

Chapter 4

The Hong Kong Special Administrative Region: A New Era but the Same Old Problems

In the preceding chapter, we mentioned that developments in Hong Kong's system of representative government had suddenly awakened most of the Hong Kong citizens' aspiration to a more open society. They demanded more opportunities to participate in governmental affairs. Governor Chris Patten's political reforms further advanced such demands. Under Patten's administration, the Hong Kong people were increasingly outspoken, and Hong Kong society was greatly politicized. Subsequently, a colonial governing philosophy and style was less tolerated.

However, political events that have occurred after the establishment of the Hong Kong Special Administrative Region (HKSAR) suggested that both the Chinese and the HKSAR governments did not fully recognize this fundamental change in the nature of Hong Kong's political culture. The replacement of the duly elected Legislative Council (LegCo) with a non-elected Provisional Legislative Council (PLC), and the repeal of several labour rights laws, for example, could only deepen the Hong Kong people's disappointment to the HKSAR government. It was natural for the Hong Kong people to see the creation of the HKSAR as the beginning of Hong Kong's new era. They expected that problems resulted from the colonial governmental philosophy would be dealt with without further delay. But to their dismay, the HKSAR government has failed to properly address these problems. It is my contention that we must address them immediately if we wish to reduce the occurrence of disputes and conflicts between the governing elites and the increasingly enlightened and vocal public.

But, in exactly what ways should we deal with these problems? This study suggests that we could best resolve these problems under an open and responsible governmental system. Before we examine details of such a system, however, we need to understand the political context of the HKSAR. Since the HKSAR's political context is a result of its colonial legacies, I will first identify these legacies and examine their contents. Moreover, as whether changes proposed in this

study would be accepted by both the Hong Kong and Chinese governments depend very much on the alignment of Hong Kong's different political parties, I also examine political orientations of Hong Kong's major political parties. Finally, I discuss issues being debated in today's HKSAR and questions that are important for the implementation of the principle of "one country, two systems" but are being neglected in those debates.

A Mixed Bag of Colonial Legacies

As mentioned, political developments in Hong Kong's colonial past had generated a new level of political awareness among many Hong Kong citizens. People began to question the validity of some conventional beliefs such as a faster pace of political development would bring too many uncertainties to Hong Kong's social stability and economic growth. This growing skepticism about the traditional colonial governing philosophy was generated by the beginnings of a clean and representative government during the last two decades of Hong Kong's colonial history.

Along with Hong Kong's economic growth was the rise in its people's education level and income. Because of that, the Hong Kong people began to show more interest in everything about advanced and modern western countries, including the idea of democratic government. Aided by a free and well-developed mass media and the rapidly developing telecommunication technology, the Hong Kong people are now much more familiar with (and thus more receptive to) the ideas of democratic election of government and political equality. All this made them less willing to accept the colonial governing philosophy and style. If the ruling elites failed to recognize this fact, governance problems could deteriorate to a point where it would become very difficult for the government to resolve them. Before we discuss colonial legacies that help create Hong Kong's current governance problems, let us review forces behind the formation of today's more vocal, active, and enlightened Hong Kong citizenry.

Colonial Legacies that Lay the Foundation for Hong Kong's New Political Context

There are four colonial legacies that help to lay the foundation for Hong Kong's new political context, including: (1) the practice of rule of law, (2) emergence of a clean government, (3) beginnings of greater government openness and accountability, and (4) a free and well-developed mass media. Each of these four legacies will be examined in turn.

The practice of rule of law

The concept of rule of law, as Sir William Wade and Christopher Forsyth see it, means that: (1) everything must be done according to law; (2) government should be conducted within a framework of recognized rules and principles which restrict discretionary power; (3) disputes as to the legality of acts of government are to be decided by judges who are independent of the executive; and (4) the law should be even-handed between government and citizens, that is, the government should not enjoy unnecessary privileges or exemptions from ordinary law.¹ Applying this definition of rule of law to Hong Kong, one would not dispute that the pre-handover Hong Kong was a society that observed the spirit of rule of law. The principles of independent judiciary and equality before the law were well respected by the Hong Kong government and the people of Hong Kong.

Is it still the case after the handover? Overall, it is. As former Governor Chris Patten observed, “Hong Kong is a free society under the rule of law. It was last year and it still is this year.”² Thus, although Hong Kong did not have a democratic government, its citizens’ civil liberties were satisfactorily protected by the principle of rule of law. Indeed, a common argument against a faster pace of democratization was that Hong Kong does not need democracy to check the government’s behavior. The principle of rule of law has served the same purpose effectively. However, rule of law should not be a substitute to a more open and responsible government. On the contrary, these two ideas are complementary to each other. In fact, without a democratic political system, the practice of rule of law would not last long. The people of Hong Kong recognized this fact fully. This was a major reason that they were so eager to develop a democratic governmental system before China resumed its sovereignty over Hong Kong.

Emergence of a clean government

Pertinent to the principle of rule of law is the struggle for a clean government. Corruption in both the public and private sectors was a defining feature of Hong Kong back in the 1960s and

¹. Sir William Wade and Christopher Forsyth. *Administrative Law*. 7th edition. Oxford, UK: Clarendon Press, 1994, pp.24-26.

². Linda Choy, “Patten sees SAR weathering crisis with ‘flying colours’.” *South China Morning Post*, 29 June 1998. Internet edition.

early 1970s. Then, bribe-paying to public officials and secret commissions in the private sector was considered customary. Institutionalization of bribery was particularly present in the police force. An important event in 1973 provided the spark that ignited the public's demands for anti-corruption action from government. A senior police officer, Chief Superintendent Peter Godber, was required by the police anti-corruption branch to account for his considerable private wealth, which was about six times his total official salary over the previous 20 years. Godber took refuge in Britain and the community was enraged.³ To placate public opinion, Governor MacLehose decided to establish an independent and powerful agency, the Independent Commission Against Corruption (ICAC), to deal with Hong Kong's widespread corruption. Founded in February 1974, the ICAC was independent of the police and the rest of the civil service, and its Commissioner was appointed by and directly answered to the Governor.

The ICAC's success in bringing back Godber to Hong Kong in 1975, which subsequently led to his conviction and four years imprisonment, greatly enhanced its credibility. Further successful prosecutions followed and by July 1977 the Commissioner of the ICAC reported to the Governor that all the major corruption syndicates⁴ known to the ICAC had been broken up.⁵ After more than 20 years of hard work, the ICAC, along with the Hong Kong people, have managed to keep Hong Kong one of the less corrupt cities in Asia and the world.⁶

³. Norman J. Miners. *The Government and Politics of Hong Kong*. 5th ed., Hong Kong: Oxford University Press, 1995, p.96.

⁴. A syndicate is defined as a group of government servants of virtually any number--10, 50, sometimes more--who combine to extort money for forbearing to carry out the duties imposed on them by their office or by the law (Ibid., p.97).

⁵. The ICAC fights against corruption on three fronts--investigation, prevention and education. It has three functional departments--Operations (investigates corruption complaints), Corruption Prevention (examines systems in government departments and public bodies to identify and reduce corruption opportunities), and Community Relations (educates the public on the consequences of corruption and seeks their advice and support in the fight against corruption). For more information, see the ICAC's webpage at "http://www.icac.org.hk/icac/index_e.htm".

⁶. However, there is a reason for us to be worried about the resurgence of corruption. As a newspaper reports, there were 743 reports made against civil servants between January and June of 1998, up from 608 (a 22% increase) during the same period last year (Simon Ng, "Civil service corruption complaints up 22pc," *The Hong Kong Standard*, 22 September 1998. Internet edition).

Beginnings of greater government openness and accountability

Although Governor Chris Patten's political reforms were moderate by western standards, they nonetheless gave Hong Kong a more open and responsible government. Since we have already examined Patten's reforms in the previous chapter, we now turn to other reforms that he has started to increase the government's openness and responsiveness.

First, Patten required that all government departments which provided services directly to the public write and published their performance pledges to the public. The performance pledges program was similar to the British citizen's charters program. Both initiatives were aimed at increasing the standard of public services and making it more responsive to the public's demand. Government departments were helped by the Efficiency Unit (which was responsible for coordinating the government's public sector reform programmes) in writing up their performance pledges. In 1993, one year after the launch of the program, "30 out of 50 government departments directly serving the public have produced performance pledges. . . [and] some 20 departments have user or customer liaison groups already in place."⁷ These figures seemed to suggest an impressive record of Patten's reforms.

However, skeptic Anthony B. L. Cheung contends that the true picture was far less impressive than the figures suggest. With respect to the Inland Revenue Department's users committee, Cheung argues that: "The low transparency of the exercise and the bureaucratic way in which it has been conducted, with minimum input from the real 'customers,' not only defeats the very logic of the consumerist approach, but has also cast doubt as to whether this is after all a politics of presentation rather than a politics of representation, the worst which sceptics of public consumerism has feared might happen."⁸ Nonetheless, the performance pledges program has made it clearer to the public as to what can be expected from the government. In reality, though the government adopted an administrative code of access to government information rather than introduced a freedom of information legislation into Hong Kong, its citizens had more

⁷. Chris Patten. *Hong Kong: Today's Success, Tomorrow's Challenges*. Hong Kong: The Government Printer, 6 October 1993, para. 120.

⁸. Anthony B. L. Cheung, "Performance Pledges--Power to the Consumer or a Quagmire in Public Service Legitimation?" *International Journal of Public Administration* 19(2) (February, 1996):233-259, 252.

access to government information than before 1990.

Another reform Patten implemented was amending the *Royal Instructions* to the effect that the Governor would cease to be the President of the LegCo. From 1993 onwards, the position was elected by and among members of the LegCo. Patten also volunteered himself to meet with the legislators monthly when the LegCo was in session “to answer Members’ questions and to discuss government policies and proposals.”⁹ His “Governor’s Question Time” was similar to the question times practiced in many western parliaments.

In sum, though the development of a more open and accountable government had not been completed by the handover, the genie of democracy was already out of the bottle and could never be put back again. The public exercised their rights to elect their representatives to the LegCo regardless of how China felt about it. For example, despite repeated warnings from the Chinese officials that electing “subversive” candidates (mainly from the Democratic Party) to the LegCo would do no good to Hong Kong, voters persisted in voting for candidates from various pro-democracy political parties and rejecting “patriotic” candidates supported by the Chinese government in the 1995 LegCo election.¹⁰

A free and well-developed mass media

As mentioned in Chapter 1, by the time Hong Kong was reverting to China, its mass media were already quite well developed and free. This is another legacy of the British rule from which Hong Kong has benefited. A free and well-developed mass media is indispensable to the development and preservation of rule of law, clean, open and responsible government. A high degree of press freedom exists in Hong Kong, to a level exceeded only by Japan in Asia.¹¹ As

⁹. Chris Patten, *Our Next Five Years: The Agenda for Hong Kong*. Hong Kong: The Government Printer, 7 October 1992, para. 120.

¹⁰. The most notable example was the defeat of Mr. Tsang Yok-sing of the Democratic Alliance for the Betterment of Hong Kong, a pro-China political party. Despite better financial and human resources, Tsang lost the election to Mr. Bruce Liu Sing-lee of the Association for Democracy and People’s Livelihood, a small liberal political group.

¹¹. However, to reserve the power to control the media, the colonial government refused to repeal numerous draconian laws (like the Official Secret Act) affecting the operations of the media. Though the government has been relatively restrained in exercising these powers against the media, with these laws, in the words of Li Yuet-wah, the former president of the Hong Kong Journalists Association, the government is like a

Joseph Man Chan and associates argue, the government “rarely practises editorial censorship. Without an explicit and elaborate cultural policy, Hong Kong is a free port for information that allows the free flow of the media in and out of Hong Kong.”¹² In short, the mass media were, and still are, left to operate within a free market structure.

Regarding the ideological orientation of today’s media organizations, most are centrist though many seem to exercise self-censorship in commenting on China’s political events. Nonetheless, in their survey of Hong Kong journalists, Chan and his colleagues concluded that Hong Kong journalists, like their American counterparts, enthusiastically embrace four norms: to report news objectively, to get information to the public quickly, to provide analysis of complex problems and to be a watchdog of the government.¹³ But they also found a worrying sign: the Hong Kong journalists are pessimistic about the future of press freedom--almost seven in ten of those journalists holding centrist views (68%), about half of those on the right (47%), and one-third of the leftists (34%).¹⁴ Whether or not this prediction is correct remains to be seen. But if the political system within which the mass media operate is not open and democratic, then it certainly will not have a promising future. Earlier we argued that the existence of a free and well-developed mass media is indispensable to the maintenance of an open society; the reverse is equally true.

Overall, the above-mentioned colonial legacies facilitated the emergence of a Hong Kong society that is more reluctant to accept a political system biased in favor of a few groups of social elites. This change in the nature of the Hong Kong society explains why in the last few years of

gunman pointing a loaded pistol at the media, his finger on the trigger (Li Yuet-wah, “Freedom of the Media,” in *From Colony to SAR: Hong Kong’s Challenges Ahead*, eds. Joseph Y.S. Cheng and Sonny S.H. Lo (Hong Kong: The Chinese University Press, 1995), pp.457-490, p.457. Li’s article provides a critical analysis of the status of Hong Kong’s media freedom).

¹². Joseph Man Chan, Paul S. N. Lee, and Chin-Chuan Lee. *Hong Kong Journalists in Transition*. Hong Kong: Hong Kong Institute of Asia-Pacific Studies, The Chinese University of Hong Kong, 1996, p.17.

¹³. *Ibid.*, p.110. These conclusions were derived from a survey Chan and his colleagues conducted in 1990. They sent out questionnaire to a sample of 692 journalists who worked in 25 news organizations, virtually covering all the local electronic media and dailies that publish regular news. The response rate to their survey was 75 per cent.

¹⁴. *Ibid.*, p.117.

Hong Kong's transition period, governance problems were more apparent than before.

Colonial Legacies that Help to Create Hong Kong's Current Problems

But other legacies of colonialism do not help us prepare for the future. Many of Hong Kong's present governance problems are results of the aftermath of colonialism, including: (1) government by consultation (or discussion) and an overemphasis on social harmony and stability; (2) overrepresentation of the business and professional interests in the process of government; (3) dominance of Hong Kong's politics by civil servants; and (4) emergence of an executive-led government (and its contention with a legislative-led government).

Government by consultation and an overemphasis on social stability

As Britain insisted that Hong Kong should be self-sustaining as far as possible, securing economic growth became the overriding objective of the government. However, Hong Kong lacks natural resources.¹⁵ Its economic growth depends heavily on foreign and domestic investments. To attract investments, the government believed that social stability must be preserved. Hence, the prevention of open social conflicts and the creation of a sense of social harmony in the tiny and overcrowded city were the major emphases of the government. Members of the public, most of whom were refugees who had fled the mainland's communist regime, supported this emphasis.

Increasing opportunities for the public to participate in public affairs and government decision-making through democratic elections is a normal course adopted by the western democracies to achieve social stability and harmony. However, introducing democratic elections to Hong Kong was a step that involved too many uncertainties for the colonial government. Therefore, it opted for another means to achieve these goals--government by consultation. As G. B. Endacott wrote in the early 1960s, the government had continuously consulted interested opinions before it makes any important decisions. Endacott asserted that: "Indeed, consultation as practised by the Government is so extensive that the term 'government by discussion' aptly

¹⁵. As Norman J. Miners points out, Hong Kong imports 80% of its food, practically all the raw materials for its industry, and 100% of its fuel. Moreover, only 12% of its land area is arable, and 70% of its water supply is piped across the border from China (Miners, *op.cit.*, p.43).

describes one of its leading characteristics.”¹⁶ The result of “government by discussion,” as Endacott argued, was a reasonable contentment of the public towards the society and the government.¹⁷

Likewise, in a Green Paper, the government argued that Hong Kong’s political system “is not a system based on parties, factions and adversarial politics but one of agreements which seeks to take a pragmatic approach to the problems of the day. There is full and frank discussion of the many important matters which arise, and decisions are reached on the basis of general consensus.”¹⁸ But this consensus was within the elite. Predictably, the alliance of the government and the business sector objected to any changes in the political system that would impose threats to the preservation of Hong Kong’s social stability and harmony.

Overrepresentation of the business and professional interests in the process of government

Moreover, beyond the elite, consensus was not always present. Riots that broke out in 1966 and 1967 suggested a different picture than the one described by Endacott. The one that occurred in early April 1966 was begun as an unorganized series of demonstrations over a five-cent price increase on the cross-harbour Star Ferry. The 1967 riot was initiated by Leftists in Hong Kong who, having inspired by China’s Cultural Revolution,¹⁹ thought that violence and bombings could help them nullify British colonial rule. Although the cause of these two riots was different, they suggested that the governmental system needed reform.²⁰

¹⁶. G.B. Endacott. *Government and People in Hong Kong, 1841-1962: A Constitutional History*. Hong Kong: Hong Kong University Press, 1964, p.229.

¹⁷. Ibid., p.240.

¹⁸. *Green Paper: The Further Development of Representative Government in Hong Kong*. Hong Kong: The Government Printer, July 1984, para 19.

¹⁹. The Cultural Revolution (1966-1976) was initiated by Mao Zedong, in association with his wife, Jiang Qing, Defense Minister Lin Biao, and other leading radicals, in order to eliminate revisionists within the Communist Party of China (Craig Dietrich, “Great Proletarian Cultural Revolution,” in *Modern China: An Encyclopedia of History, Culture, and Nationalism*, ed. Wang Ke-wen (New York, NY: Garland Publishing, Inc., 1998), pp.126-127).

²⁰. For details of the 1966-1967 riots and reforms introduced by the government after these riots, see Ian Scott. *Political Change and the Crisis of Legitimacy in Hong Kong*. Hong Kong: Oxford University Press, 1989, chapter 3.

After the 1966 riots, the government appointed a commission to look into the causes of the riots and seek methods to prevent similar incidents from happening in the future. A major finding of the commission was that “there was a failure in communication between the government, the press and the general public.”²¹ As the commission believed that those who complained about the government were actually asking for readier access to the government, it suggested that “public access could be improved by developing representation on advisory, consultative or executive bodies at a local level.”²²

However, what Endacott and the commission’s report did not mention was that interests represented in government institutions, such as the Executive and Legislative Councils (ExCo and LegCo respectively) and other government advisory committees were mostly business and professional interests. The grassroots were definitely underrepresented in these government bodies. Nonetheless, the government maintained that appointed members of the ExCo and LegCo could represent the interests of Hong Kong people at large. But this was not so. As John Rear pointed out, in the early 1970s, 99% of Hong Kong’s population was Chinese but only 14 of the 21 unofficial members of the ExCo and LegCo were Chinese. More important, these 21 Chinese were “with very few exceptions the representatives of big business and banking and, without exception, the representatives of wealth.”²³ This overrepresentation of business interests in the government matched with the overall objective of the colonial government--pursuing rapid economic growth.

One may suspect that the development of a representative government would reduce the

²¹. Ibid., p.92.

²². Ibid., p.93. A notable example of such an effort was the launching of the City District Officer (CDO) Scheme in mid-1968. District offices were set up in ten urban districts. Each office was headed by a City District Officer, whom, as Ambrose Yeo-chi King puts it, was made to be recognized as “the government” in a local district. As King observes, the CDO Scheme was “aiming to counteract the tendency of the metropolitan Government toward centralization and departmentalization” (Ambrose Yeo-chi King, “Administrative Absorption of Politics in Hong Kong: Emphasis on the Grass Roots Level,” in *Social Life and Development in Hong Kong*, eds. Ambrose Y. C. King and Rance P. L. Lee (Hong Kong: The Chinese University Press, 1984), pp.127-146, p. 138).

²³. John Rear, “One Brand of Politics,” in *Hong Kong: The Industrial Colony--A Political, Social and Economic Survey*. Hong Kong: Oxford University Press, 1971, pp.55-125, p.72.

overrepresentation of business interests in the process of government. This did not happen. For example, Benjamin K. P. Leung notices that in the 1985 LegCo, 30 legislators were from business corporations. The percentage of this representation was 65%, compared to 70% in 1982 when all unofficial members were appointed by the Governor.²⁴ This overrepresentation of the business and professional interests in the process of the government is not only continuing into, but worsening following the establishment of the HKSAR.

Dominance of Hong Kong's politics by civil servants

Hong Kong's civil servants were, and still are, subject to little control from the legislature, not to mention pressure groups and political parties. According to John C. C. Chan, the former Secretary for Education and Manpower in the Hong Kong government, Britain exerted little control on Hong Kong's internal administration. All decisions concerning the day-to-day affairs of Hong Kong were taken in Hong Kong, mainly by the senior civil servants. Although the process of government was characterized by an attempt to seek a consensus through consultation, traditionally it was the civil servants who took a firm lead.²⁵

Policy making power in Hong Kong is the prerogative of the Administrative Officers (AOs). There were about 500 AOs in 1998, working in 15 policy and resource branches (now renamed as bureaux) and over 30 departments. They are mostly generalists who are supposed to be capable of taking on many roles and responsibilities and solving difficult problems of governance.²⁶ Administrative officers are recruited from among university graduates from all disciplines. They are expected to be mainly deployed on duties concerned with the coordination

²⁴. Benjamin K. P. Leung, "Power and Politics: A Critical Analysis," in *Social Issues in Hong Kong*, ed. Benjamin K. P. Leung (Hong Kong: Oxford University Press, 1990), pp.13-26, p. 23.

²⁵. John C. C. Chan, "The Civil Service: Continuity and Change," in *Hong Kong's Transition: A Decade after the Deal*, eds. Wang Gungwu and Wong Siu-lun (Hong Kong: Oxford University Press, 1995), pp.19-31, p.21.

²⁶. Like Britain, the Hong Kong government relies on generalists rather than specialists. As Ian Scott puts it, "the generalist is seen as a broadly competent civil servant, who has a broader view of an policy issue, well versed in administrative practice and able to serve in any department. . . [and] the specialist is viewed as contributing a narrow expertise normally within the confines of a single department" (Ian Scott, "Generalists and Specialists," in *The Hong Kong Civil Service and Its Future*, eds. Ian Scott and John P. Burns (Hong Kong: Oxford University Press, 1988), pp.17-49, p.18).

and formulation of government policies and programmes. As Miron Mushkat observes, the political dimension of administrative officers' work will grow in importance as they reach the higher rungs of the civil service.²⁷ Simply put, besides managing their respective departments, the most senior administrative officers also functioning like cabinet ministers who have to sell and defend policies they formulate to the public and the LegCo.

In all, continuing economic growth in the postwar periods and the relative social stability have somewhat legitimized the dominant role senior civil servants played in Hong Kong's politics.²⁸ That is why on the one hand the Hong Kong people would like to see their government being held accountable to them through the LegCo, on the other hand they also worry whether legislative oversight would negatively affect the government's efficiency and effectiveness. The ideal is to strike a balance between holding the government accountable and giving it enough discretionary powers to conduct its business efficiently and effectively, but finding it is a different matter.

An Executive-led government versus a legislative-led government

A result of dominance of Hong Kong's politics by civil servants was the firm belief in "executive-led" government. In it, government officials were responsible for formulating policy, framing legislation, preparing the territory's annual budget, and implementing public policies. Simply put, Hong Kong's administrative and political powers were in the hands of the Governor and senior civil servants under him.

Naturally, from the perspective of the LegCo, checking the government is always at the top of the agenda. As discussed earlier, the LegCo has become more assertive and aggressive

²⁷. Miron Mushkat, "Staffing the Administrative Class," in *The Hong Kong Civil Service: Personnel Policies and Practices*, eds. Ian Scott and John P. Burns (Hong Kong: Oxford University Press, 1984, 1990), pp. 96-117, p.97.

²⁸. Thus, as Terry T. Lui argues, the efficiency of government is more than a standard to gauge bureaucratic performance, it is a political device in its own right (Terry Lui, "Efficiency as a Political Concept in the Hong Kong Government: Issues and Problems," in *Asian Civil Service Systems: Improving Efficiency and Productivity*, ed. John P. Burns (Singapore: Times Academic Press, 1994), pp.17-58, p.18). Predictably, in Hong Kong, efficiency as a value is deeply embedded in the civil servants' collective mentality. For a detailed analysis of how the concept of efficiency was perceived by the Hong Kong government, see Lui's article.

after the introduction of direct elections in 1991 and the emergence of political parties.²⁹ But in the eyes of the government, policies and decisions were made by the executive branch, not the LegCo. According to the government, the LegCo has five main functions. First, it can pass, amend, or refuse to pass legislation proposed by the executive. Second, it has the power to vote or deny funds. Third, it can debate public policies and other matters of public concern. Fourth, legislators can question the government on any public issues and call for the attendance of witnesses and the production of documents. Finally, it can call the administration to account for the expenditure of public funds.³⁰

Before 1985 half of the LegCo's members were civil servants (known as official members) and all the unofficial members were appointed by the Governor (who concurrently served as the President of the LegCo). Then, the LegCo was contented to play whatever roles the government assigned to it. In short, the emphasis of an executive-led system had resulted in a habit of legislative subordination to the executive branch. Moreover, it also created a myth that it was normal for the executive and legislature to maintain a harmonious relationship. Tensions and conflicts between these two government branches, as we commonly seen in the western countries, were regarded as abnormal in Hong Kong. Of course, this emphasis on cooperative and harmonious relationships between the executive and legislature fitted well with the society's obsession with stability.

Nonetheless, whether the government liked it or not, with elected legislators the LegCo began to take its oversight role seriously. The reason behind this change is simple--voters demand accountability from their elected legislators; in turn the legislators demand more accountability from the government.³¹ Conflicts between the more aggressive legislature and the government habituated to executive leadership are bound to increase.

²⁹. However, as Kathleen Cheek-Milby argues, the new-style LegCo does not have more policy-making power than before, but rather has matured in the ability to exercise those powers (Kathleen Cheek-Milby. *A Legislature Comes of Age: Hong Kong's Search for Influence and Identity*. Hong Kong: Oxford University Press, 1995, p.165.)

³⁰. "Remarks of the Secretary for Constitutional Affairs on the Motion Debate on Executive-Legislature Relationship, 1 July 1992," *The Hong Kong Hansard 1991-1992*, pp. 3927-28.

³¹. Cheek-Milby, *op.cit.*, p.163.

In summary, the above-noted colonial legacies are in conflict with those that have shaped Hong Kong the most in its transition period. As reviewed, those legacies transformed Hong Kong into a city that “has come alive politically with its new, one-million-strong electorate, politicians skilled in the use of international publicity, a hyperactive local press, routine street demonstrations, and concerned groups willing to articulate the pros and cons of virtually every issue necessary to sustain civilized life in a modern city” before July 1997.³² Hong Kong continued to be such a city after the handover. If the HKSAR government and its allies continued to think and act like their colonial predecessors, then governance problems and political disputes surfaced in the last phase of Hong Kong’s transition period could seriously impair efforts to implement the principle of “one country, two systems.”

Governance Problems of the HKSAR

Government by consultation and an overemphasis on social stability, as mentioned, induced the Hong Kong government to adopt a conservative approach reforming Hong Kong’s political system. This conservative orientation is at odds with the general public’s aspiration to a faster pace of democratization. There is also an increasing concern over how to hold the powerful but unelected senior civil servants accountable for their behavior. Citizens feel a great sense of frustration when major policy failures are detected but no one is being held responsible for the failures. But, as previously discussed, unlike the earlier generations, today’s Hong Kong citizens are more willing to participate in public affairs and hold their government accountable for its action or inaction.

In particular, several problems stood out during Hong Kong’s last phase of transition. These problems were related to the executive-legislative relationship, the responsiveness of the civil service, and above all, holding the government accountable to the public. They continue into the HKSAR. To make the principle of “one country, two systems” work as we have argued in Chapter 1, they need to be confronted head-on.

³². Suzanne Pepper, “East vs. West and the Struggle for Democratic Reform within the Chinese State,” *Asian Survey* 37(8) (August, 1997):683-704, 701.

Imbalance in the Powers of the Executive and the Legislature

With the development of a representative government, the LegCo was more assertive in checking the executive branch. Gone are the days when private members' bills on issues of public policy are unknown; speeches by the unofficials are polite and uncontroversial; and criticisms are rare or denunciations of the failures or ineptitudes of the civil service never heard.³³ What did not change, however, is the government's firm belief in maintaining an executive-led political system. To protect its dominant role in policy formulation and implementation, the government has resisted vigorously any move by the LegCo to undermine the doctrine of executive-led government.

Nonetheless, the LegCo realized that it should play a more active role than before in the process of government. The temper of the new LegCo was shown on 25 November 1991 when a motion objecting to an agreement reached between Britain and China on the composition of the Court of Final Appeal was passed by 34 votes to 11. This was the first time in the 150-year history of the LegCo that the government had been defeated.³⁴ Another instance of conflict occurred in December 1994. In that case, the government withdrew its *Employment (Amendment) Bill* before a vote on the Third Reading could take place after a legislator had successfully moved a motion to amend the bill in the direction opposed by the government. In sum, as the pre-handover mode of legislative-executive interaction and the system of executive-led government are preserved after the handover, tensions between the executive and the legislature will be continued after 1997.

Problems of Bureaucratic Accountability and Responsiveness of the Civil Service

Creating and sustaining an accountable and responsive civil service is an ideal that every democratic country strives to achieve. Hong Kong is no exception. In Hong Kong, the powerful

³³. Norman J. Miners, "Executive-Legislative Relations," in *Institutional Change and the Political Transition in Hong Kong*, ed. Ian Scott (Houndmills, UK: Macmillan Press Ltd., 1998), pp. 139-157, p.140.

³⁴. Ibid., p.145. The motion was moved by Mr. Simon Ip, a legislator representing the legal constituency. The Basic Law stipulates that, if necessary, the Court of Final Appeal may invite "judges from other common law jurisdictions" to sit on it (Art. 82). However, the Sino-British agreement only allowed the court to invite one judge from other common law jurisdictions. According to Ip, the agreement denied the court the flexibility to invite overseas judges as it sees fit (*The Hong Kong Hansard, 4 December 1991*, pp. 927-1013).

civil service is held accountable to the Governor (now the Chief Executive). In fact, the concept of civil service impartiality, was and still is, used to shield the civil service from the public. The government's understanding of an impartial civil service, as the then Secretary for Civil Service put it, was that senior civil servants should be "able to stand up, in public and in this Council [LegCo], to explain and defend government policies, once they have been adopted by the executive; and they should be able to do so without fear or favour, without wondering whether their advocacy of a particular policy will affect their career."³⁵

The ability of civil servants to defend the government unscathed is hardly enough to satisfy the ideal of a civil service prepared to serve any elected government, however. As the sole force that runs Hong Kong, senior civil servants in Hong Kong are anything but impartial. As mentioned in Chapter 1, they see themselves as the principal representative of the public. They believe what they do serve the best interest of the Hong Kong society. As I discussed earlier, the emphases of the colonial government were on economic growth and social stability. The success of the civil service in achieving these goals after the Second World War had earned the civil service the legitimacy in setting the policy agenda for Hong Kong. Subsequently, there was no real discussion on the responsiveness of the civil service to the government of the day and the public. The success of the civil service in rebuilding Hong Kong's economy after the Second World War also led to the emergence of a powerful civil service. Because of this power, we now have a problem of bureaucratic accountability.

In Hong Kong, bureaucrats are only responsible and accountable to their superiors. However, unlike western democratic countries, senior government positions in Hong Kong are not staffed by elected officials or political appointees but by career civil servants. Having the bureaucrats answerable to their superiors, who themselves are bureaucrats, does not give much assurance to the citizens that their government is discharging its duties responsibly. What compounds this problem is that Hong Kong's legislature, the LegCo, was and still is, ineffective in monitoring the work of the executive branch. In other words, Hong Kong's powerful civil service is subject to little formal control. This of course is an unsatisfactory phenomenon.

³⁵. "Remarks of the Secretary for Civil Service on the motion debate on political appointment of principal government officials, 10 March 1993," *The Hong Kong Hansard 1992-1993*, pp. 2435-2461, p.2457.

To deal with the problems of bureaucratic accountability and responsiveness, this study asserts that Hong Kong needs to establish a ministerial system. In essence, with politically appointed ministers, the career civil servants' policy making power will be reduced. They will also be made accountable to the ministers. Moreover, this system fits with the new sense of bureaucratic responsiveness that Hong Kong needs in this new era. As mentioned, the principal representatives of the public are now the Chief Executive and the elected legislators. The civil service's responsiveness to the public should be through these elected officials, not directly by itself. In sum, in the HKSAR, an accountable and responsive civil service is the one that is subject to clear line of political control (that is through the ministers to the Chief Executive and the LegCo) and can faithfully implement policies adopted by the government of the day.

Holding the Government Accountable to the Public

Debates on ways to hold the government accountable in the pre-handover Hong Kong were concentrated mostly on achieving accountability through the legislature. Accordingly, attention was centered on methods to make the LegCo more representative. Since 1984, the year when Hong Kong was first having its debate on the development of a representative government, the major contention between the conservatives, liberals, the Hong Kong, British, and Chinese government was on how many of the seats of the LegCo should be opened for direct elections and when such elections should be started. After the establishment of the HKSAR, the PLC passed an electoral law which had greatly reduced the franchise of the functional constituencies for the first HKSAR LegCo election, from 2.7 million to about 180,000.

This retreat from democratization has drawn the attention of the public and political parties to the democratization of the legislature itself. Whether democratizing the legislature is adequate for holding the government accountable has not been debated. The same can be said for the issue of an open government. It is true that occasionally discussion is heard on the necessity of introducing a freedom of information (FOI) legislation into Hong Kong, but in-depth studies on the relationship between a FOI legislation and an open government are scarce.

Continuing Overrepresentation of the Business and Professional Interests in the Governance Process

Some may presume that since capitalists are the natural enemies of a communist regime, Hong Kong's wealthy capitalists would lose their influence in government policies after China, the world's largest communist country, resumed its sovereignty over Hong Kong. Such presumption may have been true at one time but not today. China adopted an open door policy in late 1970s to speed up its economic reforms and needed investments from wealthy capitalists. Also, China believes that business and professional elites are the driving force behind Hong Kong's economic success and social stability. To preserve Hong Kong's prosperity and stability before and after the handover, Beijing believes these two groups of people must not be alienated from the process of government.

After the Tiananmen Square Incident the business community was the first to resume contact with China while most of the Hong Kong people were condemning its brutal crackdown on the democratic movement. Given that China's relationships with the Hong Kong people in general and the pro-democracy activists in particular were in great tension, its relationships with Hong Kong's business and conservative professional sectors were further reinforced. Above all, as Wong Wai-kwok asserts, China thinks that if it can succeed in co-opting these elites, it can ensure "political, economic, and social manipulation"³⁶ in Hong Kong. Accordingly, the target of China's united front work³⁷ in Hong Kong has changed from the masses to the business and professional elites, including former appointees of the colonial governments, such as executive and legislative councillors and retired senior civil servants.³⁸

³⁶. Wong Wai-kwok, "Can Co-optation Win Over the Hong Kong People? China's United Front Work in Hong Kong Since 1984," *Issues & Studies* 33(5) (May 1997):102-137, 108.

³⁷. Under the practice of united front work, the Chinese government has made every effort to co-opt as many Hong Kong supporters into its camp as possible so as to alienate its opponents, namely the Hong Kong liberals (*cf.* Chapter 3, note 40).

³⁸. Negative labels such as "newly recharged batteries" and "sudden patriots" were used to label these former colonial appointees. Examples are former Executive Councillors Sir Sze-yuan Chung (now the convener of the HKSAR's Executive Council) and Rita Fan Hsu Lai-tai (now the President of the HKSAR LegCo). These elites were seen by the Hong Kong public as being "recharged" by the Chinese government and played a crucial role in the Chinese consultative mechanisms, such as the Preliminary Working Committee and the Preparatory

This phenomenon of business and professional power is getting worse after the establishment of the HKSAR. As all the liberal legislators³⁹ were ousted from their office when the Provisional Legislative Council (PLC) replaced the LegCo, the HKSAR's interim legislature was far less representative than its predecessor. Although liberal legislators were re-elected to the first HKSAR LegCo, they are the minority of the legislature. Moreover, Tung Chee-hwa, the Chief Executive, has not appointed any liberal legislators to the Executive Council. As Sonny Lo argues, the lack of representativeness and the proliferation of clientelism in the HKSAR polity will widen the elite-mass gap in the long run.⁴⁰ Lo further asserts that "in the event that more citizens feel that their interests cannot be represented in the existing political structure, their grievances could be translated into anti-government protests and even riots which would endanger the HKSAR's political stability."⁴¹

With the downturn in Hong Kong's economy, social dissatisfaction could definitely increase. As C. K. Lau has recently reported, polls conducted in recent years have found that more and more people have come to see Hong Kong as an unfair society. In 1985, 49.8% of respondents considered Hong Kong society to be fair or very fair, while 38.2% thought it was unfair or very unfair. In a similar survey last year, 62.5% felt Hong Kong was not a fair society.⁴² Another example is that Hong Kong has dropped from 22nd to 25th place (China ranked 106th) on a United Nations quality of life index. The fall on the "Human Development Index" mirrors the economic downturn. The growing gap between rich and poor and restrictions on political

Committee. For details, see Wong Wai-kwok, *op.cit.*, pp. 120-124.

³⁹. Except for the four members of the Hong Kong Association for Democracy and People's Livelihood, a small liberal political group, who have participated in the Provisional Legislative Council election and got themselves elected.

⁴⁰. Sonny Shiu-hing Lo, "Political Parties, Elite-Mass Gap and Political Instability in Hong Kong," *Contemporary Southeast Asia*, 20(1) (April 1998):67-87, 75. The growth of clientelism is reflected in the increasing number of appointments of conservative and pro-government individuals to various government institutions like the Executive Council and different government advisory committees.

⁴¹. *Ibid.*, p.77.

⁴². C. K. Lau, "Cracks appear in social harmony," *South China Morning Post*, 8 September 1998. Internet edition.

freedom since the handover are the major causes for Hong Kong's slide.⁴³ These troublesome figures simply add force to Lo's warning on the potential political instability that the HKSAR might have had in the future.

Hong Kong's Political Parties and Their Orientations

Hong Kong's system of political parties is very different from western democratic countries. In western democracies, political parties exist with one ultimate goal--capturing the public office through an electoral mechanism. But Hong Kong's political parties are not developed with the goal of capturing public office. This is so because under colonialism public office in Hong Kong was controlled by the Governor. He appointed individuals to public office like membership in the ExCo and the LegCo. Besides, senior positions in the government were staffed by career civil servants who served at the pleasure of the Governor. Similarly, in the HKSAR, public office is controlled by the Chief Executive who is himself not elected by universal suffrage but a 400-member Selection Committee. The Chief Executive then appoints individuals to seats in the ExCo and other advisory committees and boards. Regarding senior government positions, the practice is different from before. By contrast, the 23 principal public officials are now nominated by the Chief Executive and then appointed by the Chinese government.

In Hong Kong, the function of political parties is not primarily to nominate candidates for public office. Hong Kong's political parties are understood as "groups that have organization, attain local bases of support and participate in elections so as to influence government policy-making."⁴⁴ Moreover, most of Hong Kong's political parties are of recent creation.⁴⁵ This is not surprising since not until the 1982 District Board election was genuine election be introduced into

⁴³. Glenn Schloss, "Drop in quality of life," *South China Morning Post*, 10 September 1998. Internet edition.

⁴⁴. Sonny S. H. Lo, "Legislative Cliques, Political Parties, Political Groupings and Electoral System," in *From Colony to SAR: Hong Kong's Challenges Ahead*, eds. Joseph Y.S. Cheng and Sonny S.H. Lo (Hong Kong: The Chinese University Press, 1995), pp.51-70, p. 51.

⁴⁵. Although political organizations such as the Reform Club and the Hong Kong Civic Association were founded long time ago (the former in 1949 and the latter in 1954), they are not politically active and of political significance in today's HKSAR politics.

Hong Kong. Without the stimulation of elections, plus the successful co-optation of Chinese elites into governmental institutions under the framework of government by consultation, political activists simply did not have the incentive to develop political parties in the western sense.

Therefore, before the 1990s, Hong Kong had few political parties but had many pressure groups and “political commentary groups” (a term used by the media) which did not seek responsibility for direct management of government but criticized and tried to influence government policies. However, the establishment of the District Boards, the introduction of elections to the LegCo, the outbreak of the Tiananmen Square Incident and the approaching of 1997, have all contributed to a favorable condition for political parties to develop and grow.

Political Orientations of Hong Kong’s Liberal Political Parties

The two major liberal political parties that have significant representation in the present HKSAR LegCo are the Democratic Party and the Frontier. Let us first look at the Democratic Party. It was formed by two liberal political parties, the United Democrats of Hong Kong (UDHK), led by Mr. Martin Lee Chu-ming, and the Meeting Point (MP), led by Mr. Anthony Cheung Bing Leung, on 2 October 1994. Lee is the chairman of the Democratic Party and Cheung is one of its two vice-chairmen (the other one is Mr. Yeung Sum, the former vice-chairman of the UDHK). Before the handover, it was the largest political party in the LegCo, and it captured 19 of the LegCo’s 60 seats.

As Joan Leung observes, among Hong Kong’s leading political parties, the Democratic Party was the strongest supporter for human rights and democratization of Hong Kong’s political system.⁴⁶ It has long been called for the opening of all of the LegCo’s seats and the post of the Chief Executive by direct election as soon as possible. The party believes that a democratic political system is the best protection against arbitrary government actions and China’s interference in Hong Kong’s domestic affairs. To achieve these goals, the Democratic Party has argued that the Basic Law needed to be amended to speed up Hong Kong’s pace of

⁴⁶ Joan Y. H. Leung, “Political Parties: Public Perceptions and Implications for Change,” in *Institutional Change and the Political Transition in Hong Kong*, ed., Ian Scott (Houndmills, UK: Macmillan Press Ltd., 1998), pp. 85-120, p.102. The fact that the Democratic Party was regarded as being firm on principles when there was a conflict of interests between the Hong Kong people and China also explains why it is well-received by the Hong Kong people.

democratization.

These calls are at odds with China's positions. To the Chinese government, Hong Kong should reform its political system gradually. Any drastic changes to Hong Kong's political system will only harm Hong Kong's stability and prosperity. Chinese officials believe that the Basic Law reflects the consensus of most of the Hong Kong people on the timetable of Hong Kong's political development. It also guarantees that Hong Kong people's rights and way of life will remain unchanged 50 years after the handover. Hence, the Chinese government holds that there is little support among the people of Hong Kong for the request to amend the Basic Law.

Furthermore, most leading members of the Democratic Party are also core members of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China (HKASPDM), an organization that China denounced as subversive. Mr. Szeto Wah, the party whip of the Democratic Party, is the chairman of the HKASPDM. Thus, in the eyes of the Chinese officials who are responsible for the Hong Kong affairs, the Democratic Party is untrustworthy because it is closely linked to the HKASPDM. As a result, China has tried very hard to marginalize the Democratic Party from Hong Kong's political establishment. Nevertheless, the Democratic Party continues to be Hong Kong's most popular political party.⁴⁷

To no one's surprise, the party was returned to the LegCo in 1998 with the highest percentage of votes and seats--it won 13 of the LegCo's 60 seats (nine from the geographical constituencies and four from the functional constituencies). Again, it is the largest political party in the LegCo. However, its influence is doomed to be lessened not only due to the institutional constraints imposed on the LegCo by the Basic Law, but also because of the number of seats it and the liberal camp won were less than before.⁴⁸ The biggest difficulty for the party in the

⁴⁷. For example, in a poll (with roughly 500 respondents) conducted by the University of Hong Kong, the Democratic Party continued to be the most supported party, with a rating of 59 points, followed by the pro-Beijing Federation of Trade Unions with 58.7 points (Linda Choy, "Unpopular rating for SAR Government," *South China Morning Post*, 27 June 1998. Internet edition).

⁴⁸. Under proportional representation, the new electoral system, although the percentage of votes (42.87%) the Democratic Party got was a bit higher than the 1995 LegCo election, the number of seats it won (13 seats) was much lesser than before (19 seats). As a news report notices, the number of seats the pro-democracy camp commands in the new LegCo are 21, compare with 39 seats the pro-China and conservative camp controls (*Hong Kong Economic Journal*, 26 May 1998, p.2).

coming years is to develop a communication channel with the Chinese government if it is to have any chance of gaining policy influence.

Unlike the Democratic Party, the Frontier is a small and recently formed political group. It was founded on 26 August 1996. The Frontier does not call itself a political party but a political grouping. Its spokeswoman is the well known liberal legislator Emily Lau. The Frontier envisions Hong Kong as “a vibrant and dynamic cosmopolitan city with respect for democracy, human rights and the rule of law.”⁴⁹ To achieve these goals, it demands an immediate introduction of direct elections to all of the LegCo’s 60 seats and the Office of the Chief Executive. It has criticized the Basic Law’s drafting process as undemocratic and has thus challenged the Basic Law’s legitimacy. In essence, the Frontier insists that the Basic Law should be amended, particularly articles related to Hong Kong’s pace of political development and the HKSAR’s power to interpret and amend the Basic Law.

Predictably, the Frontier has been seen by some conservative critics as a radical political group. But its members think otherwise. Lau Chin-shek, a founding member of the Frontier, described the organization as “a political moral force.” The difference between the Frontier and the Democratic Party, as Lau puts it, is “some members of The Frontier were unhappy with the work of the Democratic Party, claiming it had been too moderate.”⁵⁰ Likewise, Chris Yeung observes that part of the Frontier’s role is to put pressure on the mainstream liberal forces--the Democratic Party--not to compromise on the principles of democracy, human rights, and rule of law.⁵¹

The Chinese government regards the Frontier’s political orientation as more unacceptable than the one upheld by the Democratic Party. A spokesman for the Hong Kong and Macau Affairs Office commented shortly after the Frontier’s inauguration that there was “no basis for

⁴⁹. *Manifesto of The Frontier* (English text supplied by the Frontier), 26 August 1996.

⁵⁰. Sharon Cheung, “The Frontier to raise profile on visit to US,” *South China Morning Post*, 3 July 1997. Internet edition. As noted earlier in Chapter 3, when the LegCo debated Governor Patten’s political reform proposals, Emily Lau, on behalf of The Frontier, called for universal suffrage for all 60 LegCo seats in 1995 while the Democratic Party was in support of Patten’s “less radical” reform proposals.

⁵¹. Chris K. H. Yeung, “Political Parties,” in *The Other Hong Kong Report 1997*, ed. Joseph Y. S. Cheng (Hong Kong: The Chinese University Press, 1997), pp.49-70, p. 57.

us to have a dialogue with those who do not recognize the Basic Law and who want to work on a different one.”⁵² Nonetheless, the Frontier is well received by the public. It has fielded three candidates in the 1998 LegCo elections, all three won their contests. With two other Frontier members who did not run under the name of the Frontier, there are now five Frontier legislators in the LegCo.⁵³

Political Orientations of Hong Kong’s Conservative Political Parties

The three representative conservative and pro-China political parties in the LegCo are the Liberal Party, the Hong Kong Progressive Alliance (HKPA), and the Democratic Alliance for the Betterment of Hong Kong (DAB).

We examine the Liberal Party first. Formerly known as the Co-operative Resources Center (CRC),⁵⁴ the Liberal Party was founded on 18 July 1993. Backed by the business community, the Liberal Party is perceived as a conservative, upper-class political party. It therefore lacks grassroots support. Its support comes mainly from functional constituencies. For example, the Liberal Party held 10 seats in the 1995-97 LegCo session; among them, nine were from functional constituencies and only one was from a geographical constituency.⁵⁵

Nonetheless, knowing that democratization is the direction of Hong Kong’s future political development, the Liberal Party had publicly committed itself to “promote the development of representative government, broaden the base of democracy, and enhance the openness, transparency and accountability of government through democratic elections.”⁵⁶ However, it also cautioned that “the experience of other parts of the world indicates that ill-

⁵². Cited in Yeung, *ibid.*.

⁵³. The 3 candidates ran under the name of the Frontier were Emily Lau Wai-hing, Cyd Ho Sau-lan and Lee Cheuk-yan. The 2 Frontier members who did not represent the Frontier in the elections were Leung Yiu Chung and Lau Chin-shek. The former was representing the Neighbourhood & Workers’ Service Center while the latter was representing the Democratic Party.

⁵⁴. The CRC was formed by legislators who were either appointed by Governor Wilson or got their seats through functional constituency elections.

⁵⁵. The seat from a geographical constituency was won by the party’s former chairman, Mr. Allen Lee Peng-fei. He was representing the New Territories East geographical constituency in the 1995-97 LegCo session.

⁵⁶. *Liberal Party Manifesto*. May 1993, p.41.

conceived or hurried attempts to fully democratize have led to instability and declining standards of living.”⁵⁷ Here we see the Liberal Party was, and still is, caught in the dilemma of simultaneously appealing to the public and representing the interest of the conservative business sector. With regard to issues of democratization, the Liberal Party supports a slower pace of development.

Like other conservative political parties, the Liberal Party has worked hard to keep a close relationship with China. During the Sino-British dispute over Hong Kong’s political reforms, the party sided with the Chinese government in opposing Patten’s reforms. As a pro-business political party, it was a target of China’s united front work. But the party’s friendly relationship with China and the just noted political orientation prove to be a burden to it in elections. In the 1998 LegCo election, all of the Liberal Party’s candidates who stood for direct election (including its former chairman, Allen Lee) were defeated.

Thanks to the functional constituencies and Election Committee elections, the party still managed to keep ten seats in the new LegCo (nine from the functional constituencies and one from the Election Committee). Obviously, the party has counted on its strength in its functional and Election Committee elections. In the 1998 elections, among the 12 geographical constituency candidates, only Allen Lee was well known to the public. Other well known party members like vice-chairman Ronald Arculli chose to stand in the functional constituency election. However, eventually, the Liberal Party must face mass-based electoral politics, when the legislature is constituted by universal suffrage. The Liberal Party apparently realizes this fact. Lee said his party “would definitely send out more well-known party members to the geographical constituencies in 2000.”⁵⁸ Whether the defeat of Lee in the election will weaken the party’s commitment to direct election remains to be seen.

Another conservative political party is the Hong Kong Progressive Alliance (HKPA). The HKPA was composed of many business and professional people closely affiliated with Beijing but did not join the DAB. In 1997, the party has merged with another small pro-China political

⁵⁷. Ibid., p.7.

⁵⁸. Genevieve Ku, “Liberals in 2000 poll promise,” *South China Morning Post*, 1 April 1998, p.6.

party, the Liberal Democratic Federation. The name of the new party remains unchanged and is still known as the HKPA. Predictably, the party follows China's Hong Kong policies closely. As Yeung reports, some HKPA members privately admitted the party was launched with the "encouragement" of the New China News Agency to bid for seats in the LegCo elections.⁵⁹

Although the HKPA was well received by the Chinese government, it is not popular with the people of Hong Kong. The leaders of the HKPA admitted that its unpopularity was a reason the party decided not to field any candidates in the first HKSAR LegCo's geographical election. According to Ambrose Lau Hon-chuen, the party chairman, "if we know we are going to lose [in the geographical election], why don't we put all our efforts into the seats we believe we can win?"⁶⁰ Hence, the HKPA only fielded candidates in functional constituencies and Election Committee elections. The party won five seats, three from the Election Committee polls, and two from the functional constituency election.

Unlike the two business-backed, upper-class political parties (the Liberal Party and the HKPA), the Democratic Alliance for the Betterment of Hong Kong (DAB) is a middle-lower class party. It was established on 10 July 1992. Most of its founding members were District Board members, leaders of the Federation of Trade Unions (FTU, a "left-wing" trade union), and Hong Kong delegates to China's political institutions.⁶¹ Among the three conservative political parties, the DAB has the strongest grassroots support. With the help of the FTU's extensive district networks, the DAB has tried hard to build up an image as a political party that would fight for the interests of the grassroots population.

Moreover, unlike the Democratic Party, the DAB has the blessing of the Chinese government. This is not surprising, for the DAB was formed by long-time pro-China forces. As Sonny Lo and Donald H. McMillen point out, the DAB can be viewed as "a nationalistic-patriotic

⁵⁹. Yeung, *op.cit.*, p.63.

⁶⁰. No Kwai-yan, "Alliance opts out of public poll race," *South China Morning Post*, 12 April 1998, p.2.

⁶¹. Sonny S. H. Lo, "Legislative Cliques," *op.cit.*, p. 60.

political party.”⁶² Such support, though, had in the short run a negative effect on the DAB--for example, three of its four leaders who contested in the 1991 LegCo election were defeated by the pro-democracy candidates. In the long run, a Chinese connection will strengthen the DAB’s status in the Hong Kong polity.

Since the DAB thinks that the “future of Hong Kong and China is inseparable and their interests are intertwined,”⁶³ it sees no conflict in defending China’s Hong Kong policy while fighting for the interest of the Hong Kong people. Given that the Hong Kong people in general resent China’s Hong Kong policies,⁶⁴ this dual mission of the DAB was doomed to be failed. Nonetheless, because of the new electoral system, the strong mobilizing power of the DAB at the grassroots level, and abundant financial resources at its disposal, it has won more seats (from six in 1995 to nine in 1998)⁶⁵ and a higher percentage of votes (from 15% in 1995 to 25% in 1998) in the 1998 LegCo election.⁶⁶

⁶². Sonny S. H. Lo and Donald H. McMillen, “A Profile of the ‘Pro-China Hong Kong Elite’: Images and Perceptions,” *Issues and Studies*, 31(6) (June, 1995):98-127, 116. According to Lo and McMillen, the term “pro-China elites” refers to those Hong Kong people who are imbued with a strong sense of nationalism or patriotism, and who generally believe that: (1) China should recover its sovereignty over Hong Kong; (2) it is of paramount importance to have meaningful communication between PRC officials and Hong Kongers in order to solve any problems; and (3) Western-style democracy in Hong Kong and, particularly, in mainland China, is not viable in the short term. Members of pro-China elites cut across class lines. They generally include leading business people, small business people, middle class citizens, and some members of the working class (p.99).

⁶³. *Manifesto of the Democratic Alliance for Betterment of Hong Kong (10 July 1992)*, reprinted in *Government and Politics*, ed. Steve Tsang (Hong Kong: Hong Kong University Press, 1995), pp. 229-231, p.229.

⁶⁴. For example a poll of 928 respondents conducted by the Hong Kong Transition Project of the Baptist University on 20 September 1996 indicated 58% disapproval of China’s handling of its relations with Hong Kong as against 27% who approved. Pollsters believed that the rising level of dissatisfaction could be attributed to Beijing’s increasingly hardline policies on Hong Kong issues (Joseph Y. S. Cheng, ed. *The Other Hong Kong Report 1997*. Hong Kong: The Chinese University Press, 1997, p.xix).

⁶⁵. Shortly after the election, a unionist legislator, Chan Kwok-keung joined the DAB which increased the number of seats the DAB controls to 10, same as the Liberal Party.

⁶⁶. Mr. Tsang Yok-sing, chairman of the DAB, attributed his party’s electoral victory to the change in the public’s attitude towards the DAB. Tsang argued that China’s non-interference after the handover has helped the DAB in the polls. A political commentator, Chris Yeung, agrees with Tsang. He argues that the DAB’s total votes may point to a change of mood in society, with Hong Kong moving closer to the DAB in the long run (Chris Yeung, “Rivals add up the implications,” *South China Morning Post*, 27 May 1998, p.17). Nonetheless, whether such a change, if there was one, could be maintained depended very much on China’s policies regarding Hong Kong, and how the DAB discharged its duties of checking the performance of the HKSAR government.

I have examined to this point Hong Kong's major political parties and their respective political orientations. I have not mentioned that these political parties did not control all 60 seats of the LegCo. Among the 60 seats, 16 are occupied by independent legislators who do not affiliate with any political party. Political orientations of these independent legislators vary from liberal to conservative. In the middle of this liberal-conservative continuum are a few independent legislators who have a moderate political orientation.

One can speculate that when discussing the direction that Hong Kong's future political development should follow, a different alliance of political forces will result in a very different course that Hong Kong will adopt. An alliance of liberal political parties, the moderates and liberals of the independent legislators and the conservative political parties will increase the likelihood of speeding up the pace of Hong Kong's democratization. On the other hand, an alliance of conservative political parties and conservative legislators from the group of independent legislators will promote the maintenance of status quo. Hong Kong's past experience showed that the conservative political parties were successful in allying with other conservative legislators in blocking changes that they thought would threaten the status quo. That they will continue to do so in debates over the HKSAR's future governing arrangements is beyond dispute.

Nonetheless, as mentioned, a new political context and culture have been emerged in the last few years of Hong Kong's colonial history. Demands from the Hong Kong people for a faster pace of political development certainly will increase the chance for the liberal political parties to form an alliance with other liberal-minded legislators and political forces. Such kind of political alignment no doubt will advance Hong Kong's pace of democratization and improve the government's openness and accountability. Currently, this kind of alliance appears more often in social and economic arenas than in the political arena. However, it is my contention that strong public demand for an open and responsible government will in turn induce alliance of this nature to appear.

Political Issues being Debated in Today's HKSAR

In general, political issues being debated in today's HKSAR mostly focus on the implementation of the principle of "one country, two systems." Major issues under intensive discussion are: (1) the pace of democratization and the method of selecting the Chief Executive,

and (2) the gradual erosion of civil liberties. We analyze each of these issues in turn.

The Debate on Democratization Continues

Debates on the pace of democratization continue after the handover. On this issue, Hong Kong's political parties can be divided into two camps--parties in the liberal camp are for and parties in the conservative camp are against a faster pace of democratization. The debate on whether direct election should be introduced in 1988, the drafting of the Basic Law and the Tiananmen Square incident created a deep division between these two camps. However, disagreement on the roll-back of Hong Kong's democratic reform exacerbated it greatly. As we mentioned in Chapter 3, Patten's political reforms did not get China's blessing and were completely revamped after 1 July 1997. China decided to establish a provisional legislature (the PLC) before July 1997 so that it could take over the legislative function right after the handover.⁶⁷ The LegCo was dismantled after the handover. All elected legislators were forced to vacate their seats. The HKSAR was left without a duly elected legislature.⁶⁸

Dismantling a duly elected legislature was a retrogressive change that no one could dispute. Naturally, every liberal political party, except the Hong Kong Association for Democracy and People's Livelihood, denounced the formation of the PLC and refused to participate in its election. On the other hand, conservative political parties accepted the PLC as something inevitable. They competed vigorously for its seats. As expected, the contention over whether the PLC should be created further divided the liberal and conservative political parties on the issue of Hong Kong's democratic reform.

After its establishment, the PLC passed a new electoral law (the Legislative Council Ordinance) which was a severe roll-back of Hong Kong's democratic development. Under the

⁶⁷. The Selection Committee, convened on 19 December 1996 in Shenzhen (a Chinese city bordering Hong Kong), "elected" the sixty members of the PLC. Of the sixty members, ten had previously been defeated in the popular LegCo elections held in 1995. These included Mr. Tam Yiu-chung, vice-chairman of the DAB and the largest vote getter in the PLC election. Moreover, thirty-four members of the 1995 LegCo sought election to the PLC and thirty-three were elected (Pang-kwong Li and David Newman, "Give and Take: Electoral Politics in Transitional Hong Kong," *Asian Perspective*, 21(1) (Spring-Summer 1997):213-232, 225).

⁶⁸. Although the Chinese and HKSAR governments claimed that members of the PLC were not appointed by the Chinese government but elected by the China controlled 400-member Selection Committee, this small-scale election certainly cannot be compared with a Hong Kong-wide election such as the one Hong Kong had in 1995.

new electoral law, the 20 seats returned by direct elections would follow a proportional representation (PR) system in five large constituencies rather than a first-past-the-post system in 20 separate constituencies. Since only one-third of the LegCo's seats are open for direct elections, many commentators have doubted whether a PR system would produce a more representative electoral results as it was supposed to achieve. Moreover, as mentioned, the number of eligible voters in the functional constituencies was decreased from 2.7 million to 180,000. The ten seats elected by the 800-member Electoral Committee were also chosen through a more restrictive process. Inevitably, this regressive move in political development has become the most debated issue during the first year of the HKSAR's existence. The pro-democracy political parties are opposed to this new electoral law while the conservative political parties supported it.

How the Chief Executive should be selected also generated intensive discussion. The main thrust of the debate is over when the Chief Executive should be selected through universal suffrage. In brief, the liberal political parties wanted to start selecting the Chief Executive by direct election from the second term onward while the conservative political parties argued that changes in the selection method should follow the timetable stipulated in the Basic Law. According to the Basic Law, Hong Kong can amend the method of selecting the Chief Executive in 2007. Therefore, the conservative political parties see the next step Hong Kong should take in this regard is to review whether or not the method should be amended in 2007. To the conservatives, any call of electing the Chief Executive by direct election in 2002 (the second term) would not only violate the Basic Law, but also introduce political and social uncertainties into the HKSAR.

Another heatedly debated issue was whether the Basic Law should be amended. As noted earlier, pro-democracy parties have argued that certain provisions of the Basic Law should be amended. On the contrary, the conservative political parties insisted that the Basic Law should not be amended lightly. Moreover, they were also content with the executive-led political system and the pace of democratization the Basic Law has promised. Since the political orientation of the conservative forces was very similar to the government's, they easily gained the attention of the government and had an upper hand in the debate. The disappointment of the liberal political parties is not difficult to imagine. After a landslide victory in the 1998 LegCo elections, the

democratic political parties immediately called for a review on the pace of Hong Kong's democratic development.⁶⁹

The Gradual Erosion of Civil Liberties

Soon after the establishment of the HKSAR, the PLC and the government were busy repealing laws passed by the pre-handover LegCo. For example, the government introduced a controversial bill, “(Suspension of Operation) Bill 1997,” seeking to delay the enactment of seven pre-handover laws. Five of them were labour laws that dealt with the workers' rights such as the right to collective bargaining on salaries and perks. The HKSAR government argued that those laws were passed hastily by the pre-handover LegCo without a thorough evaluation of their impacts on Hong Kong. Thus, government officials insisted that to protect the HKSAR's prosperity and stability from any unexpected negative effects, those laws must be suspended. Although the government failed to get the PLC to suspend all the seven laws, it succeeded in delaying the implementation of the law that granted workers the right to collective bargaining.

Another case in point is the government's attempt to water down the Bill of Rights Ordinance (BORO) in January 1998. The government proposed a bill to repeal an amendment to the BORO moved by Lau Chin-shek (a Democratic Party member) and passed into law by the pre-handover LegCo. Under Lau's amendment, any pre-BORO legislation inconsistent with the BORO would be repealed. As Margaret Ng (one of the 27 legislators ousted from the LegCo after the handover) points out, the effect of repealing Lau's amendment not only weakened the BORO, but also sent the “wrong message to the public and to the world that the government is zealous to curtail rights.”⁷⁰

Besides arousing the Hong Kong people's concern about the gradual erosion of their civil liberties, the repealing of pre-handover laws also distracted the public and the liberal political

⁶⁹. For example, a Democratic Party legislator, Andrew Cheng Kar-foo, tabled a motion on 15 July 1998 calling for all 60 LegCo seats to be returned by direct vote in 2000 and the next Chief Executive in 2002. Under the separate voting systems, the motion was rejected narrowly among the 20 directly elected plus 10 Election Committee-chosen legislators and overwhelmingly by the functional constituency legislators. Predictably, in the voting, the pro-democracy political parties and two independent legislators supported the motion. But all of the pro-China political parties voted against the motion (Agnes Chan and May Tam, “Democracy camp loses first Legco battle,” *Hong Kong Standard*, 16 July 1998. Internet edition).

⁷⁰. Margaret Ng, “Wrong way on Rights” *South China Morning Post*, 23 January 1998. Internet edition.

parties' focus from holding the government accountable to protesting against the government's infringement on people's civil liberties. The fact that the government was less open than before and senior civil servants were less forthcoming in responding to the legislature's inquiries or briefing the legislators on policy issues has not become a public issue.

All in all, the above discussion reveals that the scope of issues being debated in the first year of the HKSAR was not as inclusive as it should be. This is understandable, for many public debates were results of political parties and the public's ad hoc responses to problems that emerged or events that happened in the past year. What questions remain in constructing a more open and responsible government?

What Were Missed in the Debates?

So far we mentioned that during the first year of the HKSAR's existence, political debates were related to the PLC's attempts to repeal laws passed by the pre-handover LegCo, the roll-back of electoral franchises and when the Chief Executive should be returned by universal suffrage. What these debates have ignored are basic questions concerning the powers of the LegCo and the executive-legislative relationship, bureaucratic accountability and the government's lack of openness.

Powers of the Legislative Council and the Executive-Legislative Relationship

Under the Basic Law, the institutional powers of the LegCo are less than before. First, Article 74 of the Basic Law has severely limited the legislators' capacity to table private members' bills. Previously, the Standing Order of the LegCo stated that only bills with charging effects (that is, involving an increase in public expenditure) would need the Governor's consent before they could be tabled before the LegCo.⁷¹ The same restriction is maintained in the Basic Law. However, Article 74 also introduces a new restriction which states that "[t]he written consent of the Chief Executive shall be required before bills relating to government policies are introduced." This restriction will make it practically impossible for legislators to use the private

⁷¹. Article 23 of the *Standing Orders of the Legislative Council of Hong Kong* (January 1994). The President of the LegCo is entrusted with the authority to determine whether a private member's bill has a charging effect. If the President reads the LegCo's Standing Order liberally, then there would be a greater chance for members to propose private members' bills. Conversely, if he or she interprets the standing order conservatively, then chances for private members' bills to be tabled in the LegCo would be seriously reduced.

members' bills to amend government bills. Also, they would not be able to make laws when the government is unwilling to draw up the legislation they want. To illustrate, knowing that the government would not take the initiative to draw up legislation to outlaw discrimination of all kinds, Anna Wu, a liberal legislator appointed by Governor Patten, introduced an "Equal Opportunities Bill" in July 1994. The government opposed Wu's legislation on the ground that its scope was too broad. As an alternative, the government drew up two bills outlawing discrimination on the grounds of gender and disability. On the basis of these proposals, the government bargained with and succeeded in persuading Wu to withdraw her measures. Such kind of incident will not happen again if the above-noted restriction is interpreted restrictively.

Furthermore, Annex II of the Basic Law instituted a separate voting system for the LegCo. Previously, bills or amendments to government proposals would be passed if they obtained a simple majority vote from legislators present when the vote was taken. But now, this is only true for government bills. Passage of private members' bills or amendments to government bills (or even motion debates that have no binding effect on the government's policies) requires "a simple majority vote of each of the two groups of members present: members returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee." Under this new voting system, it would be difficult for liberal legislators to amend the government's bills or introduce their own bills. Before, all they needed was a simple majority of the votes. Now, they have to secure the support of a majority of the functional constituencies legislators who, as we noted earlier, are mostly conservative business and professional elites. Obviously, it would be very difficult to ask these conservative legislators to support bills that would change the status quo.

Also, as Li Pang-kwong points out, any political forces which want to block the bills or motions initiated by individual LegCo members could do so by having only 16 votes (the majority of the 30 functional constituencies seats). In fact, this threshold is low enough to defeat all initiatives taken by individual LegCo members and would therefore contribute to a weak legislature.⁷²

⁷². Li Pang-kwong, "Executive and Legislature: Institutional Design, Electoral Dynamics and the Management of Conflicts in the Hong Kong Transition," in *Political Order and Power Transition in Hong*

Bureaucratic Accountability, Responsiveness, and the Ministerial System

We noted previously that the HKSAR has inherited from its colonial past a highly powerful civil service which is subjected to no formal checking by the legislature and the public. It is a classic Weberian bureaucracy which emphasizes strict hierarchical control. Even if we put aside the problems of holding the bureaucracy accountable to the legislature and the public, there still exists a danger that the Chief Executive will not be able to control the civil service. This kind of danger is not new to students of public administration. For many years elected officials in western democracies have been trying very hard to make sure that the bureaucracy is responsive to their policy agendas. Taking Australia as an example, more staff resources are provided to ministers to achieve greater responsiveness from the bureaucracy. As Delmer D. Dunn asserts, “[t]here can be little doubt that ministerial staff in Australia extend the influence of ministers and assist them in important ways in increasing the political responsiveness of the Commonwealth bureaucracy to the government of the day.”⁷³

The solution this study proposes to these problems is a ministerial system. We will return to this in greater length in the next chapter. Suffice it to mention that these problems have not been debated as thoroughly as they should be. To construct an open and responsible government in Hong Kong where the civil service has played a dominant role in the governance process, one must carefully examine these problems.

Openness of the HKSAR Government

Undoubtedly, the HKSAR government is less open than its predecessor. A test on the government’s code on access to information⁷⁴ conducted by the Hong Kong Journalists Association (HKJA) between November 1997 and January 1998 showed that among the 81 requests of access to government information, only 28 requests (34.6%) were met in full. Some

Kong, ed. Li Pang-kwong (Hong Kong: The Chinese University Press, 1997), pp. 53-78, p.61.

⁷³. Delmer D. Dunn. *Politics and Administration at the Top: Lessons from Down Under*. Pittsburgh, PA: University of Pittsburgh Press, 1997, p. 107.

⁷⁴. The government argued that it would be far more efficient and economical for government agencies to voluntarily implement a code of access to information than implementing a freedom of information law. As a result, the “Code of Access to Information” was introduced to government departments on 1 March 1995.

24.7% were withheld completely while 8.6% were withheld in part. The worse part of the result was that 32% of the requests were not met for other reasons.⁷⁵ If the HKJA could only get about 35% success rate, it would not be hard to imagine difficulties the public has to go through to get the public information they wanted. Another survey done by the HKJA told a similar story. About 73% of the 90 reporters asked in the survey thought that the Chief Executive's office attitude towards the media was not very open or not open at all. Moreover, about 55.5% of the respondents said the rest of the government had the same attitude; and 69% thought the SAR government was less open than the pre-handover administration.⁷⁶

Legislators face the same problem too. The Chief Executive stopped the practice of meeting monthly with the legislators. In 1992, Governor Patten introduced this practice with the aim to increase the communication between the government and the LegCo. The question and answer session is a good channel for the legislature to hold the government accountable. That the Chief Executive decided not to revive this practice easily lead one to conclude that the government is less accountable to the legislature. Worse still, it might also induce one to suspect that the government is less willing to discuss and communicate with the legislature on policy issues unless these discussion and communication are inevitable. Also, the government has stopped the pre-handover practice of publishing its legislative programme even after the first HKSAR LegCo was elected in May 1998.⁷⁷ As legislator Margaret Ng (representing the legal functional constituency) asserts, the lack of a full legislative programme for the current legislature had illustrated that the government had either no planning or it was not transparent. As of the time of this writing, it has been reported that the government would resume publishing its legislative

⁷⁵. The most common reasons for refusal were claims that the information was incomplete or its release would be premature (Genevieve Ku, "Information access code branded failure," *South China Morning Post*, 9 February 1998. Internet edition).

⁷⁶. Genevieve Ku, "Chief's office wary of press: survey," *South China Morning Post*, 9 February 1998. Internet edition.

⁷⁷. A legislative programme is usually published after the Governor has delivered his annual policy speech to LegCo. It tells the numbers and types of legislation that the government intended to enact in the coming year.

programme soon.⁷⁸

Another point is that, as a former PLC member Dr. Leong Che-hung pointed out, of the 56 bills the government has introduced into the PLC, legislators have never had the benefit of a prior policy briefing in nearly half of them. For a few of the bills, legislators were actually asked to agree to through all three Readings in one sitting.⁷⁹ Similarly, another former PLC member, Frederick Fung Kin-kee, complained that many policies such as the housing policy were introduced out of a sudden. He remarked that: “Very often, we only receive the documents or are given important information at a meeting of the Panel on Housing. If reporters did not disclose any information a few days ago, we could only take 20 minutes to read the papers.”⁸⁰

Conclusion

We analyzed the good and bad legacies that the HKSAR has inherited from its colonial past and governance problems that these legacies had caused. That many of these problems have not been thoroughly debated is a troublesome fact. Worse still, it seems that the government has no intention to acknowledge the existence of these problems.

As Chris Yeung points out, the first policy address of the Chief Executive⁸¹ has fortified the belief that Mr. Tung was keen to depoliticize the HKSAR’s agenda.⁸² Of the 156-paragraph long policy address, he only devoted one paragraph on Hong Kong’s political development. He did not commit the government to a faster pace of political development, other than saying that Hong Kong’s political development will follow the timetable laid down by the Basic Law. There were also no concrete proposals to make the government more accountable and open to the public.

⁷⁸. Angela Li, “Legco programme will not cover next full year,” *South China Morning Post*, 21 September 1998. Internet edition.

⁷⁹. *The Hong Kong Hansard*, 11 February 1998. Internet edition.

⁸⁰. *Ibid.*.

⁸¹. Tung Chee Hwa. *Building Hong Kong For a New Era*. Hong Kong: The Printing Department, 8 October 1997.

⁸². Chris Yeung, “Tung’s blueprint faces further tests,” *Hong Kong Review 97*. Hong Kong: South China Morning Post, 12 January 1998, p.12.

Overall, governance problems of the HKSAR will only get worse if we choose to ignore them. They must be openly debated, and proposals for change must be considered.