should the Hong Kong media be neutral when reporting on the question of Taiwan independence? Should they be neutral when the interests of Hong Kong and of the Mainland come into conflict? These are hard questions for the Hong Kong media.

Despite the lack of complete coherence, the liberal democratic ideal remains the “legitimating creed” for journalism in Hong Kong. A legitimating creed is the set of principles and ideas that not only guides but also justifies journalistic practices. Forming the core of media professionalism, these are the principles and ideas that can be used to explain media behaviour and evaluate media performance. These are also the principles and ideas that journalists invoke when they are criticised. For example, in 2000, Chinese officials criticised Cable Television for allowing Taiwan Vice-President Annette Lu to express her pro-independence view in an interview. In response, the broadcaster defended itself by stating that the journalist was only reporting news in an “objective” manner. Controversies involving other media companies in Hong Kong have followed a similar pattern, with criticism from government officials countered by arguments rooted in journalistic professionalism (Box 9.1).

**Media performance and structural constraints**

There is no perfect correspondence between what individual journalists believe and how media perform. Journalists, after all, are workers within organisations,
and the organisations are in turn situated in a press system that relates to larger political and economic structures of the society in intricate manners. Structural factors shape the operation of media organisations in Hong Kong, and in the process constrain journalists’ capabilities in adhering to their professional ideals.

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<th>Box 9.1 Media professionalism</th>
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<td>Journalists are “professionals” in a specific sense, and they are different from other professionals such as lawyers and doctors. First of all, a person has to spend years to systematically study a body of professional knowledge (in law schools or medical schools) in order to become a lawyer or doctor. In contrast, a person majoring in any subject in a university can become a journalist (actually, a secondary school graduate can become a journalist as long as a newsroom hires him or her). In addition, journalists do not have licences, partially due to the concern of government suppression of press freedom if a licence system is established. In Hong Kong, journalists also do not have the salaries and social status enjoyed by other professionals. In fact, some theorists have questioned whether journalists can be regarded as professionals at all. But what journalists do have, just as all kinds of professionals have, is a set of professional ethics. This is why the legitimating creed — ideas and principles that guide journalists’ behavior — constitutes the core of journalistic professionalism. Neutrality, accuracy, and fairness are some of the more important codes for the journalism profession.</td>
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It is only possible to sketch the major factors that interact with each other in defining the operation of mainstream media outlets. Most local news organisations are business enterprises, with the exception of Radio Television Hong Kong (RTHK), which is publicly funded. Commercialism leads to at least three concerns about how media outlets operate. The first concern is ownership influence. The question is whether owners, who might regard the news outlets as their private property, would intervene in the daily operation of newsrooms or influence media content through major allocative decisions (such as how resources are spent, how many people and who to hire, and so on). There is also the issue of whether media personnel might downplay negative news about their owners and mother corporations. For example, in May 2003, the Hong Kong Journalists Association issued an investigative report stating that Metro Radio Broadcasting had exercised self-censorship by downplaying negative news about its holding corporation, Cheung Kong (Holdings) Limited. The second concern is advertisers’ influence. Most media outlets obtain their largest share of revenue not through fees paid by news consumers, but by fees advertisers pay for the audience’s attention. Advertisers can therefore exert influence by linking their decision to place ads in a certain media outlet to its content. For example, some
media reports have raised the concern that property developers are refraining from advertising in *Apple Daily* because of its political views. The third concern results from commercial media’s need to appeal to a mass audience. Around the world, “market-driven journalism” is often marked by the displacement of serious political news by sensationalised human-interest stories and scandals. For many local observers, there has indeed been such a trend of “tabloidisation” in Hong Kong media since the 1990s.

While economic forces could limit the range and depth of information and viewpoints available in the media, they could interact with political forces to further damage media performance and press freedom. This can be readily understood by realising two facts: 1) media owners seldom run media businesses only; they usually also own other businesses, 2) media owners are often interested in leading their businesses (media and others) to enter the lucrative market in Mainland China. They understand that the possibility can be undermined if the Chinese government perceives a business or its owners as “unfriendly”. An infamous case is the decision of HarperCollins, a major book publisher, to cancel its contract with Hong Kong’s last colonial governor, Chris Patten, to publish his memoir. Rupert Murdoch, the owner of News Corporation, which owns HarperCollins, decided that honouring a contract for a book with a critique of the Chinese government was less important than the opportunity to do business in China. The leading local example is certainly *Apple Daily*. Not only is the paper not allowed to be sold in the Mainland, but also its reporters are often denied access to the Mainland to gather news. At the same time, the other businesses of the newspaper owner have also experienced difficulties in entering the Chinese market.

It is important to note that, since the early 1990s, China-linked interests have gained significant ownership of some mainstream media outlets in the city, including Asia Television Limited (ATV) and the *Sing Tao* group. Some other Hong Kong media outlets, most notably *Ming Pao* and *South China Morning Post*, are now owned by foreign business tycoons who have business operations in China. It is difficult to pin down how such structural changes have led to specific changes in media content. However, when the Hong Kong media system is considered as a whole, such changes in its political and economic structures do correspond to changes in the fabric and constitution of the press system. Throughout the 1970s and 1980s, the press in Hong Kong was characterised by a “party-press parallelism” (Chan and Lee, 1991), with some newspapers supporting the Chinese Communist Party and some supporting the Kuomintang regime of Taiwan, while others were centrist and more locally oriented. Into the late 1990s, the rightist papers basically vanished. Lee (2000) thus provided a tripartite characterisation of the press system in Hong Kong after the handover, consisting of the leftist press (such as *Wen Wei Pao* and *Ta Kung Pao*), the elite-oriented information press (such as *Ming Pao* and *Hong Kong Economic Journal*), and the mass-oriented story press (such as *Apple Daily* and *Oriental Daily*). In the newspaper market, the circulation of partisan outlets is negligible, with over 70% of the readership accounted for by
three commercial mass newspapers, namely *Oriental Daily*, *Apple Daily* and the *Sun*. The television system, perhaps with the exception of ATV, is less partisan than the press. Television Broadcasts Limited (TVB), a commercial outlet boasting of its neutral approach to news reporting, is by far the market leader in television.

At the level of journalistic practices, changes in the political economy of the media system have been accompanied by increasing concerns with self-censorship within the newsroom. Self-censorship involves media professionals downplaying the coverage of sensitive topics, because of the perceived risks of covering them. More formally, it can be defined as “a set of editorial actions ranging from omission, distortion, change of emphasis, to choice of rhetorical devices by journalists, their organisations, and even the entire media community in anticipation of currying reward and avoiding punishments from the power structure” (Lee, 1998). In the survey of Hong Kong journalists mentioned earlier, respondents were asked to evaluate whether there are practices of self-censorship in the Hong Kong media. Only 3.1% of journalists reported that there is “no self-censorship at all”, and 21.7% reported that there is “a little bit” of it. About 14% of the respondents reported that self-censorship “exists and is very serious”, while the majority of the respondents (61.2%) reported that self-censorship “exists but is not very serious”.

Such findings mean that we should be concerned about press freedom in Hong Kong without exaggerating the seriousness of the problem. As a matter of fact, it is commonly acknowledged that press freedom has not been severely undermined after the handover, in spite of the unquestionable existence of political pressure. There are two major reasons for this. First, self-censorship is likely to be applied only to the most sensitive political issues and debates, rather than to all kinds of public affairs. Before the handover, Chinese political leaders explicitly stated “three noes” for the Hong Kong media: (1) no advocacy for Taiwan or Tibet independence, (2) no personal attacks on Chinese political leaders, and (3) no engagement in subversive activities. The three noes are all concerned with national, rather than local, political matters. Indeed, most of the available evidence — anecdotal or gathered through systematic research — about self-censorship in Hong Kong focuses on how the media cover Mainland China and Taiwan (Lam 2003; Cheung 2003). Locally, it is clear that many in the Hong Kong media have been highly critical towards the HKSAR administration under Tung Chee-hwa, which has led to a strained relationship between government officials and the media.

Secondly, the combination of a plurality of media outlets, the professionals’ legitimating creed, and the commercial nature of media outlets serves to counteract political pressures. Although there are a number of problematic consequences of the commercial nature of Hong Kong media, being commercial also means that media companies cannot disregard what audiences — that is, consumers — think. After the handover, because of the combination of economic problems in Hong Kong, various social crises, and the perceived general incompetence of
the Hong Kong government, criticism of the Hong Kong government gained in popularity. Arguably, some media outlets, such as *Apple Daily* and a number of prominent radio phone-in talk shows, even adopted political criticism as a marketing strategy.

Other mainstream media organisations still have to protect their own credibility, even though they may not adopt the marketing strategy of political criticism. The Hong Kong public does believe in a professional press independent from government control (Lee, Chan and So, 2005). This means that the media have to justify their practices in terms of their own legitimating creed. As a consequence, some media outlets have developed practices that are professionally justifiable and politically less dangerous at the same time (Box 9.2).

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<th>Box 9.2  Media strategic rituals after the handover</th>
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<td>After the handover, Hong Kong media have been subject to political and economic pressure, as well as the influence of journalistic professionalism. Several media practices have therefore been developed by some media outlets to handle political pressures and commercial concerns at the same time. In journalism studies, these methods are called “strategic rituals”. Lee (2000) has identified three such strategic rituals after the handover. First, many newspapers increasingly use the strategy of juxtaposition, so that critical views are balanced by views supportive of the power centre. Juxtapositions are compromises undertaken in the name of “balanced reporting” and “neutrality”. Second, media increasingly use factual and plain narrative forms in news coverage, thereby rendering it defensible to report sensitive information. Third, some newspapers have toned down criticisms in their own editorials, but at the same time they have continued to invite columnists to express critical views in feature sections. This, again, preserves space for political criticism in the name of providing a marketplace for ideas.</td>
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In sum, the mainstream Hong Kong media are continuing their efforts, sometimes unevenly, to uphold their own professional ideals in face of political pressure and structural constraints. As far as local political issues are concerned, a range of competing political discourses is still available.

**Media effects on public opinion**

Whether media can influence public opinion has long been one of the most important questions for researchers and political leaders. In Hong Kong, the question of media effects has gained new relevance after a number of large-scale demonstrations since 2003 raised the issue of whether citizens were mobilised
by certain media outlets to protest. In this context, media effects become not only an academic question but also a political one. Government officials tend to emphasise that the media have powerful effects on people. Intentional or not, this argument heaps additional pressure on the Hong Kong media to be “socially responsible.”

The question of media effects does not allow a simple yes or no answer. Part of the problem is that the idea of media effects itself is complicated and problematic. In academic research, media effects are usually studied by examining whether exposure to media contents is followed by changes in individuals’ attitudes, opinions, and behaviour. This technical definition — effects as post-exposure changes — provides a convenient starting point for academic studies, but it tells us little about the actual role the media play in the public opinion process.

The crucial distinction here is that between media as facilitator and media as mobiliser. This distinction can be applied to the case of the 1 July 2003 protest in Hong Kong. Before the protest, the media provided information about the time and place of the protest, as well as information and opinions from different people and groups about why it was important. Sometimes, social group leaders simply called upon their group members to join the protests through the media. It is plausible that some Hong Kong citizens decided to join the protest after receiving such information from the media. But can we say that the media mobilised people to protest? After all, the media were just doing their job — to determine whether a public issue is important using professional judgments and, if yes, to provide relevant information and opinions about the matter to citizens. Therefore, in this case, it is undeniable that the media facilitated the formation of the protest, but it is questionable if the media actually mobilised citizens to join it.

To argue that certain media outlets are mobilisers, it is necessary to establish, first of all, that the media are indeed appropriating information to serve its political inclination and, second, that exposure to such content leads people to adopt the views being propagated. However, these two points seldom apply to the same media outlet because of the phenomenon of selective exposure. When the political predilection of a media outlet is clear and well-known, people consuming the media outlet are likely to be those who have already adopted the same political views. Exposure to the media outlet may therefore reinforce, but not change, people’s predispositions. For a concrete example, there is indeed survey evidence in Hong Kong showing that listeners to radio phone-in talk shows are more critical towards the government (Lee, 2002). But this relationship is probably a result of people’s attitudes leading to exposure, instead of exposure leading to attitudes.

The point here is not to deny the possibility of media outlets mobilising public opinion in specific cases. It is that the most important effects of the Hong Kong media on public opinion are likely to be those that follow from their role of being the facilitator of public opinion formation. Four general types of effect in this regard are particularly pertinent:
AGENDA-SETTING EFFECTS

Agenda-setting refers to the idea that the media influence what people in a society think and talk about. This follows from the everyday phenomenon that we tend to regard the issues addressed on the front page of newspapers or at the very beginning of a television newscast as the most important issues of the day. The top news stories also tend to generate the largest amount of public discourse — calls to radio talk shows, letters to the editors, further media coverage, and so on. The setting of news agendas involves a very complicated process. Social and political organisations have interests in pushing certain issues up (and others down) the news agenda. They might promote their issues and concerns actively. Journalists, on the other hand, are expected to use their professional judgment to determine which issue deserves how much coverage. At the same time, downplaying certain issues (such as commemoration of the Tiananmen incident) on the news agenda may also be a sign of media self-censorship.

PUBLICITY EFFECTS

When a person knows that what he or she does is visible to other people, the person is likely to behave differently. Some media scholars thus point out that the mere existence of the news media will influence what public figures do because of public visibility. Media publicity, presumably, provides incentives for politicians to try hard not to make mistakes. Media publicity also implies that political leaders have to regard the public at large as the addressee of what they say. Self-interest may have a place when politicians and interest group leaders negotiate behind closed doors, but when people have to justify their opinions and ideas in front of the public, they have to refer to some understandings of “public interests” and/or widely accepted moral principles. The discursive struggles central to the process of public opinion formation largely involve struggles to define the public interests and relevant moral principles in relation to the issue at hand.

LEGITIMATION EFFECTS

Media professionals are gatekeepers who decide what and who will appear in the news. Media professionals have to ponder the question of who the legitimate spokespeople are on a given issue. At the same time, there is a tendency for news audiences to regard groups and organisations appearing on the media as legitimate speakers on public affairs. News media, hence, can help legitimise social groups. For example, Chan (1992) argued that Hong Kong media’s increasing use of social movement leaders as news sources in the 1970s helped legitimise social movements in the city. Since the handover, the Hong Kong media have given increasing prominence to academics and certain religious leaders in news coverage, in the process legitimising their participation in public affairs.
Omission effects

Last but not least, media can influence the formation of public opinion not by what they report but also by what they do not report. What is absent in the media can be as important as what is present. This, of course, is related to the concern of self-censorship and press freedom. Failure to provide certain key information and opinions when a public debate occurs may skew the formation of public opinion towards certain directions unjustifiably and with undesirable consequences.

In sum, as facilitators of public opinion formation, the media have huge effects on public opinion. Normatively, the media should provide the full range of relevant information and opinions to the public for consideration. In fact, all four types of media effect are effects on the range and kind of public discourses available in the media arena, which in turn affect the outcome of public debate and the quality of public opinion.

Government and mediated public opinion

Governments around the world, be they dictatorial, colonial or democratic, all claim that they are responsive to public opinion. Sharing the same claim, both the colonial and the HKSAR government stopped short of implementing a comprehensive electoral system which is generally considered to be the most effective way of translating public opinion into a political structure. Instead, the Hong Kong colonial government resorted to the use of administrative means in incorporating potentially opposing views. As a remedial measure after riots broke out against the raise of ferry fares in 1966, the colonial government set up district offices to gather public opinion and to deal with citizens’ complaints (Miners, 1998). At the same time, it established an elaborate network of consultation bodies for tapping public opinion, which in 2003 amounted to more than 400 (Hong Kong Federation of Youth, 2003). This consultative network resulted in what King (1975) has called the “administrative absorption of politics”. The consultation system was deemed to be so effective that it was hailed as the key to explaining the enduring political stability of Hong Kong.

By constitution, the Legislative Council and the district councils are supposed to be the formal conveyors of public opinion in Hong Kong. But even here, as in the case of the Legislative Council, only half of its members are directly elected, with the rest gaining their seats through functional constituencies. While the SAR political system is more democratic than British Hong Kong, its CE is chosen not by universal suffrage but by Beijing and an 800-member election committee. This set up results in a semi-democratic system that continues to rely on consultation as the primary way for coopting elites. However, the frequent occurrence of crises in post-handover Hong Kong has called into question the effectiveness of this consultative system. Critics have attributed its growing failures to cronyism in the
government’s appointment of members for the consultative bodies, and its loss of interest in listening to critical opinions.

A mechanism at the disposal of the government in soliciting public opinion is to publish policy proposals and ask the public for comments. Besides consultation, the HKSAR government, like its predecessor, has departments that specialise in gathering, shaping and relating to public opinion. The Home Affairs Bureau is charged with promoting communication between the government and the public. The channels for achieving this include site visits to districts by top leaders and sponsorship of exchange sessions between the CE and the public. Another important responsibility of the Home Affairs Bureau is to collect public opinion at the district level on a periodic basis on given issues, and conduct polls to monitor the movement of public opinion. For instance, it decided to set up an Internet forum to gather the views of the middle class on a continuous basis in response to the outcries of the middle class against the HKSAR government in the form of rallies. Besides the Home Affairs Bureau, virtually all bureaux have commissioned the Census and Statistics Department or other research units to conduct surveys of the public to meet their specific needs. Also active in gathering public opinion is the Central Policy Unit, which is known to have carried out numerous polls and consultations in order to inform the making and implementation of public policies and the government’s communication strategies.

Public opinion in Hong Kong is often mediated and takes a discursive form. The Information Services Department (ISD) under the Home Affairs Bureau is dedicated to the collection of mediated opinions and the release of government information. Its major mission is to put the government’s best foot forward (Lee, 1990). Twice a day, ISD releases a summary of the news, editorials, and commentaries published in newspapers, selected television shows, and radio phone-in programmes. The summary, called GIST, is distributed to government officials at the senior level, so that the officials are informed of the latest happenings and media reactions to various issues.

The ISD has information officers embedded in each bureau. An important responsibility of it is to take note of news and opinions relevant to that particular bureau. Rebuttals and clarifications are sometimes issued to the media in response to letters to the editors, comments and editorials. The information officers also keep track of radio talk shows as they go on air. Instantaneous monitoring enables the government to speed up its response and to undermine brewing controversies.

Unlike China, where the media are under state control, the Hong Kong media, with the exception of Radio Television Hong Kong (RTHK), are privately owned. The status of RTHK is somewhat ambiguous. As a government department, it is under the jurisdiction of the Bureau of Commerce, Industry and Technology. However, it has evolved over the years from a publicity arm of the government to a public broadcaster. Aspiring to be the BBC of Hong Kong, RTHK tries to take a balanced approach to news reporting, and serves as a forum for both government
officials and the public. Although RTHK is sometimes criticised by the pro-China camp for its critical stance towards China, it has received very high credibility ratings from journalists and the public. Without a high degree of operational autonomy, it would be difficult for RTHK to be as reputable as it is now.

**Box 9.3 Public broadcasting**

Public broadcasting refers to a broadcasting model developed and adopted mainly in Europe, especially Britain, in the early twentieth century. Under this model, a broadcaster is established as a publicly funded entity. That is, it does not generate profits from the market, but obtains funding from the government through taxes and/or license fees. The broadcaster, however, is not regarded as an arm of the government. Editorial autonomy is maintained. Instead, the public broadcaster aims at providing a service to the public by providing serious and comprehensive programmes of public affairs, quality cultural programming and entertainment, educational programmes for young people and for citizens at large, and a diverse range of programmes serving the interests of minority groups. It should be noted that, when compared to light entertainment or media contents featuring sex and violence, such “quality programmes” are often less profitable in the market. Thus, commercial organisations tend not to provide many of such programmes. This is why a publicly funded organisation is needed. In Hong Kong, RTHK has played the role of a public broadcasting for about two decades (So, Chan and Lee, 2000).

Despite the fact that the government has little direct control over the media in Hong Kong, public discourse is susceptible to the government’s influence. If the media can set the agenda for society, then who sets the agenda for the media? In fact, the government is in a privileged position to make news because journalists tend to equate authority with newsworthiness (Bennett et al., 1985). If the government so desires, it can raise issues for the media and help shape public opinion. With the help of ISD and information officers, the government can map out various communication strategies, such as holding press conferences and making announcements on public occasions. Through these methods, the government can frame the issues in its preferred ways and prepare for anticipated queries from the press. More often than not, the government’s messages are given prominent coverage. In this sense, government officials are in general the “primary definers” of reality, whereas journalists are the “secondary definers” (Hall, 1978). This is not to say that the government monopolises views on any issue. The media have the autonomy to follow up news in ways they deem fit, such
as the inclusion of comments from other public figures who may not agree with the government’s position. In addition, the media can interpret issues in their own way in editorials. However, what is clear is that the government has ready access to the media, even though it does not own them.

The government’s access to media is facilitated by the operation of the ISD. To ensure that the media do not miss any government information, the ISD is electronically connected to each newsroom. Written by veteran ex-journalists, all government news releases are made instantly accessible to the news organisations. It is therefore tempting for journalists, especially those from the less resourceful media, to incorporate these “ready-to-print” reports in their coverage. To say the least, they form important references for journalists in newsmaking. The careful selection of topics and information by the ISD therefore helps set the agenda for the press, define political reality, and exclude an alternative range of news.

The government can also indirectly influence the media through cooptation, as indicated by the granting of official honours to media operators and professionals, and the playing of favouritism among media outlets. It is no coincidence that some media proprietors and journalists are given awards by the HKSAR government and positions in China’s Political Consultative Conference and the National People’s Congress. The government can make news by granting exclusive interviews to selected journalists. There is a strong tendency for the media to give such stories prominent and faithful coverage, as journalists do not want to jeopardise the goodwill of the source. However, the government cannot always resort to exclusive interviews because it is susceptible to criticisms of playing favouritism from competing media. A notable example is the government’s release of information about the 2005 Policy Address to selected newspapers a few days prior to delivery was finally accused of being unfair to other media.

Anonymous background briefing is another important method at the disposal of the government in its attempt to influence public opinion. On occasions when the government wants to test the public response to a policy idea or to avoid political sensitivity, it may choose to meet with selected journalists on an “off-the-record” basis. The common practice is for journalists to attribute the resulting news to “a source close to the government”, “an informed source” or “an authoritative figure”. Again, anonymity and exclusivity tend to work to the advantage of the government. Anonymity allows the government to have greater flexibility in framing its messages, as it is not formally held accountable, whereas exclusivity induces more faithful reports. Not all background briefings result in news reports, though. Some are meant as an exchange between the government and selected journalists. The purpose is to seek general understanding or to try out ideas on journalists. Exchanges of this kind also serve to build a rapport between officials and journalists which, in the long run, may result in more empathetic news reporting and commentaries.
Social formations, media and public opinion

Hong Kong is teeming with civil organisations representing groups of varying interests, be they religious, occupational, ethnic, political, or cultural in nature. These interest groups constitute a significant source of public opinion (Lo 2001). The Catholic Church, for instance, has assumed a rather active role in responding to sensitive issues such as the right of abode, national security law and democratisation since the handover. In the capitalist city of Hong Kong, business groups are in general more influential than other groups, especially their labour counterparts. By contrast, the less resourceful groups often form coalitions and engage in collective action to press their demands. The Democratic Party and other pro-democracy groups are frequent users of this united-front tactic. The actions and views of all these interest groups are often translated into news that forms the guns and bullets of discursive contestations.

It is an understatement to say that Hong Kong, a pluralistic city of almost seven million people, does not lack disagreements and contradictions. Indeed, conflicts and socio-political realignments abound as Hong Kong is being transformed. The change of sovereignty in 1997 marked a profound change whose repercussions are still acutely felt. Given China’s tight control of its own media and the critical remarks it has directed at the Hong Kong media, the pressure for the Hong Kong media to censor itself and toe the government line is building up. Such pressure is felt most strongly by media whose proprietors want to maintain China’s goodwill.

However, the process by which the media accommodates Beijing authorities is not straightforward. It is susceptible to local social formations that lend support to the concern for local autonomy and interests (Chan, 2005). The watershed event in this regard was the huge rally on 1 July 2003 in which 500,000 people took to the streets to protest against the national security legislation and to make clear their frustration over the HKSAR government’s ineffective governance. It reinforced the public’s ultimate concern over the local interests of Hong Kong, including its freedom and democracy.

For the first few years after the handover, China took care not to interfere with Hong Kong’s domestic affairs by keeping a safe distance from its daily operations. But Beijing appears to have taken a policy turn in the wake of the 1 July rally in 2003. The central authorities, through the local office and other representatives, have since then got in close contact with the media and social leaders in Hong Kong, tapping public opinion and wielding influence at the same time. In addition, they have been inviting local leaders to visit Beijing for exchanges. It has become rather common for top Chinese leaders to comment on Hong Kong affairs, which might well have been considered to be interference in the SAR’s internal affairs in the past. As indicated by the debate in 2004 over patriotism and China’s interpretation of the Basic Law to rule out universal suffrage in 2007–08,
China has not refrained from taking a high-handed approach to shaping public opinion in Hong Kong.

The 1 July rally in 2003 is an expression of what may be termed “Hong Kong–styled people power,” featuring a huge turnout of protesters against the government, with the middle-class constituting the majority (Chan, 2005). This grand social mobilisation was achieved not so much through top-down organisations but through the media and interpersonal networks. The conditions giving rise to “people power” included widespread frustration over an ineffectual government and the existence of a vibrant communication system. The 1 July rally was part of a series of extra-institutional political actions such as demonstrations, petitions, rallies, campaigns, and social movements, which are all expressions of public expression in Hong Kong. Indeed collective behaviour has been taking place in Hong Kong so often that this “city of life” has been nicknamed “the city of protests”.

Given that protests now form part of the social fabric of Hong Kong, it is hardly possible to understand the politics of public opinion in Hong Kong without knowledge of its collective actions (Chiu and Lui, 2000). Collective actions are social formations that interact with the media and the government in giving final shape to the social construction of public opinion. Not all collective actions are effective, but the 1 July rally in 2003 ended in the government’s shelving of the draft Article 23, which further fuelled the use of collective action in the expression of public opinion.

A notable phenomenon in discursive contestations has been the mobilisation of civic organisations for government causes, especially when it is conducting a policy consultation exercise. During the consultation for legislating Article 23 in 2003, many pro-China organisations rallied behind the HKSAR government. Civic organisations engaging in public opinion wars have become another conspicuous feature of Hong Kong politics. A common practice to influence public opinion is for individuals and civic organisations to publish their views in the press.

A much more regular expression of public opinion is the publication of opinion polls and the views of social opinion leaders in the media. The opinion polls are generated by civic groups, academics, and the media themselves. The Public Opinion Programme at Hong Kong University and the Hong Kong Institute of Asia-Pacific Studies are perhaps the most noted sources of polling results. While they publish the citizens’ responses to specific issues, they provide the media with periodic reports on the public mood and the government’s performance. To make exclusive news and to find out what the public have to say on given issues, the media themselves also frequently conduct in-house surveys or commissioned polls. Meanwhile, civic groups have learnt to advance their cause with polls which are perceived to carry a force that comes with their apparent objectivity and representativeness. Polling is thus sometimes adopted as a strategy to supplement the use of collective behaviour by some groups.
Another feature of public opinion expression in Hong Kong is the conspicuous role played by social opinion leaders. These opinion leaders are often academics, experts, veteran journalists and representatives of civic groups. Spearheaded by the academics, many of these commentators are treated as the third party in controversies. They command relatively high credibility as they are perceived to be free of conflicts of interest or to be experts in certain areas. In contrast, the representatives of civic groups or political groups are also sought by the media for comments either because they are the parties concerned in a controversy, or by way of balancing their reporting. The choice of opinion leaders in news reporting is also subject to the availability of these leaders and the predispositions of the journalists.

Conclusion

By law, China holds the ultimate authority over the political fate of Hong Kong. It sets the parameters for public discourse and holds ultimate control over issues straddling Hong Kong and China. The tension between the central authorities and Hong Kong will likely endure and define the dynamics of public opinion in Hong Kong in the years to come. No matter what kind of issues are at stake, the media will continue to play a central role in mediating social discourse. This is tied to the fact that Hong Kong is not democratised to the extent as is necessitated by its level of social pluralism. Civic organisations and opinion leaders have to depend on the media to voice their opinions. In addition, the need for public deliberation is enhanced as a result of the occurrence of repeated crises in the HKSAR. Public response has subsequently become a key factor in policymaking, spanning the stages of policy formulation, consultation and implementation.

Attested by survey results, both journalists and citizens have come to perceive the media as an indispensable public forum, reflector of public opinion, and monitor of government performance, performing what Chan and So (2003) have called “the surrogate democracy function”. Measures that prevent the media from performing this function will deny Hong Kong a safety valve and strain social tensions. Public opinion in Hong Kong is distinguished by its discursive nature. Without the media serving as a forum, deliberations will be stripped of publicity and discursive contestations will largely cease to exist. Through the pluralism of Hong Kong and the operation of its media market, it is likely that the media will continue to enjoy relative autonomy in newsmaking, however uneven it may be. Hong Kong voices will not be reduced to just one under normal circumstances. Indeed, the politics of public opinion in Hong Kong is in a state of flux, as various agents seek to shape the political environment in ways that best fit their interests and visions.
Summing up, the key features of public opinion expression in Hong Kong are as follows:

(1) The tension between Beijing and the HKSAR will serve as the key parameter enabling and limiting the expression of public opinion in Hong Kong, especially on issues straddling cross-border interests. This very tension is an important source of controversy in the first instance.

(2) Public opinion in Hong Kong is discursive in nature. This implies that the media play a critical role as the forum for and participants in discursive struggles. This role is enhanced as Hong Kong is plagued by the absence of democracy, the frequent occurrence of crises, and deterioration of governance since the handover. Also taking an active part in such discursive struggles are social opinion leaders who can be academics, experts, representatives of civic and political organizations, and so on.

(3) Given the dynamic nature of discursive struggles, public opinion in Hong Kong is best viewed as a social process. It may change as various parties seek to shape its outcome by expressing their views.

(4) Both polls and collective behaviours are important forms by which public opinion is expressed. Polling has become an indispensable part of Hong Kong’s political culture. It is treated as a tool for social struggle, the source of social information and legitimation. Exemplified by the huge demonstrations on 1 July in 2003 and 2004, collective actions are also prominent in Hong Kong’s repertoire of public opinion expression.

(5) The expression of public opinion is also institutionalised through a semi-democratic system and elaborate consultative network. How effective such a system is in coping with growing pluralism and rising aspirations for democracy remains a question for all the students of Hong Kong politics to ponder.

At the beginning of this chapter we noted that some government officials feel that “Hong Kong is governed by the media”. While we do not dispute the subjective feelings of these officials, we think that this is an overestimation of the role of the media. The media are susceptible to the influence of authority and political and economic power. The government can readily mobilise resources to help it set the social agenda and influence public discourse. Given the structural advantage it enjoys, it is fair to say that the government should first find fault with itself before putting all the blame on the seemingly unruly media. Important as they may be, the media do not act alone in determining the dynamics and outcome of public discourse. While media only facilitate but do not mobilise the formation of public opinion in most cases, the mode of democratisation, for instance, will have an immense impact on how public opinion is expressed, represented and mediated. In the end, it is the interplay among media, government, social formations and public opinion that matters in the discursive politics of Hong Kong.
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Questions

1. As the pro-China camp makes up the majority of the Legislative Council, it can virtually have its way regardless of the existence of countervailing public opinion. Do you think that this is good for Hong Kong? Why or why not?

2. Do you think taking to the streets is a good strategy for the democrats in their fight for universal suffrage in Hong Kong?

3. Some celebrities have remarked that the Hong Kong SAR government will have effective governance if it is possible to silence the Apple Daily and the more critical phone-in programmes. What is your assessment of this position?

4. The media are at the service of the powerful in the last instance. Do you think this is true in Hong Kong?

5. In Hong Kong, how do the media interact with the electoral system in shaping how public opinion is expressed and represented?

Useful Websites

Information Services Department of the SAR Government
http://www.isd.gov.hk/eng

Hong Kong Journalists Association
http://www.hkja.org.hk

Hong Kong Press Council
http://www.presscouncil.org.hk

Radio Television Hong Kong
http://www.rthk.org.hk

Hong Kong University Public Opinion Programme
http://hkupop.hku.hk
Chan, Joseph Man and Lee Chin-chuan (1991) *Mass Media and Political Transition: The Hong Kong Press in China’s Orbit*, New York: Guilford. This book-length treatise documents changes in the Hong Kong press during the transition period of the 1980s through a theoretical framework constituted by the key concepts of journalistic paradigms and the politics of cooptation and accommodation. A series of content analyses of media coverage of various social and political issues illustrate how the press changed in Hong Kong following changes in the distribution of social and political power. Yet certain studies also point to forces that prevent the Hong Kong media from being completely absorbed by the political power centre.

Chan, Joseph Man and Clement Y.K. So (2003) “The Surrogate Democracy Function of the Media: Citizens’ and Journalists’ Evaluations of Media Performance”, in Siu-kai Lau, Mong-kwan Lee, Po-san Wan and Siu-lun Wong (eds.) *Indicators of Social Development: Hong Kong 2001*, Hong Kong: Hong Kong Institute of Asia-Pacific Studies, the Chinese University of Hong Kong. This article discusses the concept of the surrogate democracy function of the media in Hong Kong. Drawing on survey evidence, the authors argue that the media play a number of important roles in Hong Kong, including serving as the platform for government-citizen communication, as the watchdog for the society, as a provider of information, as an articulator of public opinion, and so on. Through performing these roles, the media in Hong Kong compensate for the lack of formal democratic political institutions and contribute to the maintenance of social stability.

Chan, Joseph Man and Francis L.F. Lee (eds.) (2007, forthcoming). Special Issue on Media and Politics in Hong Kong: Ten Years after the Handover, *Asian Journal of Communication*. The special issue contains seven articles devoted to reviewing different aspects of political communication in Hong Kong in the decade after the handover. Topics include political economy of the media, media and development of national/local identities, press freedom, changes in the field of journalism, media and social movement, civil society and public sphere, and media and the construction of governing crisis.


Lee, Francis L.F. and Joseph Man Chan (forthcoming) “Making sense of political transition: Political communication research in Hong Kong”, in Lars Willnat and Annette Aw (eds.) *Political Communication in Asia*, New York: McGraw Hill. Arguing that most research on media and politics in the period was devoted to making sense of political transition in Hong Kong, the chapter examines how distinctive problematics in political communication — for instance, media effects in elections, media effects on public opinion, the relationship between political structure and media structure, the significance of alternative media, press freedom and the problem of self-censorship — were dealt with by researchers in the city. The chapter thus provides a comprehensive review of political communication research in Hong Kong from the 1980s to the early 2000s, illustrating the challenges and opportunities researchers in Hong Kong faced in the past and will face in the future.
PART III

Policy Environment
(Chapters 10 to 12)
Summary introduction

The third part of the book focuses on three major policy areas in Hong Kong: economic policy, social policy and urban policy. In addition to introducing the major policy content of each area and their development in the post-1997 era, they also describe and discuss thoroughly about how the political environment has shaped the development of the policies. Therefore, this part of the book can be taken as “politics in action”, examining how politics and governance in Hong Kong have influenced concretely the actual policy making and addressing the key question of “who get what, when and how” in each policy. These chapters show, for example, how policies are often moulded and shaped in Hong Kong to benefit the politically powerful more. There is a high consensus among all three chapters that policy making in Hong Kong is much more than pure technical and objective decision-making and should be approached more sophisticatedly and realistically as public choices made by policy makers who often have political considerations and implications in mind.

In Chapter 10, Wilson Wong and Sabrina Luk examine the economic policy from two major levels: the macro-level of creating a favourable economic environment and the micro-level of industrial policy providing industry-specific incentives. In their first part of analysis, they argue that while Hong Kong has a public sector smaller than the international standard, its “market economy” is more a myth than a reality as government is playing a significant though often invisible and non-transparent role in the economy. In fact, the small public sector of Hong Kong is itself a political decision made for managing the public expectations of government’s service obligations. Politics again has a big role to play in the fiscal system under which the politically powerful are often taxed less but benefit more. At the micro-level of industrial policy, the HKSAR government has made a very dramatic shift from “positive non-intervention” to active intervention in order to restructure its economy. Unfortunately, problems in its political system and governance, especially rent-seeking activities of the property developers, have severely hindered its economic transformation. Its recent economic recovery is accomplished more through factors such as Beijing’s efforts rather than real economic transformation. It is unsure how long the good times of its economy can last without the real structural reforms in its economy, and most probably also in its governance system.

In Chapter 11, Paul Wilding provides a comprehensive and insightful analysis of the social policy in Hong Kong. In doing so, he has examined its major characteristics, identified the key factors affecting its formation and development, and discussed the major future challenges. After providing a good overview of the four core social policy areas in Hong Kong: health, housing, education and social security, Wilding proceeds to point out that a major problem of the social policy in Hong Kong is its pragmatic and reactive nature — the lack of vision and
long-term planning. A major reason behind this is the style of policy making in Hong Kong in which policies are often made simply as practical response and ad hoc solution to manifest needs and problems — such as safeguarding social and political stability after a particular crisis or event. This political and practical approach has led to a gap of inconsistency in the development of its welfare state — a critical attitude towards state welfare on one hand but heavy subsidies for major social service areas on the other hand. While it is expected that more services are needed and demanded in face of rising social needs, it is left very unclear how a political process of renegotiating the scope of the welfare state can be accomplished in Hong Kong, which means more debates and controversies ahead.

In Chapter 12, following the same perspective of emphasising the role of politics in shaping policy-making outcomes, James Lee studies the urban policy in Hong Kong. James Lee points out right at the very beginning of the chapter that urban policy should not be approached simply as finding technical means for technical problems in urban area. Its general domain has long expanded from physical concerns to social and community concerns. Moreover, even in many traditional areas of urban policy, such as land use, strategic planning, transportation and housing, politics still has a key role to play as competitions of interests and conflicts of values are involved and inevitable. In this process, government should fulfil the important function of interest intermediation to maintain fairness and justice in urban policy. Relating the discussion to the context of Hong Kong, Lee finds that the “growth machine thesis” under the urban political economy approach provides the most useful and powerful framework in understanding the urban policy in the HKSAR government. He shows how a network of powerful interest groups, all linked to the property market, has exerted very strong influence on the urban policies in Hong Kong. In order to check and balance the influence of these “rentiers”, and to secure the existence and representation of other values and interests in the urban policy of Hong Kong, two emerging social urban processes, community participation and the idea of sustainable development, should be enhanced.
Economic policy can be understood broadly as how government manages the overall economy through defining the role, size and scope of the public sector and structuring its fiscal system, and relatively narrowly as the incentives and strategies targeting at promoting the development and growth of specific industries. The Heritage Foundation, a well-known U.S. think tank in Washington, D.C. has consistently ranked Hong Kong as the freest economy in the world for the past 12 years (1995-2006) in a row ever since it has established its index of economic freedom. The key reasons for the number-one ranking of Hong Kong include the small size of its public sector, often measured by public expenditure as a percentage of GDP and the few regulations Hong Kong has on its economy. For example, Hong Kong is the only industrial economy which does not have a general sales tax. It is also one of the very few major economies which does not have a minimum wage law, maximum working hours law, anti-trust and fair competition laws. At first glance, it seems that the economic policy of Hong Kong should be characterised as almost “government-free”, with Hong Kong well qualified as being the “capital of capitalism”, symbol of the triumph of the market, having a very minimum level of government.

However, it is actually a big mistake to ignore the role of government and the impact of politics in understanding the economic policy of Hong Kong. The Hong Kong Special Administrative Region government has played a very important role, though often less visible and less transparent than it should be, in steering Hong Kong’s economy. As argued by Joseph Stiglitz, an Economics Nobel Prize laureate, there is essentially no such thing as a pure market economy as government is always a major player and an essential component in all modern economies (Stiglitz, 2000: pp. 4–5). In his view, a more appropriate term for describing advanced economies should be a “mixed economy”.

Moreover, after all, it is still government, or more broadly speaking, political forces, which determine resource allocation in society — deciding what, how much, and whose resources should go into the public sector and the market respectively.
In other words, studying economic policy to find out how resources are allocated in society and how the economy is managed may be taken as examining the other side of the coin to find out how power is distributed and aligned in the political arena.

As a chapter of economic policy in a book on government and politics in Hong Kong, while it will still go through the basic concepts and institutions of the economic policy of Hong Kong, it distinguishes itself from a chapter in an economics textbook in terms of its approach. Instead of an economic perspective, it adopts a political perspective to describe and discuss how politics and power have shaped the economic policy of Hong Kong, with the development in the post-1997 era as its major focus.

This chapter is divided into two major sections. In the first section, it approaches economic policy from a macro perspective to examine the public finance system of Hong Kong, including its monetary policy and fiscal policy, the revenue and expenditure systems. Attention will be drawn on how and the extent to which its public finance system is structured and constrained by the power distribution through which political inequality is often translated into fiscal inequity. Under some occasions, political considerations may even override economic rationality in economic policy making. In the second section, it approaches economic policy from a more micro perspective to examine the policies of the HKSAR government targeting specific industries and the political difficulties it has faced in restructuring the economy to keep Hong Kong competitive in the global economy. In both sections, particular emphasis will be placed on the interaction between politics and economics in which political concerns and factors have exerted a major influence in moulding the economic policy of Hong Kong as well as constraining the pace, content and extent to which reforms can be taken.

Public finance in Hong Kong

Monetary policy and fiscal policy

According to Richard Musgrave (1989), a Harvard scholar who is a founding father of the field of public finance, there are three major economic functions for the public sector: stabilisation, allocation and redistribution. Stabilisation refers to the management of the economy to ensure its stable and continuous growth. Allocation refers to the provision of goods and services that are usually not available in the market due to its inherent and structural limitations — market failures. In re-distribution, government plays the role of “Robin Hood” to transfer resources from the rich to the poor for achieving a more equitable distribution of wealth in society.

The stabilisation function is usually accomplished through two major tools — fiscal policy and monetary policy. Fiscal policy follows the traditional Keynesian
approach of using taxes and public expenditure to adjust the pace of economic growth (Mikesell 2003, p. 115). In general, it suggests that during economic downturns, government should have a deficit budget (spend more but tax less) in order to stimulate the economy. During economic growth, it should have a surplus budget (spend less but tax more) to prevent the economy from overheating. In recent decades, faith in fiscal policy has been shaken. It is more about the inability of government to implement the policy rather than the correctness of the theory itself. Public choice economists have cast doubts on whether governments are truly capable of intervening through fiscal policy with perfect timing to stimulate the economy (Mikesell, 2003: p. 117). They have argued that due to the political, clumsy and time-consuming nature of decision-making in government, governments often fail to intervene at the right time. Instead, politicians and bureaucrats, using fiscal policy as an excuse, would abuse the idea of a deficit budget to benefit themselves by expanding the size of government.

Monetary policy influences the growth of the economy through money supply. According to the monetary approach, interest rates should be increased accordingly as the economy blooms and shows signs of overheating, such as high inflation. Higher interest rates increase the cost of borrowing. Accordingly, individuals and businesses will have a lower incentive to borrow money in the market to start up new economic activities and the economy will cool down accordingly, accomplishing a “soft landing”. On the other hand, interest rates should be lowered to encourage more economic activities to stimulate growth during an economic downturn.

Ironically, unlike many governments, the HKSAR government has either given up or been handicapped in managing the economy through these two standard economic policy tools. With regard to the fiscal policy, governing under the ideology of “big market, small government”, the HKSAR government is not a keen follower of the Keynesian approach. For example, during the period of economic downturn after the Asian Economic Crisis in 1998, the HKSAR government did not increase its budget tremendously in order to boost up the Hong Kong economy. It did the opposite of tightening up its expenditure. Although Hong Kong had a deficit budget for a few years during that period, it was mainly because revenue dropped significantly, particularly in terms of land sales, not due to any major increase in expenditure. A balanced budget is taken as the norm of public budgeting in Hong Kong. The importance of a balanced budget is taken so seriously that it was actually put into Article 107 of the Basic Law, the mini-constitution of Hong Kong. The conservative nature of the fiscal management in Hong Kong is further reflected by the government’s huge fiscal reserve and foreign reserve. The large fiscal reserve, which stood at HK$287 billion in 2004–05, is sufficient for the government to operate for more than a year without any revenue; the sizeable foreign reserve of HK$980 billion, which ranked seventh in the world in February 2006, is higher than countries like France and Germany.
One may argue the absence of fiscal policy represents prudent fiscal management emphasising that one should live within his or her means (Li, 2006: pp. 148–150). It can also be justified as a continuation of the philosophy of the British colonial government, a “positive non-interventionist approach” in which government takes a more passive role in managing the economy and intervenes only when it is really necessary (Chiu, 2004). Nevertheless, the prudent budgeting argument usually does not fit well when the unit of analysis is government. Government faces a much less limited budget constraint, as it possesses unlimited power to tax and the power to print money. Furthermore, with its intervention into the stock market in 1998, in which billions of taxpayers’ dollars were used to buy the stocks of major blue chip companies to “stabilise” the stock market, it did not seem that the old policy of the British colonial government had a binding effect on the new HKSAR government.

An alternative interpretation is that the HKSAR government is willing to intervene or cease to intervene the economy whenever the core interests of the politically powerful are at stake. One recent example is the ceasing of the Home Ownership Scheme in 2003, one of the major public housing programmes which targeted the marginal income group sandwiched by the middle and lower classes. This attempt of stabilising private housing market prices has an effect of protecting the interests of the big property developers. The “big market, small government” approach can be more related to the political reality in Hong Kong rather than the true faith of the political leaders in the free market ideology. Political leaders often choose the economic ideology that can best legitimise their preferred order rather than allowing the ideology to dictate their policy choices. Furthermore, the conservative fiscal nature can be understood as the unwillingness of government to expand the scope of the public sector in Hong Kong since such an expansion will mean finding additional sources of revenue and having more redistribution through the public budget which would intensify political conflicts in Hong Kong.

To a large extent, the HKSAR government has given up its monetary policy too. With the pegging of its currency with the US dollar, the HKSAR government is deprived of much of its ability to regulate its economy through monetary policy as it has lost control of the interest rate (Li, 2006: p. 232). Under the peg, Hong Kong’s interest rate is generally driven by the interest rate in the US, set by the US Federal Reserve Bank, rather the Hong Kong Monetary Authority. If there is a major difference between the rates, capital will flow to the one that offers the higher rate. With neither monetary policy nor fiscal policy, given the export-driven nature of its economy, it means Hong Kong’s economy and also its public finances are very vulnerable to external shocks in the world economy, which are very much beyond control of the government.

It has been questioned frequently whether it still makes sense to peg the Hong Kong dollar with the US dollar. The peg was made in 1983, more than 20 years ago, during one of the most volatile and uncertain periods in the history of
Hong Kong when the political future of Hong Kong was still undecided. The rate set at that time (one US dollar for 7.8 HK dollars) is still used today. However, owing to the importance of economic stability to the political order in Hong Kong perceived by the Chinese leaders, political considerations have so far prevailed over all economic arguments for change. There is little sign that the pegging will be undone or significantly adjusted in the near future to let Hong Kong get back some of its freedom in managing its economy through monetary tools.

**Size and role of the public sector**

There are always conflicts and trade-offs between the two remaining functions of the public sector: allocation and redistribution. Under allocation, government is performing no more than the role of a firm except that it is providing goods and services which cannot be normally provided by the market. In the theory of public finance, these special types of goods and services which can only be provided by government have the characteristics of “public good” (see Box 10.1) or “externalities” (see Box 10.2). A public good is non-competitive in consumption and non-exclusive in nature, meaning that it can be jointly consumed by many people but the provider cannot exclude the non-payer from enjoying the good. Public goods should be adequately provided by government as only it has the legitimate authority to use coercive taxation to require all people to pay for it to prevent them from “free-riding” — enjoying the good without paying. Defence, law and order are some classic examples of public goods (Rosen, 1999: pp. 60–63).

**Box 10.1 Public good**

A public good is a good which is not competitive in its consumption (i.e., many people can enjoy it simultaneously) and exclusion is not feasible (i.e., those who do not pay will also enjoy it). It is generally considered that government should be responsible for the provision of public goods as only government has the authority to use coercive taxation to force people to pay for it.

**Box 10.2 Externalities**

An externality is an activity of a person or an entity which affects the welfare of others who are outside the market exchange. Externalities can be positive, and are also called social benefits (e.g., education and immunisation) or negative, generating social cost (e.g., industrial pollution and cigarette smoking).
Externalities refer to impacts on a party outside the market exchange which can be negative or positive. Taking the social benefit into consideration, a government should use its resources to increase the supply of goods and services that have positive externalities, of which education is a frequently quoted example. Meanwhile, action is needed from the government to discourage activities with negative externalities, such as pollution, because the firm is not taking the full cost of it, the social cost, into consideration (Rosen 1999, pp. 86–87).

There are two limitations with the theory of allocative function of government. First, it is normative in nature in the sense that it only states what “should be” provided by the government, but is not descriptive in nature to explain what is actually provided. As economic policy is driven by more than economic theory, many goods and services provided by the HKSAR government actually have little relation with public goods or externalities. For example, the government provides and operates sport and leisure facilities, such as gyms, tennis courts, swimming pools, which are not public goods and are widely available in the market. Second, the allocative function mainly concerns itself with complementing the market in provision of goods and services but pays less attention to the inherent limitations of the market.

The market itself, with its emphasis of voluntary exchange and strong protection of private property right to minimise excess burden (see Box 10.3), is incapable of rectifying the unequal distribution of wealth in society. Making society more equitable through redistribution is the third function of government. Nevertheless, redistribution is often in conflict with allocation as redistribution requires government take an intervening approach to reallocate property which will violate the principles of voluntary exchange and protection of property rights emphasised in allocation. Such conflict is known as the “equity-efficiency trade-off” (see Box 10.3) in the theory of public finance.

**Box 10.3 Excess burden and equity-efficiency trade-off**

Economists believe individuals always make the best choice for themselves through voluntary exchange in the market, reaching a Pareto efficiency. Therefore, any change in individual choice caused by government policies will lead to a loss in welfare — excess burden. As taxation, an non-voluntary exchange (violating Pareto efficiency) in itself, is often needed for re-allocation for achieving a more equitable distribution of resources in society, there is often a trade-off between equity and efficiency in the fiscal policy of government.

To better visualise the size and scope of government in terms of the economic functions in HKSAR, one may look at Table 10.1 which shows public expenditure as percentage of GDP in Hong Kong and other major industrial economies.
It can be seen that Hong Kong has a relatively small public sector, with public expenditure only accounting for about 20% of its GDP. Some caution, however, should be exercised in interpreting the figures. First, although Hong Kong has a small public sector in a relative sense, it still means that each year 20% of new resources produced in society are under the command of government. Besides, the figure is an underestimation of the full influence of government on the economy. It does not count resources owned by organisations which are highly influenced by the government. Take the Mass Transit Railway (MTR) as an example, although it was turned into a publicly-listed company in 2000 but government remains as its largest stock holder. The Hong Kong Jockey Club is another example in this category.

In addition to direct monetary expenditure, the government also influences the flow and use of resources in society through regulation and direct transfer of resources. For example, the Mandatory Provident Fund (MPF) Ordinance requires all employers and employees each put aside 5% of the payroll as a contribution to the fund. The government may also give out resources directly, including land, which is all possessed by the government in Hong Kong and only the right of use with a leasing period is for sale. For example, in the controversial Cyberport project, an expensive piece of premium land at the south of Hong Kong Island was given out directly to PCCW in 2000, a firm owned by Richard Li, son of the influential business tycoon Li Ka-shing, for its development. The practice of direct transfer of resources also enjoys the advantage of bypassing the oversight of the Legislative Council as no public money is directly involved.

All these point to the fact that government is playing a role much more significant than the official figure has suggested. The image of market economy in Hong Kong is often a myth constructed purposely by the government to present a role less visible and less significant in the economy, making it easier to manage public expectations and demands. The image of a “market economy” becomes a major shield against rising public demands for more services or economic

<table>
<thead>
<tr>
<th>Countries</th>
<th>1990</th>
<th>1995</th>
<th>2000</th>
<th>2004</th>
</tr>
</thead>
<tbody>
<tr>
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<td>16.3%</td>
<td>17.8%</td>
<td>21.1%</td>
<td>22.2%</td>
</tr>
<tr>
<td>Canada</td>
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<td>45.3%</td>
<td>41.1%</td>
<td>39.4%</td>
</tr>
<tr>
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<td>38.3%</td>
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<tr>
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<td>38.8%</td>
<td>35.1%</td>
<td>34.1%</td>
</tr>
<tr>
<td>Norway</td>
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<td>47.6%</td>
<td>42.7%</td>
<td>46.6%</td>
</tr>
<tr>
<td>Sweden</td>
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<td>62.1%</td>
<td>57.3%</td>
<td>57.1%</td>
</tr>
<tr>
<td>United States</td>
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<td>32.9%</td>
<td>34.2%</td>
<td>36.0%</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>42.2%</td>
<td>44.4%</td>
<td>37.5%</td>
<td>44.1%</td>
</tr>
</tbody>
</table>

Source: Statistical Abstract of the U.S. and Hong Kong Yearbooks.
intervention deemed undesirable by the government. Similarly, making the role of government in the market more obscure helps to shift blame to the market, a constructed and essentially empty entity, so that the government will not be easily held accountable for the negative consequences, intended or unintended, caused by its involvement in the economy.

Revenue and public expenditure

The revenue and public expenditure systems in Hong Kong provide a good example of how inequalities in the political system are translated into fiscal inequity and echo the major theme of this chapter, that resource allocation is often a reflection of power allocation in society.

Figure 10.1 shows the major revenue sources of Hong Kong. The total government revenue was HK$207 billion in 2003–04. The two most important revenue sources are profits tax and salaries tax. Altogether, they produced about 40% of the total revenue. However, a considerable amount also comes from non-tax sources. The current taxation structure of the HKSAR has three major problems: lack of transparency, inequity and instability. Some of the major sources of revenue, though having the nature of taxes, are often disguised as non-tax revenues, creating an illusion to those who are shouldering the burden of financing public services that they are not being taxed. Land premium can be considered as a land tax in disguise. Tax is defined as a compulsory payment from citizens to government, backed up by government’s coercive power, which is not for direct exchange of goods and services. Using its authority, the HKSAR government asserts ownership of all land in Hong Kong and monopolises the land supply. The government can make so much revenue by land sales because it deliberately controls its supply to set up a “high land price” policy. In buying the land, the property developers are paying much more than the true value of the land, as would be set by competitive market forces, free of government control.

The tax incidence (see Box 10.4) of many major taxes in Hong Kong is heavily concentrated on the middle class, making them pay a higher percentage of their income for taxes, while the rich, who are more influential in the policy-making process, including on how the tax system is designed, are taxed at a relatively lower rate of their income. Tax incidence, the question of who actually pays the tax, cannot be dictated by law and can be shifted by economic forces to different parties (Rosen, 1999: pp. 256–257). Using the land tax above as an example, most of its tax incidence is believed to be shifted from the property developers to the middle class. The middle class is not qualified for public housing programmes which are means-tested and target the lower-income groups. Property developers, as owners of capital, have other options of investment for their capital. But for the buyers of private housing, many of them are middle class, they have nowhere to go to avoid the tax incidence unless they choose the extreme option of moving out of Hong Kong such as immigration.
Box 10.4 Tax incidence and expenditure incidence

Tax incidence refers to the question of "who pays the tax" and expenditure incidence refers to the question of "who benefits" in public expenditure. It is important to remember that who actually pays the tax and who enjoys the benefit of public expenditure are not determined by law but by economic forces.

* Other Revenue includes:
1. Loans, reimbursements and others
2. Estate duty
3. Capital works reserve fund (excluding land premium)
4. Motor vehicle first registration Tax
5. Air passanger departure tax
6. Capital investment fund
7. Royalties and concessions
8. Hotel accommodation tax
9. Fines, forfeitures and penalties
10. Loan Fund
11. Civil service pension reserve fund
12. Disaster relief fund
13. Innovation and technology fund
14. Lotteries fund

Source: Hong Kong Yearbook 2004

Figure 10.1 Major sources of revenue 2003–04.

* Other Revenue includes:
1. Loans, reimbursements and others
2. Estate duty
3. Capital works reserve fund (excluding land premium)
4. Motor vehicle first registration Tax
5. Air passanger departure tax
6. Capital investment fund
7. Royalties and concessions
8. Hotel accommodation tax
9. Fines, forfeitures and penalties
10. Loan Fund
11. Civil service pension reserve fund
12. Disaster relief fund
13. Innovation and technology fund
14. Lotteries fund

Source: Hong Kong Yearbook 2004

Figure 10.1 Major sources of revenue 2003–04.
The structures of salaries and profit taxes are also unfavourable to the middle class. Income and profit are defined very narrowly in the current tax system. For example, profit from sale of capital assets, including stocks, is not considered as “profit” or “income” under the present tax code. There is no capital gains tax. There is also no global taxation in Hong Kong, meaning that profit or income generated outside Hong Kong is not taxed. All these have given the rich opportunities to legally avoid or reduce their taxes by manipulating the loopholes in the system, while most of the lower-income class, with the provision of a generous tax allowance, do not have to pay any salaries tax.

Regarding instability, the revenue system is built for the era of economic bloom, with a significant part of its revenue coming from sources extremely sensitive to economic fluctuations, such as land premium and investment income. This is one of the leading causes of why the budget crises of Hong Kong very often perfectly coincide with the business cycle. Whenever there is an economic downturn, the unstable and inequitable nature of the tax system will be exposed which intensifies the politics of public budgeting in Hong Kong.

Figure 10.2 shows the breakdown of public expenditure of HKSAR government by function. In 2003–04, the total public expenditure is HK$271 billion. Education is the largest expenditure item (21%), followed by health (13%), social welfare (12%) and housing (9%) accordingly.

Much of the government’s spending concentrates on the items of high economic return and the promotion of social and economic development (Li, 2006: p. 137). There is heavy government intervention in the sectors of education, health and housing. Half of the population in Hong Kong lives in public or subsidised housing. Public hospitals had a market share of more than 90% in health care and all local universities are heavily funded by tax dollars. Many of the large public programmes, particularly housing and social welfare, are means-tested, targeting at the lower income groups but excluding the middle class. Although many of the public programmes are consumed by the lower-income group, it is not true that the public expenditure incidence (see Box 10.4) is limited only to that group. For example, in terms of public housing, the construction business and property developers also benefit. Similarly, government-subsidised university education in professional programmes can be viewed as subsidisation of training costs that benefits the major businesses.

Even for those programmes that are not means-tested, such as education, it is increasingly common to see the middle class and more well-off people opt for choices of higher quality in the private market. Combining the analysis of the tax system, it can be concluded that the most major redistribution through the fiscal system in Hong Kong is from the middle class to the lower class, not exactly concurring with the traditional view of the ability-to-pay principle of vertical equity in taxation that redistribution should be from the high-income group to the lower-income group (Slemrod & Bakija, 2004: pp. 57–64). There are good political reasons for the design of this inequitable system. By protecting the rich
from being taxed heavily, it is protecting the business interests which have huge political clout in local politics. The lower-income group pays little tax but enjoy high services because the government wants to keep them pacified to stabilise society, while the middle class is often perceived as a more peaceful group who can afford to pay without strong protest. But this fiscal arrangement has the undesirable side-effect of encouraging more demand for public services from the lower-income groups.

Source: Hong Kong Yearbook 2004

Figure 10.2 Public expenditure by function.
Looking into the future, the government may push aggressively to adopt a general sales tax again whenever the political climate is right. Sales tax is inequitable in nature with a regressive tax rate, meaning the poor need to pay a higher share of their income than the rich. At the same time, the government has eliminated the estate duty, a tax targeting mainly the rich, since only people whose estates exceed $7.5 million are “eligible” for paying the tax. These moves seem to suggest that while the government is trying to broaden the tax base through means such as sales tax, some of the political parameters are kept unchanged. These include maintaining the limited scope and responsibility of the public sector and the inequity in the fiscal system, with those politically powerful being taxed less and benefiting more from public expenditure.

Industrial policy in Hong Kong

From non-intervention to intervention

In addition to creating a general favourable environment for economic growth, a government may provide specific incentives for a few chosen industries considered to be of strategic importance. This is often called “industrial policy” in which government plays an aggressive and interventionist role in the economy by picking the winners among the industries. Because of the close interaction between government and the economy, a complete non-interventionist approach of managing the economy seems to be unrealistic and impractical. However, before 1997, the British colonial government still tried its best to follow a doctrine of “positive non-intervention”, meaning that the government would step in only when it was really necessary. As a result, during the colonial regime, the absence of an industrial policy was taken as a major characteristic of the economic development of Hong Kong (Chiu, 2004; Wong and Ng, 2001; Castells, 1992).

The handover of Hong Kong from Britain to China in 1997 became a major economic as well as political watershed for Hong Kong. Economically, the HKSAR economy was hard hit by the Asian Financial Crisis in 1997–1998. Facing this sudden, massive and historic economic downturn, and with the ambition to prove its capacity and establish its performance legitimacy as a new government, despite the avowed claim of maintaining the principle of “big market, small government”, the HKSAR government gradually deviated from the “positive non-intervention” approach to become much more interventionist in its industrial policy. Adopting this new approach, many major economic interventions were taken to diversify and restructure the economy which included using billions of taxpayers’ dollars to directly inject into the stock market in 1998, directly picking the “winners” of economic development by giving specific industries and even a particular company exclusive terms and favourable conditions, such as the Cyberport project, and becoming a partner and the largest shareholder of Hong Kong Disneyland.
Nevertheless, eight years after the handover, the economic base of Hong Kong is still narrow and the restructuring project is far from being completed.

**Failures in economic transformation: A political perspective**

The economic troubles of the HKSAR do not have solely political causes and it would be unfair to hold the government fully responsible for them. The roots of its economic problems were present well before the handover, including the gigantic bubble in the property market and the hollowing out of the industrial base, all laid down the seeds for the economic hardship experienced by the HKSAR. Nevertheless, the HKSAR government cannot deny the charge that it has failed to take effective measures to fasten the economic recovery and more importantly, restructure the economy to establish a strong foundation for the long-term economic stability and prosperity. That is why it is important to embrace a political perspective in understanding the slow pace and difficulties of the economic transformation in Hong Kong.

There are several major political and institutional reasons for the HKSAR government’s failure in successfully restructuring the economy. Firstly, although there is no clear consensus on whether an interventionist approach is more preferred to a non-intervention approach as there are countries which accomplish fast economic growth under both approaches, it is widely recognised that the interventionist approach requires far more expertise from the bureaucracy and more precise information about the economy (Wong and Ng, 2001; Lam, 2000; Castells, 1992). Unfortunately, in the case of Hong Kong, many policy makers, including the career bureaucrats, are “generalists” in nature who often lack the necessary professional training and expertise. Besides, bureaucrat-led economic development is often applied only to speed the pace of industrialisation following the known path of development of Western countries. As Hong Kong progresses to the new economy in which there are few proven models of success for emulation, it is getting more doubtful whether the bureaucracy should still serve as the commander in economic development in the new economic era.

Second, in restructuring the economy, grand and ambitious, but also impractical and even unrealistic goals are set by the government, without taking the real situation of Hong Kong into consideration and without concrete implementation details and corresponding infrastructural support. They include developing Hong Kong into a world-class city and a Chinese medicine world centre. Many of these policy initiatives are either left half-finished or simply fail at the stage of implementation. As a result, the economy still depends on its traditional engines of finance, trade, property and tourism (Bank of China, 2005a). Instead of starting a new base for future economic development, the share of tertiary service sector in GDP increased dramatically from 67.4% in 1983 to 88.5% in 2003 (Hong Kong Yearbook, 2004). Among the industries in the tertiary
sector, the government has put heavy emphasis on developing tourism such as the building of Hong Kong Disneyland, the Avenue of Stars, the Symphony of Lights, and the extension of the Individual Visit Scheme.

Third, the “businessmen ruling Hong Kong” model is another reason for failing to upgrade and transform the economy. Without a real democracy and with the lack of trust in a civil service trained and socialised under the British colonial government, the Chinese government has adopted the “institutionalisation of business in politics” after the handover through entrusting business with the ultimate responsibility of government and coopting business representatives into the political establishment (Chiu and Lui, 2001). Former Chief Executive Tung Chee-hwa was recruited from the business community. The membership of the Executive Council, the highest decision-making body, has business well represented, and the Legislative Council is so arranged as to ensure business interests will dominate in the last resort (Petersen & Roberts, 2003).

The businessman-ruling model has hindered the transformation of the economy through increasing and intensifying the “rent seeking” (see Box 10.5) activities, using government influence for higher economic profit at the expense of the general public interest, usually by eliminating competition. Moreover, as it is often the big property developers who are politically most powerful, the government has the tendency to use all means to protect their interests, including reducing public housing supply to increase demand for private housing. Many of the new projects for restructuring the economy, such as the Cyberport and the controversial West Kowloon Cultural District project, are also criticised as no more than property development projects packaged with the high-technology and similar labels, but having the primary goal of benefiting the property developers.

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Box 10.5 Rent seeking

The use of political power to seek economic benefit, mainly through eliminating competition. Rent seeking is taken as a negative activity in economics for two reasons. First, it brings higher prices to consumers. Second, it is a waste of resources in itself.

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The bias towards big property developers in economic policy making and the growth of “crony capitalism” have created a non-level playing field for competition, making Hong Kong less attractive for business except for those who are politically connected. The monopolistic position of the major businesses in Hong Kong created by rent-seeking activities has also artificially inflated the prices of major production inputs, including land and energy, making Hong Kong less competitive as a place of investment and more difficult for new industries to emerge. For example, Hong Kong’s Global Competitiveness Ranking, which measures a country’s ability to maintain sustained economic growth over a
long horizon, dramatically fell from the second place in 1998 to 28th in 2005 (World Economic Forum, 2005). The economic competitiveness of Hong Kong is deteriorating instead of improving after the handover.

Furthermore, as the property developers are themselves products of the property bubble in the old economy, they often have vested interests in the status quo and are less likely to be winners in the new economy. Their dominance in the economic policy making of the HKSAR government would mean that the government itself is less enthusiastic about industrial restructuring and industrial upgrading, especially in the manufacturing sector. The trend of hollowing out of industries continues, with the share of secondary production in GDP decreasing dramatically, from 23% in 1983 to 11% in 1993, and then to 4% in 2003 (Hong Kong Yearbook, 2004).

Although Hong Kong’s economy has recovered since 2004, it was related to factors other than the successful transformation of its economy. One of these major factors is the politically-driven economic policy by Beijing. The signing of the Closer Economic Partnership Arrangement (CEPA) (see Box 10.6), the introduction of Individual Visit Scheme, and the Pearl River Delta (PRD) economic cooperation are some examples of these economically packaged political products. To the Chinese central government, keeping Hong Kong’s economic health can demonstrate the viability of “one country, two systems” to Taiwan (Sung, 2005). Strengthening Hong Kong’s economy is also an important part of Beijing’s political strategy in diverting the strong demands for a faster pace of democratisation after all the large public demonstrations on 1 July in 2003, 2004 and 2005.

**Box 10.6 CEP**

CEPA stands for Closer Economic Partnership Arrangement, an agreement signed on 29 June 2003. For Hong Kong and the Mainland, it is the first bilateral free trade agreement (FTA). Under CEPA, products of Hong Kong origin can be exempt from tariffs when they are exported to the Chinese Mainland by phases.

**Economic recovery without economic restructuring: Negative consequences**

While China’s active and policy-driven assistance and economic integration (see Box 10.7) have helped the economic recovery of Hong Kong, there have also been negative consequences. Aside from making Hong Kong more politically and economically dependent on China (Yeung, 2002), it has masked the real structural problems and therefore reduced the incentives of policy makers to carry out effective reforms, and may even have led the development of Hong Kong’s
economy in the wrong direction. For example, the HKSAR government puts too much emphasis on developing tertiary service industry, especially tourism, and lets the secondary industries, particularly the manufacturing industry shrink even more, leading to a more concentrated and mismatched economy.

Tourism, together with financial services, trading and logistics, and professional services are regarded as four key industries by the HKSAR government. The percentage share of these four key industries is 51.2% of the GDP at factor cost in 2003. However, tourism has the smallest share of GDP at factor cost among the four key industries. It only accounts for 2.3% while trading and logistics, financial services, and professional services account for 26.3%, 12.3%, and 10.3% respectively (Census and Statistics Department, 2005a). It means that tourism does not make a heavy contribution to the economy. In fact, its percentage share of GDP at factor cost decreased from 3.1% in 1996 to 2.3% in 2003. The government has recently extended the Individual Visit Scheme so that more Mainlanders can visit Hong Kong. However, the government is probably too optimistic about the revenue brought by the scheme. According to Hong Kong Tourism Board statistics (2005a), the number of Mainlanders visiting Hong Kong dropped by 1.4% from 2004 to 2005. The statistics also show that per capita spending by Mainlanders drastically decreased 20.6%, from $5,487 in 2002 to $4,355 in 2004 (Hong Kong Tourism Board, 2005b). It is doubtful if the Individual Visit Scheme can be helpful to Hong Kong’s economy in the long run. Besides, tourism is sensitive to economic cycles and susceptible to unpredictable factors such as the outbreak of major epidemics like bird flu.

The lack of re-industrialisation and technological deepening make Hong Kong susceptible to economic volatility. Hong Kong’s vulnerability to the financial crisis is because of the failure to upgrade local production and the overwhelming dependence on finance and services (Chiu & Lui, 2001). Since the early 1980s, de-industrialisation has occurred in Hong Kong (Choy, 2004). While the old, low-end industries have moved, Hong Kong has still a long way to go in developing new technology-intensive high-end industries. According to World Competitiveness

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**Box 10.7 Economic integration**

Economic integration means the barriers to business, be it natural or institutional, between two economies are lowered. Some of the means to reduce barriers to business include better transportation, removing tariffs and quotas to products imported and so on. Since the early 1980s, with the opening of China, economic integration has occurred between the economies of China and Hong Kong. The handover of Hong Kong to China since 1997 has sped up the pace of economic integration between the two economies.
Yearbook 2003, its ranking of scientific infrastructure was the lowest among the Asian newly industrialised countries (NICs). It ranked 23rd while Japan, Taiwan, Korea and Singapore ranked 2nd, 5th, 10th and 12th respectively. According to the World Bank’s World Development Indicators (see Table 10.2), Hong Kong lags behind other Asian NICs in the number of researchers in research and development (R&D), the number of technicians in R&D, the number of scientific and technical journal articles, and expenditures for R&D (as percent of GDP).

Although the HKSAR government increased its R&D expenditure from 0.44% of GDP in 1998 to 0.7% in 2003 (Census and Statistics Department, 2005b), its percentage increase in R&D expenditure is still minimal when it is compared with other Asian NICs. Its technological sophistication still lags behind other Asian countries.

Without continuous improvement in technology, Hong Kong would not be able to maintain its lead in skills, and outsourcing would only lead to the hollowing out of the Hong Kong economy (Sung, 2002). Hong Kong also lags in education when compared with other Asian NICs. Only 18% of the Hong Kong population aged 15 and above has at least post-secondary education, and as much as 48% have an education level of Secondary Three or below (Sung, 2002). The only way to revive Hong Kong’s economic competitiveness is to diversify its economy, upgrade its technology and industry, and nurture an education pool.

China remains Hong Kong’s largest trading partner in 2004, accounting for 44% of the total trade value in Hong Kong (Hong Kong Yearbook, 2004). Figure 10.3 also shows that there was a sharp rise in trade between Hong Kong and China after the deepened economic integration since 2001. But depending too much on China economically is not without problems. First, the benefit of Chinese policies and assistance to Hong Kong may be exaggerated. Taking CEPA as an example, despite its preferential arrangements, CEPA is still not a comprehensive reciprocal trade deal (DBS, 2003). Hong Kong’s economy is still very open whereas the Mainland’s is relatively closed (Sung, 2005).

### Table 10.2  Indicators of technological development

<table>
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<tbody>
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<td>2.2</td>
</tr>
</tbody>
</table>

Source: World Bank, World Development Indicators.
According to a survey of Hong Kong companies by the Trade Development Council in 2004, there are many obstacles and difficulties faced by service suppliers in expanding business in China under CEPA. They include unsound legal system and insufficient protection (65.3%), lack of knowledge of the Mainland market (39.6%), insufficient liberalisation with regard to business scope (39.2%), and market entry thresholds remaining too high (36.5%). These difficulties, especially insufficient transparency, can lead to an increase in operating cost of companies. It is because extra costs are incurred to allocate more manpower and time to understand and comply with rules, regulations and administrative procedures, or even obtain professional legal advice (Research Department Hong Kong Trade Development Council, 2004). For many Hong Kong companies, these costs are “hidden” and usually no provision is made during the business planning stage (Hong Kong Trade Development Council, 2004). Besides, zero tariffs offered by CEPA may not be enough to offset land and labour costs of Hong Kong. Unless there is large export volume and large value added, it is not economically feasible to be located or relocated in Hong Kong.

Another possible problem arising from the economic integration between the Mainland and Hong Kong is that competition, instead of complementing, may lead Hong Kong to a less superior position (Cheung, 2002). Using the Pearl River Delta economic cooperation as an example, Guangdong does not completely
expect to rely on Hong Kong’s service industry in the near future (Bank of China, 2005b). It hopes to establish, modernise and internationalise its own service industry in the next half decade. As a result, some of the service activities in Hong Kong might be substituted. Integration with China’s economy would not replace the need for Hong Kong to complete its economic restructuring to re-establish its competitive edge in the global economy.

Conclusion: How long can the good days last without reform?

A central theme in this chapter is economic policy is shaped by more than economic forces. The “market economy” image constructed by the HKSAR government is found more like a mirage than reality when a closer look is taken at the role of government in the economy. Counting the resources it abstracts from society and the regulations it imposes on the private sector influencing how resources should be used and distributed, the impact of the HKSAR government on the economy is more important than what is commonly understood. Although the size of the public sector in Hong Kong is smaller than the international standard, this can also be taken as an outcome of governmental influence instead of evidence of absence of government, as it is closely related to the governing ideology of reducing the demand for government services and the need for redistribution.

Adopting a political logic in understanding economic policy, resource allocation in society can be conveniently understood as a reflection of the power distribution in society. Signs and evidence consistent with the governing ideologies and features of the HKSAR government are often found in its economic policy. At the macro-level of managing the economy, the two typical sets of policy tools are either severely constrained or absent in Hong Kong. Fiscal policy, in order to limit the commitment and obligations of government, is not seriously pursued in Hong Kong. For example, instead of expanding government expenditure to stimulate the economy in the economic recession during the Asian Financial Crisis, the government did exactly the opposite: reduced public expenditure, including cutting social services. With regard to monetary policy, with the pegging of the Hong Kong dollar to the US dollar, Hong Kong has given away its capacity of managing the economy through money supply. The political importance of maintaining stability in society and the economy of Hong Kong has made unpegging an “untouchable” subject in politics.

One of the best examples illustrating how political power and fiscal inequalities are correlated is seen in the revenue and public expenditure systems. In the tax system, the tax incidence is highly concentrated on the middle class. The middle class is paying a higher percentage of their income than the higher-income groups, violating the important principle of ability-to-pay in taxation. The tax system is also very non-transparent in nature, disguising many tax items as non-tax revenue, making it harder to enforce fiscal discipline through public oversight.
In examining the public expenditure system, it is discovered that spending is more concentrated on items promoting economic development, suggesting that big businesses, in addition to the less well-off people, may also benefit from the expenditure incidence. Even for spending items targeting specifically on the less well-off people, such as public housing, education, health care, the expenditure incidence can also be shifted to the business sector by lowering its labour cost. Combined with the analysis of the tax system, it is interesting to see that the major redistribution in Hong Kong through the fiscal system is not from the rich to the lower-income group but from the middle class to the lower-income group.

At the micro-level economic policy, in terms of promoting and nurturing specific industries, the HKSAR government has shifted from the colonial legacy of “positive non-intervention” to an approach of active intervention. While this change of policy regime may be necessary given the enormous negative impact of the Asian Financial Crisis on the Hong Kong economy and the pressing need to restructure Hong Kong’s economy, problems in the HKSAR political system and governance have stalled the economic transformation. For example, many “interventionist” projects have failed because, due to the strong influence of business on policy making, particularly the big property developers, many of the projects turned out to be rent seeking in nature, promoting their own interests at the expense of the general and long-term interest of Hong Kong.

It is true that the economy has recovered so far, but when one examines the economic structure of Hong Kong after all these new interventionist policy initiatives, one will find that in fact not much has been changed. In addition, compared with other Asian industrialised countries, Hong Kong is still seriously lagging in its transformation into a new economy. Economic recovery without economic restructuring implies that, instead of solid economic foundations, Hong Kong’s economy is depending more and more on the upturn of the business cycle and politically-driven economic decisions from Beijing. All these factors can change suddenly and unpredictably.

Economic help from China to Hong Kong can be a double-edged sword. On the one hand, it has relieved Hong Kong from the most imminent economic problems. On the other hand, it has helped hiding the structural problems and deficiencies in Hong Kong’s economy, reducing the incentive for true reforms, delaying the problems without resolving them. Besides economic restructuring, the HKSAR government faces lots of acute problems including balancing economic growth and social equity. According to the United Nations Development Programme and the World Bank, the Gini index, a measure of income inequity, rose from 0.434 in 1996 to 0.522 in 2003 in Hong Kong. It is often argued by both the HKSAR government and the Chinese central government that Hong Kong should be an economic city, not a political city, focusing mainly on economic development in lieu of political development. A basic assumption behind this statement is that institutional political arrangements and economic performance can be separated or even unrelated. However, given the impact of political
influence in shaping economic policy, it is unsure and questionable whether Hong Kong can successfully make all the necessary changes in its economic policy to transform and revitalise its economy without having the corresponding structural reforms in its governance system.

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**QUESTIONS**

1. What role should the government play (intervention vs. non-intervention) in restructuring the economy of Hong Kong? To what extent do the political system and political actors in Hong Kong affect the pace and direction of the economic restructuring?
2. Does Hong Kong have a fair fiscal system? To what extent does the fiscal structure reflect the power distribution and political representation in Hong Kong? To what extent does globalisation limit the autonomy Hong Kong has in redesigning its fiscal system?

3. How will democratisation affect the economic and fiscal policies of Hong Kong? Does democracy enhance or hinder the reforms of Hong Kong on the economic front?

4. How does Hong Kong’s increasing economic integration with the Mainland influence its political relationship with China under the “one country, two systems” framework?

USEFUL WEBSITES

Budget Speeches of the Financial Secretary
http://www.budget.gov.hk

Closer Economic Partnership Arrangement (CEPA)
http://www.tid.gov.hk/english/cepa

Census and Statistics Department
http://www.censtatd.gov.hk

Commerce, Industry and Technology Bureau
http://www.citb.gov.hk

The Economist Magazine
http://www.economist.com

Finance Committee of the Legislative Council

Hong Kong Economy
http://www.gov.hk/hkecon

Hong Kong Monetary Authority (HKMA)
http://www.info.gov.hk/hkma

Hong Kong Trade Development Council
http://www.tdctrade.com

Hong Kong Yearbook
http://www.info.gov.hk/yearbook/

International Monetary Fund (IMF)
http://www.imf.org

Organisation for Economic Co-operation and Development (OECD)
http://www.oecd.org

Treasury Branch, Financial Services and the Treasury Bureau
http://www.fstb.gov.hk

US Federal Reserve Bank
http://www.federalreserve.gov/

The World Bank
http://www.worldbank.org
FURTHER READING


Lam, Kam-yee and Lee Kim-ming (eds.) (2004) The Economy of Hong Kong in Non-Economic Perspectives, Oxford University Press. Offers three levels of analysis and six social science perspectives examining the economy of Hong Kong.


Stiglitz, Joseph (2000) Economics of the Public Sector, 3rd edn., New York: Norton. A good and thought-provoking book by a 2001 Economics Nobel Prize laureate which points out most economics are actually mixed and why government intervention is often needed in order to make market work and minimise its negative effects.

Yeung, Chris (2002) “Separation and Integration: Hong Kong–Mainland Relations in a Flux”, in Lau Siu-kai (ed.) The First Tung Chee-hwa Administration, Hong Kong: The Chinese University Press, pp. 237–265. Discusses how and why the political relations between HKSAR and the Mainland are separated while the economic relations between them are increasingly getting closer.
Social policy can be usefully if loosely defined as those actions of government designed to promote individual and collective welfare. Health, housing, education and social security are normally seen as the heartlands of social policy; with social care, environmental and employment policy seen — rightly or wrongly — as rather less central. For reasons of space we focus here on the heartland areas.

Hong Kong has never aimed or claimed to be a welfare state, but it is clearly concerned about welfare. There are massive gaps in welfare provision — no pensions, no unemployment benefit, no child allowances — but on the other hand there is large-scale provision of heavily subsidised tax-funded healthcare, and one of the largest public rental housing sectors in the world. It is these contrasts which make the SAR’s social policies so fascinating. Why have they evolved to be like they are? To what extent do they promote welfare?

We cannot hope to understand the present — or the future — without understanding the past. What has gone before does shape the future even if it does not determine it. The first major government involvement in social welfare came in housing in 1954, when the government launched its public-housing programme. It was the 1970s, however, which were the golden years in social policy development in Hong Kong. Universal primary education was introduced. The cash-based social assistance scheme was launched. A 10-year housing programme got under way along with the building of the new towns. There was the Mass Transit Railway. Subsequent years also witnessed important initiatives. In the late 1980s, a new long-term housing strategy was developed, and a vast expansion of higher education was set in train. In 1990, the Hospital Authority was created. By 1997 there was a well-established system of social services, built on the fiscal dividend of Hong Kong’s decades of rapid and sustained economic growth.

Nevertheless, anyone believing in the centrality of the role of the state to the promotion of human welfare would have had some serious anxieties about social

1. Many thanks to Adrienne La Grange, Maggie Lau, Ka-ho Mok and Ian Holliday for help and advice.
policy development. Firstly, Hong Kong opinion remained fiercely critical of the supposedly damaging economic and social effects of state welfare, even while developing an impressive range of services. Secondly, the government continued to assert the overriding virtue of a policy of low taxation and low levels of public spending. Thirdly, social policy development in Hong Kong has always been deeply pragmatic and reactive. There was never any vision of a new and better society, which is what has driven social policy development in most countries.

To examine social policy in Hong Kong, the remainder of this chapter is broken into four sections. The first looks at the four heartland social service areas and analyses development since 1997, looking at continuity and change and at the significance of what has happened — and not happened. The second explores the strengths and weaknesses of what has been established and looks at likely future challenges. The third considers the nature of the pattern of welfare which has emerged. The final section is a brief conclusion.

Social provision in the heartlands

The four social policy heartlands are health, housing, education and social security. In this section we look at provision in each sector in turn, focusing on the period since the sovereignty transfer in 1997. Together, these four sectors form the core of Hong Kong’s social policy system. Major developments in each sector are summarised in Box 11.1. Key expenditure data are provided in Table 11.1.

Table 11.1 Public expenditure on social policies in Hong Kong

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<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Education</td>
<td>50,307</td>
<td>18.66</td>
<td>4.04</td>
</tr>
<tr>
<td>Health</td>
<td>31,894</td>
<td>11.84</td>
<td>2.56</td>
</tr>
<tr>
<td>Housing</td>
<td>45,872</td>
<td>17.02</td>
<td>3.68</td>
</tr>
<tr>
<td>Soc welfare</td>
<td>27,616</td>
<td>10.25</td>
<td>2.22</td>
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Note:
Column 1: current and capital expenditure in HK dollars (millions)
Column 2: expenditure as a percentage of total government expenditure
Column 3: expenditure as a percentage of GDP
* About .70% of the social welfare budget is for financial assistance through CSSA and Social Security Allowances

Source: Hong Kong Yearbook 2004, HKSAR Government, Hong Kong, 2005.
Health

Hong Kong had achieved much in the field of health by 1997. On most key indicators like infant mortality rates and expectation of life Hong Kong scored very well. It had established the principle that no one should be denied the healthcare they needed because of lack of means. The Hospital Authority had been created in 1990 and implemented from 1991, and had achieved considerable improvements in standards of care. These achievements were secured with a very rapidly increasing level of expenditure, though it still remained low by international standards at around 4.5% of GDP — government’s share of this being a little more than 50%.

There was, however, much unfinished business arising from government’s ambivalent attitude to its responsibility for health services. There was no single body responsible for looking at the health sector as a whole — a Hospital Authority but no Health Authority. As a result, there was no real health policy, no attempt to examine health needs and services in the round, to look at primary and hospital care as part of a seamless web of services. As in virtually all healthcare systems, there was also concern about rising costs resulting from an ageing population, rising aspirations and new medical technology, and debate as to whether funding healthcare from taxation could continue to be a viable long-term option.

In his first Policy Address, Tung Chee-hwa announced that the secretary for health and welfare would carry out a comprehensive review of existing health services during 1998 (Hong Kong SAR Government, 1997: para. 130). The review was to focus on three key issues — the interface between primary and hospital care, the relationship between the public and the private sectors, and how healthcare might best be funded.

The result was the so-called Harvard Review, which published a highly critical analysis (Harvard Team, 1999). This report set the agenda for debates about health policy for the next few years, and how it was handled illustrated both the need for, and difficulties of, achieving radical and rational reform. What was striking too was the widespread interest generated by the report. The three-month consultation period set by the government generated an impressive 2200 submissions.

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**Box 11.1 Key social policy developments**

<table>
<thead>
<tr>
<th>Health</th>
<th>Harvard Review levels four tough charges and SARS tests the system</th>
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<tbody>
<tr>
<td>Housing</td>
<td>Retreat to residualisation?</td>
</tr>
<tr>
<td>Education</td>
<td>Quality to be promoted by the new public management</td>
</tr>
<tr>
<td>Social Security</td>
<td>Increasing poverty and unemployment puts the CSSA scheme under great strain. MPF is launched.</td>
</tr>
</tbody>
</table>

*Health*
There were four main charges levelled by the Harvard Team against the existing system, all of which were held to stem from the absence of a coherent policy for organising or financing healthcare:

- Very variable quality of care — which the Harvard Team substantially attributed to the lack of effective governance of the medical profession.
- Doubtful financial sustainability in the face of a projected 50% rise in expenditure by 2010.
- Compartmentalisation and lack of integration of primary and hospital care, and public and private care.
- Dominance of the system by the hospital sector.

The proposals put forward for remedying the situation were, in Gould’s words, “technically sophisticated but politically naïve” (Gould, 2005: p. 193). What dominated debate was the proposal for mandatory employer-employee contributions to fund healthcare. This would never have been popular after what people saw as a free service, but at a time of sharp economic recession following the Asian financial crisis it was universally unpopular with employers and employees alike. In a sense, this sounded the death knell for the whole Harvard package. At the end of 2000 the government produced its response: *Lifelong Investment in Health* (Health and Welfare Bureau, 2000). Essentially this was a set of alternative proposals, without much detail and lacking an implementation strategy. The leader of the Harvard Review dismissed it as “a massive piece of rhetoric” (quoted in Gauld and Gould, 2002: p. 163).

The other major health preoccupation of the Tung years was the outbreak of Severe Acute Respiratory Syndrome (SARS) in March 2003. It was three months before the outbreak was successfully brought under control. By then 300 people had died and massive damage had been done to the Hong Kong economy. What the SARS outbreak did was to turn a searchlight on the healthcare system and its (in)ability to cope with an emergency (Gauld, 2005). The issue which disturbed the expert committee set up by the government to see what should be learned was planning and organisational weaknesses (Gould, 2005: pp. 195–196). The government’s reaction to the report was swift, and a new Centre for Health Protection was established to aid response to such emergencies. An acute crisis is always more likely to produce action from government than a chronic crisis.

These two issues — the Harvard Review and the SARS outbreak — neatly illustrate the ambivalences of health policy in the SAR. The government has long accepted responsibilities for the provision of health services, but in a piecemeal, reactive, reluctant fashion. It is this reluctant, pragmatic collectivism which has caused government involvement to grow, but without any principled reappraisal of its role and responsibilities. What was lacking was confidence and conviction. This is both cause and result of the lack of health-policy-making capacity at the heart of government. This was ultimately what both created the need for the Harvard Review, and inhibited a positive response. This lack of policy conviction
Social Policy

was a significant factor in the organisational weaknesses which were important in the confused response to SARS.

These two examples of weak governance should not lead us to ignore the genuine progress achieved in the post-handover years. In 1999 the Traditional Chinese Medicine Council was set up to register and regulate traditional practitioners — a long overdue and very necessary step towards better integration of Western and traditional medicine. Also, the Hospital Authority’s takeover of government primary care outpatient clinics is a small but potentially valuable step towards greater integration of primary and hospital care.

Housing

Housing has always been one of the most fascinating areas of social policy in Hong Kong — fascinating both because it seems starkly at odds with the government’s frequently reiterated commitment to small government and the free market, and also because of the sheer range and variety of policy initiatives.

By 1997 there was a rich legacy of 40 years of active policies and long-term housing strategies which had achieved huge improvements in housing standards. Policies were essentially of two kinds, though there were many fine variations on the themes. There were policies to build public housing to let at rents below market levels. In addition, there was a raft of different policies — more obvious after 1987 — designed to promote and extend home ownership. The latter measures were immensely successful, and home ownership increased from 35% in 1985 to over 50% 10 years later.

Tung Chee-hwa set three housing targets in the 1997 Policy Review: to build at least 85,000 flats a year in the public and private sectors, to achieve a home ownership rate of 70% by 2007, and to reduce the average waiting time for public rental housing to three years (Hong Kong SAR Government, 1997: para. 52). Even as he spoke, however, the Asian financial crisis was undermining the basis of his strategy.

The financial crisis saw a dramatic collapse of property values. For three reasons, this was even more significant for the economy in Hong Kong than it would have been in most societies. Firstly, in the 1990s around one third of Hong Kong’s GDP came from property-related land sales and tax revenues. Secondly, land sales accounted for some 30% of government revenues (Lee, 2003: p. 103). Land sales, of course, depended on the buoyancy of the housing market. Thirdly, popular confidence in the future depended on rising property values.

The significance of the property market to Hong Kong’s economic health gave property developers immense political power and influence. This shaped the way government responded to the novel situation. The key document was the Review of the Institutional Framework for Public Housing (Hong Kong SAR Government, 2002). What the government seems to have wanted to do was
retreat to a much narrower and more limited housing policy, leaving the ground clear for the private sector. In 2002, a range of established government schemes offering various kinds of subsidies to would-be home owners, including the Home Ownership Scheme (HOS), the Private Sector Participation Scheme, the Home Purchase Loan Scheme, the Sandwich Class Housing Scheme, the Buy or Rent Scheme, were suspended. In July 2004, the Home Assistance Loan Scheme was terminated, and in August 2005 the Tenant Purchase Scheme came to an end.

The aims of this policy reappraisal were essentially twofold: to reduce government involvement and expenditure, and to end competition from the public sector in the lower-priced home ownership field. The government emphasised on a number of occasions its commitment to maintaining a supply of public rental housing for needy applicants. What is clear, however, is that these changes will also have a considerable impact on the public rental sector, because revenues from HOS sales largely financed it. The changes amount, in fact, to a significant residualisation of government responsibility in housing. Hong Kong has in the past successfully avoided marginalisation and stigmatisation of the public rented-housing sector. These changes threaten that success. In addition, even with the fall in property prices, these changes will make it more difficult for many to become home owners.

**Education**

The years between 1971 and 1997 were a period of immense achievement in education. In 1971 primary education became compulsory. Seven years later the compulsory period of education was extended to nine years, so creating a system of mass secondary education. In the late 1980s the expansion of higher education began — an expansion which brought around 20% of the age group into higher education by 1997.

Tung’s 1997 Policy Address gave an unexpected prominence to education, with commitments to mother-tongue teaching, the extension of whole-day schooling and training for kindergarten teachers. There was also an earmarked grant to establish a Quality Education Development Fund, and a commitment to better management in schools (Hong Kong SAR Government, 1997, para. 79–104). In the 2000 Address, Tung again emphasised his commitment to education reform (Hong Kong SAR Government, 2000: para.17–27).

A number of factors fed pressures for change. For many years education had been the largest single area of government expenditure — approaching 20% of the total — and at the end of the 1990s spending was rising sharply. Expectations were also rising and there were conflicting demands and pressures from government, business, labour, students and parents. The expansion of higher education was proving enormously expensive — some said at the expense of the school system. The Asian financial crisis led to calls for cuts in government expenditure, and
raised questions about Hong Kong’s economic future. The crisis brought out very clearly the fact that Hong Kong had no resources but the drive and energy and skills of its people. In the future, levels of skill and education would clearly be still more crucial to economic success. Such insights were not new but the crisis brought them more sharply into focus and gave them more urgency.

Essentially the government adopted the approach suggested by one particular toolkit — the “new public management” — which had emerged on the scene in the 1980s. This set of ideas seemed to offer techniques and systems which could be readily applied to education to raise standards and promote quality, which became one of the dominant concerns. A key document was the report Quality School Education (Education Commission, 1997). Everyone, of course, is in favour of improvements in quality — as long as the term is not defined. Once it is defined, then agreement tends to break down. The Education Commission did not give sufficient attention to its contestable nature. The Commission also came down very strongly in favour of a management-dominated approach to quality improvement — an approach which stressed quality assurance systems, incentives, school-based management, evaluation and appraisal, performance indicators, accountability, value for money, economy, efficiency and effectiveness, which were all central elements in the new public management. In early 1999 the government launched a wide-ranging review of education, and proposals were published the following year as Learning for Life: Learning through Life (Education Commission, 2000). The report set out certain unexceptionable principles — student-focused learning, lifelong learning, life-wide learning, and a society wide commitment to achieving education of the highest quality (para. 16).

What was happening in the school system was also happening in the world of higher education. There were reviews by the UGC in 1996 and 2002 and further reports in 2004. The same approach was evident. Accountability was to be strengthened through assessment of research and teaching and quality assurance mechanisms. There was much stress on universities raising a bigger part of their income from non-government sources, and on students making a larger contribution via increased fees to compensate for cuts in government support, which were planned to amount to 25% between 1998 and 2008 while student numbers were expanding rapidly. Universities were to become more entrepreneurial and market driven. In Mok’s words, “An entrepreneurial competitive culture has emerged and become the new ethos” (Mok, 2006: p. 119). Funding would be made more selective and focused on centres of excellence. There would need to be both more competition and more collaboration between institutions (Mok, 2005: pp. 282–283). At the same time there was to be a doubling of graduate numbers in 10 years to get Hong Kong closer to the rates in Singapore, South Korea and Taiwan.

The problem facing Hong Kong is obvious. To survive it has to compete successfully in the new global knowledge-driven economy. Success is defined as depending on education and research. Standards in schools and universities have
to be raised. Certain management techniques applied to education systems and institutions are adopted as offering the best way forward. Whether this rather limited approach can genuinely raise standards remains to be seen.

**Social security**

Hong Kong launched its first tax-funded means-tested public assistance scheme in 1971. In 1993 it was given its present name of Comprehensive Social Security Assistance (CSSA). It is complemented by a non-means-tested scheme of special needs allowances for elderly people and people with disabilities. In 1993 these were renamed Social Security Allowances. In 2000 a Mandatory Provident Fund, a compulsory retirement savings scheme, was established.

Hong Kong’s hostility to state welfare comes out most clearly in relation to social security. Attempts to introduce schemes of social insurance have always come to nothing — partly for reasons of ideology, partly because in a booming economy with a young population there seemed a less compelling need than in many other societies. By the early 1990s, however, there was an accumulating body of evidence about worrying levels of poverty and of the failure of existing rates of CSSA to provide an income to ensure an adequate standard of life (MacPherson, 1994). Hong Kong’s expenditure on cash benefits (around 2.3% of GDP in 1999) remained very low by international standards. At the beginning of 2005 it was estimated that a quarter of children under the age of fourteen were living in families with incomes at or below half the median for similar households and that a total of 18% of the Hong Kong population were living at this level — a commonly accepted definition of poverty.

The Asian financial crisis put the system under great strain. Between 1996–97 and 2000–01, total expenditure on the CSSA scheme doubled. The pattern of claiming changed sharply. In 1996–97 what might be called able-bodied claimants — single parents, the low paid and the unemployed — accounted for 25% of expenditure. By 2004–05 the figure was 39%. Soon after the financial crisis the government launched a review of the CSSA which argued that benefits were too generous in relation to low — and falling — wages, and discouraged the unemployed from looking for work. Cuts were made.

These concerns were behind a series of significant developments in the CSSA which actually constituted a major extension of employment-type services. The Support for Self-reliance Scheme was launched in 1999. Its key elements were the Active Employment Assistance Programme and the Community Work programme. These offered CSSA applicants individually-tailored assistance to get back into the labour market — advice, training and community work to maintain and encourage work habits. The Ending Exclusion Project was directed specifically at lone parents and aimed to help them to return to work. It looked, and felt, very much like reactive, crisis-induced policy making, a government taken unawares by the harsh realities of the ever more globalised economy.
Demography and family support had been used over the years in Hong Kong to justify the absence of specific provision for income in retirement apart from the CSSA and the allowance scheme. An ageing population and evidence about worrying levels of poverty in old age — more than 30% of elderly people were reckoned to be living in poverty — finally produced a response. This was the Mandatory Provident Fund scheme. Contributions were set at 10% of earnings to be shared between employers and employees. Many commentators argued that this was simply too low to produce an adequate income in retirement. Another worry was the substantial number of people who would have broken contribution records or were left outside the scheme for various reasons. Leaving aside these considerations, it would be many years before the scheme made a significant difference to people’s incomes in old age. It did nothing for the current generation of elderly people — the generation which, as Governor Patten had liked to emphasise, had created modern Hong Kong.

With a strong system of family support, full employment and a history of enviable rates of economic growth, Hong Kong had seen little need to develop systems of social security. An ageing population, changes in family systems and economic crisis showed just how vulnerable many people can be in modern society and how necessary systems of social security are. Unfortunately such systems cannot be developed overnight.

Strengths and weaknesses, challenges and opportunities

Hong Kong’s social policy system has many strengths (Box 11.2). Two stand out. Firstly, there is a well-established pattern of tax-funded services with a good record in terms of access, coverage and quality of service despite rates of expenditure which are low compared with Western societies. Secondly, in terms of indices of health such as infant mortality rates and life expectancy, Hong Kong is up alongside the best in the world. In spite of concerns about the quality of education, on indices of educational achievement again Hong Kong’s record is very impressive. In housing, huge achievements have been recorded in terms of provision and raisings standards.

<table>
<thead>
<tr>
<th>Box 11.2 Strengths and weaknesses of Hong Kong’s social policy system</th>
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<tbody>
<tr>
<td><strong>Strengths</strong></td>
</tr>
<tr>
<td>Well-established pattern of tax-funded services</td>
</tr>
<tr>
<td>High scores on key indices of social development</td>
</tr>
<tr>
<td><strong>Weaknesses</strong></td>
</tr>
<tr>
<td>“Economy first” ideology</td>
</tr>
<tr>
<td>Beliefs about the functioning of the economy</td>
</tr>
<tr>
<td>Anti-welfarist tradition</td>
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<tr>
<td>Lack of vision</td>
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At the same time, however, there are clear weaknesses and limitations (Box 11.2). The “economy first” ideology means that social policy always comes second to the supposed needs of the economy. Given the firm Hong Kong belief that a strong economy is the best route to welfare this is unsurprising, but it is a narrow and at times socially dysfunctional approach to governance. Care for the environment, for example, has always come second (or even third) to the pursuit of economic growth. Furthermore, the “economy first” ideology is coupled with certain key beliefs about the economy which again are dysfunctional to welfare development. Crucial here are the beliefs that low taxation and low rates of public expenditure are vital to a healthy economy. The “burden” that a contributory social security system is thought to impose on employers has always been an important issue when welfare proposals have been put forward. In addition, the Hong Kong government has a strong anti-welfarist tradition — a belief, for example, that anything more than very basic social security will promote welfare dependency and destroy work incentives. Equally, there is a strong belief that the development of public social care services would undermine the family. Ageing is seen as a problem for individuals and families rather than for society as a whole — a private trouble rather than a public issue. Finally, there is in Hong Kong no vision of a better society, of goals towards which society is moving. Social policy is seen as simply about alleviating manifest social problems, not about promoting a vision of the good society.

Box 11.3 Challenges and opportunities faced by Hong Kong’s social policy system

| Need to rethink the role of the state in welfare |
| Creation of a genuine mixed economy of welfare |
| Issues of funding need to be resolved |
| Need to come to terms with new ideas and new social movements |
| Poverty must be taken seriously |
| New frontiers of welfare must be explored |
| Demographic change poses sharp challenges |
| Need for a new positive attitude |

The challenges, opportunities and pressures that face Hong Kong’s social policy system are many (Box 11.3). Eight stand out, though any such selection involves value judgments:

- Hong Kong needs to rethink the welfare role of the state in a rich, mature, Chinese society in a highly competitive, global, knowledge-based economy. Such philosophical thinking is not, of course, the Hong Kong way. That has always been reactive and pragmatic. Even admirers of what Hong Kong has achieved must wonder, however, whether that approach can continue to
work. Maintaining competitiveness and simultaneously promoting welfare is not easy. It depends on a clear view of responsibilities and priorities and of what constitutes an acceptable level and quality of life.

- **Hong Kong has to establish a genuine mixed economy of welfare.** By its very nature, welfare is always and inevitably a mixed economy. A genuine planned mixed economy is a rather rare phenomenon. It involves thinking through the appropriate roles of state, market, NGOs, employer, individual and family and how they can, and should, complement each other. There is much talk in Hong Kong of the central role of the family in the support and care of elderly people, but there has been very little thought as to how government or other bodies might best enable families to provide such support and care.

- **There are issues of funding which need to be resolved — and which the government has shied away from facing.** The government’s response to the Harvard review of the healthcare system is a good illustration of its preference for sidestepping issues. For many years rapid economic growth has been the great solvent of difficult-to-resolve issues, but that growth may now be less reliable. Given the traditionally low levels of taxation, the narrow tax base and rising levels of social need, government will have to face the question of whether current approaches to taxation can continue to provide the funding needed. In higher education it seems to have decided that the answer is no. If the answer for health and social security is also in the negative, then there are tricky choices to be negotiated.

- **Coming to terms with new ideas and new social movements is another issue Hong Kong will have to face.** There are emerging ideas of social rights. There are rising expectations of government and of services. There is a nascent consumerism, a belief that service providers should be more clearly and directly accountable to service users. There are demands for more equal opportunities for women and people with disabilities. There is an emerging environmental movement. All these put pressure on government as a provider, funder and regulator of services designed to promote individual and collective well being.

- **Poverty must be taken seriously.** Even before the Asian financial crisis it was plain that the fruits of years of economic growth were not trickling down to the poorest. Since 1997 poverty has been increasing. Government has to take steps to establish an acceptable national minimum. This means work to establish what level of income is needed to achieve this and how it can be guaranteed. Hopefully the new Commission on Poverty will do this.

- **There is a range of new frontiers of welfare which need to be explored.** The environment has always been tomorrow’s issue. Tomorrow has now arrived. Traditional patterns of providing care no longer function as effectively as they did in the past. Responsibilities for providing care clearly need review. Again, Hong Kong has never taken training very seriously. In the future, however, competitiveness will depend increasingly on levels and quality of training.
Demographic change poses a range of challenges both general and particular. There is the general challenge of a rapidly rising population. This is nothing new to Hong Kong but continuing increase does put public services under great pressure. The more particular challenge comes from the ageing population — more elderly people and more very elderly people. Providing them with an acceptable level of income and care at a time of rapid changes in family patterns puts great strains on society and social policies. At a time of strong pressure for spending restraint, expenditure on direct welfare services for elderly people doubled between 1997–98 and 2003–04 (Leung, 2005: p. 91).

There is a challenge of attitudes and priorities — for optimism of the will in spite of pessimism of the intellect. In 2003, Nelson Chow concluded that the SAR government “is now determined to be more selective than ever in its provision of social welfare”. A few lines later he concluded that “decreasing revenue has probably given the Hong Kong SAR government no choice but to limit its responsibilities” (Chow, 2003: p. 420). That is how the government would wish its citizens to view the situation. In reality there are always choices, though beliefs and attitudes can obscure them. Since 2003, the economy has begun to show strong signs of revival, thereby restoring possibilities. What is needed above all is a willingness to engage actively with issues and to set to work “Building Hong Kong for a New Era”.

**Characterising the Hong Kong welfare system**

For many years now, analysts have sought to develop broad categories into which social policy systems can be slotted. For our purposes, two issues arise from this development. Firstly, is it possible to pick out the key characteristics of the Hong Kong approach to social policy? Secondly, where does Hong Kong stand in relation to the various efforts made to characterise welfare regimes?

It is frequently said in government publications that Hong Kong is not a welfare state and does not want to be so defined. This was a common cry in the 1980s and 1990s when welfare states in the West were blamed for poor economic performance and there was much talk of the crisis of the welfare state. That particular debate has died away but Hong Kong still asserts its preferred way to promoting welfare. Certain key characteristics of the Hong Kong approach are very clear:

- Stress on the economy rather than state-provided welfare services as the main engine of welfare because it is economic growth and full employment which are the basis of welfare, and securing work for all depends on getting the economy right.
- A growing economy is seen as the only way to finance desirable public services, because the tax take must be limited in the interest of economic
growth and avoiding the disincentives which are said to result from high rates of taxation. Any extension to services can therefore only be financed from the fiscal dividend of growth.

- The development of extensive welfare services can increase dependency and weaken initiative. The development of a system of unemployment benefits, for example, will deter the unemployed from exerting themselves to find new jobs. Individual responsibility is therefore weakened with inevitable social costs. A system of unemployment benefits will also reduce wage flexibility as the level of benefit can easily become a *de facto* minimum wage.

- Provision of social services can also, it is believed, undermine family responsibility. What helps to hold families together — and this is seen as crucial to social stability — is duties and responsibilities. Once responsibility for the care of the elderly, for example, is seen as a public rather than as a family responsibility, then the social fabric is weakened.

- The proper role for social policy is the provision of a safety net for those who for good reasons cannot help themselves — for example, those with physical and mental handicaps. In terms of social security, the role of the state is to provide a very basic minimum with tightly drawn eligibility conditions. It is not to engage in projects to reduce economic and social inequalities.

- Social policy is not about establishing social rights — as it is often seen in the West. Social policy is quite simply about meeting a specific range of accepted social and economic needs — needs which are seen as requiring satisfaction for economic and social reasons, but where the market system seems unlikely to provide.

- Social policies must be market facilitating rather than market inhibiting. For example, early government involvement in housing provision was good for the economy. It cleared land for industrial development. It provided subsidised housing for the workers, so helping to hold wages down and improve competitiveness. It also had broad political and social advantages in terms of promoting societal commitment and stability.

- Hong Kong social policy is in many ways pragmatic rather than principled. It is certainly principled in the way it is shaped by certain beliefs about how the economy and families are supposed to function most productively, but it is also fundamentally pragmatic. The Hong Kong government has over the years continually stressed its commitment to the free market. At the same time it developed one of the largest public sector housing programmes in the world. Equally, Hong Kong has developed what is very close to being a national health service free at the point of use. Both of these seemingly collectivist developments were pursued out of pragmatism.

Where does Hong Kong stand in relation to the attempt to develop models which help towards an understanding of the role states play in welfare? The classic categorisation was made by Esping-Andersen, who described three contrasting regimes (Esping-Andersen, 1990: pp. 27–28):
• The liberal welfare state characterised by faith in the free market system, modest and strictly limited means-tested benefits, limited universal transfers and modest (if any) social insurance schemes. Work is seen as the main engine of welfare, with social assistance offering a very limited safety net.

• The conservative and corporatist regime which is much more concerned with maintaining a traditional social order in terms of status differentials and family systems than with bolstering the free market. The main concern in these states is that state action should not disrupt families and communities rather than what it may do to markets.

• The social democratic regime characterised by universal services and an attempt to establish a more equal society with universal rights to high quality services. Its aim is a solidaristic, universalistic, decommodifying welfare system — fundamental needs met by largely free services (decommodified) provided for all (solidaristic and universal) by the state.

Does Hong Kong fit into any of these categorisations? Clearly it is not a social democratic regime. There is not the defining characteristic of a concern with equality and universalism. Nor have Hong Kong governments been primarily concerned with developing a system of welfare which would maintain a traditional social order — though that obviously has been one concern among others. The most promising looking regime box into which we might be able to slot Hong Kong is the liberal one. Hong Kong’s ideology is clearly liberal, and the effect of welfare development on the market is clearly a strong consideration for the policy makers. But Hong Kong’s massive public housing programme and the substantially tax-funded healthcare system sit very uneasily with the liberal market-based regime, though there are signs of movement in a liberal direction in both these fields.

Hong Kong does not seem to fit readily into any of Esping-Andersen’s Western-based categorisations. Certainly Hong Kong governments are always very sensitive to the possible impact of developments in social policy on the market. They are also very concerned with social stability and the impact of policy on those institutions is seen as central to that concern. Governments too have been concerned with the provision of high quality services to all — but not as steps on the road to a more equal society, rather as a practical response to manifest needs and problems.

To characterise Hong Kong’s approach to social policy we need to explore whether there are continuing concerns which dominate policy and define the approach of successive governments, and to which other concerns are generally subordinated. Two do stand out. The first is the dominant concern with the economy and the promotion of economic growth. The second is an almost equal concern with promoting and safeguarding social and political stability. The first means that all social policy proposals are reviewed against their likely impact on the health of the economy. If the probable effects are deemed to be negative,
then the proposals are unlikely to move forward. The same is true for proposals seen as potentially threatening to the established order.

Where Hong Kong differs from Singapore, South Korea and Taiwan is that the Hong Kong state has never been as active in the promotion of economic development. It is not unreasonable to categorise these societies as “developmental states” — states active in the promotion of economic development. Hong Kong has always tended to stop short of taking an active role in economic development. These three societies have gone through phases when their social policies could reasonably be described as “productivist” (Holliday, 2000). It is less easy to see Hong Kong in quite this light. The health of the economy has always been a dominant concern for governments but they have seen their role as less in the active promotion of development than in the careful avoidance of policies seen as likely to threaten such growth.

What Hong Kong governments have tried to do — and have in fact done very successfully — is to square a difficult circle. They have attempted to promote economic growth by facilitative rather than by direct promotional activities. They have stood very firm against social policies which were seen as damaging to the economy — for example, the development of more comprehensive and generous social security provisions. They have moved ahead on policies of social investment which seemed likely — if indirectly — to assist both economic and social development. Examples are the development of health and education services, and the growth of public-sector housing.

Social policy in Hong Kong is, therefore, productivist in the sense that the central and primary concern of government is with economic growth and stability. But the Hong Kong government is less actively productivist than governments in other East Asian tigers because it has less faith in government action.

Conclusion

The story of the development of social policy in Hong Kong shows how certain types of society with youthful populations and rapid economic growth can achieve good social outcomes with only limited public investment in social provision. That was the Hong Kong success story until the late 1990s. Then the cracks began to show.

Could a tax-funded healthcare system prosper with declining or for a time negative economic growth and ever-increasing demands upon it? Could a low-benefit, means-tested social assistance scheme meet the needs of a society experiencing increased risk of unemployment alongside rising aspirations? Could a rich society with an ageing population survive without some form of retirement pension? Could a society with a rapidly changing family system and changing roles and expectations of women continue to offer acceptable levels of family-based personal care to this ageing population?
The 1997 Asian financial crisis coincided with these increasing pressures for development in social policy. Hong Kong’s response was essentially to cut services and reduce benefits. That can only be a short-term answer. What Hong Kong is facing is an issue all mature industrial societies come to face — that an acceptable quality of life depends on high levels of public spending. There may well be prolonged debate but in the end there seems to be no alternative. The choice is more government and higher spending, or an impoverished quality of life — a real test for Hong Kong’s historic pragmatism.

**REFERENCES**


Hong Kong SAR Government (1997) *Building Hong Kong for a New Era*, Hong Kong: Hong Kong SAR Government.


QUESTIONS

1. Does Hong Kong have a social policy?
2. How would you describe Hong Kong’s approach to social policy?
3. How strong are the pressures for change in social policy in Hong Kong? What do you see as the key pressures?
4. Is Hong Kong’s approach to social policy sustainable?

USEFUL WEBSITES

Government Information Centre
http://www.info.gov.hk
Hong Kong Budget
http://www.budget.gov.hk
Census and Statistics Department

FURTHER READING

There is no very up-to-date book looking generally at social policy in Hong Kong. For background on the system and the issues pre-1997, look at P. Wilding et al. (eds.) Social Policy in Hong Kong (Edward Elgar, 1997). More recent books which locate Hong Kong in the East Asian context are I. Holliday and P. Wilding (eds.) Welfare Capitalism in East Asia (Palgrave, 2003) and M. Ramesh Social Policy in East and Southeast Asia, (RoutledgeCurzon, 2004).


There is a lack of literature on social security in Hong Kong. M. Ramesh (2004) Social Policy in East and Southeast Asia (RoutledgeCurzon) (chap.3) is very good comparing East Asian systems but does not explore very recent development in Hong Kong. The LegCo Panel on Welfare Services has produced some very helpful recent reports on developments in CSSA. On social welfare, Lee, E.W.Y. (2005) “The Renegotiation of the Social Pact in Hong Kong: Economic Globalisation, Socio-economic Change, and Local Politics”, Journal of Social Policy, 34:2, pp. 293–310, is useful.
Many critics have argued that the terrain of “urban policy” in Hong Kong is so vast that anything concerned with public policy within the city can be regarded as urban policy. Since it embraces many things and straddles many disciplinary boundaries (for example, public administration, urban geography and many specialised policy areas such as education, welfare, transport and housing), it is sometimes doubted whether there should be a separate discipline of urban policy. However, this chapter strongly disagrees with this strand of thought. At the beginning of the 20th century, no more than 7% of the world’s population could reasonably be classified as “urban”. However, by the year 2000 there were as many as 500 cities with more than a million inhabitants, with the largest of them (like Tokyo, Sao Paulo, Mumbai and Shanghai) having 10–20 million. The 20th century has been called the century of urbanisation. Why is it that the “urban” has so frequently disappeared from our discussions of broader political-economic processes and social trends?

The crucial categories of contemporary researches seem to have centred on modernisation, modernity, post-modernity, capitalism and the industrial society. There is a tendency for many think tanks or government agencies to diffuse or break down urban issues into technical problems that can be compartmentalised and dealt with through technical means. For example, housing policy could be interpreted as the simple supply and demand of new housing subject to economic and demographic changes. Therefore given a more precise planning estimate, and the right combination of policies, housing problems could in theory be solved easily. However, in reality this is often not the case. For example, the domination of the Hong Kong economy by big private developers (who formed themselves into extremely powerful interest groups) in the government’s major economic decisions is a known fact. Developers have become so influential that they exert enormous influence on government housing policies.

In many ways, Hong Kong is a classic example of John Logan and David Molotch’s (1976) seminal growth machine thesis. Another example concerns transportation. Traffic congestion is a major obstacle to the flow of goods and services, as well as the mobility of commuters. The solution often lies in the
building of more roads. However, devoting more urban land to road building deprives urban residents of housing space and also a quiet neighbourhood. The interest of half-a-million car-owners in Hong Kong often overrides the interest of non-driver commuters and residents. Car manufacturers would support building more roads while residents would support strict zoning and building restrictions. Whose interest should prevail and why? Hence, it is the very nature of the urban economy within modern capitalism that has given rise to the many questions that are addressed in this chapter.

The meaning and nature of “urban” is thus central in the study of urban policy. Daniel Moynihan (1970), an important member of the Nixon administration in the US in 1969, set up a National Committee on Urban Policy to tackle what was known as the “most serious urban crisis since the American Civil War” — that of high crime rates, serious racial conflicts and student unrest. The question was, given the postwar economic prosperity and rising income of American people, why were American cities so unsafe to live in? Something was considered very wrong with the American urban society and that was why it needed critical intervention. The sudden upsurge of youth riots and car burnings in various parts of Paris and France in fall 2005 also signified a serious social segregation between the “haves” and the “have-nots”. While Hong Kong also went through the 1966 and 1967 Riots, the situation was closely linked to China’s Cultural Revolution and not directly the result of social segregation and poverty in the city itself. In addition, an extended period of economic growth and rising income since the mid 1970s has somewhat blurred many pertinent issues of urban inequalities, such as housing shortage and poor living environment. The situation was then augmented by the widespread existence of a feeling of apathy, disorientation and hence rather inward-looking attitude across all social classes during the years before the change of sovereignty. Nonetheless, during the controversial Tung Administration of 1997-2004, the many of these long-standing urban conflicts re-emerge.

To examine Hong Kong’s urban policy, this chapter is divided into five parts:
1. First, it briefly introduces the general domain of urban policy and its main theoretical strands.
2. It then discusses the main political context which governs Hong Kong’s development of urban policy.
3. Then there is a discussion of three contemporary cases of urban policy.
4. Next there is a discussion of the prospects for improving urban policy by focusing on two emerging urban social processes: community participation and the idea of sustainable development.
5. Finally, the conclusion irons out the main contradictions of Hong Kong’s urban milieu and how it might impact on the territory’s long-term development.
The general domain of urban policy

Traditionally, urban policy has been concerned with the following five major domains (Hill, 2000: p. 3):

1. Land use and strategic planning, including questions of development control, journey-to-work and retail patterns, capital and labour mobility, residential, industrial and commercial location.

2. Physical and economic regeneration of the “inner city” through specific programmes to foster entrepreneurship and partnerships between public, private and voluntary bodies.

3. Improving the quality of life for all city dwellers by tackling crime, environment and traffic, and improving standards in housing and education, by balancing social needs and economic opportunity.

4. Targeting the most deprived areas with increased resources and innovative solutions.

5. Working for a just and fair city: empowering communities; increasing citizens’ voices and involvement; encouraging harmonious social relationships between groups; countering discrimination and exclusion.

Thus, the domain of urban policy moves from physical concerns to social and community concerns. It is also where the politics of the city comes in, because the allocation of public goods such as transport, housing and education involves policies straddling many sectors of public interest. As a mediator of competing interest groups, the government needs to coordinate and devise policy in such a way that social justice is maintained. When critics hold that a government manages its urban policy poorly, they often mean that in the intermediation process, the government fails to, or sometimes decides not to, address the issue of justice.

Housing

Hong Kong’s housing policy has always been central to urban policy since the scarcity of land has always made housing needs central to the Special Administrative Region’s politics. This is because Hong Kong government runs a uniquely large public housing sector in East Asia (45% of all housing is still under the aegis of the Housing Authority) and any shift in housing policy, big or small, carries an impact on roughly half of its 6.8 million population. Currently the government provides approximately 35% state-subsidised public rental housing to low-income people and 17% state-subsidised home ownership housing to low-middle-income groups (Housing in Figures, 2003). Since the Asian financial crisis and the subsequent property slump lasting until 2003, housing policy has been under severe criticism. The long-standing public Home Ownership Scheme (HOS) was a particular target.
Critics, largely developers and neo-classical economists, argue that the original purpose of meeting home ownership needs of marginal middle-income groups has already been largely met in Hong Kong. Therefore the government should no longer provide housing subsidies to these groups. In opposition, critics from the social democratic camp argue that terminating subsidised home ownership flat production amounts to depriving marginal middle-income groups of the right to assisted home ownership. More important, the termination of the HOS has destabilised the financial structure of the Housing Authority (HA), since income from HOS sales long formed an important source of revenue vital for the HA’s survival. Why did the government give up such a promising policy that proved popular and sustainable? The reason lies in the ability of the property sector to exert strong political influence on government policy.

The economic bubble in 1997 and the subsequent economic decline within the context of an uncertain global economy fundamentally changed Hong Kong’s long-cherished home-buying culture. According to the Hong Kong Monetary Authority, Hong Kong had 65,000 households in negative equity in the second quarter of 2002. This had reduced to 25,400 in September 2004 as a result of economic recovery (Hong Kong Monetary Authority, 2002 & 2004). Many middle-class people who bought a home before 1993 did not suffer from negative equity as a result of good timing (Forrest and Lee, 2004). However, they were disappointed by the loss in wealth as a result of the property bubble bursting in 1997 (Lee, 1999). Shrinking personal wealth badly affected consumption and economic growth. GDP growth shrunk from 6% in 1997 to 1% in 2001. Moreover, the Hong Kong economy had formed a disproportionate reliance on the property sector, since the government relied heavily on land sales as a major source of revenue. In the 2000–01 financial year, the Hong Kong government registered a budget deficit of US$12.8 billion. The collapse of the property sector also created enormous job losses and unemployment. In August 2002, the unemployment rate reached 7.8%.

What are the implications of Hong Kong’s housing policy on understanding and interpreting urban policy? Given the fact that Hong Kong has one of the least regulated capitalist economies where profits can be reaped at a low marginal cost in a high-yield environment, housing policy was one area of public policy which performed poorly in the last two decades.

In the early 1990s, it was suggested by Castells et al. (1990) that Hong Kong’s mass public housing policy in the 1960s and 1970s formed an important part of the colony’s developmental policy to boost growth and to reproduce labour power. The public housing policy was then premised on the assumption that within a small open economy, private housing would become less and less affordable for low-income people and that the government needed to step in and provide help. The only question was how the government could foot the costs of mass social housing in a low-tax regime. The answer lay in strong growth and a “high land price policy”. However, the problem came when land and property prices dropped.
dramatically after 1997. This badly affected not simply government revenues and the housing market, but also a massive number of middle-class homeowners. A shrinking housing market affected demand, which set in train an extended period of low profitability for developers while homeowners suffered from an unprecedented level of negative equity. Then, coalitions of developers began to exert strong political pressure on the government to terminate the HOS policy, hoping that this could somehow boost the demand for middle-class housing again. Hong Kong’s property market began a slight upsurge in early 2004, however, it is not certain whether that was the result of the HOS moratorium or of an upswing in the economy.

What is more important to observe is that one can easily identify a close-knit collective of rentiers in Hong Kong who, as suggested by Logan and Molotch (1987) in their “growth machine thesis”, were able to exert a powerful political influence on the government’s housing policy, to their clear advantage. A few major developers take up more than 70% of the market and find themselves locked in an intrigue relationship with the government, each heavily dependent on the other through land sales and property development.

Two fundamental urban housing questions confront the Hong Kong government. First, given a housing market that has failed many times in the past to allocate housing efficiently, what role could be played by the government in terms of assisting low-income people to meet their housing needs? Second, given a politically powerful real estate sector and its likely domination, what role should the government play in terms of distributing housing benefits fairly among competing interest groups? Since land is an extremely scarce resource in a territory where zoning regulations mean that only one-tenth of the land can be used for development, the government has an extremely important role to play. If the government abstains from such a role and leaves the whole situation entirely to the market, experience since 1997 suggests that the result could be disastrous. Hong Kong’s rampant housing market in the 1980s has already produced colossal public policy mistakes in terms of housing policy and land use (Lee, 1999). No matter what lies ahead for Hong Kong, it has to be a situation which does not simply cater for the interest of the dominant coalition, but also balances the interest of all classes, and in particular the interests of low-income people and the middle class, who together form the backbone of Hong Kong’s labour force.

**Transport**

Hong Kong is well known for its traffic congestion and lack of road space. However, it has been appropriate for Hong Kong to adopt, historically, a compact city model, where a high concentration of the population in high-rise buildings in the urban areas has to a great extent made commuting efficient. In addition, a mass transit system run by heavily regulated public corporations has made
public transport accessible and affordable. The MTR (Mass Transit Railway) and the KCR (Kowloon-Canton Railway) serve about 11 million passengers daily, catering for the needs of 90% of the working population. It is one of the best-run public transport systems in the region. This section focuses on two major transport issues: first, the sustainability of internal transport and its impact on the environment; and second, the development of external transport, in particular, the port system, and how it competes with developments elsewhere in the region. While the first concerns internal commuting efficiency, the second is more about the compatibility of Hong Kong’s transport system with its long-range economic objectives.

One of the central issues of internal transport is its negative environmental impact. Hong Kong’s public road transport system at present relies too heavily on diesel-fuelled modes that account for two-thirds of the total number of vehicles, of which 53% are buses and 12% taxis. The Third Comprehensive Transport Study, completed in September 1999, evaluated the environmental costs and benefits of various transport options, one of which included the mandatory use of liquefied petroleum gas for all taxis registered from 2001 onwards, and the possibility of using alternatively fuelled vehicles such as electric trolley buses. The other major policy priority is the use of rail transport. Due to its high capacity, low marginal cost, and less polluting service, the rail system is given a high priority in the long-term infrastructure strategy.

The rail network also helps to locate strategic developments along rail corridors. With the opening of the Ma On Shan rail link in December 2004, the rail network system expanded by 40%, from 143 km to 200 km. There are extensive plans to further expand the rail system up to 2016 (Transport Department, 1999). Pedestrianisation is another issue being considered by the public transport system. However, while academics like Mahtab-uz-Zaman, Lau and So (2000) argue that pedestrianisation can help reduce the number of short motorised trips and consequently the pollutant emissions from vehicles, in reality very few people travel on foot as a result of the unfriendly and highly polluted walking environment in the city.

Highly concentrated vehicle movements in the urban areas have meant a rapidly deteriorating urban living environment. Regulated urban vehicle movement through electronic pricing was advocated in the 1990s. However, it never materialised as a result of organised opposition from commercial and private vehicles users, who largely represented capitalist interests. Interestingly, many middle-class private vehicle users are now more convinced about the long-term environmental impact of unchecked urban vehicle movements as evidenced by the gradual deterioration of air quality. Henceforth, regulated use of vehicles within particular zonings of the urban area will certainly be high on both the policy and political agendas of urban policy in the first two decades of the new millennium.
In terms of external transport, the highly independent operation of the transport terminals has inevitably affected relations between the government and private managers. Hong Kong’s integration into China raises questions about the organisation of space and the structure of the logistical chain of the maritime terminals.

One key feature Hong Kong’s port operation has been its domination by private sector initiatives (Oum and Waters, 1997). The government plays the role of a regulator through the Port Development Bureau and the Department for Environmental Protection. Is this the best institutional arrangement in terms of government’s responsibility in port operation? In fact, world maritime trade is growing at 2.2 times of the rate of economic growth, and the growth in container traffic has exceeded the growth in trade (Comtois and Rimmer, 1996). In 1996, more than 90% of the tonnage of Hong Kong’s international trade was transited by port infrastructure. In Hong Kong, the exceptional growth in container handling is the result of operations in the terminals in Kwai Chung, which account for 66% of all container operations. However, with this level of success, Hong Kong is now short of container space to keep up with trade expansion. The difficulty of reaching a consensus among all the jurisdictions in the urban environment, especially on the question of acquiring sites for port development, has led to a shifting of the terminal activities of Kwai Chung towards the periphery. In consequence, the private sector has encouraged the development of secondary terminals in the Pearl River Delta (Lu, 1997), as well as widespread illegal container storage in the New Territories, resulting in enormous environmental hazards (Ng, 2003).

In this context of transport policy development, two distinct urban questions stand out clearly. First, given the compact development of Hong Kong urbanisation, has the government been able to design a transport system which optimises both economic efficiency and the need for a sustainable living environment? Second, given the importance of the external transport system to Hong Kong’s long-term economic growth and other competing needs for land and infrastructure development, has the urban transport system been overly driven by economic development? These are important questions that do not have perfect answers. They will remain challenges for urban policy students and public policy makers in Hong Kong for decades to come.

Broad theoretical approaches

In the literature on urban theory, two major strands of thought can be identified. One holds that in order to compete in competitive global market places, a city must strive for economic growth. This can be termed the rational urban school (also known elsewhere as neoliberalism or neoconservatism). There is a clear tendency for this approach to rely on “economic logic” and rationality. The focus is on individual responsibility and entrepreneurial initiative, supported by a state
system which provides a legal framework where individuals and corporations can maximise their gains. Urban policy is thus about how the state can provide an environment where multiple players freely maximise their economic position through the market. Sometimes even the state is seen as one of the key players in the profit maximisation game.

The other approach can be termed the urban politics school. The central tenet of this approach is that politics lies at the very centre of all urban policy decision-making. It suggests that cities are not simply economic entities, but also political entities where politicians seek to build coalitions and gather support in order to influence urban decision-making. Urban policy outcomes tend to be the result of a series of political conflicts, negotiations and bargaining, culminating in what Bismarck referred to as “the art of the possible”.

While these two broad approaches fit many policy cases, there are grey areas which cannot be adequately covered by these two approaches. Why do some cities, like Singapore for example, use a collective and authoritative approach to manage their urban problems, while others, like Taiwan, use a liberal market approach? And how do both somehow manage to satisfy most people’s housing needs?

Savitch and Kantor (2002) put forward three general misconceptions about urban policy students. First, there is the argument that cities lose if business wins. Many researchers assume that public and private actors represent competing institutions whose goals are mutually exclusive. However, while governments often have different interests from the business sector, this does not necessarily mean that they are always in conflict. In 2002, when Hong Kong was deeply troubled by the aftermath of the Asian financial crisis, the proposal to have closer economic integration between Hong Kong and the Mainland (CEPA) was welcomed by the business sector, grassroots people and the government.

Second, it is often argued that with globalisation of the capital market, mobility of capital increases, thereby making urban locations less significant. In practice, however, there are locational advantages that do not easily change. For example, London, New York and Tokyo will always remain the global financial capitals, no matter how the world changes. In an era where human capital is enormously important, investors may find it difficult to move away from a well-educated work force. Indeed, with more advanced information technology, the traditional group of global cities/areas has been able to amass even more comparative advantages to dominate the market. Silicon Valley in California is a good example. With the bursting of the dotcom bubble in 2001, information technology manpower, instead of fleeing the area, concentrated even more as the whole area shifted towards biochemical engineering. A huge concentration of high technology manpower in one area can easily synergise technological creativity and hence well weather the negative effects of change in global aggregate demand.

Third, it is often argued that cities cannot choose since they are immobile. Only mobile businesses make choices. However it is also true that governments
have been able to sell themselves as tourist cities, university cities or even retirement cities. Experience sometimes teaches cities to realise their vulnerabilities and develop defence strategies against dominance by other cities.

**The urban political economy approach**

The rational urban approach and the urban political approach have been challenged by a third major approach — the *urban political economy approach*. This includes such theories as regime theory, the growth machine thesis, regulation theory, fiscal crisis theory and local state theory (Hill, 2000: p. 43). What is common to all these theories is an emphasis on contextual aspects in analysing changes of and challenges to local governance and urban policy (Vogel, 1992; Castells, 1979; Sassen, 1991; Stoker, 1990 & 1995; and Anttiroiko, 1996a & 1996b). Here, the focus is on just one of these theories — *the growth machine thesis* — advanced by John Logan and David Molotch in 1976. This theoretical framework is of particular relevance to Hong Kong since it takes land policy as central. Also, although the framework was advanced some 20 years ago, its relevance has not subsided and recently has attracted renewed attention (Jones and Wilson, 1999; Logan and Molotch, 1976).

The concept of “growth machine” defines modern cities as engines of economic development for business interests, where coalitions of land-based elites, tied to the economic potentials of land, drive urban politics in the direction of expanding the local economy. Individuals and institutions in the growth machine all profit from the intensification of land use, and thus wealth accumulates. The idea of the growth machine expresses certain important internal determinants of urban policy. The central concept is about *growth*. At the heart of it is the *rentier* class — developers, realtors, and banks who have an interest in the exchange of land and property. Rentiers are supported by a numbers of auxiliary players, including the media, universities, utilities, professional sports franchises and chambers of commerce (Jones and Wilson, 1999: p. 5).

Around land, it is suggested, there is a powerful amalgam of groups strongly interested in growth. Stakeholders will do everything to protect their respective interest. Thus the growth machine thesis is not purely about economics. It argues for a powerful influence in which public officials, local media, and even labour union leaders are drawn into the coalition, working in well-coordinated unison for wealth accumulation. Using this approach to analyse urban development in Los Angeles — probably the most chaotic urban sprawl one can find in North America — Mike Davis, in his acclaimed book *Ecology of Fear: LA and the Imagination of Disaster* (1998), described how the collective of rentiers has no interest in public investment designed to enhance the well-being of ordinary city dwellers and, as a result, urban policy is a nightmare for all but the most affluent. With no hope for improving the underlying social conditions, people are thus forced instead
to make increasing public and private investments in physical security (Davis, 1998).

For the growth machine to continue to work, “parochial capital” is not the only thing that matters. There is also a need to attract more national/international capital in order to promote growth in the locality. The allies of rentiers need to pursue their objectives by involving investors of metropolitan capital, politicians, local media, quasi-public agencies and auxiliary players in the growth machine. The growth machine tries to legitimise the gains of its members and disarm critics by espousing an ideology of value-free development, which claims that economic growth is good for all. Does this description sound all too familiar in Hong Kong when the government was arguing in a recent legal case for the listing of the Link Corporation on the Hong Kong Stock Exchange, as well as for the legality of the Housing Authority’s setting up a real estate investment trust (REIT) for the sale of public housing assets in December 2004?

**Contextual background affecting Hong Kong’s urban policy**

Given this broad conceptual background, it is necessary to turn to some specific contextual factors that are required for a better understanding of contemporary urban policy in Hong Kong. Three such factors are considered here. First, Hong Kong has since 1997 been transformed from a British colony to a Special Administrative Region under China. While the Basic Law heralds the spirit of “no change for 50 years”, in fact, subtle changes have occurred since 1997, the most salient change being the domination of a pro-business ethos throughout the administration and the legislature. This is not to suggest that business interests did not dominate before 1997. Rather, it is the degree and the salience of business interests after 1997 that matters.

The second factor is the adverse effect of the Asian financial crisis on the economy. Since October 1997, Hong Kong’s economic growth has shrunk enormously, dealing a serious blow to the equity and property markets. Because Hong Kong has demonstrated a high dependency on the real-estate market, failure to stabilise house prices after the economic bubble of 1997 constituted one of the major reasons behind the downfall of the Tung administration in 2005.

Third, perhaps the most significant contextual factor which affects urban policy is the slow but progressive change in Hong Kong’s economy. While Hong Kong’s political sovereignty has rested with China since 1997, its economic integration with the Mainland started much earlier. As a result of Hong Kong’s rising real wages in the early 1980s, many manufacturers shifted their production base to the Pearl River Delta, especially the nearby Shenzhen and Dongguan areas, where there is an abundant supply of relatively cheap semi-skilled labour. This has led to what some urban scholars have call a “hollowing out” of Hong Kong’s manufacturing industries (Sum, 2002). The process has eroded one of Hong Kong’s three main economic pillars — manufacturing.
To regain its equilibrium, Hong Kong needs to identify a new mode of production. This led to two major studies: the first by a group of Harvard Business School consultants in a report titled *The Hong Kong Advantage*. The second was by consultants from Massachusetts Institute of Technology, issued in a report *Made by Hong Kong* (Enright, 1997). The first report suggested that Hong Kong should adopt a business/service/financial hub function, moving beyond the “gateway to China” image to build a knowledge-based economy with access to the Mainland and the Asia-Pacific region. Initiated by the industrial sector, the second report emphasised transforming Hong Kong into a high-tech manufacturing centre, and is considered a much more place-based approach. Sum (2002) argues that the drafting of these two reports during 1997 represents part and parcel of a process of struggle, whereby Hong Kong seeks to reposition itself in its relations with both China and the world. While the government seems to have departed from a traditional policy of positive non-interventionism to one of “maximum support and minimum intervention” in high-tech manufacturing and facilitating IT development, it is doubtful whether this new ethos will take shape in the near future (Financial Secretary, 2002).

These three important contextual changes — a pro-business polity, weak governance after the economic crisis, and a restructuring and extension of Hong Kong’s economic activities into China — together brought a sea change to the development of Hong Kong, and in many ways affected how urban policy evolved.

**Contemporary urban policy cases in Hong Kong**

Three pieces of city news came to dominate the Hong Kong media and public interest in 2004. They represent important facets of urban policy within this unique capitalist enclave. Instead of being simply snapshots, they reflect the culmination of a number of social processes long at work, which will invariably shape urban policy development.

**Death of the fragrant harbour**

The first case concerns the extended reclamation of the Hong Kong harbour — the narrow waterway which for decades provided Hong Kong with its much cherished name — “fragrant harbour”. Strong opposition from local environmental groups greeted the original proposal submitted in 1997 to create 18 hectares of land from the Central District shore of Victoria Harbour to build a bypass to ease downtown congestion. Despite a court ruling against protesters in April 2004 that ended years of legal battles, organisers of the save-the-harbour movement said in September 2004 that they intended to continue their campaign. “The harbour
belongs to us and they should give it back to us," insisted Winston Chu, the leader and campaign coordinator of the Society for the Protection of the Harbour — a civil body established to fight the government’s move in recent years to change the harbour’s landscape in order to create land for Central District’s transport development. Chu and fellow campaign leader Christine Loh, a social activist and an ex-legislator, said the government had misled citizens when it said the reclamation would be limited only to what it needed to build the bypass, and claimed the scale of the reclamation had gone far beyond what was acceptable to society. It has now become a prolonged civil dispute on urban policy that has awakened many Hong Kong citizens about their rights and responsibilities towards their own urban environment.

**West Kowloon Cultural District project**

The second case is the West Kowloon Cultural District (WKCD) project, located on a massive piece of reclaimed harbour land one-third the size of the Kowloon peninsula. With land so precious in a metropolis like Hong Kong, the development potential of this piece of reclaimed waterfront is understandable. Major developers informally lobbied senior government officials on how this project could be transformed into a commercial-cum-cultural venture, on a self-financing basis. The government’s subsequent public announcement in September 2003 this 40-hectare waterfront site at the southern tip of West Kowloon would become an integrated arts, cultural and entertainment district was, after all, well conceived. It suggested that “the WKCD would not only facilitate the development of arts and culture, it would also improve the quality of life of the community and promote Hong Kong’s attractiveness as a tourist destination” (Government Information Service, 2004). In addition, the project would generate significant employment opportunities, estimated at about 6,000 jobs in the short term. It was envisaged that with construction beginning in April 2007, the core arts and cultural facilities would come into operation in phases from 2011 onwards. However, since the announcement of the project, enormous controversy has emerged centring on two issues: first, whether or not the project has been dominated by real estate interest rather than cultural interest; and second, whether such a monumental scheme is the best way ahead for Hong Kong in terms of long-term cultural development.

**Rent increase for public housing**

The third case concerns a legal controversy over the issue of rent increase in public housing. On 22 November 2004, the Court of Appeal in Hong Kong allowed an appeal by the Housing Authority against a judicial review of the HA’s decision
to defer a public housing rent review. The immediate implication of this court judgment was that the HA was allowed to maintain its current rent levels, which were over and above the 10% of median rent-to-income ratio stipulated by the law to protect public tenants from unfair rent increases. Tenants and community organisations were unhappy about this outcome. They considered the 2004 rent level unjustifiably high in view of the deflationary economy since 1997. However, the long-term implication of the judgment is even more important. Hong Kong’s public housing system might lose its capacity to locate a fair rent level compatible with affordability, which may undermine the very sustainability of one of the most important public institutions — public housing.

**Urban policy questions**

What is it that makes these three cases *urban policy*? The first case fundamentally concerns a conflict between environmental interests and transport development. In simple terms, the government wants to upgrade the road system while the public wants to preserve the harbour. The government’s argument is that if a bypass is not built by 2010, the entire central business district (CBD) will be jammed by traffic. Hong Kong as a global city will lose its attraction to foreign investment, unless an equally efficient CBD is built elsewhere. However, the deep-water harbour has always been seen as an attraction to international shipping transport. In addition, the government recognises the enormous tourist potential of a beautiful harbour. Hence, essentially there should be no conflict of interest between the government and the people. However, if we look beneath the surface, things appear quite different. While it is the long-term goal of the bureaucrats to maintain Hong Kong’s fragrant harbour, there is a much more pressing demand from the Transport Department to deal with traffic congestion in the short run, not to mention informal lobbying that might have occurred between big businessmen in the CBD and government officials. There are contradictory forces at work on what should be the priorities in urban development. A student of urban policy needs to ask what these forces are and why a certain value needs to be pursued. It is only through a firm grasp of the issue, and the values behind it, that we can begin to ascertain the whole issue, and why a certain stand needs to be taken.

In the second case, the conflict centres on what constitutes “cultural development” and whether or not government should leave the WKCD entirely to imperfect market forces. After the invitation for proposals commenced in early 2004, the government received five submissions in June 2004. As expected, all of the proposals came from major developers (or companies set up by developers for the project). They were: World City Culture Park Limited, Sunny Development Limited, Swire Properties Limited, Dynamic Star International Limited and Mr Lam Sze-tat (Hong Kong Government Information Service, 19 June 2004). The public was concerned with two things: whether the tenders would be fairly
and openly selected; and whether or not there was too much real estate interest amongst the tenders. The rationale behind the first concern is that, given the scale of the project, a *single package approach* (the entire 40-hectare development being undertaken by a single firm) may restrict the number of bidders by excluding small and medium-sized developers, and thereby undermine the principle of fair competition. It was considered that undesirable competition may leave the government in an unfavourable position when negotiating the details of the project. Although in 2005 Chief Executive Donald Tsang finally gave up the single package approach, the question of fair competition still largely remains (Hong Kong Government, 7 October 2005). The rationale behind the second concern is about the whole idea of “culture” and the project’s relationship with the overall cultural policy of Hong Kong. One of the major criticisms from the public is that the project lacks participation from the arts and cultural sector, not to mention from the general public. One proposal made by the Legislative Council is that the whole project should be supervised by a super authority, since the piece of land carries so much public interest. In this case, the urban policy question one could raise is: whose interest should prevail when coming to deciding on a project of this nature? Should the capitalists who wield the ultimate power in mobilising investment resources have the final say? Or should the people hold the final say? Or should there be an interaction between the two with the government acting as an umpire? No matter how the question is posed, undoubtedly it cuts across various interest groups and the question is through what means should this decision be made.

The third case touches on public rental housing as social policy. The question is really whether an affordable rent level can be set for public housing tenants. Although a law passed in 1997 provides the framework for such protection, unfortunately the government has found itself trapped in a dilemma as the whole organisation of public housing runs into conflict with the legislation, which has resulted in a series of legal battles with public housing tenants. What is interesting is that once a matter of social justice enters the judicial process, it tends to be completely devoured by the technicality of procedural justice, rendering the original purpose of social policy obsolete. In November 2005, the Court of Final Appeal finally put this case to rest by ruling that the rent review only applies to a rent increase, not decrease, since the law was made with inflation rather than deflation in mind (Government Information Service, 21 November 2005). In this urban policy case, the balance of social justice has certainly been tilted towards the government.

In analysing the above cases, it is certainly possible to make good use of the three theoretical perspectives described in the previous section. The harbour reclamation issue was seen as a rational choice by the government but as a value issue by civic groups. The WKCD issue is essentially a conflict of land interest, and can certainly make a good use of the urban political economy framework. Its ultimate solution lies in a fair mediation of all interest parties and stakeholders.
The third case is more intriguing. It involved the righting of a policy error which required a fundamental change in public housing policy. What was unfortunate was that the court was asked to judge a policy issue which should have been better dealt with by bureaucrats. As a result, the court’s final judgment reflects more procedural justice rather than social justice. Public housing tenants were left in disarray as to what they should trust or believe when negotiating rent adjustments again with the government in future.

Prospects for change: Community participation and sustainable development

This then brings us to two important related concepts: community participation and sustainable development. One common thread which ties the three cases together is whether or not in deciding these key urban policies Hong Kong citizens have a role to play. Although the government has institutionalised many public consultation devices over the years in an effort to improve public accountability, Hong Kong citizens still play a very limited role in the deliberation of major urban policies. For example, the HA has thus far no elected members and most of its appointed members represent professional rather than tenant interests. With almost half of the population living in public housing, it is inconceivable why housing policies are made largely on the basis of executive and professional judgment.

The Town Planning Board is another institution lacking public participation. It is a statutory body with the power to decide on land use through the systematic preparation of plans for Hong Kong. In accordance with the Town Planning Regulations, the Board directs the Director of Planning to formulate, monitor and review town plans, planning policies and programmes for the physical development of Hong Kong (Hong Kong Government, http://www.info.gov.hk/tpb). Out of its 33 appointed members for 2004–06, nearly 80% were professionals related to the planning and the housing sector. Only a few lay members were able to represent the interests of the public.

Getting people involved in decision making, making them active citizens, has to be more than mere tokenism. Arnstein, in a seminal article, suggested a ladder of participation where the first two rungs — therapy and manipulation — were effectively non-participation (Arnstein, 1969). Rungs three to five — informing, consulting, and placating — were degrees of tokenism. It was only on the last three rungs — partnership, delegated power and citizen control — that effective degrees of citizen participation were possible. Participation, as is well known, differs amongst people according to their personal characteristics, life circumstances and attitudes. Hill (2000) suggested that it is often the middle aged, middle class and better-educated people who participate most. It is also said that the relationship between community identity and participation is ambiguous, and that a sense of community may not necessarily translate itself into a high level
of participation. In the last decade, however, significant numbers of Hong Kong people did play an active part in urban politics, as elected representatives on district boards and the Legislative Council, or as members of pressure groups or self-help groups. Certainly they have played a significant role in the three cases discussed here. Within a political system where the full democratic process is absent, active community participation is seen as the only alternative whereby people might exercise some degree of political influence over the way the city is governed.

Another dimension of urban policy that has emerged at the forefront of Hong Kong’s urban policy debate has been the idea and implementation of sustainable development (SD). In September 1997, the Hong Kong government commissioned the 21st Century Study on Sustainable Development (SUSDEV 21), as SD was cited in the 1997 Policy Address by the chief executive as one of the most important urban policy initiatives. In the SUSDEV 21 Final Report, SD was defined as “the society’s collective efforts to balance social, economic and environmental needs, both for the present and future generations, to simultaneously achieving a vibrant economy, social progress, and better environmental quality, locally, nationally and internationally, through the efforts of the community and the government” (Mottershead, 2004: p. 103). In order to achieve these objectives, the Hong Kong government set up the Sustainable Development Unit (SDU) in 2001 under the Administration Wing of the chief secretary for administration. The aim is to provide support for the subsequent Council for Sustainable Development — a statutory body to oversee the development of SD with all members appointed by the chief executive.

However, despite the setting up of these institutions, Hong Kong has always been criticised as significantly lagging behind the global community in terms of SD. In Hong Kong, with the exception of some non-governmental organisations, SD remains more a concept in planning than a realised path to better quality of life for the majority of citizens. What Hong Kong needs, according to Le Grand (2004: p. 352) is a concrete urban policy agenda that could be implemented in different sectors of the economy. For instance, that since housing is so overcrowded in Hong Kong, there is clearly a need for the construction of more environmentally friendly housing estates. Or, as Hopkinson (2004: p. 378) argued, in order to have a long-term sustainable transport policy, Hong Kong must begin to seriously consider restraining vehicle growth and use. Experience from around the world indicates the many benefits of vehicle restraint schemes. Singapore is perhaps the best example. However, the Transport Department dismissed the need for an Electronic Road Pricing system in 2001, largely for political reasons. Increasingly, the issue becomes more controversial with likely oppositions from road-users having to pay for something that has so far been free.
Conclusion

This chapter has argued that the “urban” nature of many public policies is intimately linked to the dynamics and the limitations of modern capitalism. It has also suggested that in order to understand the dynamics of urban policy, we need to employ the urban political economy approach as well as grasping fully the various contextual factors that have come to influence Hong Kong’s urban policy development in recent years.

The essence of the approach in general, and the growth machine thesis in particular, lies in the identification of a circle of rentiers seeking to protect their private interests in land or housing. The three cases presented here are representative examples of a complex structure of interest articulation in urban policy. There has been a clear tendency for the public to be much more articulate and organised in terms of influencing policy making in recent years, coinciding with the decline of governability and weak administration. However, seen in the light of civil-society development, organised civil activities should be viewed as a healthy development in a highly centralised city which, unfortunately, lacks proper institutional support for participation by the public. Although its members are all appointed, the newly established Council for Sustainable Development may still serve a test case of whether the government is willing to use its appointment power to allow greater public participation for future urban policy making. As John F. Kennedy said, “there are risks and costs to a programme of action but they are far less than the long-range risks and costs of comfortable inaction”.

REFERENCES


Ng, H. M. (2005) *The Political Economy of Illegal Containerization in the New Territories*, unpublished MPhil Dissertation, Department of Public and Social Administration, City University of Hong Kong.


QUESTIONS

1. Why is “urban policy” a separate domain from the general research on public policy?
2. What are the domains of urban policy?
3. What are the main theoretical debates on urban policy?
4. In what way could the urban political economy approach help you to understand housing policy better within the Hong Kong context?
5. Whose interests should prevail in the housing policy of Hong Kong: the tenants, the taxpayers, or the developers? What mechanism should be used to settle their disputes in interests and values? Should it be the courts or the legislature?

USEFUL WEBSITES

Transport Department
   http://www.info.gov.hk/td

Housing Authority
   http://www.housingauthority.gov.hk

Sustainable Development

Land use and administration
   http://hkila.org.hk/
   http://www.info.gov.hk/landsd/

Information on US urban policy
   http://www.huduser.org/

United Nations information on urban policy and human settlement
   http://www.uncha.org/

Asian information on urban policy
   http://aric.adb.org

FURTHER READING

For the best introduction to the subject, see Hill (2000) *Urban Policy and Politics in Britain* (although it is a UK book, chapters 1–5 have good general application). For the most
PART IV

Political Environment
(Chapters 13 to 14)
Summary introduction

The final part of this volume examines the political environment in which the HKSAR finds itself after the 1997 handover.

In Chapter 13, Ray Yep examines links between the SAR and the Mainland. On the one hand, Hong Kong’s economy is becoming increasingly integrated with that of the Mainland, and many communication channels are opening up as a result of this. On the other, there are many conflicts between Hong Kong and the Mainland at the level of values, and a degree of mutual distrust is very apparent. Yep considers two key questions that emerge from this tension. Why has it come about? How might it be overcome in the years ahead? To answer the first question, he notes that there have been some policy blunders on the part of both Beijing and the HKSAR government. To answer the second question, he focuses on changes that might be introduced by the chief executive of the SAR, arguing that democratisation is the only way forward.

In Chapter 14, Ting Wai and Ellen Lai analyse the role and place of the SAR in the wider world. They note that even though Hong Kong is now formally part of China, it remains an international city with strong links to the West. They argue that this dimension of Hong Kong’s global positioning is fully acknowledged by Beijing, and on this basis they hold that the status quo is largely in the interests of all key players. However, they note that there are some challenges to Hong Kong’s international status, particularly since China’s accession to the World Trade Organisation gives it direct links into the global economy that effectively bypass Hong Kong. Nevertheless, they maintain that it is in the best interests of Hong Kong for China to be open to globalisation and receptive to the benefits that economic interdependence can bring. This, they argue, will be the best guarantee of Hong Kong’s international status in the long run.
The intricacies of the process of Hong Kong’s retrocession to Chinese sovereignty are vividly reflected in the Janus-faced Hong Kong–Mainland relationship during the first decade of the post-handover period. On the one hand, one witnesses the growing intensity of economic integration, and the parallel proliferation of formal mechanisms of communication and coordination across the border. On the other hand, conflicting values and mutual distrust, particularly over issues of human rights, democracy and autonomy, have galvanised demonstrations and protests of monumental scale during the period. How could this have happened? What is wrong with the communication? And what can be done to improve it? While this chapter argues that Beijing’s misguided Hong Kong policy and the indifference to social and political realities of Tung Chee-hwa’s administration are the major culprits in provoking this growing tension, the painful psychological adjustment of Hong Kong people may also obstruct the emergence of a cordial interaction. Although many local people still maintain a sense of superiority over Mainlanders, their sentiment is very much offset by the economic reality of growing dependence on China’s economy. Such a mixed feeling may nurture some kind of social distance between people across the border.

The chapter is divided into three parts. The first part provides a general overview of the extent of social and economic integration between Hong Kong and the Mainland. The second part sketches out the formal communication channels between the two administrations. It is followed by an analysis of the irony of the growing tension between Hong Kong and the Mainland in spite of the growing integration and bureaucratic exchanges. The roles of Beijing, the Tung administration and the Hong Kong people are critically examined.

Economic integration

Even before the sovereignty handover, Hong Kong’s economy benefited from China’s open-door policy and became increasingly integrated with the Mainland.
The coincidence of the handover and the onset of the Asian financial crisis ensured the continuation of the trend under the Special Administrative Region (SAR). On the one hand, Hong Kong’s stalled economy made it more desperate for external economic stimuli. On the other, the phenomenal growth of China’s economy and the rapid opening up of its market made it the obvious place to turn to. At the same time, China’s presence in the Hong Kong economy also expanded considerably, and by 2004 China was the second largest investor in the territory, with a total accumulated investment of US$131 billion, or 29% of total inward investment (Table 13.1). Over 2000 Mainland enterprises currently operate in Hong Kong and account for about 25% of the market shares in the banking, insurance, shopping and tourism businesses in the territory (Hong Kong Yearbook 2003: chapter 3).

Table 13.1 Inward direct investment in Hong Kong by major investor economy, 2004

<table>
<thead>
<tr>
<th>Major investor economy</th>
<th>Stock of inward direct investment at market value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>HK$ billion</td>
</tr>
<tr>
<td>Mainland China</td>
<td>1,020.1</td>
</tr>
<tr>
<td>British Virgin Islands</td>
<td>1,029.3</td>
</tr>
<tr>
<td>Bermuda</td>
<td>272.2</td>
</tr>
<tr>
<td>Netherlands</td>
<td>307.2</td>
</tr>
<tr>
<td>United States</td>
<td>243.5</td>
</tr>
<tr>
<td>Cayman Islands</td>
<td>61.6</td>
</tr>
<tr>
<td>Japan</td>
<td>148.2</td>
</tr>
<tr>
<td>Singapore</td>
<td>87.1</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>70.0</td>
</tr>
<tr>
<td>Canada</td>
<td>29.1</td>
</tr>
<tr>
<td>Others</td>
<td>253.3</td>
</tr>
<tr>
<td>Total</td>
<td>3,521.9</td>
</tr>
</tbody>
</table>


Integration with the Mainland economy also entails an outflow of capital across the border. The last two decades have witnessed a dramatic relocation of Hong Kong companies northwards to exploit the wage gap between the two economies. Investments in China are now significant components of the business portfolio of leading Hong Kong conglomerates (Table 13.2). According to a survey conducted by the Federation of Hong Kong Industries, 11 million Mainland workers are directly or indirectly employed by Hong Kong ventures, of whom 10 million are in Guangdong. This is about 57 times the total labour force of Hong Kong’s own manufacturing sector (Hong Kong Yearbook 2003: chapter 3).

Hong Kong’s financial links with the Mainland have also been expanded significantly over the last decade. The Bank of China (Hong Kong) Limited is now
the second largest banking group in Hong Kong, and one of the three note-issuing banks. And since 1995, three other state-owned banks, the China Construction Bank, the Agricultural Bank of China, and the Industrial and Commercial Bank of China, have started to operate in the territory. Faced with growing cross-border banking transactions, joint cheque clearing facilities have been further extended. In 2003, about 250,000 cheques, totalling HK$22 billion, were settled through two-way joint clearing facilities. A major breakthrough came in November 2003 when the People’s Bank of China agreed to provide clearing arrangements for personal Renminbi (RMB) business in Hong Kong, thus allowing selected banks in Hong Kong to undertake RMB business including deposit-taking, exchange, remittances and RMB cards (Hong Kong Yearbook 2003: chapter 4). Nonetheless, the role of Hong Kong as a leading international financial centre appears to be the main catalyst for growing financial linkages between the two economies. Hong Kong has been serving as a major funding centre for Mainland enterprises. By the end of 2003, a total of 64 state-owned Mainland enterprises were listed on the main board of Hong Kong’s stock market, raising a total equity capital of 191 billion. In addition, another 72 non-state-owned Mainland enterprises were also listed by end-2003, raising a total of HK$590 billion (Hong Kong Yearbook 2003, chapter 3). Apart from the equity market, Mainland enterprises also raise capital in Hong Kong by issuance of bonds, project financing and loan syndication.

A similar pattern of vibrant exchanges an also be observed in the growing cross-border traffic of goods and personnel. The Mainland is Hong Kong’s largest trading partner, accounting for 43% of Hong Kong’s overall trade value in 2003. In the same year, 44% of Hong Kong’s imports originated from China, whereas 44% of re-exports and 30% of domestic exports were for Mainland consumers (Hong Kong Yearbook 2003, chapter 3). In 2003, the cross-boundary vehicular

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\text{Table 13.2 Investments of selected Hong Kong companies in Mainland China, 2002}
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<table>
<thead>
<tr>
<th></th>
<th>Assets in China (HK$m)</th>
<th>Proportion of total investment (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>PCCW*</td>
<td>4,708</td>
<td>13.4</td>
</tr>
<tr>
<td>Wharf China</td>
<td>5,766</td>
<td>9.4</td>
</tr>
<tr>
<td>Cheung Kong Holdings</td>
<td>11,538</td>
<td>17.1</td>
</tr>
<tr>
<td>Hutchison Whampoa</td>
<td>N/A</td>
<td>14.0</td>
</tr>
<tr>
<td>Henderson China Holdings</td>
<td>N/A</td>
<td>12.6</td>
</tr>
<tr>
<td>New World Development</td>
<td>23,898</td>
<td>29.0</td>
</tr>
</tbody>
</table>

*Includes investments in Taiwan

traffic flow averaged 35,800 vehicles a day. Passenger traffic was no less impressive with a daily average of 332,000 (Hong Kong Yearbook 2003: chapter 13). With the relaxation of restrictions on individual travel by Chinese citizens, Hong Kong also appears to be a popular destination for Mainland travellers. In 2004, more than 400,000 headed to Hong Kong for the week-long National Day holiday and Mainland tourists are now the most important source of tourism income for the territory, with more than 50% of the visitors to Hong Kong being from the Mainland (South China Morning Post, 8 December 2004: City 10).

However, some visitors plan to have a more extended stay. Migration from the Mainland continues to be the major source of population growth, with Hong Kong issuing 150 one-way permits daily. While the majority of these immigrants are admitted on a family reunion basis, new measures have been introduced to improve the overall quality of Mainland migrants. A new Admission Scheme for Mainland Talents and Professionals and a Capital Investment Entrant Scheme, intended to entice more educated and richer migrants from the Mainland, were launched in 2003 (Yep, Ngok and Zhu, 2004).

The integration process received further impetus from the conclusion of the Closer Economic Partnership Arrangement (CEPA) and the announcement of the grandiose plan of Pan-Pearl River Development over the last two years. Introduced in late 2003, the signing of the CEPA signified the commencement of a new wave of economic favours from Beijing. Major provisions of the agreement include zero tariffs for more than 1,000 categories of Hong Kong’s export to the Mainland, lowering of entry requirements for Hong Kong investment in selected sectors, and simplification of the application procedure for obtaining professional qualifications in the Mainland. While it is too early to conclude on the actual impact of these innovations, the agreement is intended to facilitate Hong Kong’s access to the China market.

Yet the potential impact of CEPA is dwarfed by the promise inherent in the visionary plan of the Pan-Pearl River Delta Development announced in 2004. The plan, also known as the “9+2 Plan”, involves nine provinces and autonomous regions — Guangdong, Fujian, Jiangxi, Guizhou, Sichuan, Yunnan, Hunan, Hainan and the Guangxi autonomous region — and two SARs — Hong Kong and Macau. Recognising the hindrances of limited space and rising cost in the Pearl River Delta, Guangdong envisages that while inland provinces could provide cheap land, labour and natural resources, Guangdong, Hong Kong and Macau would supply capital, technology and management expertise (South China Morning Post, 31 May 2004: Editorial 2). Hong Kong is assigned the role of an international service hub focusing on logistics and finance. The size of the potential benefit could be astronomical as it implies integration into a region of a population of 450 million and a GDP of more than HKD 5 trillion (South China Morning Post, 10 May 2004: Editorial 1). However, a more immediate benefit derives from the priority of coordination of logistic and infrastructural investment under the
“9+2 Plan”. Anxiety derives from the belief that the flow of goods and resources could be greatly enhanced with improved transport networks linking up all the participating regions and provinces. Guangdong aims at having at least one expressway and other highways to every neighbouring province and plans to have all prefecture-level cities connected to Hong Kong and Macau with expressways (South China Morning Post, 16 February 2004: Business 2). The proposed transport network would greatly enhance Hong Kong’s access to the interior economy.

**Proliferation of communication channels**

The acceleration of economic integration warrants a more developed cross-border communication mechanism. The original intent of the Basic Law drafters was to maintain a vertical line of dialogue between the HKSARG and the Mainland. That is, the Central People’s Government (CPG) and designated bodies in Hong Kong would be the only contact points between the two systems. No other central ministry or sub-national administration is allowed to set up office in the territory without the consent of the HKSARG and the approval of the CPG. The rationale is to enhance the immunity of Hong Kong to unwarranted Mainland influence and pressure. Nevertheless, with the dramatic multiplication of the volume of cross-border exchange and transactions since 1997, there has been a strong need for better coordination and communication at regional and departmental levels. A multi-level and horizontal framework of exchange focusing on specific issues and functional needs has thus emerged to supplement the original vertical grid of communication.

**Vertical communication**

At the apex of this hierarchy lies the Party Central Hong Kong and Macau Work Coordination Group chaired by Zeng Qinghong, the vice-president of the People’s Republic of China, who is also a Politburo Standing Committee member. Another key figure in the work group is Tang Jiaxuan, the state councillor responsible for Hong Kong and Macau affairs. This body is where key decisions concerning Hong Kong development are made. At the implementation level, four central units are involved in Hong Kong affairs, the Central People’s Government Liaison Office (CPGLO), the State Council Hong Kong and Macau Affairs Office, the Ministry of Foreign Affairs, and the People’s Liberation Army (PLA). With the exception of the State Council Hong Kong and Macau Affairs Office, all these units have their own agency in Hong Kong. Together they form the core of Beijing’s presence in the HKSAR and the major contact points with the CPG.
President of the People’s Government Liaison Office

Officially, the fundamental role of the CPGLO is to facilitate interaction between Mainland agencies and the local community. In the terminology of the Chinese Communist Party (CCP), its major role is to perform united-front work. One of its key functions is to organise and coordinate the election of Hong Kong deputies to the National People’s Congress (NPC) and the selection of Hong Kong delegates to the National Committee of the Chinese People’s Political Consultative Conference (CPPCC). Thus, it plays a key role identifying “patriots” and such a patronage power greatly enhances its political clout in the local scene. Since the 1 July demonstration in 2003, there has been significant expansion of its establishment with two new divisions specialising in united-front work, with local police and social organisations created (Ming Pao, 19 January 2005: A12). Its supervising authority in Beijing is unclear as it is within the jurisdiction of no department or ministry at the central level. With Tang Jiaxuan designated as the state councillor with a portfolio of Hong Kong affairs, the CPGLO is probably accountable to Tang.

However, the most important role of the CPGLO is to coordinate CCP activities in Hong Kong. The operation of CCP activities in the territory is extremely secretive and little is known outside the circle. Before 1997, the Hong Kong branch of CCP was under the leadership of the Guangdong party boss, as the supervision of the CCP Hong Kong–Macau Committee fell within the portfolio of the party secretary of Guangdong Province. A more direct communication between party administrations in Beijing and Hong Kong was established after the handover. The Hong Kong Party Committee is now located within the CPGLO, as the director of the office probably serves as the local party boss as well. It is within the CPGLO’s jurisdiction to handle the party business of Mainland enterprises and other entities in Hong Kong. In other words, it performs some kind of regional coordination (kuai) of party activities in all Mainland representations in Hong Kong. Yet its authority over these bodies should not be exaggerated as these bodies are also under the vertical supervision of their superior outside Hong Kong along the functional line (tiao).

Little is known about the structure or organisation for coordinating local recruits. It is likely that the recruitment remains highly selective with membership confined to the most influential people in the local community. As the former director of the New China News Agency Xu Jiatun recalled, there were only about 6,000 Party members in Hong Kong during his time here. The communication between members and the party organisation appears to be vertical; that is, each local member reports directly to the local party boss with no interaction with other members. It is probable that an individual member has no knowledge of the identity of other members in the territory. Such paucity of information may perversely enhance the surveillance effect on individual members.
OFFICE OF THE COMMISSIONER OF THE MINISTRY OF FOREIGN AFFAIRS

As defence and diplomatic matters are outside the scope of delegated powers to the HKSARG, diplomatic affairs concerning Hong Kong are handled by the Office of the Commissioner of the Ministry of Foreign Affairs of the PRC in HKSAR (OCMFA). Its major responsibilities are to liaise with the consular community in Hong Kong and handle issues concerning the implementation of international covenants and agreements applicable in the SAR. Arrangements for high-profile visits of foreign delegations or dignitaries, like the visit of the American navy, also falls under its jurisdiction. Compared with the CPGLO, the OCMFA in general has remained reticent on local politics, especially during the first term of Tung administration.

THE PEOPLE’S LIBERATION ARMY GARRISON

Of the three systems of central representation in Hong Kong, the PLA is most cautious in maintaining its low profile in local affairs. Regarded as a symbol of sovereignty actualisation, the 4,000-strong garrison has remained well-disciplined and highly civilised since its dispatch to Hong Kong in 1997. Soldiers are mostly hid away from media attention and only make public appearances in well-rehearsed and exemplary fashion during highly selected events, such as the annual Open Day of the PLA barracks, and the gala event of Olympic medallists’ visits to Hong Kong.

HKSAR CHIEF EXECUTIVE

The chief executive enjoys the option to bypass these three agencies if he prefers a more direct communication with the CPG as he is not, formally speaking, obliged to report to or consult these bodies on Hong Kong–Mainland matters. The State Council Hong Kong and Macau Office serves as an important conduit for exchange between Beijing and Hong Kong. The office has no representative agency in Hong Kong though it allegedly set up a work team in Shenzhen for intelligence purposes after the 1 July demonstration in 2003. The regular tour to Beijing for duty-report also provides valuable opportunities for the chief executive to get his voice heard at the very top. Thus, the picture conveyed by the chief executive constitutes a very important frame of reference for the top leaders in formulating policy towards Hong Kong. He is an important gatekeeper in defining the Hong Kong “reality” with crucial power in selecting inputs and interpretations. Nevertheless, access to these summits depends very much on the connection and political skills of the chief executive and his rapport with the top leaders.
Communication with Beijing is ironically hindered by the immunity of Hong Kong to intervention from various Mainland bureaucracies. A typical sub-national administration in China is subject to a number of control mechanisms:

- the dual control system: local administrative units are simultaneously under a vertical hierarchy of control along the functional line and the horizontal supervision of the regional government;
- the CCP network: party organisations are established in all local units which are, in turn, subject to the command of the party centre;
- the nomenklatura system: the Party controls key personnel decisions at each level of the administration;
- the imposition of economic and budgetary targets for local implementation.

However, the exclusion of the HKSAR from these control mechanisms ironically implies that the SAR is deprived of access to key avenues for making decisions that may have immediate implications for its interests. As for local governments, the control mechanism also entails opportunities for expressing concern, raising objections, finding allies and cutting deals. The token representation of Hong Kong in the NPC and the CPPCC is hardly a substitute for involvement in conferences and meetings organised by ministries, state commissions, or party organisations. Nor is Hong Kong able to develop the understanding and loyalty that exist among local officials who share decades of collaboration in specific policy areas.

Political segregation from Mainland politics is intended to protect the unique position of the SAR, but the privilege has also weakened Hong Kong’s bargaining power vis-à-vis the CPG. In spite of the country’s authoritarianism and unitary character, local support is always crucial for top leaders in China. Furthermore, one should not forget the king-making role of local officials at historical junctures. Local officials were key allies for Mao in his struggle against the “capitalist roaders” during the Cultural Revolution. Shirk pointed out the importance of rewarding local governments with autonomy and generous profit-sharing schemes for Deng Xiaoping’s reform faction (Shirk, 1993). The incremental character of the post-Mao reforms works in favour of local governments, as the “bandwagon effect” of local success unleashes momentum for further reform (Chung, 2000). The CCP Central Committee membership reserved for leading officials at provincial level is a licence for influence and exchange. The aloofness of the HKSAR from this politicking implies a reduced bargaining power against Beijing (Holliday, Ma and Yep, 2004).

**Horizontal communication**

Many new channels of communication have emerged over the last few years in response to growing cross-border exchanges and various functional needs.
These bodies can be divided into three categories: regional economic and infrastructural collaboration, specialised department communication, and HKSAR representation in the Mainland.

**Regional Economic and Infrastructural Collaboration**

As is to be expected with geographical proximity and extensive business linkages, most channels of horizontal connection evolve around Guangdong–Hong Kong exchanges. As the growing transactions are reflected in the rapid expansion of cargo and passenger traffic between the two areas, most of the coordination initiatives are logically centred on the issue of cooperation in infrastructural development.

The most important forums of communication include the following:

- **Hong Kong–Mainland Cross Border Major Infrastructure Coordination Committee.** The Committee was set up in October 1997 to replace the Sino-British Infrastructure Coordination Committee, which ceased to function after 1 July 1997. The latter was formed in 1994 with a clear mandate to speed up infrastructure development and resolve conflicts between Hong Kong and the Mainland over projects in the Zhu River Delta. The new entity continues to focus on major cross-boundary projects such as the Western Corridor (Shenzhen–Hong Kong connection) and the Zhuhai-Lingdingyang Bridge (Lee, 2002).

- **Hong Kong–Guangdong Cooperation Joint Conference.** Initiated by Tung Chee-hwa in 1998, the primary objective of this body is to facilitate exchange of information concerning development. Three areas of cross-border cooperation are emphasised: trade and economic cooperation, including infrastructure and information industry; exchanges in the areas of education, technology and professionals; and border checkpoint establishment and management. High-level meetings are held twice a year in Hong Kong and Guangzhou alternately (Lee, 2002). Donald Tsang, then chief secretary for administration, was the key official involved in the process with a Hong Kong–Guangdong Cooperation Coordination Unit set up in the Chief Secretary’s Office of the HKSARG.

- **Hong Kong–Zhuhai–Macau Bridge Coordination Committee.** Comprising government representatives from Guangdong, Macau, Hong Kong and Zhuhai, the Committee is given a well-defined mandate to hammer out the technical details of the design and planning of the Hong Kong–Zhuhai–Macau Bridge Project. Controversial issues like landing points of the bridge and its connection with other major highway networks are examined in the meetings, though the final decisions are likely to be subject to approval from higher authority.

- **Pan-Pearl River Delta Regional Cooperation and Development Forum.** An offspring of the 9+2 Plan, this new channel provides Hong Kong with
privileged access to the Mainland’s power circle. This annual event, attended by governors of all nine participating provinces, affords Hong Kong’s chief executive a unique opportunity to exchange views with senior leaders in the pan-Delta region. The sponsorship of Zhang Dejiang for the project, who is the party boss of Guangdong Province and a Politburo member, may present an alternate route for Hong Kong to pursue its interests in the apex of the power hierarchy in Beijing (South China Morning Post 2 June 2004, Editorial 1).

SPECIALISED DEPARTMENT COMMUNICATION

With rising common concerns, various administrative departments have established various forms of direct exchanges with their Mainland counterparts:

• Mutual Notification mechanism. The most developed mechanism can be found in the area of health administration. Health authorities in Hong Kong and Guangdong have agreed to inform each other of trends of irregularity in public health and the occurrence of a number of selected contagious diseases, including SARS and avian flu.

• Third party intermediation. The police authorities of both sides have a less direct route of communication. In face of the growing volume of cross-border smuggling, drug trafficking and gangster collaboration, police administrations from both side see the importance of intelligence sharing and cooperation. Yet no formal channel of dialogue has been set up. At the moment, communication is conducted through the International Criminal Police Organisation (InterPol).

• Issue-based joint collaboration. Cross-border environmental protection is a good illustration of this pattern. With a tacit acknowledgement of the mutual influence on each other’s environment, the Hong Kong–Guangdong Joint Working Group on Sustainable Development and Environmental Protection was formed in 1999. The group is led by the SAR’s secretary for environment, transport and works and the director of the Guangdong environmental protection bureau. The main concerns of the group include improvement of air and water quality in the region, and exchange of experiences on urban planning and sustainable development (Lee, 2002).

HKSAR REPRESENTATION IN THE MAINLAND

The HKSAR has maintained an official presence in the Mainland via three establishments:

• The Office of the Government of the HKSAR in Beijing. Set up in March 1999, the office is the official representative agency of the HKSARG in the national capital. It is expected to serve as a focal point of information exchange and
liaison between government bodies in Hong Kong and the Mainland, and to provide assistance to Hong Kong residents in the Mainland (http://www.bjo.gov.hk).

- Hong Kong Economic and Trade Office in Guangdong (GDETO). Unlike the Office of Government of the HKSAR in Beijing, the GDETO focuses mainly on trade and economic matters between Hong Kong and Guangdong. Similar to the operational pattern of other economic and trade offices in North America and Europe, the major roles of the Guangdong office are to promote a positive image of Hong Kong and to enhance its profile as a desirable destination for investment (http://www.gdeto.gov.hk).

- Trade Development Council (TDC). The scope of operation of this quasi-governmental agency overlaps in many ways with the GDETO. However, in addition to the latter’s focus of public relations and lobbying work, TDC adopts a more active approach in trade promotion by providing potential Mainland partners with specific business contacts in Hong Kong. It also has a more developed network in the Mainland, with offices in Beijing, Chengdu, Dalian, Fuzhou, Guangzhou, Kunming, Qingdao, Shanghai, Shenzhen, Wuhan and Xian (http://www.tdctrade.com).

**Missing gaps in communication**

In spite of the plethora of official channels of communication between Hong Kong and the Mainland, the relationship between the two since the handover remains far from cordial. The cleavage between Hong Kong and the Mainland is vividly exposed by the several instances of Beijing’s involvement in Hong Kong affairs. Though motivated by the concern of the possible damage caused by a massive influx of Mainland immigrants, the local community showed little gratitude for the NPCSC’s interpretation of the Basic Law concerning the right of abode of children of Hong Kong citizens born in the Mainland. The Article 23 saga reveals an even more fundamental discrepancy between Beijing and Hong Kong on issues like the rule of law, human rights and patriotism. The ongoing fiasco over the NPC’s brutal intervention to deny the popular demand for universal suffrage for chief executive and LegCo elections in 2007 and 2008 has further alienated the local community from Beijing. Economic integration may have nurtured a sense of economic dependence and connectedness with the Mainland among the Hong Kong people, yet it is debatable whether the economic drive alone is sufficient to overcome the distance created by these differences across the border. For many people, in spite of the proliferation of communication channels, Beijing seems to show little understanding of Hong Kong as many of its actions are seemingly contrary to the common concerns and prevailing values of the local community. How could this happen?
Beijing’s business-biased Hong Kong policy

Beijing’s insensitivity to local sentiment can be attributed to its misguided perception of the nature of this capitalist enclave. For Beijing, the primary value of this former British colony lies fundamentally in its “functional utility to and economic supplementarity with the Mainland” (Chan, 2003: p. 494). The colony proved its value in serving as a secret gateway to the Mainland during the Korean War in the 1950s.

The pragmatic leadership after Mao shows even greater expectation on the potential contribution of Hong Kong to China’s audacious programmes of modernisation and marketisation. Hong Kong’s global linkages and its role as an international trading hub, the cosmopolitan character of the local population, and most importantly, its vast knowledge of managing a vibrant market economy, are seen as invaluable assets for the motherland that now embraces capitalism. The peaceful coexistence of capitalist Hong Kong and socialist China under the “one country, two systems” framework is thus not only a concession to appease the Hong Kong compatriots, it is also a way for the motherland to observe and emulate the logic of capitalism at close range.

Then, what is the most effective way to maintain capitalism in Hong Kong? For Ghai, the principal aim of the Basic Law was to protect and sustain the capitalist economic system and way of life. Article 5 of the Basic Law states that: “The socialist system and policies shall not be practiced in the Hong Kong Special Administrative Region, and the previous capitalist system and way of life shall remain unchanged for 50 years.” For this reason, the Basic Law grants Hong Kong several economic powers that are characteristic of sovereign states, such as independent systems of money and finance (Article 110), taxation (Article 108), currency (Article 111), customs territory (Articles 116) and civil aviation (Article 130). It also consciously restricts some aspects of Hong Kong’s autonomy to preserve its freewheeling brand of capitalism, mandating a balanced budget (Article 107), free convertibility of the Hong Kong dollar (Article 112), a free port (Article 114), and free trade (Article 115). Hong Kong also pays no tax to the CPG, and can negotiate economic and trade agreements with foreign countries in the name of “Hong Kong, China” (Holliday, Ma and Yep, 2002).

More importantly, Beijing believes that capitalism is unsustainable without the dominance of capitalists. The handover of Hong Kong’s sovereignty from Britain to China did not really shake the cornerstone of governance in Hong Kong: the state-business alliance. In spite of the rhetoric of “Hong Kong people ruling Hong Kong”, and the promise of eventual democratisation enshrined in the Basic Law, the post-1997 political arrangement has in fact consolidated and institutionalised, rather than weakened, the political privileges of the business elite. The back door to power for business people remains secure and immune from popular pressure, despite the growing vibrancy of civil society.
There are several seasons for the privileges given to business elites. First, it is a kickback for their loyalty. The political uncertainty over the post-1997 Hong Kong led to a confidence crisis in the colony, which was followed by an exodus of capital, especially among the leading British companies during the early 1980s (Feng, 1996). Local Chinese businessmen, who had been living under the shadow of British capital, seized the opportunity and launched a number of major investments in Hong Kong during this period. To Beijing, this helped send a welcome signal of confidence and commitment to Hong Kong society, and as rewards some of these Chinese capitalists also secured lucrative contracts from the colonial administration with help from Beijing (Feng, 1997).

The struggle over democratisation reinforced the bonding of the “unholy alliance” between Beijing and local businessmen (So, 2000). Local capitalists feared that continued democratisation would threaten their vested interests, and grassroots politicians would drive Hong Kong towards a welfare state and heavy taxation. While Beijing shared this fear, top leaders were also alarmed by the role played by Hong Kong democrats during the 1989 Beijing democracy movement. Beijing quickly found the politically conservative business sector in Hong Kong a convenient ally in balancing the democrats’ progressive demands for democracy. Beijing also needed the support of the local business class in crafting a post-colonial elite in Hong Kong.

The business sector hence formed the cornerstone of the united front of the Chinese government in the transition era from 1984 to 1997, and it was well represented in most of the Beijing-appointed bodies related to the political transition (Goodstadt, 2000). For example, business people made up about half of the Hong Kong members in the Basic Law Drafting Committee, and business and professional representatives were also the largest single group in the Basic Law Consultative Committee. The Basic Law instituted a corporatist design by which business representation was well guaranteed through functional constituencies and the Election Committee for the chief executive. The partial election of the legislature, the growing civil society, and the open media did impose some constraints on the power of this state-business alliance, but the business sector was constitutionally guaranteed a position of dominance, and most importantly, it had support from Beijing.

The business bias however, hinders effective communication between Beijing and the local society. For Beijing, Hong Kong is nothing more than an “economic city” with a majority of the people exuding political apathy and single-mindedly pursuing economic well-being. Such an attitude is reflected Beijing’s self-indulgent dictum on Hong Kong’s lifestyle: keep on horse-betting and dancing during the Sino-British negotiations. It is echoed by Beijing’s response to the political crisis triggered by the Article 23 saga. Beijing tried to restore order in the territory by feeding Hong Kong with a long list of economic concessions and privileges, including CEPA, the 9+2 Plan, and the Hong Kong–Macau–Zhuhai Bridge. The logic behind this is simple: the frustration and anxiety of the Hong Kong society
is merely a result of the economic downturn brought by the Asian financial crisis. Accordingly, the resultant anti-government sentiment could easily be brushed off by the prospective economic recovery driven by the new economic initiatives of Beijing. As succinctly reiterated by top Chinese leaders, the most pressing priority for Hong Kong is to “stand united to improve the economy” (South China Morning Post, 24 April 2004: Editorial 2).

The corollary to this economy-first strategy is a preoccupation with the concerns of local capitalists, the driving force behind the economic development of the territory. It is debatable whether excessive attention to the parochial concerns of any single social class can provide a comprehensive picture of the local situation of Hong Kong. Worse still, such a business bias could also constrain the networking ability of local agencies of Beijing in Hong Kong. The failure of the pro-Beijing camp in making any discernible challenge against democrats in the professional constituencies of accountants, architects, doctors and lawyers in the 2004 LegCo election testifies to the limitations of the business-biased united-front approach of Beijing. And given the rising class tension in the territory as reflected in the mounting allegations of government-business collusion in the Cyberport and West Kowloon Cultural District projects, such a business bias may further alienate Beijing from the majority of Hong Kong people.

TUNG CHEE-HWA: THE CHINA-FIRST IMPERATIVE

The inputs fed by local agencies of the central government are not the only ingredients for Beijing’s interpretation of HKSAR development. The chief executive certainly plays a key role in shaping the CPG’s perception, and thus should be liable for the miscommunication between Hong Kong and the Mainland. As chief executive for nearly eight years after the 1997 handover, Tung Chee-hwa is particularly culpable.

One possible defence by Tung is the inclination of certain segments of the SAR’s bureaucracy to resist Chinese encroachments during the early years of transition. For many, cross-border cooperative accords may imply compromise with the local administration’s autonomy. Such fear surfaced when the colonial administration was approached by its counterpart across the border with the idea of setting up a coordinating body on cross-border infrastructure in 1994. Grave reservations were expressed within the decision-making circle. This mentality certainly looks politically incorrect after the handover; however, it may take longer than expected to shake off the colonial legacy. For instance, the fallout between the former chief secretary for administration, Anson Chan, and Tung was allegedly a result of their difference over the intensity of cross-border collaboration, with the former believed to be advocating a more cautious approach (Chan, 2002). Such a cautionary spirit is probably shared by other bureaucrats (Lee, 2002: p. 998).

More importantly, however, it was Tung’s simplistic view of Hong Kong–Mainland interaction that hindered genuine communication between the two
For Tung, tension between the two seemed inconceivable. His obsession with the symbiotic nature of the relationship was summarised in his favourite phrase used during his first election campaign in 1997: “If it is good for China, it must be good for Hong Kong, and vice versa”. Such a stance probably reinforced his image as a loyal servant in the eyes of Beijing leaders, but it may also have accounted for his indifference to, or even distaste for, the cognitive gap between Hong Kong and the Mainland. Such a “China-first” mentality defined his contrasting attitudes towards different sectors of the local society and affected his assessment of Hong Kong development. His cordiality with the business sector could be attributed not only to his family background, but also to his family’s intimacy with Beijing. By the same token, his hostility towards the democratic camp in LegCo was understandable given the tension between local democrats and the CPG. However, Tung’s rejection of the democrats meant the exclusion of the majority views of the society in the communication with Beijing, as the democratic camp remains the most popular political group in Hong Kong and commands more than a million votes in LegCo elections.

There was also a structural reason for Tung’s loyalty: his authority derived fundamentally from Beijing’s support, the chief executive election is a de facto appointment from Beijing. However, Tung’s dependence on Beijing went beyond the appointment process, drawing in many other pre-Beijing forces in Hong Kong (Lau, 2002: p. 5). Political dependence meant that unlike popularly elected local chiefs, Tung could not easily stand up to the CPG even if local interests or autonomy were at stake. The survival imperative also explains Tung’s inclination to decipher the “local reality” within the parameters laid down by Beijing, however how restrictive and biased these may be.

Hong Kongers’ dilemma

Hong Kong people are, however, not entirely innocent in the misunderstanding and tension with the Mainland. Hong Kong people are perfectly entitled to express their differences with the CPG on matters concerning their political rights and the autonomy of the HKSAR. Such courage to stand up for principles and beliefs is honourable and crucial for maintaining the uniqueness and character of the city. Without this spirit, the model of “one country, two systems” is nothing more than rhetoric and propaganda, and Hong Kong would degenerate into just another city in China.

However, communication with the Mainland is not confined merely to the relationship with the CPG; the people-to-people interaction across the border may also help shape the outcome. The psychology of Hongkongers towards their Mainland compatriots is, however, complicated. Although few indigenous people would question their Chinese ethnicity even before the handover, the attitude towards national identity has been complicated by the repressive rule of the communist regime and the contrasting level of development and life-style
across the border. The fear of and repulsion towards despotism are graphically expressed in the annual vigil at Victoria Park in memory of the victims of the June 4th Incident. The resentment of the incivility of the Mainland authority propels a sense of superiority among Hong Kong people, who show great faith in the modern and Westernised order in the local scene. The superiority complex is further reinforced by the material deprivation of the Mainlanders. The general contempt for Mainlanders was well captured by a box-office hit movie series, "the cousin" in the 1980s, which portrayed relatives from China as bumpkins. Put into this context, the psychological pain inherent in the simultaneous processes of reunification and economic integration shouldered by the local population is understandable. The tough question of national identity is no longer avoidable. The challenge is now a recurring theme in local political debates, which implies that the psychological buffers and denial mechanisms against making the difficult choice are fading fast. The Article 23 saga expressed the general uneasiness and anxiety towards the issue in a very explosive fashion.

Intertwined with the identity challenge is the confidence crisis triggered by the economic downturn. The economic hardship inflicted by the Asian financial crisis has been an unprecedented experience for the majority of the postwar generation. The self-indulgence and exuberance inherent in Hong Kong capitalism soon evaporated in the face of rising unemployment, collapsing property values and budgetary deficit. Fortunately for Hong Kong, its proximity and utility to the China market provide a way out of the predicament. A strong sense of economic dependence on China has emerged. The formerly unpleasant visits of Mainland cousins are now seen as a steady stream of tourism income. Networking with Mainland partners appears to be imperative for all sectors in the territory. The changing economic contour leaves little ground for sustaining the pre-1997 arrogance.

Nevertheless, notwithstanding the growing economic connectedness and dependence on China, it is hardly persuasive to argue that Hongkongers are now embracing their Mainland compatriots with open arms. The material basis of the superiority complex may have vanished, but many local people still show great faith in the superiority and intrinsic value of the "Hong Kong lifestyle". The resentment against the possible influx of immigrants reflected in the controversy over the right-of-abode issue is illustrative. Though partly a result of the HKSARG’s exaggeration of the negative impact of immigrant inflow and mobilisation of bias, the public responses uncovered the lingering of the general discomfort or even contempt for Mainlanders (Chan, 2000). Sometimes, even a well-intentioned encounter may also reflect the distance between people across the border. In her study on Hong Kong volunteers in the Mainland, Wong found many participants did perceive their involvement in China as a "liberalising mission". They granted themselves the superiority and moral legitimacy to provide for the Mainlanders "the path to prosperity, enlightenment, a wide horizon, and hence more options" (Wong, 2004: p. 152). Such self-indulgence, bordering on some form of
Hong Kong chauvinism, creates a moral dilemma that is certainly shared by other sectors of the local society.

Sober reflection on what the Hong Kong lifestyle is about has been echoed in different segments of local population. The “Hong Kong Core Values” campaign is an example. Launched with a news statement endorsed by a group of professionals and middle-class people in 2004 in response to growing uneasiness with the central authority, the campaign listed a number of principles held to be the core values shared by Hong Kong people: liberty, democracy, human rights, rule of law, fairness, social justice, peace and compassion, integrity and transparency, plurality, respect for individuals, and upholding professionalism. The response was overwhelming. The effort aroused enormous attention as demonstrated by numerous editorial articles and commentaries published in leading newspapers, the high hit-rate of the campaign website (http://www.hkcorevalues.net), and more importantly an invitation from Tung Chee-hwa for discussion within two weeks of the release of the statement. The public enthusiasm for the dialogue exposed general concern about the danger of losing the character of Hong Kong society under the framework of one country, two systems.

**Conclusion**

For Beijing, the relationship between Hong Kong and the Mainland is primarily defined by economic factors. According to this logic, economic prosperity in Hong Kong breeds stability, and more importantly loyalty to the central authority. This explains Beijing’s two-pronged approach in managing the Hong Kong issue: collaborating with local capitalists and feeding Hong Kong with privileged access to the buoyant China market. The lopsided view of Hong Kong, however, has backfired. Political opportunists may have wasted no time in denouncing their British heritage and pledging allegiance to Beijing, but history matters. The colonial legacy simply did not vanish immediately with the change of flag in 1997. Hong Kong is more than an economic city, and capitalism does not thrive merely on the privileged position of capitalists. It also entails predictability premised on the rule of law, procedural fairness and propriety. It is true that Hong Kong people do adore the rich and famous, but few would subscribe to the view that it is the few tycoons alone who created the economic miracle of Hong Kong. For many, it is crucial to maintain their faith in the nature of Hong Kong as a meritocratic society, in which social mobility is determined by talent and effort, not by political patronage, family background or connection. Such awareness is crucial for deciphering the moral ambiguity Hong Kong people feel towards China’s encroachment and the social contours of the HKSAR. And it is thus indispensable for sustaining a mutual understanding across the border. Unfortunately, Beijing’s economy-first mentality finds little space for these complexities, and Tung’s improvisation only made the situation worse.
The chief executive of the HKSAR holds the key to a better communication and understanding between Hong Kong and Beijing, and the resignation of Tung Chee-hwa may have opened the door for a more effective dialogue. A new leader with the determination to stand up for Hong Kong interests if necessary, or at least, the moral courage to tell the truth about local reality to Beijing, is the cornerstone of the autonomy of the SAR as well as the effective functioning of one country, two systems. Mutual trust and understanding are indispensable for the process and a candid voice from Hong Kong is the prerequisite. What future CEs should learn from the downfall of Tung is that loyalty alone is not a sufficient credential for handling the chief executive job. Ability to maintain political stability and skills in harnessing support and commitment of different sectors in Hong Kong are equally important for effective governance, and thus crucial for advancement of a personal political career. The blessing of Beijing can be volatile, and is contingent on its assessment of the chief executive’s performance in these fronts. The lesson of Tung is that the new party leadership is quite prepared to take drastic measures if the chief executive has become a political liability. Donald Tsang’s soft approach in handling the democrats should be praised. The legislators’ visit to the Pearl River Delta presents a powerful symbol of reconciliation.

However, Tsang cannot be so naive as to believe that the underlying tension the Tung administration suffered, lack of public trust and misunderstanding between Hong Kong and the Mainland, would easily be washed away by these goodwill gestures. Without political reform that could relieve the chief executive from the straitjacket of the narrow interests of the business sector, and the without obligations of accountability and responsiveness inherent in a democratic system, the future looks bleak. Put into this perspective, democratisation is the only way out, not only for Hong Kong, but also for the chief executive and the idea of “one country, two systems”.

REFERENCES


HKSAR Guangdong Economic and Trade Office: http://www.gdetof.gov.hk


Hong Kong Core Value Campaign: http://www.hkcorevalues.net.


QUESTIONS

1. What role should the Hong Kong delegates to the National People’s Congress play in enhancing communication with Beijing? What do you think about their performance in this aspect?

2. Do you see Mainland immigrants as liabilities, or assets? Do you think they have been fairly treated in Hong Kong?

3. Should Hong Kong people scale down memorial activities for the June 4th Incident in order to create a more cordial relationship with Beijing?

USEFUL WEBSITES

The SynergyNet
http://www.synergynet.org.hk

Civic Exchange
http://www.civic-exchange.org

Hong Kong Special Administrative Region Government
http://www.info.gov.hk
FURTHER READING

Leo Goodstadt (2005) *Uneasy Partners*, Hong Kong: Hong Kong University Press.
Despite the vicissitudes of its transition from a British Crown Colony to a Special Administrative Region (SAR) within the People’s Republic of China (PRC), Hong Kong remains an international city where Western nations, especially the Western triad (United States, Japan and European Union), as well as China, possess strong vested interests. This is the reason why the Hong Kong SAR government has baptised Hong Kong “Asia’s world city”. From the perspective of international relations and geopolitics, Hong Kong has always been considered part of the West. That is to say, the capitalist enclave serves first of all Western interests. Western countries prefer to have a “bridgehead” in Asia where freedom is well safeguarded by the rule of law, and which Westerners can use as a base to develop their economic and political activities in Asia.

The role of Hong Kong for the West has been very clear to several generations of PRC leaders, but at the same time they also understand the usefulness to China of having such an international city as a window to the outside world. The resumption of Chinese sovereignty imposed a significant change of Hong Kong’s geopolitical status, from part of the West to part of China. The future scenario does not appear to be too pessimistic, as the Cold War has ended and China’s interests in the era of openness and reform are not necessarily contradictory to Western interests. Now Hong Kong, though part of China, is also conscious of its role for the West and its unique international status in comparison to other great Chinese coastal cities. National as well as Hong Kong leaders are fully aware of the subtlety involved in maintaining the external relations and international status of Hong Kong. Though ideological and political considerations may diverge, there is a convergence of Western and Chinese interests in preserving the status quo in Hong Kong.

However, China and the West after the end of the Cold War have still been entangled in political controversies due to different cultural values and world views. How can Hong Kong living under Chinese sovereignty serve at the same time the interests of China as well as the West? Can Hong Kong’s transformation to a Chinese city not be detrimental to its original role as an international and cosmopolitan city? If the autonomy, international status and institutional
framework that buttress the proper functioning of the socio-economic system of Hong Kong are affected by the China factor, how would the Western triad react in order to defend the status quo of Hong Kong as a free port and international financial and commercial centre?

This chapter analyses the complex relationship between the theory and practice of “one country, two systems” and the external relations of Hong Kong. In particular, it seeks to determine whether there is a clash of Western and Chinese civilisations concerning the future of Hong Kong. While in the past as a British colony the encounter of the two civilisations did not prevent Hong Kong from becoming a “paradise” in the Asia-Pacific, under Chinese sovereignty might the “clash” appear and be detrimental to the “Western” institutions firmly established in the city?

China–Hong Kong relations and changing perceptions of the West

Hong Kong enjoying a high degree of autonomy under “one country, two systems” might turn out to be mythical. While Hong Kong’s socio-economic system remains unchanged, its autonomy is dictated by its reunification with China, in which the supreme authority of Chinese Communist Party (CCP) is not to be challenged. Under Chinese communist rule, some basic tenets are steadfast: the party controls the state, and the state controls the society. What is even more important, national independence and territorial integrity must be well defended, and reunification is a fundamental goal of the regime. These tenets can be regarded as a basic structure that determines the political order of China, and Hong Kong under Chinese rule cannot steer away from the constraints imposed by this order and structure, despite the guarantee of a high degree of autonomy.

Hong Kong leaders, especially the former Chief Executive Tung Chee-hwa, always emphasise that if China progresses well, Hong Kong will be fine. Nobody can challenge the validity of this statement, but if Hong Kong puts national interests first, would Western interests be affected? Would Western perceptions be changed as a result? Westerners may now think that Hong Kong would first of all defend Chinese national interests, link up Hong Kong’s development primarily with China, and tend to think less about its international character. Chinese and Western interests may not necessarily contradict each other in this age of globalisation. However, if the reality, or Western perceptions of the Hong Kong reality, is that the SAR is becoming less and less “internationalised” or Westernised and more and more “sinicised”, Hong Kong’s international role and status would certainly be affected (Boxes 14.1 and 14.2).

This goes to the question of the dual character of Hong Kong: Chinese and international. While the 1997 handover of course made Hong Kong more Chinese, the city should not ignore the fact that its international character gives it its dynamism, spirit and raison d’être. Not only does it possess all the
attributes of a Western society, such as protection of human rights and all sorts of freedoms guaranteed by the rule of law, its sheer existence as a “bridgehead” for the West in the Far East makes it the most international and cosmopolitan city in Asia. So, despite the fact that it is inevitable for Hong Kong to become another great Chinese city after returning to China, it should seek to develop even further its international character, as well as facilitating the formation of more uniqueness for Hong Kong. The greatness of the city lies in its competitive edge in relation to other big Chinese cities, especially Shanghai, which has always tried to catch up with Hong Kong in all ways. Though Hong Kong is considered a truly international financial, commercial, tourism, transport and communication hub in the Asia-Pacific region, some worry that it has gradually been losing its international character, and becoming more inward looking.

Some factors are essentially nonpolitical and domestic, for instance, the declining standard of English especially among young people, and the apparent lack of industrious, competent and dedicated staff. Other factors which are political are not necessarily domestic problems, but rather problems arising from Chinese
political culture. These include the changing ruling style of the leadership which is becoming more interventionist, with a hands-on attitude towards governance. This is in contrast to the pre-1997 tradition of “positive non-interventionism”. A different interpretation of law and order, stemming from different philosophies and with national interests overriding local interests, is becoming a matter of concern among sceptics who are doubtful of the governance and competence of the SAR government. The failure of political and business elites in Hong Kong to safeguard the autonomy and institutions that buttress the successes of Hong Kong also alarms local inhabitants and investors from abroad. Further “sinicisation” of Hong Kong that renders the city “more Chinese” while diminishing its international character will clearly be detrimental to the international status of Hong Kong.

Some people also worry about the changing ruling style and the increasing influence of Chinese political culture. If Hong Kong’s institutional pillars, or institutional capital, including an independent judiciary, freedom of speech, and the capitalist rules of the game (rule of law, free and fair competition, spirit of contract, etc.) are adversely affected, and the SAR government overlooks the significance of these institutions in practice, then it is not impossible that Hong Kong’s status as an international financial city will decline. The Western presence deriving from enormous economic interests not only helps to “internationalise” Hong Kong, it also helps to safeguard the character and proper functioning of this international city. Beijing welcomes the Western presence, as it is a pre-condition for an international city, but China cannot tolerate Western interference in the internal affairs of Hong Kong. In the words of Chinese analysts, economic internationalisation of Hong Kong is permitted, but so-called “political internationalisation” is out of question. However, the two cannot be separated in such a simple way. For instance, if foreigners do not perceive the SAR as being like the former Hong Kong, even a rather passive reaction, such as withdrawal of enterprises from the city as political and economic conditions deteriorate, will be detrimental. Hong Kong’s international character will fade away as a result. This depends not only on the sensibility and wisdom of Chinese leaders when they resort to nationalistic appeals to Hong Kong people, but also whether they understand the significance and implications of the Western presence, and the importance of the rule of law and other institutions in the proper functioning of the socio-economic system of Hong Kong. It also depends on the vision and leadership style of Hong Kong leaders who should understand the difference between parochial rule and accountability to the people.

How do we measure the degree of “internationalisation” of Hong Kong? There is no quantitative way, but trade and investment figures in addition to the status of Hong Kong as regional headquarters for multinationals, plus tourism figures, can be useful.
Hong Kong’s external economic relations

During the period 1998–2003, the pattern of inward direct investment in Hong Kong changed radically. The proportion from the Mainland increased from 21.0% in 1998 to 49.5% in 2000, and then dropped to 43.1% in 2001 and to 36.0% in 2003. The recent proportion is lower because some funds are now transferred to a third place before being invested in Hong Kong. On the other hand, the proportion of the Western triad fell substantially, from 52.1% in 1998 to 26.4% in 2000, and then slightly augmented to 26.9% in 2001, 33.2% in 2002, and 31.6% in 2003. In absolute value, however, investment from the Western triad increased slightly. The proportion of US investments in Hong Kong fell from 11.3% of Hong Kong’s total inward direct investment in 1998 to 8.8% in 2003. Japanese fell from 10.7% to 6.7%. EU investment fell from 30.1% to 16.3% (External Direct Investment Statistics of Hong Kong 2000, 2002, 2003, HKSAR Government Census and Statistics Department, 2002, 2004 & 2005: p. 38). While still remaining an international financial and business centre, Hong Kong is quickly becoming a more significant “Chinese” financial and business centre.

Investment flow means outward as well as inward investment. According to the UNCTAD World Investment Report, Hong Kong was the second largest source of outward direct investment in Asia and the 14th largest in the world in 2001 (http://www.oecd.org/dataoecd/6/10/18470677.pdf). Most of the outward investment went to the Mainland, which had absorbed US$129.6 billion by the end of 2000, accounting for 58.6% of the total, according to figures provided by Hong Kong government. The figure was slightly reduced to US$119.4 billion by the end of 2003, but it still constituted 51.4% of Hong Kong’s total outward direct investment. The figure was reduced because the funds are now channeled via places like the British Virgin Islands and Bermuda before they arrive at the final destination, China. The total outward direct investment of Hong Kong at the end of 2003 reached a historic record of US$232.4 billion (External Direct Investment Statistics of Hong Kong 2003, HKSAR Government Census and Statistics Department 2005: pp. 18, 40).

Turning to trade, in 1996 Hong Kong became the world’s seventh-largest trading entity in goods. Its ranking has since declined due to the Asian financial crisis and the increasing importance of China as a trading entity. In the year 2000, Hong Kong ranked as ninth trading entity in the world, while China rose to seventh. In 2004, China became the third largest trading entity, while Hong Kong dropped to 11th (http://www.tid.gov.hk/english/aboutus/publications/tradestat). If we look at the trade figures over time, there was a marked decrease of 9.6% in trade value in the year 1998 in comparison to 1997, and a further decrease of 1.3% in 1999. Though there was a remarkable increase of 17.8% in total trade in 2000 due to economic recovery in Asia and other parts of the world, the year 2001 recorded a decrease of 5.6% in total exports and imports. The
year 2002 marked an increase of 4.3%, while in 2003 an increase of 11.6% was recorded (*Hong Kong Trade Statistics, Annual Supplement 2002, Domestic Exports and Re-exports*, HKSAR Government Census and Statistics Department, 2003). This reflected the outward-looking nature of Hong Kong which is easily susceptible to fluctuations in the world economy.

Needless to say, Mainland China is the most important export market of Hong Kong, accounting for 42.7% of total exports in 2003. China is also the most important source of Hong Kong’s imports, supplying 43.6% of total imports in 2003. The US always ranks second in Hong Kong’s export market. After a slight decrease in proportion in the mid-1990s, towards the advent of the new millennium it increased to 23.8%, and then dropped to 18.6% in 2003. However, the US stands only in the fourth or fifth position as a provider of Hong Kong’s imports and the proportion decreased to 5.5% in 2001. Japan is the second most important source of Hong Kong’s imports although it decreased to 11.9% in 2003 from 17.4% in 1992, after several years of recession in Hong Kong after 1997. By contrast, Japan ranks only number four among Hong Kong’s export markets. The proportion of Japan decreased to 5.4% in 2003 from 6.5% in 1996, probably due to Japan’s own prolonged economic slowdown (*Hong Kong Trade Statistics: Domestic Exports and Re-exports, Annual Supplement*, HKSAR Government Census and Statistics Department, December 1992, 1994, 1996, 1998, 1999, 2001 & 2003). The EU always ranks third among Hong Kong’s major export and import markets. Due to the addition of new members, the EU became a larger market for Hong Kong exports, with the proportion rising to 16.1% in 1999. But then it gradually dropped to 14.0% in 2003. In concurrence with this downward trend, Hong Kong’s imports from the EU also accounted for a smaller proportion (9.3%) in 1999 after two years of recession, which marked a significant drop in consumption of European consumer goods. This further dropped to 8.4% in 2003. Judging from the EU’s high level of economic and technological development together with its vast population, there should be further potential for development of both imports from and exports to Hong Kong.

Visitor arrival statistics show that the number of visitors rose from 11.3 million in 1997 to more than 16.6 million in 2002, 15.6 million in 2003, and 21.8 million in 2004. This is regarded as a remarkable achievement of the Hong Kong tourist industry in generating economic and commercial transactions in this period of economic downturn. However, the increase in tourists is due mainly to the enormous number of tourists from Mainland China, which reached 12.2 million in 2004, 56% of the total. (http://www.tourism.gov.hk/english/statistics/statistics_perform.html) While Hong Kong remains a favourite tourism spot for international visitors, it is more and more relying on Chinese visitors. There is no problem of having more Chinese visitors, but Hong Kong should be aware of the reality that Hong Kong’s attractiveness is due mainly to its international and cosmopolitan nature. Would it be saner to consider the possibility of orienting the city towards a dual direction, having more and more Chinese characteristics, but at the same time becoming more and more international?
The rapid development in offshore trade demonstrates the ability of Hong Kong to coordinate, to provide services, and to play an integrating role for international trade. This is related to Hong Kong’s development into an important base for multinational companies, which make use of the city as their regional management and coordination hub. The presence of more regional headquarters in Hong Kong not only demonstrates the confidence of these companies and their home countries towards the future of Hong Kong, but also brings substantial benefits as well to the city. In reality, it is only with the presence of these companies that the cosmopolitan nature and colour of Hong Kong can be developed. Moreover, these companies bring state-of-the-art management and professional skills that can benefit and help to upgrade the local community, thus being useful in facilitating productivity growth. A favourable policy environment, including good legal infrastructure and rule of law, transparent and effective regulatory regime, efficient and non-corrupt government, low tax regime, equal treatment of domestic and overseas companies, and willingness to absorb expatriates with expertise; all have to be maintained in order to facilitate the city as an even more significant hub for international business (Research Department, Hong Kong Trade Development Council, 1998, p. 42).

At present, based on sources from the respective governments and chambers of commerce, Hong Kong has around 2,300 Japanese companies, 2,000 Chinese Mainland companies, 1,350 Australian companies, 1,100 American companies, 500 French companies, 500 British companies, and more than 500 German companies. Many of these companies use Hong Kong as the base for their regional headquarters or offices. The total number of regional headquarters and regional offices increased to more than 3,000 in 2,000 from 2,500 in 1999, though the number of regional headquarters remained stagnant at around 850. Subsequently, the number of regional headquarters increased significantly to 944 in 2001 and then to 1,098 in 2004. On the other hand, the number of regional offices rose from 2,146 in 2000 to 2,293 in 2001, but then dropped to 2,511 in 2004. The total number of regional headquarters and regional offices increased to 3,237 in 2001, and then to 3,609 in 2004 (Survey of Regional Representation by Overseas Companies in Hong Kong, HKSAR Government Census and Statistics Department 2000, 2001, 2002, 2003 & 2004).

Correspondingly, the cumulative inward direct investment in the year 1999 amounted to US$260.1 billion, and in 2000, this increased further to US$288.1 billion. But there was a small decline to US$273.9 billion in the year 2003 (External Direct Investment Statistics of Hong Kong, HKSAR Census and Statistics Department, 2001, 2002, 2004: p. 38). Hong Kong has recovered from economic recession, and the increase in the number of regional offices proves that multinationals are still confident of Hong Kong’s future, as well as its crucial role as the centre of their transactions or services in the Asia-Pacific region. They want to make use of Hong Kong as the gateway to the vast Mainland market, while an increasing number of Chinese companies are also setting up their regional offices in Hong
Kong as a stepping stone for expansion overseas. Thus Hong Kong has become a “two-direction platform” for trading, investment and raising funds (Ta Kung Pao, 15 October 2004: p. A15). Indeed, if we take the year 1990 as the starting point, Hong Kong has achieved enormous progress in developing as a regional hub.

Surveys conducted by the Hong Kong government among multinational companies that set up their regional offices in the SAR, which were carried out in 1999 and 2000, have shown that, among all the change in factors affecting Hong Kong as a location for a regional headquarter or regional office, a significant number of companies worry about the possible deterioration in government economic policy, political climate, and the rule of law, in addition to English communication skills. If Hong Kong cannot allay these fears, the withdrawal of regional offices from Hong Kong would be disastrous to the city that aspires to become a world-class hub in the Asia-Pacific region. It is reported from time to time that well-known multinationals have shifted their regional headquarters to Singapore or elsewhere, and their China headquarters to Shanghai. By contrast, the number of companies which have established their regional or China headquarters in Hong Kong in recent years may be of a lesser scale. Given the nature of their operations in the city, which is mainly control and coordination of their regional activities, their investments as well as jobs created in Hong Kong could be rather limited.

In another survey done by the Economist Intelligence Unit (EIU), the business environment of Hong Kong is judged to be in decline. Its ranking, which was the fifth among 60 countries or territories during the five-year period from 1997 to 2001, dropped to 11th position from 2002 to 2006. China’s accession to the WTO will certainly liberalise the business environment of China, and Hong Kong’s role as intermediary or entrepôt for China’s imports and exports will be significantly affected. Apart from some non-political factors such as declining English standard and the lack of good quality workers, the EIU is concerned with whether the “high official accountability system” created by Tung Chee-hwa in 2002 and the demoralised civil service would adversely affect the good governance and competence of the government (Ta Kung Pao, 25 April 2002: p. A8). Domestic political and economic changes in Hong Kong, in parallel with the rapid growth of the Mainland, could marginalise its long-term role in helping China. Will this further “provincialise” Hong Kong, making it less important in the eyes of the outside world, as well as in the eyes of the Chinese leaders?

The Western triad and the future of Hong Kong

Hong Kong has always been portrayed as a gateway to China. The world links to China through Hong Kong, while Chinese enterprises also extend to the outside world through the intermediary role of Hong Kong. The city can play this crucial role because it truly “understands the world and at the same time
understands China”. No other major Asian cities can be compared to Hong Kong in this regard (Tu Kung Pao, 20 January 2003: p. A16). Hong Kong as one of the greatest investors in the world is thus considered equally by the West and China as a treasure.

The Western triad emphasise the “principle of continuity” regarding their relationship with the SAR after it became part of China. In other words, they want to defend the status quo of Hong Kong. The principle of continuity simply means to keep Hong Kong as it was, albeit under Chinese sovereignty. The US and Japan have indicated very clearly that institutions so crucial to ensure the success of Hong Kong should not be caused to “decay” by the China factor or Chinese political culture. This message is hidden under the diplomatic language that Beijing should respect its guarantee of a high degree of autonomy for Hong Kong. Even if Beijing does not intervene directly, the adoption of measures by Hong Kong authorities that suit Beijing’s taste is also regarded as interference in Hong Kong’s autonomy.

Western countries, including Japan, are concerned with whether liberty is in decline after Hong Kong’s handover. They consider whether Falun Gong can survive or not as a benchmark for the measurement of liberty in Hong Kong. Whether Falun Gong becomes illegal still remains to be seen. If a new law is enacted in Hong Kong in order to implement Article 23 of the Basic Law so as to eliminate “subversion, secession, sedition and treason activities” against the CPG, which is used to eradicate Falun Gong from Hong Kong, this would be regarded as a deterioration of human rights in Hong Kong.

It is in the interests of the US, Japan and European countries to help consolidate first the “institutional pillars” of Hong Kong; second the multiple roles played by Hong Kong as an international financial, service, commercial, media hub and a free entrepôt. Among the three, the US adopts a rather high-profile approach in defending its enormous political and economic interests in Hong Kong. The United States–Hong Kong Policy Act of 1992 portrays Hong Kong as a non-sovereign entity that has a separate legal status. The US continues to accord preferential treatment to Hong Kong, including a separate immigration and textile quota. Apart from paying attention to the economic status, rule of law, and human rights conditions of Hong Kong, judged from the imperatives of American foreign policies, Washington stresses the importance of export control and law enforcement by Hong Kong.

The issue of export control is a heritage of the Cold War when Hong Kong as “part of the West” served primarily Western interests. Based on the 1955 Import and Export (Strategic Commodities) Ordinance, Hong Kong does not allow trading of weapons and strategic materials, and thus assists US efforts against proliferation of weapons of mass destruction (Ting, 1997: pp. 243–257). Due to its effective export control, Hong Kong has been allowed to import most controlled high technology dual-use items even after 1997. The stringent export control exercised by Hong Kong authorities is strictly needed as the city is developing
its high-technology and forging ahead to become a services and business hub equipped with the latest technology. Now the policy of Washington vis-à-vis Hong Kong which is also “one country, two systems” puts Hong Kong in an advantageous position so that it can continue to import state-of-the-art technology products.

The discovery of an armoured vehicle in a Chinese cargo ship passing through Hong Kong from Thailand in late August 1997, and a similar case of five armoured personnel carriers from the Ukraine on 31 March 2000, both en route to ports in China, demonstrates that Hong Kong’s export control mechanism remains effective (Ming Pao, 31 March 2000: p. A03 & 8 May 2002: p. A11). In addition, the low-profile attitude of the central authorities in China is a manifestation of their will to maintain a high degree of autonomy in Hong Kong. In both cases, the shipping companies and the captains were penalised and fined for their legal offence. Beijing simply treated the matters as minor foreign trade issues, not as matters of diplomacy and national defence. If China insists that these are diplomatic and defence issues, since Hong Kong is a port of China, the sovereign state of course has the right to export or import anything she likes through this port. Since the judicial court of the SAR has no right of jurisdiction over diplomatic and defence matters, Hong Kong could do nothing if Beijing adopted this argument. But then the 1955 Ordinance would be invalid, and Hong Kong would not be regarded as the same Hong Kong as before. Fortunately the good sense of Chinese leaders prevailed.

Another Cold War heritage that still continues is the visits of American warships and aircraft stopovers in Hong Kong. This has become in effect a thermometer that measures the ups and downs of Sino-American relations. There is an average of 60 to 70 warships visiting Hong Kong per year, bringing in 45,000 naval crew members and soldiers. Despite suspensions of two to three months, after the bombing of the Chinese Embassy in Belgrade in May 1999 and the clash of an EP-3 surveillance plane with a Chinese fighter aircraft in April 2001, visits continue without major problems (Ting, 2004: pp. 187–208).

The US government seems to be satisfied with the law enforcement of Hong Kong against drug trafficking, money laundering, alien smuggling, credit card fraud, violations of intellectual property rights and organised crime. The cooperation of law enforcement agencies of Hong Kong and Washington has in fact deepened and broadened since 1997. The US is expanding its law enforcement presence in Hong Kong. Under Chinese sovereignty the Hong Kong government is still able to exercise its law enforcement function in a rightful manner without being troubled by interference from the central authorities. Continual cooperation with the US in this regard helps to consolidate Hong Kong’s international status, by upgrading the performance of Hong Kong to a level equivalent with the West. Washington appears to be thankful to Hong Kong in its global actions against terrorism, especially now that Hong Kong plays a leading role as presidency of the multilateral, 29-member Financial Action Task Force in fighting against the financial networks of terrorists (US Department of State, 31 March 2002: p. 2).
On the other hand, it seems that Japan adopts a rather low-profile approach concerning the future of Hong Kong by not commenting on political issues, due to historical sensitivities. However, there exists an international legal difference between the US which has a Hong Kong Policy Act, the Europeans who have no such legislation (although United Kingdom has a commitment under the Sino-British Joint Declaration), and Japan which has nothing at all. Despite all these political-legal constraints, the Japanese want Hong Kong to continue its former roles and safeguard its well-established institutions. However, the economic move made by Japan since 1998 has worried Hong Kong as the number of licensed Japanese financial firms that have businesses in Hong Kong has reduced from 91 in March 1997 to only 35 in June 2000 (Ming Pao, 18 September 2000: p. B1). The withdrawal of assets and the closing down of some major Japanese department stores did raise some concern. Moreover, due to the Asian financial crisis, Japan suffered from bad debts in Southeast Asian countries. Since Hong Kong is financially healthy and permits the free flow of capital, a vast amount of funds were withdrawn and sent back to Japan. The amount reached US$60 billion (Hong Kong Trade Development Council 1999, p. 30). In the eyes of the Japanese who want to benefit from the increasingly prosperous Chinese market, Hong Kong as part of China is a very significant base. But Japanese conservatives, who may perceive a richer and more powerful China as a kind of threat, may have second thoughts on whether they should invest more in this part of Asia.

According to the Japanese government, the value of Japanese investment projects in 2000 was reduced by 4.5%, and in 2001 by 58.3% (http://www.mof.go.jp/english/fdi). But in the same year, Japanese investments in China increased by 63.3% (Website of the Japanese Ministry of Finance). Japanese investments in China marked an increase of 18.3% in 2002 in terms of value and 65.1% in 2003. This can be regarded as an alarming sign for the intermediary role of Hong Kong. After China acceded to the WTO in 2001, many companies consider going directly to the Mainland without seeking the support of Hong Kong. This is a real challenge to Hong Kong. However, the Japanese business sector in Hong Kong is still optimistic about the intermediary role of Hong Kong, which is extremely beneficial to foreign enterprises when they develop their business in the Mainland. This is especially true for those small and medium enterprises which attempt to enter the Chinese market for the first time. Hong Kong employees are able to break through the cultural and linguistic barriers between China and the outside world, and serve as a kind of “lubricant-catalyst” for commercial and economic transactions. This know-how of Hong Kong is very much treasured by Japanese entrepreneurs. Notwithstanding these advantages, Japanese companies based in Hong Kong have started to possess a less positive view of the business environment of this capitalist enclave.

In brief, Japan wants Hong Kong to continue its success, not only in the economy, but also in terms of political development. Hong Kong is considered a gateway to China by the Japanese, and can play a unique role in improving
mutual understanding of China and Japan in these difficult times of Sino-Japanese relations, as emphasised by the Consul General of Japan, Takanori Kitamura in early 2005 (Ming Pao, 18 March 2003: p. B2). Hong Kong as a more open and liberal city is seen as a frontier for the future of Greater China. A more open and democratic society in Hong Kong will pose a significant impact as a showcase for the development of China in the future. The close linkage between Japan and Hong Kong was demonstrated by the granting of visa-free status to Hong Kong citizens starting in January 2004.

For the EU, it seems that the Hong Kong issue is becoming an integral part of the EU’s China strategy. Europe wants to see a cooperative, responsible and constructive China, by helping China to fully integrate into the international community. In a report on the development of Hong Kong, the European Parliament paid attention to the lack of fair competition law in Hong Kong, and the predominance of tycoon Li Ka-shing in the Hong Kong business sector (European Parliament, 2000: pp. 16–17). The Europeans are very much concerned about whether there is a level playing field in Hong Kong, so that no privilege is given to Chinese enterprises.

Europeans are keeping a close eye on the question of human rights in Hong Kong, just like the US and Japan, and Falun Gong is becoming a subject of major concern regarding the freedoms of assembly, expression and religion. The judiciary, immigration and human rights have become major foci of concern. European countries also pay respect to “one country, two systems” in their diplomatic representations in China and Hong Kong. The European consulates in Hong Kong are independent from the embassies in Beijing and their status is higher than any consulates general in the Mainland. But major European countries are concerned with the attitude of Hong Kong authorities regarding Hong Kong’s identity. Hong Kong does not seem to wish to build up a clear and positive international image among Europeans. Tung did not visit any European capitals apart from London and Brussels. Public opinion in Europe tends to think that Hong Kong is just like Mainland China, due to the numerous phenomena that can affect Hong Kong’s image.

The EU granted visa-free status to HKSAR passport holders on 14 March 2001, and the regulation entered into force on 10 April 2001 (European Commission Directorate General External Relations, 10 December 2004). This was facilitated in parallel with the signing of an EU–Hong Kong readmission agreement on 27 November 2002, the first agreement of its kind, which enables both sides to repatriate illegal immigrants. It entered into force on 1 March 2004 (UK Secretary of State for Foreign and Commonwealth Affairs to the British Parliament July 2004, p. 20). It demonstrates the confidence of the EU towards the autonomy of Hong Kong and the practice and execution of “one country, two systems”.
Hong Kong in international civil society

The level of internationalisation of Hong Kong is also shown in the political and social dimensions. Hong Kong was active in international society both before and after the handover. Currently, the SAR participates in about 24 international organisations limited to states, most of which the Hong Kong government participated in before the handover. The SAR participates in these organisations mainly as part of delegations of the PRC, in accordance with Article 152 of the Basic Law, or in such other capacity as may be permitted by the CPG and the international organisation concerned. There are also organisations which the SAR joined after the handover. The Food and Environmental Hygiene Department joined the Codex Alimentarius Commission as a member of delegation of the PRC in 1998. The Hong Kong Monetary Authority joined the Group of Twenty (G-20) as a member of the delegation upon its establishment in 1999. The G-20 is an informal forum which seeks to promote an open and constructive dialogue between industrial nations and emerging-market countries on issues relating to the international monetary and financial system. The HKSAR is also a member of about 34 intergovernmental organisations not limited to states, 14 of which it joined after the handover. Hong Kong is a full member in 20 of them, including the Asian Development Bank and the WTO.

From 1 July 1997 to 2003, the HKSAR government on its own concluded 10 international agreements with foreign states and regions, with regard to matters such as customs cooperation, cooperation in information technology and avoidance of double taxation, in accordance with Article 151 of the Basic Law. It also gained the CPG’s authorisation to conclude 73 bilateral agreements with foreign states. These comprise 34 agreements on air services, 11 on visa abolition, three on readmission of persons, 23 on reciprocal juridical assistance, one on investment promotion and protection, and one on avoidance of double taxation. On the other hand, up to 2005, about 212 multilateral treaties were applicable to the HKSAR, among which about 170 were carried forward from the colonial period. About 75 of the multilateral treaties do not apply to the Mainland (http://www.info.gov.hk/cab/topical).

The most important multilateral agreements in safeguarding the human rights of Hong Kong are the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights. These two covenants were valid in 1976 and the United Kingdom is a signatory member, so Hong Kong before 1997 was under the protection offered by these two covenants. However, as China was not a member of both covenants, the Hong Kong Legislative Council in 1991 passed the Bill of Rights which simply implanted all the stipulations of the International Covenant on Civil and Political Rights. Beijing was very frustrated by this move and declared that the Bill of Rights could not be above the Basic Law. The best protection for Hong Kong can only be having
China sign both covenants. China did sign the Covenant on Economic, Social and Cultural Rights in 1997, and the International Covenant on Civil and Political Rights in 1998. However, while the former was ratified by the National People’s Congress in 2001, the second one has not yet been ratified. So safeguarding human rights conditions in Hong Kong through international agreements is still a question in suspense.

The number of foreign states maintaining an official or semi-official presence in Hong Kong rose steadily from 98 in 1998 to 114 at the end of 2003. The official or semi-official presence in Hong Kong at the end of 2003 included 56 consulates general, 53 honorary consuls and five semi-official (mostly trade) missions (website of Constitutional Affairs Bureau, 2005).

Hong Kong people’s participation in international non-governmental organisations (NGOs) can be considered an index of its social relations with the world. The number of international NGOs of which Hong Kong people were members rose gradually after the handover. SAR citizens were members of 2,059 international NGOs in 1998, 2,382 in 2000, 2,563 in 2001, 2,676 in 2002, and 2,800 in 2003. At the same time, Chinese people, excluding Hong Kong, were members of 3,459 international NGOs in 2003. Hong Kong hosted the headquarters of about 63 international NGOs from 1997 to 1999. The number gradually rose to 62 in 2000, 66 in 2001, and 69 in 2002 and 79 in 2003 (Union of International Associations, 1999, 2000, 2001, 2002, 2003 &2004).

It is noteworthy that due to the unique geopolitical situation of the city, Hong Kong still plays a pivotal role in the eyes of many international NGOs. Both Oxfam and Amnesty International are active in Hong Kong. The Greek Orthodox Church has its Asian headquarter in Hong Kong, with its Metropolitan governing a vast region including China, India, Indonesia and Southeast Asia.

**Conclusion**

Many people in Hong Kong are afraid that with the accession of China to the WTO, Hong Kong might lose its major function as the useful middleman. But whether companies go to China or not does not necessarily relate to China’s membership in the WTO, and Hong Kong’s competitive edge would still be useful to foreign enterprises, even if China is more open. It is true that big companies are able to deal directly with China, but the majority of small and medium enterprises which look for opportunities in the Mainland are still relying on Hong Kong as a stepping stone.

Nevertheless, China becoming a member of the WTO poses a concrete problem for Hong Kong. In the past, capital inflow from Hong Kong to the Mainland enjoyed special privileges such as exemption of taxes. As a member of the WTO, China cannot continue the special treatment. So Hong Kong businessmen started to lobby to establish a “free-trade area” with the Mainland to
secure preferential treatment for Hong Kong. This was then baptised as the “Closer Economic Partnership Arrangement” (CEPA). For a free port and international economic entity like Hong Kong, this at once aroused the attention of Western enterprises doing business in Hong Kong. They wanted to know whether they are regarded as part of “Hong Kong Inc.”, and are entitled the same privileges as local Chinese enterprises (Ta Kung Pao, 28 February 2002: p. A6). If they are treated differently, it makes no sense for them to stay in Hong Kong. Obviously, a narrow definition based on ethnicity or nationality of shareholders is not acceptable. But a broader definition that includes all companies from Hong Kong irrespective of their ownership would not be acceptable to China, since this implies permitting foreign companies to enter China ahead of the transitional period agreed upon by Beijing and the WTO.

Closer economic integration with the Mainland was an inevitable development after Hong Kong became part of China, but it also posed a problem for Hong Kong’s external relations and international status. While Hong Kong’s economy is more and more integrated with China, the dilemma is that Hong Kong has to prove to the outside world that it is very different from the Mainland, due to its international character and separate identity, but it is not politically correct to explicitly say so. While Hong Kong still aspires to maintain its role as one of the most important financial centres in the world, an increasing number of Chinese enterprises are listed in Hong Kong aiming to raise funds. Hong Kong can definitely become the most significant Chinese financial centre, but can it move forward to become a truly international financial centre, after New York and London?

Hong Kong is always caught in the middle of the great powers. Now Hong Kong as part of China has to continuously serve both Chinese and Western interests. If the West does not regard Hong Kong as it used to, declining Western participation will be detrimental to Hong Kong’s status as an international city. “Provincialisation” of Hong Kong is a major challenge that Hong Kong has to face, especially as all major coastal cities of China seek to become more international.

Hong Kong, as an international city, always wants to benefit from globalisation and internationalisation. One of the major objectives of the Western triad in their foreign policy regarding China is to help in reforming the country by influencing the pace and course of reform. It is definitely in the interests of Hong Kong if the economic and political liberalisation of China continues, and the further integration of China into the international community is the best guarantee for the future of the SAR. Hong Kong has always been an important part of the world trading community. It aspires to play an even more significant role in the world of interdependence. Greater openness and transparency in the Asia-Pacific region as well as China will by all means benefit Hong Kong and its firms.

China’s accession to the WTO denotes the further effort of China to “join the world”. Hong Kong businessmen may worry about the loss of the role that Hong Kong used to play for so long and so well, as a bridge between China and
the outside world. However, Hong Kong is a major beneficiary of China joining the WTO from a long-term strategic sense. Whether one country comes first or whether “a high degree of autonomy” comes first reflects in reality the debate on whether globalisation would infringe upon national sovereignty and national identity, the sacrosanct principle to which the CCP’s raison d’etre is attached. A China which is more receptive to globalisation and understands the benefits of economic interdependence will be the best guarantee for the international status of Hong Kong.

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**QUESTIONS**

1. Do you think Hong Kong’s Chineseness and internationalness are necessarily in conflict? Why? How can Hong Kong utilise both so as to maximise its competitive edge?
2. Do you think it is in China’s national interest to permit economic internationalisation, but not political internationalisation, in Hong Kong?
3. To what extent is Hong Kong important in the interests of the Western triad (United States, European Union and Japan)?
4. What are the major variables in enhancing the international character of Hong Kong?

**USEFUL WEBSITES**

Union of International Associations (UIA) http://www.uia.org

**FURTHER READING**


*Yearbook of International Organizations*, Brussels: Union of International Associations, 1997–2005. The fundamental directory on all the international organisations of the world, including the number of headquarters of INGOs and NGOs in each country.
15 Conclusion: Looking to the Future

The Editors

This book has attempted to provide a comprehensive and critical analysis of the development of government institutions, major policy areas and Hong Kong’s relationship with China and the world after 1997, in the context of governance and the experiment of “one country, two systems”. Along with this attempt, topics related to political parties and the electoral systems, mass media and public opinion, and civil society in Hong Kong were also examined with regard to how successful they have worked in promoting a more effective, fair and legitimate governance.

Political institutions

In his chapter, Li Pang-kwong examines the composition of the HKSAR executive, the powers it enjoys, how it functions, its relationship with the legislature, and factors that affect its performance. Li also studies the notion of executive-led government and concludes that the executive-led government has been replaced by the executive-driven government (meaning that though the executive has no power to constitute the legislature, the pro-government political figures are in the majority of the legislature). Under the executive-driven government, the HKSAR government has to build up its majority coalition in the Legislative Council (LegCo) by persuasion and performance, not by institutional default. Li asserts that there is an urgent need for Hong Kong to construct a viable and workable governing system conducive to effective governance, mainly because the lack of an institutional push for both a mature party system to develop and a pool of professional political leaders to emerge have crippled the effective governance of the HKSAR. As Li puts it, if Hong Kong wants to strengthen its governing capacities, a properly-designed mechanism and a series of related measures aimed at nurturing the growth of a pool of political leaders should be in place.

By comparing the performance of the second HKSAR LegCo with the 1995–97 LegCo, Percy Luen-tim Lui finds that the more pro-democracy legislators LegCo has, the greater its assertiveness to discharge its duties; and vice versa.
Lui also examines other factors (such as the constitutional constraints imposed by the Basic Law) that would affect the capacity and performance of LegCo. After discussing the reasons for the poor performance of the second HKSAR LegCo, Lui suggests three ways to strengthen the capacity of LegCo, including: (1) amending Article 74 of the Basic Law to allow legislators greater latitude to introduce private members’ bills; (2) reforming the committee and panel systems to enhance the proper functioning of LegCo; and (3) strengthening the support system to provide sufficient staff support to the members of LegCo.

Benny Y.T. Tai studies the HKSAR judiciary after the 1997 handover. Tai first examines the fundamental principles (such as rule of law and judicial independence) of Hong Kong’s legal system. Next, Tai details two major changes in the HKSAR judiciary after the handover. The first change is the power of final adjudication (presently rested with the Hong Kong Court of Final Appeal, CFA) and the second one is the power of the Standing Committee of the National People’s Congress (SCNPC) to interpret the Basic Law. As Tai points out, one of the greatest foreseeable challenges is how the CFA will reframe its constitutional jurisdiction to review the compatibility of legislative acts of the NPC and the SCNPC with the Basic Law. Tai points out that after the handover, the struggle of the judiciary focuses on how it should resolve the inherent conflict between the Hong Kong and Mainland legal systems. Overall, Tai asserts that the judiciary would be able to protect the principle of rule of law and human rights of the Hong Kong people if matters it adjudicates do not involve the interests of the central authorities. Otherwise, the CFA is powerless as the power of interpreting the Basic Law is vested with the SCNPC. Judicial autonomy in Hong Kong in the long run depends on whether the SCNPC will interpret the Basic Law lightly, and how frequently it will do so.

Wilson Wong studies the roles that the Hong Kong civil service played in the governance of Hong Kong before and after the 1997 handover. When Hong Kong was a British colony, the political system was a bureaucrat-dominant system with only bureaucrats but no professional politicians. Major public policies were formulated by senior civil servants (of administrative officer grade) and implemented by the civil service. As Wong points out, the civil service is taken as the “conscience” of Hong Kong and the civil service system is designed to ensure that civil servants can make the best policies based on their expertise and judgment, without being threatened or biased by internal and external pressures. Wong also analyses in details the reforms to the civil service system after the handover. These reforms include the Accountability System for Principal Officials, public sector reform, and civil service reform. Despite all these reforms, Wong argues that the Hong Kong civil service remains an influential actor in the governance of the HKSAR. What is in question, however, is whether the reforms to the civil service system will lead to a better system of government.

Ian Holliday and Glenn K. H. Hui study the HKSAR’s local government system and its complex web of local, advisory and statutory bodies. Holliday and Hui
first devote detailed analysis of the development and functions of Hong Kong’s local government, which includes two tiers of institutions, namely the Urban/Regional Councils and the 18 District Councils. After the abolishment of the two municipal councils at the end of 1999, the District Councils become the sole tier of Hong Kong’s local government. Next, Holliday and Hui study the functions of Hong Kong’s several hundred advisory and statutory bodies. Though these bodies have made a significant contribution to Hong Kong’s executive-led government, they have come under considerable public scrutiny in recent years, notably as a result of media’s reports on crises that have enveloped them. Holliday and Hui note that advisory and statutory bodies have become more openly political bodies after the handover. Having said that, as Holliday and Hui point out, under the executive-led government system, no major reform to the local government and advisory and statutory systems will take place in the near future.

**Mediating institutions and political actors**

In his chapter, Ma Ngok provides a succinct description of the development of political parties since their emergence in Hong Kong in the early 1980s. Political parties are weak and divided, and their development is hindered by a number of factors, one of which is the CPG’s anti-politics stance. In line with this, other legal and institutional constraints have also deterred, instead of attracted, talents to join political parties. For example, the Chief Executive Ordinance has stipulated the non-partisan character of the CE. Most of the executive positions are not open for electoral competition. The legislature is restricted in its power, which lessens the incentive to join political parties. Having very narrow franchises, the EC and FC systems are unfavourable to party politics. On top of these, the abolition of the UC and RC in 1999, the meager resources of political parties, and a low level of participation from the public further aggravate the situation. With regard to the change of the electoral system, Ma analyses the effects of adopting a proportional representation system. As argued, the two political camps in the elections after 1997 have more or less achieved a stable balance of power.

Lam Wai-man and Irene L.K. Tong begin their analysis of civil society in Hong Kong with a clarification of the concept. Although civil society is commonly defined as the sphere intermediating between the family and the state, students of civil society and governance have a confusing array of acronyms to contend with, ranging from CBOs (community-based organisations) to INGOs (international NGOs). Having offered a brief historical account of the development of civil society in Hong Kong, Lam and Tong investigate the vibrancy of civil society since 1997, arguing that Hong Kong has a sizable and thriving civil society. Several trends are located in its development. For instance, the number and range of civic and professional associations have increased. Forms of political participation have been expanded. Also, society has witnessed a growing discussion and, hopefully,
articulation of overall social and political goals and values. All these indicate that
civil society in Hong Kong is going to maintain its vitality. However, this does
not mean that a strong political society necessarily follows. For various reasons,
civil society in Hong Kong is relatively handicapped in its ability to influence and
monitor the government. For example, civil society itself is divided internally, and
civic organisations are in general marginalised in their political significance.

Joseph M. Chan and Francis L.F. Lee provide an analytical account of the
definitions of public opinion, the roles of the mass media, and how they have
influenced the government and politics of Hong Kong. As argued, public
opinion in Hong Kong is discursive and political in nature. The media has served
as a forum for the discursive struggles, and will continue to play a core role in
mediating public discourse and reflecting public opinion. Both journalists and
citizens have recognised this indispensable role of the media, which is performing
a surrogate democracy function. Because of the high levels of social pluralism in
Hong Kong and the operation of its media market, the media is able to retain
relative autonomy, although various agents have sought to constitute the political
parameters in ways that best serve their interests. Press freedom remains an area
of common concern, but it has not been severely damaged after 1997. However,
some developments are worth attention. For example, the media may censor
itself in face of political pressure, ownership influence and advertisers’ influence.
The latter two types of influence have been brought about by the media’s
commercial nature. Further, the HKSAR government has also sought to mediate
public opinion by various means, such as granting exclusive interviews to selected
journalists and giving anonymous background briefings.

Policy environment

In analysing the policy environment of Hong Kong, the third part of the book
focuses on “politics in action”. It serves the purpose of illustrating how the
political forces in Hong Kong compete to determine “who gets what, when and
how” in each policy area, a central concern in political science. It helps to elicit
that politics is not important purely for the sake of politics, but is critical to
understanding the political landscape and development in Hong Kong because
how power is structured, aligned and constrained in a political system has a lot to
do with how resources are distributed among different groups in each policy area.
The three chapters in this section therefore help the readers to establish a more
concrete and visible link between politics and our actual daily life, including how
decisions on tax and public expenditure, health care, education, housing, and
transportation, are actually made and shaped.

The three chapters are written independently by different authors on three
separate policy areas: economic policy, social policy and urban policy. However,
interestingly and even surprisingly, similar perspectives and conclusions are
found across the three chapters. Firstly, a major perspective adopted by all three chapters is public policy is essentially political in nature. Public policy should be approached as conscious and rational choices made by policy makers who are laden with political considerations and implications in mind. In other words, public policy is often made to meet political goals, instead of delivering technical solutions to technical problems.

Second, it is important to recognise that politics often play a major role whenever there is more than one option or design in making a policy. A political approach of explanation is found extremely relevant when one option is preferred than other similar options in public policy. It is usually because that particular option is found more favourable to those who are politically influential. Understanding the outcomes of public policy and its significance is therefore another way of interpreting and describing the power distribution among different parties and groups in society. What policies are chosen in the end is important in informing us whose interest and values prevail in society under the existing institutional arrangements.

With the above perspectives in mind, Wilson Wong and Sabrina Luk examine the economic policy on two major levels: the macro-level of creating a favourable economic environment and the micro-level of industrial policy providing industry-specific incentives. Some of their most intriguing findings include rejecting the “market economy” image of Hong Kong and their argument that political rationality can sometimes override economic rationality in shaping economic policy in order to meet the needs of governing. Instead of constraining policy choices, economic ideology is often used as a tool to legitimate political choices, something the government has decided to do anyway. They also argue that the best example of showing how power distribution shapes resource allocation in society is the fiscal system under which the politically powerful are often taxed less but benefit more.

In examining the social policy of Hong Kong, similar observations on a different topic are made by Paul Wilding. He has identified a central problem in the social policy of Hong Kong — its pragmatic and reactive nature. This lack of vision and long-term planning is correlated with the local style of policy making in which policies are often simply practical responses and ad hoc solutions to manifest needs and problems — such as safeguarding social and political stability after a crisis. This political and practical approach has led to a gap and inconsistency in the development of its welfare state — a critical attitude towards state welfare on one hand but heavy subsidisation in major social service areas on the other hand. The social policy of Hong Kong is only one of the many models available worldwide to square the welfare circle but is definitely a mirror reflecting the unique political and social contexts of Hong Kong.

In his chapter, James Lee points out right at the very beginning that urban policy should not be approached simply as finding technical means for technical problems in urban areas. Its general domain has long expanded from physical
concerns to social and community concerns in which politics has a key role to play as competing interests and conflicts of values are involved and inevitable. In this process, ideally, government should fulfil the function of interest intermediation to maintain fairness and justice. Unfortunately, opposite to what theory suggests, Lee finds that the “growth machine thesis” under the urban political economy approach provides the most useful and powerful framework in understanding the urban policy in the HKSAR. He has cited a network of powerful interest groups, all linked up to the property market; exerting a dominant influence on the urban policies in Hong Kong for their own interest maximisation.

Political problems require political solutions. Given the different nature of the three policy areas, some solutions will be policy-specific in nature and may not be generalised across policy areas. Having said that, it is also strongly agreed by all three chapters that the handover has seen the rise of the property developers as dominant political players whose interests can be at odds with public interest. As the political nature of policy making has essentially rejected the notion of disconnection between institutional arrangement of policy making and policy outcomes, this problem cannot be easily rectified by simply relying on technical solutions but must be addressed by structural changes in the policy-making institutions.

Hence, incentives and the power of actors in the policy-making process should be reexamined and redefined in order to ensure more inclusive and well-balanced policy outcomes. Institutional reforms in the governance system are therefore essential to open up the policy-making process to individuals and groups whose voices, interests and values are currently unrepresented. This political solution may include a fully democratic system but it should not be taken as the sole answer. Other necessary and effective measures may include a more equitable fiscal system achieved through enhanced transparency, social policy dilemmas mitigated by more informed and open policy debates, and citizen participation at the community level to make better urban policy. This implies that even if full democracy is still out of reach in the short run in Hong Kong due to Beijing’s opposition and other factors, there should be no excuse to decline or delay other meaningful reforms which intend to make the institutions of policy making more open, transparent, and accountable.

Political environment

In his chapter, Ray Yep examines the tension between the SAR and the Mainland since 1997. On the one hand, Hong Kong’s economy is becoming increasingly integrated with that of the Mainland. On the other, there are many conflicts between Hong Kong and the Mainland at the level of values, and a degree of mutual distrust is very apparent. Two key questions that emerge from this tension are considered, which include why it has come about, and how it might be
overcome in the years ahead. To answer the first question, he notes that there have been some policy blunders on the part of both Beijing and the HKSAR governments. To answer the second question, he focuses on changes that might be introduced by the chief executive of the SAR, arguing that democratisation is the only way forward.

Ting Wai and Ellen Lai analyze the role and place of the SAR in the wider world. They note that even though Hong Kong is now formally part of China, it remains an international city with strong links to the West. They argue that this dimension of Hong Kong’s global positioning is fully acknowledged by Beijing, and on this basis they hold that the status quo is largely in the interests of all key players. At the same time, however, they note that there are some challenges to Hong Kong’s international status, particularly since China’s accession to the World Trade Organisation. Nevertheless, they maintain that it is in the best interests of Hong Kong for China to be open to globalisation and receptive to the benefits that economic interdependence can bring. This, they argue, will be the best guarantee of Hong Kong’s international status in the long run.

Discussion

Is it possible to achieve a more effective, fair and legitimate governance in Hong Kong? This question does not have a straightforward answer. As a matter of fact, multiple factors and their interplay have affected the governance in Hong Kong over the past years since the handover. Although the political atmosphere, economic condition and social harmony in Hong Kong appear to have improved, the path trodden has not been smooth, and Hong Kong’s adjustment to its new identity is nothing simple. The possible reasons contributing to such a bumpy road of adjustment are many, as eloquently put forward in various chapters of the book, but several major factors can be identified.

First, the CPG’s attitudes towards politics play a significant part in deciding the political development of post-handover Hong Kong. Renowned of its anti-politics stance, the CPG, together with the HKSAR government, have hoped to confine the scope and speed of politicisation in Hong Kong. Such a depoliticised stance is embodied in the Basic Law, and subsequently elaborated in the Chief Executive Ordinance and in certain government policies. The institutional and political framework thus set for Hong Kong include the requirements of the CE to be non-partisan, an executive-led government, a limited legislature in its composition and various other constraints, and the abolition of the UC and RC. Also, the institutional and political makeup have directly discouraged political parties’ development in Hong Kong, and the anti-politics stance of the governments have reinforced the tendency of self-censorship of the media.

Second, the economy-first ideology of both the CPG and the HKSAR governments has constituted the major beliefs related to social policy, and the
CPG's dealings with Hong Kong. The ideology is supported by a deep-seated view of Hong Kong as an economic city and its people as economic animals, and its effects are notable. For example, with regard to social policy, the ideology has facilitated the growth of an anti-welfarist tradition and other key economic beliefs discouraging to welfare development. The fact that Hong Kong is valued predominantly for its economic utility explains the Mainland’s emphasis on economic measures in trying to win the minds and hearts of the local population, and in nurturing a sense of economic dependence on China among them. Further, the emphasis on economy has indirectly shaped Hong Kong into a place deprived of alternative visions of a better society apart from economic advancement.

Third, the business-first attitude of the HKSAR government and the monopolistic position of business in politics have dampened the government’s ability to upgrade and transform the economy. Scholars point out that the government’s biased attitude and the growth of crony capitalism in Hong Kong have created unequal opportunities in economic competition, and made the city less attractive for doing business. Further, this business-first attitude reflects the government’s insensitivity to public sentiments, and has worsened the relationship between the government and the people.

Fourth, the idea of “one country, two systems” is a contradiction in itself, and consequently requires an immense amount of creativity and collaborative effort to make it work. The past nine years have witnessed attempts from both the Mainland and Hong Kong to bridge the gulf between them. With regard to the judiciary, the SCNPC’s interpretations of the Basic Law, and the CFC’s adjustment of its rulings in the right-of-abode issue, are examples of mutual accommodation to resolve the inherent conflict between the two different legal systems. Furthermore, the contrast between Hong Kong and China is vividly exposed in several other incidents, such as the electoral arrangements for the CE and LegCo beyond 2007 and 2008, in which Beijing became heavily involved in Hong Kong’s affairs. While the inherent discrepancy between China and the Hong Kong public on issues such as the rule of law and democratisation seems inevitable, the governments’ rejection of politics and their one-sided view of Hong Kong as an economic city have certainly deepened the crises.

In conclusion, it appears that reconstructing the governing system into one that is conducive to effective governance in Hong Kong is imminent. The current executive-led government has placed the CE in a web of power relationships in which s/he has to strike risky but not always effectual trials of balance. Consequently, the relationship between the executive and the legislature is tense, government policies are accused of being biased towards the business circles, and the system is non-congenial to the development of political parties and not viable to nurturing a vibrant civil society in Hong Kong. In addition to institutional reform, there is also a challenge of attitudes as scholars have rightly put. For governance to be effective in a cosmopolitan Hong Kong, it has to come to terms with new visions of a better society, new ideas and new challenges. After
all, cosmopolitanism encompasses not only economic success but also excellence in other areas of governance such as a clean and efficient public administration, a democratic and pluralist political environment, a tolerant culture, and an equitable social environment. To achieve these, Hong Kong will have to rethink and come to grips with its identity and priorities.
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