

# Government and Business Alliance: Hong Kong's Functional Constituencies



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Functional Constituency Research Project 2004

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**A report by Civic Exchange**

This report is part of a series of studies conducted by Civic Exchange on the functional constituencies in Hong Kong.

## **Preface**

Civic exchange embarked on a research project to study functional constituencies in 2004 with the aim to help the public understand more fully an important part of Hong Kong's political and electoral systems. Between June 2004 and January 2005, Civic Exchange will publish a series of papers and reports related to our research project on functional constituencies.

Although functional constituencies were first created in 1985, they remain under-researched despite a considerable amount of information about them is now available for analysis. We felt that it was time to make a concerted effort to look through the available data to assess how and to what extent the functional constituency election system has impacted Hong Kong political, economic and social developments over the years. Hong Kong is unique in the world in having half the legislature dominated by members elected by functional constituencies.

While the Standing committee of the National People's Congress decided on 26 April 2004 that the functional constituency election system must remain for the 2008 Legislative Council election, with the Basic Law providing that the "ultimate aim" is "universal suffrage", the functional constituencies will need to be replaced by geographical constituencies in the future. Thus, there is a growing need to understand what has been the value of functional constituencies in considering when they should be replaced.

This paper provides the background to how the colonial government-business alliance developed from the 19<sup>th</sup> century and how it has survived through the functional constituency election system. I am grateful to Yip Yan-yan for managing this project, Alison Tsang for her assistance, Gladys Li for her helpful comments, Alan Sargent for his skilful editing, Craig Ehrlich for his financial support, and the many scholars whose work I have drawn heavily upon to write this paper.

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## Table of Contents

### Preface

<b>A.</b>	<b>Introduction</b>	<b>1</b>
<b>B.</b>	<b>Background</b>	<b>2</b>
<b>C.</b>	<b>Complexity of Colonial Rule</b>	<b>4</b>
	Early history	4
	“Executive-led” government	5
	Public expenditure, land policy and taxation	6
	System of colonial appointments	6
	Characteristics of appointees	8
	Political reform shelved	9
	Autonomy and governing principle	10
<b>D.</b>	<b>Politics of Appointment</b>	<b>12</b>
	“Administerisation” of politics	12
	Failure of the appointed elites	12
	Reform and retreat	13
<b>E.</b>	<b>Hong Kong’s Colonial and Governing Formula</b>	<b>15</b>
<b>F.</b>	<b>Selection of the Post-colonial Elites and Setting of the HKSAR Economic Policies in the Basic Law</b>	<b>18</b>
<b>G.</b>	<b>Functional Constituencies and Electoral Reform</b>	<b>21</b>
<b>H.</b>	<b>Concluding Observations</b>	<b>23</b>

## A. Introduction

Since 1979 when China began its economic reform, Hong Kong has had a key role in the reintroduction of capitalism to the mainland by providing investment and management. The “one country, two systems” policy was devised to enable the post-1997 Hong Kong Special Administrative Region (HKSAR) to keep its “previous capitalist system and way of life” for fifty years.<sup>1</sup>

This paper argues that the capitalism that operates in Hong Kong understood by the Central Authorities in Beijing to be “the original capitalist system”<sup>2</sup> that must be maintained is the colonial model which evolved from that reflecting the interests and objectives of the 19<sup>th</sup> century colonialists. That colonial model involved the administration forming an alliance with the business and professional elites to promote their respective interests. It developed under a set of circumstances that produced a particular political economy, style of politics and set of policies that still very much influence the Hong Kong of today. The colonial administration had portrayed itself as having created a capitalist meritocracy built on “consensus” politics that was superior to democracy. It was claimed that because of this, combined with *laissez faire* economics, post-war Hong Kong was able to become a rich capitalist paradise. However, the belief that Hong Kong can still be run under an autocratic colonial “executive-led” political system with the support of the business and professional elites is under challenge.

With the rise of a large middle class whose interests are diverse and differ from those of the traditional, narrowly-based business and professional elites, the HKSAR government, under the leadership the Chief Executive Tung Chee-hwa, is facing a serious legitimacy crisis as his administration is perceived to favour big business over other sectors of society. The response from Tung after 1 July 2003, when over 500,000 people demonstrated against the proposed Article 23 national security legislation, that the government would “stay close to the community”, have “a better grasp of public sentiment”, and “attach importance to the middle class”, signalling that the Tung Administration was trying to address its negative image.<sup>3</sup>

The Functional Constituency (FC) election system, created in 1985 under British rule with China’s agreement, and the selection system for the post-1997 CE using an Election Committee (EC) both have roots extending back to the early colonial days and were influenced by the idea of the importance of the capitalist meritocracy in the economic success of the city. This paper discusses the historical context that led to the FC and EC election systems. In thinking through constitutional development for the HKSAR in the coming years, it is critical to understand the evolution of the government-business alliance and the political economy that it produced. The question that needs to be asked and answered is whether the FC and EC election systems creates an environment for market capitalism to flourish in Hong Kong and whether there are other aspects of Hong Kong that are truly crucial to maintain, protect and advance to nurture an entrepreneurial society.

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<sup>1</sup> Basic Law, Article 5.

<sup>2</sup> Edited transcript reported in “Striving in a pragmatic spirit to find the right path to political development” of the speech given by Qiao Xiaoyang, the SCNPC’s deputy secretary-general, in Hong Kong on 28 April 2004, reported in *South China Morning Post*, 29 April 2004, p. A4.

<sup>3</sup> C H Tung, Policy Address, 7 January 2004, paragraphs 57, 64, 72-73 and 79.

## B. Background

The post-1997 Hong Kong constitution, the Basic Law, declares universal suffrage to be the “ultimate aim” in electing the chief executive as well as the legislature.<sup>4</sup> On 6 April 2004, the Standing Committee of the National People’s Congress (SCNPC) made an interpretation of the Basic Law that the first possible occasions such elections could take place would be in 2007 and 2008 respectively. To kick-start the process for the SCNPC to determine whether there was a need for such reforms “in the light of the actual situation” in Hong Kong and in accordance with the “principle of gradual and orderly progress” as noted in various provisions in the Basic Law, the SCNPC decided that the chief executive should first prepare a report for it on the matter.<sup>5</sup> On 15 April he submitted his report, and on 26 April 2004 the SCNPC formally ruled out universal suffrage for 2007 and 2008.<sup>6</sup> In that decision, the SCNPC also specifically provided that the 50:50 ratio between legislators returned by Functional Constituencies (FCs) and those returned by direct election to the Geographical Constituencies (GCs) should not be changed for the 2008 election to the Legislative Council (LegCo).<sup>7</sup>

The colonial administration first introduced FCs in the 1985 election to LegCo with the agreement of Beijing.<sup>8</sup> The FC system was accepted by Beijing as essential to maintaining stability and prosperity in Hong Kong. Thus, when the draft Basic Law was introduced for deliberation at the National People’s Congress meeting in 1990, it was noted that in providing for the post-1997 political structure, “consideration must be given to the interests of the different sectors of society and the structure must facilitate the development of the capitalist economy”. In Beijing’s view, a proper apportionment of political power “in the interest of all social strata” required that the number of seats derived from functional elections be increased to half of the seats in LegCo, together with a number of legislators to be returned by an EC whose electoral bases were similar to those of the FCs. While the EC seats were to be phased out by the time of the third post-1997 LegCo, the FC and GC systems would each return half of the seats to the sixty-member HKSAR legislature.<sup>9</sup> Beijing’s belief that the FC election system is conducive to safeguarding prosperity and stability was repeated in 2002 in the context that “Hong Kong is a commercial city” and that “functional constituency elections is an effective way to ensure that people from all walks of life can have balanced participation in political life”.<sup>10</sup> In explaining the SCNPC’s decision

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<sup>4</sup> Basic Law, Article 45 and Article 68.

<sup>5</sup> The SCNPC interpretation and the background leading up to it can be found in Christine Loh, *Patriot Missives*, CLSA Asia-Pacific Markets (March 2004), and post-interpretation events leading up to the SCNPC decision, see Christine Loh, *Patriot Remissives*, CLSA Asia Pacific Markets (April 2004) [www.civic-exchange.org](http://www.civic-exchange.org) under “publications 2004”. See also the HKSAR Government’s site for all background documents [www.info.gov.hk/cab/cab-review/eng/index.html](http://www.info.gov.hk/cab/cab-review/eng/index.html)

<sup>6</sup> For a full explanation on background, see *The Third Report of the Constitutional Development Task Force: Areas which may be Considered for Amendment in respect of the Methods of Selecting the Chief Executive in 2007 and for Forming the Legislative Council in 2008*, HKSAR Government, May 2004.

<sup>7</sup> *Ibid*, paragraph 1.08 (1).

<sup>8</sup> For a full discussion of the subject, see Simon NM Young and Anthony Law, *A Critical Introduction to Hong Kong’s Functional Constituencies*, Civic Exchange, July 2004 [www.civic-exchange.org](http://www.civic-exchange.org) under “publications 2004”.

<sup>9</sup> *Explanations on “The Basic Law of The Hong Kong Special Administrative Region of the People’s Republic of China (Draft)” and Its Related Documents*, delivered by Ji Pengfai, chairman of the Drafting Committee of the Basic Law, on 28 March 1990 in his address to the 3<sup>rd</sup> Session of the 7<sup>th</sup> NPC.

<sup>10</sup> Edited transcript reported in “Chinese vice-premier warns against democratic elections in Hong Kong”, *BBC Monitoring Asia Pacific – Political*, 26 June 2002, originally reported in *South China Morning Post (Business Post supplement)*, 26 June 2002.

to maintain the FC election system for the 2008 LegCo election, thereby ruling out universal suffrage, it was emphasised that:

To maintain the original capitalist system, the political system in Hong Kong must cater to the interest of every social class, group and sector, including the interests of the working class as well as that of industry and commerce, balancing the participation of each group. Without the industrial and business sector, there would be no capitalism in Hong Kong ... How then can we maintain the original capitalist system? If the interests of the industrial and business sector lost their constitutional protection, that would eventually threaten Hong Kong's economic development....<sup>11</sup>

As the above perspective reflects the view of the Central Authorities,<sup>12</sup> and the HKSAR government has essentially adopted the same view.<sup>13</sup> This justification for the FC system is likely to be hotly debated in the coming years as Hong Kong's political system evolves. To further this debate, this paper will provide a brief background of the relationship between government and business since the early days of British Hong Kong.

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<sup>11</sup> Edited transcript reported in "Striving in a pragmatic spirit to find the right path to political development" of the speech given by Qiao Xiaoyang, the SCNPC's deputy secretary-general, in Hong Kong on 28 April 2004, reported in *South China Morning Post*, 29 April 2004, p. A4.

<sup>12</sup> The term "Central Authorities" refers to the Central People's Government and Chinese Communist Party. In this paper, "Beijing" is used to denote the Central Authorities.

<sup>13</sup> This is reflected in *The Third Report of the Constitutional Development Task Force: Areas which may be Considered for Amendment in respect of the Methods of Selecting the Chief Executive in 2007 and for Forming the Legislative Council in 2008*, HKSAR Government, May 2004.

### C. Complexity of colonial rule

Despite its economic success, Hong Kong's political development over 155 years of colonial rule was extremely modest. With post-World War II decolonisation fervour throughout Asia, and with the victory of the Chinese Communist Revolution on the mainland in 1949, it was remarkable that Hong Kong remained a colony up until 1997 when the lease on the New Territories, signed between the Qing and the British governments in 1898, expired. This section of the paper summarises how Britain justified its rule in Hong Kong, created the political structure, shaped its governing philosophy, raised public finance from the early days, and cultivated an appointment system to sustain colonial rule.

#### *Early history*

The British took Hong Kong Island, Kowloon and the New Territories between 1841 and 1898 by means of a series of trade-related wars triggered by China's confiscation of opium. Thus, Hong Kong was seized for diplomatic, military and trade purposes, not for the sake of territorial control.<sup>14</sup> The new colony became a convenient place for Britain to park its military and naval base to "engage" China over the course of the protracted Opium Wars, and at the same time provided a foothold for Britain to look after the trading interests of British subjects. Hong Kong's early history was as a depot for "two semi-monopolistic and still technically illegal enterprises: the importation of opium into China and the traffic in labourers out of China".<sup>15</sup>

The British and other European merchants began to relocate their trading and trade services activities, such as warehousing and shipping, from Canton (Guangzhou) to Hong Kong, where the British administration was much more amenable to their businesses than the Chinese authorities. When the British took physical possession in January 1841, Hong Kong was declared a free port to facilitate British commercial interests. The colony therefore provided a safe refuge for the merchants and their Chinese associates (the compradors) during unrest, uprisings and periods of renewed fighting between wars.<sup>16</sup> The first 50 years of British rule was complicated by the fact that there was not much of a powerful local elite that the British could cultivate and negotiate with, as they did in other parts of the British Empire. The wars, mass migration, crime, mutual incomprehension and distrust made establishing cooperation difficult. It was not until the late 19<sup>th</sup> century that the sojourning Chinese merchant elite had settled and solidified influence in Hong Kong, where their interests to operate in a safe haven and those of the British had in fact converged as China continued to struggle with many problems that eventually led to the fall of the Qing dynasty in 1911.<sup>17</sup>

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<sup>14</sup> Colonial Office papers showed that Hong Kong was "occupied not with a view to colonisation, but for diplomatic, commercial and military purposes", CO129/2, Lord Stanley, Secretary for State for the Colonies to Sir Henry Pottinger, 3 June 1843.

<sup>15</sup> Christopher Munn, *Anglo-China: Chinese People and British Rule in Hong Kong, 1841-1880*, Curzon Press, 2001, p. 23.

<sup>16</sup> *Ibid*, p. 35.

<sup>17</sup> *Ibid*, p. 374-378.

### ***“Executive-led” government***

Having taken possession of Hong Kong, Britain needed to create a governing structure and support the colony. It is important to note that the political framework of the colony remained essentially unaltered until Hong Kong was handed back to China in 1997.<sup>18</sup> In terms of the raising of public finance, the earliest days of the colony also laid the foundations of a low-tax regime. Both aspects of the colonial structure remain relevant today as Hong Kong considers further constitutional reform.

Since the British were not much interested in playing a civilising role for the “natives”,<sup>19</sup> the colonial political structure was designed not to give the people a real role in governing but to enable the sovereign power to exercise effective control. In other words, the colony was an autocracy, not a democracy, despite Britain’s own parliamentary tradition. Thus, constitutional power was focussed upon the governor, Britain’s designated representative in Hong Kong. The governor as representative of the Crown and chief executive of the colony, was given “full power and authority” by the Letters Patents and Royal Instructions from the British sovereign.<sup>20</sup> The various institutions of government could not be compared to those in Britain even though parts of them may resemble some aspects of the British political structure. The Executive Council (ExCo) was not the equivalent of a cabinet and the Legislative Council was not the same as a parliament. They were created to “advise” the governor in the exercise of his authority and in legislation. In the early days, colonial officials appointed by the governor occupied these bodies. The power and authority of the governor were such that the definition of the colonial government could in its narrowest sense be taken to mean the Governor, or the Governor working in consultation with ExCo, generally referred to as the Governor-in-Council.<sup>21</sup> This high concentration of power was referred to as the “executive-led” nature of colonial administration. In Hong Kong parlance, reference to “the government” has always denoted the executive.

The colony had its first constitutional crisis within five years of its founding. In 1846, the expatriate merchants petitioned Parliament for an elected municipal council in Hong Kong, where the members would be chosen from among themselves. The demand was firmly rejected. A body of elected representatives was considered “incompatible” with the decisiveness that was seen necessary to govern the colony. In other words, having elections would dissipate the powers, and therefore the effectiveness, of colonial control from Whitehall via the governor.<sup>22</sup>

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<sup>18</sup> On Hong Kong’s system of government, see Norman Miners, *The Government and Politics of Hong Kong* (6<sup>th</sup> ed., Oxford University Press, Hong Kong 1998); Peter Wesley-Smith, *Constitutional and Administrative Law in Hong Kong* (2<sup>nd</sup> Ed., Longman Asia, 1994); Yash Ghai, *Hong Kong’s New Constitutional Order: The Resumption of Chinese Sovereignty and the Basic Law* (2<sup>nd</sup> Ed., Hong Kong University Press, Hong Kong 1999).

<sup>19</sup> Steve Tsang, *A Modern History of Hong Kong*, IB Tauris, London (2004), p.23.

<sup>20</sup> The most important colonial constitutional documents were the Letters Patent and the Royal Instructions of 1943. Other British colonies were constructed in essentially the same way.

<sup>21</sup> Steve Tsang, *A Modern History of Hong Kong*, IB Tauris, London (2004), p.19.

<sup>22</sup> CO 129/13, p. 31, minute from James Stephen, 25 February 1846. In 1856, Governor Sir John Bowring proposed to enfranchise 2,000 ratepayers that included ethnic Chinese out of a population of 75,000 although LegCo membership was to be restricted to British subjects. Britain was sensitive enough to realise that a foreign minority could not be seen to have powers over the Chinese majority. See Steve Tsang, *A Modern History of Hong Kong*, IB Tauris, London (2004), p. 26-27. Another similar demand in 1894 was also rejected for the same reason (see page 10 of this report).

### ***Public expenditure, land policy and taxation***

Once Britain took possession of Hong Kong, the costs for maintaining it became the responsibility of the treasury in London and therefore a charge on British taxpayers. It was not cheap to maintain the colony and to pay for trade expansion efforts in a far-flung corner of the Chinese empire. With the exception of 1855, 1860 and 1861, government expenditure exceeded revenue in every year up until 1876.<sup>23</sup> Not surprisingly, the treasury's aim was that government expenses were kept to a minimum. Scholars have described the early days of the colony as a "minimal state" where the state's functions were reduced to merely the basic maintenance of society and not for social building.

In terms of raising local revenue, Hong Kong's free-port status prevented the authorities from taxing external trade. The merchants wanted British protection but did not want their earnings, often unlawfully gained, to be taxed. They claimed it would be unfair to raise revenue from taxing them to pay for Britain's larger imperial purpose. Indeed, relations between the merchants and the early governors were often strained over the issue of government expenditure and taxation, both of which the merchants wanted to be kept to an absolute minimum. The colonial government therefore had to rely on revenues generated from charging land rent, property rates and taxing domestic trade and services. All land was declared Crown land.<sup>24</sup> The control of land also became a frequent point of contention between the authorities and the merchants. To continue to generate enough revenue to ensure that the colony was self-sustaining, the authorities needed to attract Chinese merchants from the mainland to base their business in Hong Kong. Incentives included the granting of special land deals and monopolistic advantages as well as protecting the merchants' property rights in the colony. With growing civil disorder on the mainland in the 1860s, Chinese merchants found their way to Hong Kong in greater numbers as it provided a nearby safe refuge.<sup>25</sup>

### ***System of colonial appointments***

The expatriate merchants wanted to see the government ran in a way that favoured their own interests. They wanted control over finance and they mistrusted the liberal intentions of governors and colonial officials. As a response to the British merchants pressing their case, the colonial government began to allow the large *hongs* to nominate representatives to LegCo to advise the administration. The legislature then became a forum for the expression of mercantile interests. These members were referred to as "unofficial members" of LegCo since the rest of the legislators were government officials. In 1864, the merchants opposed the introduction of stamp duty. In 1883, a member of the Chamber of Commerce expressed the merchants' self-

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<sup>23</sup> *The Hong Kong Civil Service List and General Orders 1904*, op. cit., p. 7.

<sup>24</sup> The government devised five principles governing the control and availability of land in 1843: (i) all land was Crown land and was leased by the Crown; (ii) land leases were disposed of via auction; (iii) a minimum expenditure on building was specified; (iv) the government reserved the right to re-enter if the lease conditions were not fulfilled; and (v) allocation of land should be in response to public demand and in the public interest, which allowed the government to make free land grants to hospitals and schools. See Ian Scott, *Political Change and the Crisis of Legitimacy in Hong Kong*, Oxford University Press, Hong Kong (1989), p. 54.

<sup>25</sup> By the 1870s, the port of Hong Kong had become one of the world's busiest. See Christopher Munn, *Anglo-China: Chinese People and British Rule in Hong Kong, 1841-1880*, Curzon (2001), Chapter 2 provides a good account of the colony in its early days.

interest succinctly: "Is there any tax levied upon the colony which is not a tax on trade? Are we not all here as traders?"<sup>26</sup>

There had always been tensions between the expatriates and the Chinese, where colonial officials saw that they had to play a mediating and moderating role for the sake of stability. In the 1880s, the first Chinese unofficial member, Wu Tingfang, a barrister, was appointed to LegCo to reflect the view of the growing Chinese community. In 1894, a group of 362 expatriate merchants, bankers and ratepayers petitioned Parliament demanding that they be given the right to manage their affairs in Hong Kong and control government expenditure by means of electing unofficial members to LegCo. The British government rejected the demand as it saw it as an attempt to put power "in the hands of a select few, and to constitute a small oligarchy". The merchants' plan provided for 800 British male expatriates to be enfranchised out of a population of 221,400, of whom 211,000 were ethnic Chinese. British ministers appreciated the objectionable nature of such a race-based proposal and concluded that: "the well-being of the large majority of the inhabitants is more likely to be safeguarded by the Crown Colony system".<sup>27</sup>

The government took two important decisions in 1896 to reduce criticisms from both communities that had long-term impact. It appointed two prominent expatriate businessmen to ExCo as unofficial members and another Chinese unofficial member to LegCo. These appointments aimed to show the expatriate merchants that the government was willing to listen to them and at the same time to show the Chinese majority that their interests would be safeguarded. These measures brought "merchant opposition and elite Chinese opinion into an advisory relationship in which, in exchange for influence, they were required to approve decisions largely taken by the bureaucracy".<sup>28</sup> These appointments signalled the start of the absorption of elites into the colonial political structure, a major factor in sustaining colonial rule for 155 years.

By the turn of the century, three out of six unofficial LegCo seats were given to ethnic Chinese. Despite their positions as legislators, they remained in reality on the periphery of the establishment. They could voice concerns but not block government policies. The Chinese elites were made up of the appointees to LegCo and other public bodies as well as influential merchants. The British colonials had left them to mediate between the administration and the Chinese community from the early days with the excuse that the Chinese did not like to deal with foreigners. By separating themselves from the "natives", the colonial officials were often ignorant on local issues. Furthermore, by leaving the Chinese to take care of themselves, the colonial administration did not have to incur costs for social services. The colonials in fact encouraged the setting up of various philanthropic and charitable bodies including

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<sup>26</sup> Ian Scott, *Political Change and the Crisis of Legitimacy in Hong Kong*, Oxford University Press, Hong Kong (1989), p. 54-60. In 1845, Hong Kong's first political crisis had to do with the merchants petitioning London objecting to the Crown's monopoly over land and for payment of rates. In 1849, the merchants also demanded that the government cut costs.

<sup>27</sup> Steve Tsang, *A Modern History of Hong Kong*, IB Taurus (2004), p. 27-28.

<sup>28</sup> Ian Scott, *Political Change and the Crisis of Legitimacy in Hong Kong*, Oxford University Press, Hong Kong (1989), p. 107.

religious organisations so that the rich Chinese and Christian churches could provide the Chinese community with education and welfare services.<sup>29</sup>

Appointments of elites to the colonial establishment were seen as a safe way to infuse it with legitimacy, and naturally it usually appointed individuals with a positive orientation towards the government. Apart from ExCo and LegCo, a larger number of these elites were put on a range of government committees with interlocking memberships of official members so that they felt consulted on policies. These small, closed bodies became an essential characteristic of the colonial government as the appointment system evolved.<sup>30</sup> Enduring criticisms till today of the government's consultative system of advisory bodies are its overlapping memberships, the appointees' poor attendance records, as well as their inability to generate solutions to problems and lack of contribution to the quality of governance.<sup>31</sup>

Thus, Hong Kong's attitude to governance was very much set in the 19<sup>th</sup> century. The combined effects of the internal and external constraints over Hong Kong's financial policies resulted in financial conservatism and a pro-business orientation that became hallmarks of the colonial governing tradition.

### ***Characteristics of appointees***

By the 1920s, the colonial government realised that it could not leave the Chinese elites to sort out problems with the wider Chinese community as serious labour unrest broke out, which led to a series of strikes across various industrial sectors for the next several years. It was then that the administration realised that it needed to give much greater weight to the welfare of local workers. It became obvious that to ensure stability the government had to provide at least basic education, healthcare and social services. Matters were complicated by the rise of nationalism on the mainland, posing a challenge to British imperialism in Hong Kong. In order to demonstrate that the British trusted the local Chinese, Shouson Chow became the first Chinese unofficial member appointed to ExCo in 1926.<sup>32</sup> In the same year, the landowners of the New Territories formed the Heung Yee Kuk, which became the government's consultation body on rural affairs.<sup>33</sup> As Hong Kong's population continued to grow between the wars, the Sanitary Board, which had five unofficial appointees, was transformed into the Urban Council in 1935.

Hong Kong had a bustling industrial sector by the 1920s that was internationally competitive. Indeed, in 1931, 25% of the working population worked in manufacturing. Hong Kong's early industrial history was downplayed in official accounts because it did not fit the official vision of the colonial government. The rhetoric was that Hong Kong's prosperity came from its free port status and trade. The British thought that

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<sup>29</sup> Elizabeth Sinn, *Power and Charity: A Chinese Merchant Elite in Colonial Hong Kong*, Hong Kong University Press, Hong Kong (2003 edition) discusses the relationship between the local merchants and the colonial regime; and Beatrice Leung Kit-fun and Shun-hing Chan, *Changing Church and State Relations in Hong Kong, 1950-2000*, Hong Kong University Press, Hong Kong (2003) discusses the Church-State relations in Hong Kong's history.

<sup>30</sup> Norman Miners, *The Government and Politics of Hong Kong*, 5<sup>th</sup> Edition, Oxford University Press, Hong Kong (1998), p.106-111.

<sup>31</sup> See LegCo's Subcommittee Report, *Review of Advisory and Statutory Bodies (1997-1998)*, [www.legco.gov.hk/yr97-98/english/former/frasb.htm](http://www.legco.gov.hk/yr97-98/english/former/frasb.htm)

<sup>32</sup> Steve Tsang, *A Modern History of Hong Kong*, IB Taurus (2004) p.87-90 and 92-101. Unofficial members were only appointed to ExCo in 1896.

<sup>33</sup> Lee Ming-kwan, "The Evolution of the Heung Yee Kuk as a Political Institution", *Hong Kong: A Reader in Social History*, Oxford University Press, Hong Kong (2003), edited by David Faure, p. 596-612.

investment other than in trade was risky given the turbulence in China. Hong Kong was deemed unsuitable for industrial development because the demand for the return of Hong Kong to China was always latent. Thus, even though there was an active manufacturing sector dominated by the local Cantonese, the government chose to ignore it. The Cantonese manufacturers were not appointed to the establishment's highest consultative bodies. Appointments of this group came much later after some of them became rich and successful. The long years of neglect of the manufacturing business sector created tension with the colonial administration, who clearly favoured the trade and commerce sectors over manufacturing.<sup>34</sup>

The typical appointees came from among the traditional elites of the comprador and banking families as well as the British-educated professionals.<sup>35</sup> In time, they included the rich manufacturers, real estate developers and the top managers of the major public companies as well as senior partners of firms of lawyers and accountants. Doctors and academic heads of universities were popular appointees. The Chinese elites who rose to the highest prominence with appointments to ExCo and LegCo were those who not only had economic power or special professional knowledge but were also westernised members of the Chinese capitalist meritocracy. Without co-option of these business and professional elites they could pose a constant threat to Britain's legitimacy to govern Hong Kong. In other words, the appointment system provided an effective method to buy off potential adversaries and was a strategic device to create a semblance of democracy.

### ***Political reform shelved***

After the Japanese occupation during WWII, the Chinese population in Hong Kong went through another transformation in their expectation of government. They wanted a greater say in public affairs. The Labour government also pledged to introduce self-government throughout the British Empire. Initial plans did not exclude Hong Kong. The returning governor, Sir Mark Young, pursued a programme to give the inhabitants "a fuller and more responsible share in the management of their own affairs".<sup>36</sup> Young added a second Chinese member soon after the British took back Hong Kong. Up until the war, ExCo had seven official members, two expatriate unofficial members and one Chinese unofficial member. Thus, a second Chinese ExCo appointment put the number of British and Chinese "unofficials" on the same footing. Furthermore, what became the "Young Plan" of 1947 included the creation of an elected municipal council to allow local inhabitants a share of the management of local affairs although the colonial government would continue to control the key functions of government.<sup>37</sup> Young recognised that the only way to keep the colony British was if the local Chinese preferred British to Chinese rule and he thought that could only be done through some kind of popular participation.

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<sup>34</sup> Tak-Wing Ngo, "Industrial History and the Artifice of Laissez-Faire Colonialism", *The Economy of Hong Kong in Non-economic Perspectives*, Oxford University Press (2004), 433-447.

<sup>35</sup> Christine Loh, *Hong Kong SMEs: The Primer – Nimble and Nifty, Transforming Hong Kong*, CLSA Emerging Markets (April 2002), p.19-20, see [www.civic-exchange.org](http://www.civic-exchange.org) under "publications 2002". See also Stephen W K Chiu, "Unravelling Hong Kong's Exceptionalism: The Politics of Laissez-Faire in the Industrial Takeoff", *The Economy of Hong Kong in Non-economic Perspective*, edited by Law Kam-ye and Lee Kim-ming, Oxford University Press, Hong Kong (2004), p.155-157.

<sup>36</sup> Speech by Mark Young on 1 May 1946.

<sup>37</sup> Frank Welsh, *A History of Hong Kong*. (Revised and updated) Harper Collins, London (1997), p. 434-441.

Young's initiatives did not survive when the governorship passed to Sir Alexander Grantham, who did not believe the Young Plan would make the Chinese more loyal to Britain. In 1952, Grantham persuaded Britain to abandon all plans for political reform because it did not "interest the British electorate".<sup>38</sup> Then before the Hong Kong public he blamed London for cancelling the plans.<sup>39</sup> By 1960, Britain had ruled out the prospect of any major change to the Hong Kong political system. This also appeared to be what the Chinese government preferred at the time.<sup>40</sup> Grantham thought that: "provided that the government maintains law and order, and does not tax the people too much and they can obtain justice in the courts they are satisfied and well content to devote their time to making more money in one way or another".<sup>41</sup> This view remained prevalent among officials and the elites in Hong Kong up until the end of British rule.

WWII and the subsequent years disrupted much of Hong Kong's way of life. The establishment of the People's Republic of China in 1949 cut the mainland off from the rest of the world, including Hong Kong and the overseas Chinese business network. With the onset of the Cold War, Hong Kong's role as a regional entrepôt declined, especially after 1951 with the United Nations embargo on China during the Korean War. The *hongs* and their compradors had to adapt, those who failed did not survive. However, just as Hong Kong thought its economic raison d'être had gone, the rise of consumerism in Europe and the United States demanded cheap light industrial products that Hong Kong could supply. From the 1950s to the 1970s, Hong Kong's manufacturing sector began to do well by exporting to those markets.<sup>42</sup>

### ***Autonomy and governing principle***

It may be said that the mindset for Hong Kong's decolonisation began in the 1960s even though the British did not depart until 1997. Social scientists said that after 1976, Hong Kong became a different society with a distinct local identity divergent from China's in a major fashion.<sup>43</sup>

There were three influencing factors in the decolonisation process. Firstly, after the Suez Crisis in 1956, the British lost their taste for keeping colonies with each succeeding year.<sup>44</sup> Secondly, with increasing trade with Western markets, Hong Kong people developed a greater affinity for Western tastes and lifestyles. Thirdly, in order to counter Chinese propaganda during the Cultural Revolution between 1966-1976, the colonial government began to nurture a sense of belonging among the Hong Kong Chinese, many of whom had arrived recently as refugees.

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<sup>38</sup> Alexander Grantham, *Via Ports. From Hong Kong to Hong Kong*, Hong Kong University Press, Hong Kong (1965), p. 112.

<sup>39</sup> Steve Tsang, *Democracy Shelved: Great Britain, China and Attempts at Constitutional Reform in Hong Kong, 1945-1952*, Oxford University Press, Hong Kong (1988), p.165.

<sup>40</sup> Robert Cottrell, *The End of Hong Kong: The Secret Diplomacy of Imperial Retreat*, John Murray, London (1993), p. 20-34.

<sup>41</sup> Alexander Grantham, "Hong Kong", *Journal of the Royal Central Asian Society*, Vol. 46 (April 1959), p. 121. For an account of how Grantham worked with the appointed LegCo members to derail the "Young Plan", see Steve Tsang, *Democracy Shelved: Great Britain, China and Attempts at Constitutional Reform in Hong Kong, 1945-1952*, Oxford University Press, Hong Kong (1988).

<sup>42</sup> Christine Loh, *Hong Kong SMEs; The primer – Nimble and nifty, Transforming Hong Kong*, CLSA Emerging Markets (April 2002), p. 21-41.

<sup>43</sup> Matthew Turner, "60s/90s: Dissolving the People", *Narrating Hong Kong Culture and Identity*, edited by Pun Ngai and Lee Lai-man, Oxford University Press, Hong Kong (2003), p. 24-50.

<sup>44</sup> David Faure, *Colonialism and the Hong Kong Mentality*, University of Hong Kong Press (2003), p.1.

With Britain adopting an “end of empire” attitude, Hong Kong began to operate more autonomously from Whitehall on domestic issues. Decision-making was in effect left to the local political system dominated by business interests. The colonial administration had to play a mediating role to ensure that the public interest was not totally ignored. It created the political rhetoric, more grandly referred to as the “governing principle” skilfully built around the rule of law and *laissez faire* economics, to include public and private interests in government decision-making to stop the elites from being seen to over-exploit their privileged positions within the political structure. This aspect of colonial governance is discussed in a later section.

With rapid industrialisation from the 1950s and the Hong Kong economy becoming increasingly dependent on Western export markets, the colonial administration needed to become more efficient in the way it managed Hong Kong. It focussed on technical and administrative effectiveness more than on policies underpinned by political values and ideologies. “Pragmatism” became a justification for Hong Kong’s disinterest in political debates and the *laissez faire* principle the mantra to justify both action or inaction.

## D. Politics of appointment

### ***“Administerisation” of politics***

This section of the report discusses how the politics of appointment shaped Hong Kong politics. As the British believed that China would react negatively to an elected government in Hong Kong, the elite-dominated appointment system had to be made to give colonial rule a semblance of democracy and to create a good environment for economic development.

Hong Kong’s system in the 1960s and 1970s was described as the “absorption of politics into the bureaucracy” and the goal of the government was “to achieve a maximum level of political stability in order to foster economic growth. And the key to that goal is the ‘administerisation’ of politics; it is the antithesis of politicisation”.<sup>45</sup> In other words, the process was designed for “keeping politics out of the electoral process” and developed people who became “adept as appointees” representing the views of the economic and professional elites.<sup>46</sup> The result being that “as a consequence, the governing authority is made legitimate, a loosely integrated political community is established”.<sup>47</sup>

### ***Failure of the appointed elites***

The combination of *laissez faire* economics and “consensus” government dominated by the elites led to out-of-touch policies that ended with crises of legitimacy in 1956<sup>48</sup> with spontaneous riots, and again in 1966 and 1967. The riots provided stark evidence that the elitist and narrow nature of the appointment system was unable to cope.

There were numerous occasions when government officials could have implemented policies that better met the needs of the majority of the people but the unofficial LegCo appointees neither understood nor reflected the needs of the working population. Despite rising wealth in post-war Hong Kong, the government met solid resistance to any suggestion to increase taxation and government spending. In 1950, for example, unofficial members of LegCo argued that the British government should first make good Hong Kong’s war losses before talking about raising taxation for spending on local needs. The following exchange of memoranda between two Colonial Office staff illustrated how they saw the Hong Kong elites’ social policy attitudes. It is interesting to note that one thought that even if there were an unofficial LegCo majority, it would still be hard to change LegCo’s stance on taxation:

“What is unsatisfactory is that large sums of money are being made in the Colony and going into private pockets instead of being used for the benefit of the community”.<sup>49</sup>

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<sup>45</sup> Ambrose YC King, “Administrative absorption of politics in Hong Kong”, *Occasional Paper No. 25*, Hong Kong: Social Research Centre, Chinese University of Hong Kong (1973), p. 133.

<sup>46</sup> David Faure, *Colonialism and the Hong Kong Mentality*, University of Hong Kong Press (2003), p.44.

<sup>47</sup> Ambrose YC King, “Administrative absorption of politics in Hong Kong: Emphasis on the grass roots level”, *Social Life and Development in Hong Kong*, edited by Ambrose YC King and Rance PL Lee, Chinese University Press, Hong Kong (1983), p. 127-146.

<sup>48</sup> Ian Scott, *Political Change and the Crisis of Legitimacy in Hong Kong*, Hong Kong University Press (1989), p.77.

<sup>49</sup> CO 129/629/8, p. 6 by C J Jeffries, Deputy Under-Secretary of State, Colonial Office, 4 January 1950.

“... if Hong Kong is going to be given a more advanced constitution with an unofficial majority, it is even less likely that she will be willing to submit to increased taxation except to meet expenditure which she herself can be persuaded to consider desirable”.<sup>50</sup>

The official may well have been right in his assessment. The history of tax reform in Hong Kong since WWI is a story of how very little happened.<sup>51</sup> As the colonial administration did not have the support of LegCo for many of the reforms, the colonial officials had to construct justifications to act in spite of objections from those who were supposed to reflect the people’s views. They had to explain why no one demanded social reforms when the actual conditions were dire. The fiction they invented was that ordinary Hong Kong people were “apolitical”, when the truth was that the people had no voice within the political system.<sup>52</sup>

What is evident is that the LegCo of the 1950s and 1960s was not “the arena for the resolution of deep-rooted political and social sentiments of Hong Kong.”<sup>53</sup> Despite the scare in 1956, not enough was done to alleviate social conditions that eventually led to the 1966 riots. In examining the fast pace of economic growth in the 1960s (Hong Kong’s GDP per capita grew from HK\$3,588 to HK\$4,775 between 1962 and 1965), the newly created wealth was not much redistributed within society but remained in the hands of business owners. Workers’ standards of living remained Dickensian. The longstanding policy of operating a “minimal state” plus the fiscal conservatism of the local elites did not provide the climate of opinion for the government to reform labour conditions and promote social welfare programmes. The result was that there was a consistent accumulation of large budget surpluses from 1947 to 1966. The Commission of Inquiry set up to assess the 1966-7 riots concluded that there were serious problems that went to the heart of the rationalisation for the imperial presence in Hong Kong, which was to provide good government. An illustration of how disconnected and remote LegCo was at that time could be seen from the fact that its members chose not to debate the riots, “except peripherally and, in accustomed Hong Kong fashion, to ask what they would cost the taxpayer”.<sup>54</sup>

### **Reform and retreat**

After the Cultural Revolution-inspired riots in 1967, and as a result of riots in the previous year that resulted from poor social conditions, the colonial government embarked on a major reform programme that included improving labour legislation, improving public relations overall by paying attention to public opinion, redressing grievances by expanding the UMELCO Office,<sup>55</sup> using Chinese as an official language, and increasing the number of advisory bodies and consultative forums. By 1976, there were 142 formal advisory bodies of various sorts and many more

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<sup>50</sup> CO129/629/8, p.122 by S B Sidebotham, Assistant Secretary and Head of Hong Kong and Pacific Department, Colonial Office, 20 December 1949.

<sup>51</sup> Michael Littlewood, “Taxation Without Representation: The History of Hong Kong’s Troublingly Successful Tax System”, *British Tax Review*, Sweet & Maxwell, London, Number 3 (2002), p. 212-232.

<sup>52</sup> David Faure, *Colonialism and the Hong Kong Mentality*, University of Hong Kong Press (2003), p. 1-3.

<sup>53</sup> *Ibid*, p.33.

<sup>54</sup> For a succinct account of the post-war years and the 1966 riots, see Ian Scott, *Political Change and the Crisis of Legitimacy in Hong Kong*, Oxford University Press, Hong Kong (1989), p. 66-96. The quotation is taken from page 94.

<sup>55</sup> UMELCO was the office of the Unofficial Members of the Legislative Council, set up in 1963. In 1970, the office was expanded to enable unofficial members to investigate public complaints and receive public representations. The decision to expand UMELCO was a result of the government’s decision to refuse the establishment of an Ombudsman.

informal ones.<sup>56</sup> The reforms, which were all structural and not fundamental in nature, were considered successful as social calm was sustained. By the end of the 1970s, the British became anxious about the expiry of the 99-year lease on the New Territories and governor Murray MacLehose made an initially secret trip to Beijing in 1979 to discuss the future of the territory. Upon his return to Hong Kong, he said that Deng Xiaoping asked him to tell “investors to put their heart as ease” which signalled the beginning of Britain’s retreat from Hong Kong.<sup>57</sup>

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<sup>56</sup> Norman Miners, *The Government and Politics of Hong Kong*, 2<sup>nd</sup> Edition, Oxford University Press, Hong Kong (1977), p. 93.

<sup>57</sup> For an account of that period, see Robert Cottrell, *The End of Hong Kong: The Secret Diplomacy of Imperial Retreat*, John Murray, London (1993), p. 35-57.

## E. Hong Kong's colonial and governing formula

This section looks at how the lack of democracy became touted as a key to Hong Kong's economic and governance success. Britain and China began their negotiations over the future of Hong Kong in 1982. The British and its colonial administration in Hong Kong needed to explain to the world and to the people of Hong Kong why it was not possible to provide a democratic government. Creating the "Hong Kong story" was necessary to compensate for the lack of legitimacy of the colonial administration as it began negotiating the return of Hong Kong to China in 1997. The rationale was simple: Hong Kong had something better than democracy.

Hong Kong was successfully portrayed as a "barren rock" turned capitalist paradise. According to this narrative, Hong Kong was an unimportant fishing village before the British colonised it, and that it was due to the rule of law and economic policies of a benevolent government that the small society remained politically stable. Coupled with a political system that was built on "consensus" with the local elites, Hong Kong had none of the divisive politics so common in Western democracies and was thus able to grow into an extraordinary economic powerhouse. That governing formula was said to have been so successful that by the end of British rule in 1997, Hong Kong's GDP had exceeded that of the United Kingdom.<sup>58</sup> The Hong Kong governing formula provided a political rationale that assumed an air of inevitability.<sup>59</sup> Colonial officials promoted the idea that they had created an ingenious system that provided the political stability and capitalist principles for Hong Kong to triumph.<sup>60</sup>

This message resonated with many internationally famous economists and business leaders who lauded Hong Kong's strong economy, small government, fiscal conservatism, low taxes, modest welfare, free trade and pro-business orientation, respect for the rule of law, individual liberty and mild politics.<sup>61</sup> Hong Kong was touted for many years as having the freest economy by conservative think tanks, such as the US-based Heritage Foundation.<sup>62</sup> These were seen as ringing endorsements of the Hong Kong governing formula. With such accolades, a colonial attorney general was moved to describe the city as having an "Athenian democracy" that was a great "innovation". The Hong Kong system was "vital to social stability in a community whose government is not and cannot be elected". The system took "more care to be sensitive to catch even the whispers of the public" and created consensus politics by co-opting representatives from "interested and expert groups ... unpaid private citizens, knowledgeable and experienced in their subject" into the power structure,

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<sup>58</sup> Lennox A Mills was impressed with the British policy of conciliation and co-operation, *British Rule in Eastern Asia: A Study of Contemporary Government and Economic Development in British Malaya and Hong Kong*, Oxford University Press, London (1942); and Milton Friedman and Rose Friedman were impressed with Hong Kong's *laissez faire* policy, *Free to Choose*, Penguin, (1980).

<sup>59</sup> Stephen WK Chiu, "Unravelling Hong Kong's Exceptionalism: The Politics of Laissez-Faire in the Industrial Takeoff", *The Economy of Hong Kong in Non-economic Perspectives*, edited by Law Kam-ye and Lee Kim-ming, Oxford University Press, Hong Kong (2004), p.141.

<sup>60</sup> Tak-Wing Ngo, "Colonialism in Hong Kong Revisited", *Hong Kong History: State and society under colonial rule*, edited by Tak-Wing Ngo, Routledge, London (1999), p. 1.

<sup>61</sup> For example, Alvin Rabushka, *Value for Money: the Hong Kong Budgetary Process*, Hoover Institute Press, Stanford University (1976); and Milton Friedman & Rose Friedman, *Freedom to Choose*, Penguin, England (1980).

<sup>62</sup> G P O'Driscoll and K R Holmes, "Freedom marches on", *Asian Wall Street Journal*, 30 November 1999. The authors were co-editors of the Heritage Foundation's "2000 Index of Economic Freedom".

who had “the freedom to represent the interest of the entire community, and not just some faction or political party”.<sup>63</sup>

What is often ignored is the origin of the rhetoric noted in an earlier section of this paper. To give preference to trade and commerce because they are seen as less risky than investing in industrial development, and to ensure that the government appeared fair-minded in its decision-making, the colonial administration needed to articulate a principle of governance that could firstly convince the public to give support to its policies, and secondly, to serve as a boundary-setting device to separate public and private interests in a system where the majority of local players in the political structure were drawn from the business elites. In other words, the colonial administration consciously chose to refrain from intervening in the economy to set a “boundary maintenance” strategy and built the rhetoric around it.<sup>64</sup> The strategy engendered the ideology of the Hong Kong colonial administration and became its governing principle.<sup>65</sup> The principle had two prongs: the rule of law, and *laissez faire* economics which, from the 1970s, became known as *positive non-intervention*, and *maximum support, minimum intervention* by the 1990s.<sup>66</sup> The slogan had a quasi-ethical and ideological appeal that even managed to unify the public behind a colonial government.

It is seldom realised that *positive non-intervention* was designed to be used as the bulwark against the elites over-profiting from their alliance with the government. The colonial administration retained control of the economic policies and management of Hong Kong but gave itself a narrow brief. For example, as the elites favoured low taxes, any cries from them for subsidies and bailouts could be refused on the basis that the public purse lacked the revenue to finance them. It could refuse to adopt grand industrial policies that involved the picking of specific businesses or “winners” for public investment, which the colonial administration did on various occasions in the 1960s. Businessmen were asked to take their own risks and cope with business cycles. What the government did was to provide the physical infrastructure that benefited everyone, such as building airports, subways, roads, schools and hospitals. With the establishment of the powerful Independent Commission Against Corruption (ICAC) in the 1970s and a determination to root out corruption, the Hong Kong political system, where democracy was denied and business and professional elites given exceptional influence through appointment to key government bodies, seemed overall tolerable to the community up until the end of the 1980s.<sup>67</sup>

That is not to say that the appointment system was not seen for what it was. It was obvious that the elites benefited from the prestige and personal privileges that came with appointment to the establishment. While they were meant to act as guardians of the public interest, the appointees had opportunities for financial and commercial

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<sup>63</sup> John Griffiths, Attorney General, “The Constitution of Hong Kong: The Hub of the Wheel of State”, *Hong Kong 1983. A Review of 1982*, Hong Kong Government, Government Printer (1983), p.5 and 14-15.

<sup>64</sup> Lau Siu-kai, *Society and Politics in Hong Kong*, Chinese University of Hong Kong Press, Hong Kong (1982) coined the term “boundary maintenance”.

<sup>65</sup> Norman Miners, *The Government and Politics of Hong Kong*, 5<sup>th</sup> Edition, Oxford University Press, Hong Kong (1977), p. 47-49.

<sup>66</sup> Lee Kim-ming and Jack Yue Wai-chik, “Prolegomenon to the Study of the Role of Rhetoric in the Garbage-Can Policy Process: The Case of Hong Kong’s Positive Non-interventionism (An Extract)”, *The Economy of Hong Kong in Non-economic Perspectives*, edited by Law Kam-ye and Lee Kim-ming, Oxford University Press, Hong Kong (2004), p. 225-229.

<sup>67</sup> Lai Siu-kai, “Political Attitudes”, *Indicators of Social Development in Hong Kong 1988*, Hong Kong Institute of Asia Pacific Studies, Chinese University of Hong Kong, Hong Kong (1991), p. 192.

gains and advancements. Being on ExCo meant access to privileged information. Being on LegCo allowed regular access to important decision-makers. Being on advisory committees provided early information invaluable to shape policies and influence distribution of resources that had an impact on their own business sectors.

## F. Selection of the post-colonial elites and setting of the HKSAR economic policies in the Basic Law

When it became certain in the early 1980s that the British would leave in 1997 and that China would resume sovereignty, Hong Kong's political dynamics shifted. Beijing's strategy to "win hearts and minds" during the Sino-British negotiations involved the active cultivation of the Hong Kong business and professional elites because they were seen to be essential to the smooth running of Hong Kong. This group, who had invested heavily in Hong Kong, also had the most to lose if the city became unstable, and thus could be relied upon to maintain stability under Chinese rule.<sup>68</sup> While both Beijing and Whitehall wanted the Hong Kong elites to support their respective positions during the Sino-British negotiations, Beijing had the upper hand, as it was the incoming sovereign whereas Whitehall was the lame duck. Not only that, with the Chinese economy developing rapidly, the Hong Kong business and professional elites were keen to cultivate cordial relations to ensure easier business entry into the mainland.

The Sino-British Joint Declaration signed in 1984 settled the issue of transfer of sovereignty. It was agreed that the post-1997 legislature would be constituted by "elections", and the chief executive shall be appointed by Beijing "on the basis of the results of elections or consultations to be held locally".<sup>69</sup> The creation of Functional Constituencies through the 1985 LegCo election was part of the transition package of reforms that first appeared in the colonial government's 1984 *Green Paper: The Further Development of Representative Government in Hong Kong*, which secured the position of the elites during the transition and within the post-colonial political structure.<sup>70</sup>

Furthermore, Beijing used a series of appointments to the National People's Congress, Chinese People's Political Consultative Conference, Basic Law Drafting Committee, Basic Law Consultative Committee, Preliminary Working Committee and Preparatory Committee during the last decade and a half of colonial rule to create a group of status markers for the future. While some of the appointees had longstanding leftist affiliations and were not the sort of people the colonial administration appointed to its political structure, many of the appointees were from among the elites.<sup>71</sup>

Beijing's drafting of Hong Kong's post-1997 constitution, the Basic Law, in the latter half of the 1980s, was to further strengthen the position of the elites through establishing the 400-member Selection Committee to choose the candidate for the first chief executive. Of the 400, a quarter each came from the industrial, commercial and financial sectors; the professional; labour, grassroots, religious and other sectors; and political figures.<sup>72</sup> The Selection Committee transformed into the 1998 EC for the first post-1997 LegCo, choosing 10 out of 60 legislators, whereas the FCs elected 30

<sup>68</sup> Xu Jiatun, *Hong Kong Memoirs* (Xu Jiatun Xianggang huiyulu), Lianhebao, Taipei (1993) in two volumes. Xu was the pre-1989 head of Xinhua News Agency, Beijing's de facto office in Hong Kong.

<sup>69</sup> Annex I (I), Sino-British Joint Declaration on the Question of Hong Kong, signed December 1984 and ratified 27 May 1985.

<sup>70</sup> For details, see Simon NM Young and Anthony Law, *A Critical Introduction to Hong Kong's Functional Constituencies*, Civic Exchange, July 2004 [www.civic-exchange.org](http://www.civic-exchange.org) under "publications 2004".

<sup>71</sup> For a full discussion, see Leo F Goodstadt, "China and the Selection of Hong Kong's Post-Colonial Political Elite, *The China Quarterly*, (September 2000), p. 721-741.

<sup>72</sup> Decision of the NPC on the Method for the Formation of the First Government and the First Legislative Council of the Hong Kong Special Administrative Region, adopted on 4 April 1990.

members with 24 being directly elected.<sup>73</sup> Though the number of legislators elected by the EC was reduced to six for the second post-1997 LegCo election in 2000 and phased out altogether by the third election in 2004, while the number of directly-elected seats increased to equal those of the FCs; the fact remains that its influence will continue with the selection of the chief executive. The EC was increased to 800 people for the 2002 chief executive selection with the same four categories of members arising from a very similar base to the FC electoral base.<sup>74</sup>

During the Basic Law drafting process, the elites were able to exert influence on Hong Kong's future economic management. While the Basic Law was explicit that free trade, small government and low-tax policies should continue, it also imposed on the HKSAR administration a responsibility to "encourage investments, technological progress and the development of new industries" and a duty to "formulate appropriate policies to promote and co-ordinate the development of various trades such as manufacturing, commerce, tourism, real estate, transport, public utilities, services, agriculture and fisheries."<sup>75</sup> A key mainland drafter of the Basic Law elaborated that the HKSAR administration should involve itself more extensively in economic management than its colonial predecessor, although the issue of how to reconcile this with the constitutionally-mandated fiscal conservatism and to finance development programmes was not discussed.<sup>76</sup>

The HKSAR government's more active role in the economy could be seen with the CE's early policies. The current financial secretary, Henry Tang, a former textile tycoon, has described Tung's "philosophy of governance" as *big market, small government*, which sounds very much like *maximum support, minimum intervention*.<sup>77</sup> In his first policy address, Tung, himself a former shipping tycoon, went on a spending spree in creating various programmes, grants and funds that would lead to "an increase of HK\$7.7 billion in recurrent spending in the next financial year, rising to HK\$18.6 billion annually for the financial year beginning in April 2001. Over the same five-year period, capital expenditure of HK\$88 billion will be incurred".<sup>78</sup> His expansionary fiscal policies have led to Hong Kong's large current account budget deficit, which became apparent a few years down the road and remains the subject of political debate in Hong Kong as the HKSAR government has hinted repeatedly that a Sales and Goods Tax (GST) may be imposed in the foreseeable future.<sup>79</sup>

Furthermore, Tung complained publicly in 1997 about the banks' conservative lending policies to small and medium-sized enterprises (SMEs). In 1998, the HKSAR government launched a lending scheme to help SMEs. Another scheme was devised

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<sup>73</sup> As Beijing did not accept the results of the 1995 LegCo Election, where nine of the FCs were created as very large constituencies, the "LegCo through train" was derailed in 1997 and a Provisional Legislature was set up instead for the first year of Chinese rule. Thus, the first post-1997 LegCo election took place in May 1998.

<sup>74</sup> There was in fact no selection in 2002 as Tung Chee-hwa had no one standing against him.

<sup>75</sup> Basic Law, Articles 118 and 119.

<sup>76</sup> Xiao Weiyun, *"One Country, Two Systems": An Account of the Drafting of the Hong Kong Basic Law*, Peking University Press, Beijing (2001), 419-422.

<sup>77</sup> C H Tung, Policy Address, 7 January 2004, paragraph 16; and Financial Secretary 2003-2004 Budget, 5 March 2003, paragraph 24.

<sup>78</sup> C H Tung, Policy Address, 8 October 1997, paragraph 153. See

<sup>79</sup> For an examination of fiscal policies in the first term of the CH Tung Administration, see Stephen Brown, Edward K W Fung, Christine Loh, Kylie Uebergang and Steven Xu, *The Budget and Public Finance in Hong Kong* (March 2002), Civic Exchange [www.civic-exchange.org](http://www.civic-exchange.org) under "publications March 2002".

in 2001 with the government subsidising the cost of lending to SMEs that had higher loan delinquency rates and poorer management records.<sup>80</sup> Tung also stated that he wanted to drive down property prices in 1997. He announced an annual target of providing a minimum of 85,000 government flats for sale, which started a huge public housing drive putting up cheap housing at breakneck speed.<sup>81</sup> In 1999, the HKSAR government announced that it would partner with the Pacific Century Group to build *Cyberport* to promote Hong Kong as an information technology centre, as well as invest in Hong Kong Disneyland, a theme park, to promote tourism.<sup>82</sup> In 2001, he announced the government would invest in a new exhibition centre,<sup>83</sup> and in 2003, to fund a large part of the expenses for *HarbourFest*, a music festival, after the Severe Acute Respiratory Syndrome (SARS) outbreak.<sup>84</sup> In 2004, the government said it would look at developing a giant logistics park on Lantau Island as well as possibly even re-launching manufacturing in Hong Kong.<sup>85</sup> All the abovementioned initiatives were controversial. For example, Tung's 85,000 flats drive was seen to have contributed to the dramatic drop in property prices, which was perceived to have left many property owners in negative equity; by not tendering the *Cyberport* but giving the multi-billion project to one company, Tung was accused of favouritism and by-passing longstanding government practice in the awarding of projects; and the government was forced to call an inquiry into the poor management of *HarbourFest*.<sup>86</sup>

Bearing in mind that the colonial administration's "boundary maintenance" strategy against demands for public subsidies by the business elites, the problem for the HKSAR government is that despite its ability under the Basic Law to practice more interventionist economics, it has not been able to persuade the people that it is fair-minded. Thus, the HKSAR administration is just as vulnerable as the colonial administration to suspicions of favouring certain private interests. The frequent accusations of cronyism and "black box politics" should be constant reminders to both Beijing and the HKSAR authorities that the Hong Kong public fear the high level of involvement of business elites within the power structure.

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<sup>80</sup> Small and Medium Enterprises Committee, *A Report on Support Measures for Small and Medium Enterprises*, HKSAR Government (2001), Chapter 5, and *Progress Report on the Four Funding Schemes for Small and Medium Enterprises*, report to LegCo CB(1)1670/01-02(03), 13 May 2002. It appears from these reports that the various schemes achieved minor results to help SMEs.

<sup>81</sup> C H Tung, *A Future of Excellence and Prosperity for All*, speech at the ceremony to celebrate the establishment of the HKSAR on 1 July 1997.

<sup>82</sup> Financial Secretary, 1999-2000 Budget, 3 March 1999, paragraphs 57-62 and 66-70.

<sup>83</sup> C H Tung, Policy Address, 10 October 2001, paragraph 72.

<sup>84</sup> C H Tung, Policy Address, 7 January 2004, paragraph 26.

<sup>85</sup> C H Tung, Policy Address, 7 January 2004, paragraphs 24 and 28.

<sup>86</sup> See Lok Sang Ho, "Policy Blunder of the Century Threatens Hong Kong's Economic Future", on the 85,000 flats initiative; "Chronology" March 1999 on Cyberport, both from *The First Tung Chee-hwa Administration: The First Five Years of the Hong Kong Special Administrative Region*, edited by Lau Siu-kai, Chinese University Press, Hong Kong (2002), p. 175-197; and Report of the Independent Panel on HarbourFest, [www.legco.gov.hk/yr03-04/english/panels/facb1-1853-pdf](http://www.legco.gov.hk/yr03-04/english/panels/facb1-1853-pdf).

## G. Functional constituencies and electoral reform

The FCs produce 30 out of 60 legislators. It may be said that 16 of the FCs represent the interests of the traditional business and professional elites, (two commercial, two industrial, finance, accountancy, medical, legal,<sup>87</sup> real estate and construction, architecture, surveying and planning, financial services, textiles and garment, import and export; wholesale and retail, and insurance), plus the Heung Yee Kuk, which represent rural landowning interests. Tourism, Transport, Catering and Information Technology may be said to represent the interests of newer sectors. Many of the FC representatives in LegCo are seen to have close links with tycoons and/or large business interests.

In considering constitutional reform, one property tycoon said in 2004: "A lot of us are pretty happy with the current system. Nothing major needs to be changed ... I believe that, structurally speaking, the status quo is the best way to go".<sup>88</sup> Others have said that pushing for universal suffrage in 2007 and 2008 against Beijing's wishes could create "chaos"<sup>89</sup> and that the pace of reform should be more "gradual".<sup>90</sup> In one extraordinary case, a tycoon asserted that: "Even if some local business are currying favour from Beijing, benefits received are private to those individuals and are economic in nature. It is no one's business."<sup>91</sup>

In describing what is meant by "the previous capitalist system and way of life shall remain unchanged for 50 years" in Article 5 of the Basic Law, it has been suggested by one tycoon that the "previous" system and way of life that is to be preserved is "balanced participation", where business, professionals, grassroots and the middle class "participated directly in politics" under an "executive-led" government model.<sup>92</sup> It has also been argued that Beijing needs to protect the rights of Hong Kong's business community by not allowing a dilution of its power in LegCo and the EC. In the case of LegCo, the business sector should be able to keep at least 25% of the seats.<sup>93</sup> This line of logic would necessarily rule out universal suffrage for the 50-year period.

Another approach to political change is through taxation. Several tycoons argued that since only the richest one-third of Hong Kong's working population pays income tax, so only that one-third should have a say in how the government is run.<sup>94</sup> The FCs are seen by them as essential for keeping "welfarism" and "free lunches" at bay, which they believe to be the inevitable result of universal suffrage. The catering FC representative said that if there were more pro-democracy legislators elected in the

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<sup>87</sup> The legal and medical FC members, however, have often pushed for greater reform both on the social and political fronts.

<sup>88</sup> Ronnie Chan, chairman of Hang Lung Properties, in a speech to the American Chamber of Commerce, Hong Kong on 28 April 2004. Chan had also called India's democracy "a dictatorship by consensus", see Serge Berthier, "What India and Hong Kong have in common", *Asian Affairs* (Winter 1999/2000) [www.asian-affairs.com/edito/editoindia.html](http://www.asian-affairs.com/edito/editoindia.html).

<sup>89</sup> Jimmy Cheung, "Campaign for reform 'will bring HK chaos'", where Henry Cheng, managing director and major owner of New World Development was quoted, *South China Morning Post*, 1 May 2004, p. A2.

<sup>90</sup> Jonathan Tam, "Li favours slow reforms", *The Standard*, 20 March 2004.

<sup>91</sup> Ronnie Chan, "I stand on the side of law and reason – Ronnie Chan", Letters, *South China Morning Post*, 15 May 2004.

<sup>92</sup> Peter Woo, "Old wine in an old bottle", *South China Morning Post*, 18 March 2004.

<sup>93</sup> Peter Woo, "Democracy is bad for business", *South China Morning Post*, 16 December 2003.

<sup>94</sup> *The Economist*, "Tung-tied Hong Kong", 20 April 2004 noted Gordon Wu, chairman of Hopewell Holdings; Peter Woo, chairman of Wharf Holdings; and Ronnie Chan as main advocates for protecting business against political reform.

2004 LegCo election, investors “will not be interested in Hong Kong, because whenever they make huge profits, the democrats will be after them”.<sup>95</sup> One tycoon went as far as making the “no taxation without representation” argument with a Hong Kong spin that only income tax payers understand how an absence of democracy promoted stability and prosperity.<sup>96</sup>

Even more graphically expressed, the real estate and construction as well as the accountancy FCs members explained why the rich needed protection. They said in response to the HKSAR government plugging a profits tax loophole that the proposed legislative amendment would:

“ ... unnecessarily restrict legitimate business practices, incite antagonism and weaken investor confidence ... The administration cannot find new means of solving the fiscal deficit and figures it can squeeze more from the rich – they have lots of money, why don't we rob them? ... The amendment discriminates against the debt market, infringes the rule of law and the guiding principle of equality, which is a core value of our society”.<sup>97</sup>

“ ... This amendment could confuse serious investors, could lead to wasteful litigation and breaches the territorial source principle.”<sup>98</sup>

These various statements were all made publicly and in high-profile manners. The statements were also made with no reference to how the Hong Kong public see capitalism. From academic research, there are no indications that the people have lost confidence in capitalism.<sup>99</sup> It is no wonder that the tycoon's statements set the tone for how the Hong Kong public looks at the most influential business elites, who are often seen to be protecting their own businesses. The growing consensus that Hong Kong should have a comprehensive set of competition policies and law is evidence that the public is beginning to demand open markets for the domestic economy, where many sectors are dominated by the tycoon-controlled conglomerates, which in turn can control a number of FC seats in LegCo and EC seats for the selection of the chief executive.<sup>100</sup>

Indeed, from the promotion of the term “balanced participation” linked with “executive-led” government, it is not difficult for the public to be reminded of colonial governance. Yet, the HKSAR is no longer a colonial entity and Hong Kong people are now administering Hong Kong, while the Basic Law provides for elections. The previous logic of a colonial state has in effect disappeared but the Hong Kong political system, modelled on the colonial system, is suffering from a major disconnect with public expectations.

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<sup>95</sup> Matthew Lee, “Investors fear democrat win: Cheung”, *The Standard*, 1 June 2004, p. B2.

<sup>96</sup> Peter Woo, “Old wine in an old bottle”, *South China Morning Post*, 18 March 2004.

<sup>97</sup> Ravina Shamdasani, “Plugging profits tax loophole to give budget windfall”, reporting the speech of Abraham Razack, the real estate and construction FC member, *South China Morning Post*, 17 June 2004, front page.

<sup>98</sup> Ibid, reporting the speech of Eric Li, the accountancy FC member.

<sup>99</sup> Lau Siu-kai, “Confidence in the capitalist society”, *Indicators of Social Development, Hong Kong 1999*, edited by Lau Siu-kai, Lee Ming-kwan, Wan Po-san and Wong Siu-lun, Chinese University of Hong Kong (2001), p. 93-114.

<sup>100</sup> Consumer Council, *Competition Policy: The Key to Hong Kong's Future Economic Success*, November 1996

[www.consumer.org.hk/website/ws\\_en/competition\\_issues/competition\\_studies/1996fairtrade.html](http://www.consumer.org.hk/website/ws_en/competition_issues/competition_studies/1996fairtrade.html)

## H. Concluding observations

For almost the whole of Hong Kong's colonial experience, politics was circumscribed by the peculiar relationship between a constitutionally powerful governor, and his relationship with Whitehall as well as LegCo. The "executive-led" system created in the 19<sup>th</sup> century for Whitehall to govern the British Empire was designed for an autocracy. As the colony evolved, the colonials in Hong Kong developed an appointment system to co-opt influential people into the political structure in order to give the colonial administration legitimacy. The appointment of business and professional elites into the establishment was also designed as a strategic move to build an alliance with those who could be the opposition to colonial rule.

With the introduction of a measure of direct elections to LegCo in 1991, Hong Kong people's political aspirations had a new focus, especially as the Basic Law provides for universal suffrage as the ultimate aim. With intense public debate about the pace of achieving democracy, Hong Kong people are more politicised than ever before and it seems doubtful that they will give up their wish for universal suffrage.<sup>101</sup> In discussing the pace and options for constitutional reform, the FCs will need to be dealt with. Within a vision of universal suffrage, the current FC election system needs to be replaced. However, the heads of some of the largest business conglomerates are saying that there is no need for major reform, and even if there has to be, business interests must be protected. The question that needs to be asked is whether the tycoons' utterances reflect the majority view of a diverse business sector. While they advocate the need to protect business interests, what they have not said is how Hong Kong can improve governance, which from various opinion surveys is what is foremost on the public's mind.<sup>102</sup>

It was to address the issue of business participation in politics that the chief secretary recently said:

"The public is demanding greater inclusion, transparency and openness in our political development and policy making ... In this climate, business also needs to rethink how it handles such demands. The approach of business so far to politics has tended to be rather reactive, conservative and behind-the-scenes ... An atmosphere of suspicion and distrust, unfortunately, still prevails.

... If business wants political parties to champion their cause, then business needs to engage the political parties and convince them why championing the cause of business is good for Hong Kong and its people. Businessmen need to shed their anxiety and fear that if and when they step into the political arena, it will give rise to a perception of a collusion of business and political interests. In open society, every

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<sup>101</sup> Lau Siu-kai discusses Tung Chee-hwa's unsuccessful attempt to depoliticise Hong Kong in "Tung Chee-hwa's Governing Strategy: The Shortfall in Politics", *The First Tung Chee-hwa Administration: The First Five Years of the Hong Kong Special Administrative Region*, edited by Lau Siu-kai, Chinese University Press, Hong Kong (2002), p. 3-7. See also Civic Exchange's Opinion Survey, prepared by Wirthlin Worldwide Asia, 26 June 2004, which showed that respondents wanted improved economic conditions but at the same time they also wanted universal suffrage and for their views to be heard by the authorities [www.civic-exchange.org](http://www.civic-exchange.org) see "publications June 2004".

<sup>102</sup> Civic Exchange and Hong Kong Transition Project, *Listen to the wisdom of the masses*, January 2004, [www.civic-exchange.org/publications/2004/listening\\_e.pdf](http://www.civic-exchange.org/publications/2004/listening_e.pdf)

sector is a legitimate player in politics. But to be a player you must do so in an open and public manner ...

At the moment, functional constituencies covering various business and commerce groups elect LegCo members to represent their interests and reflect their views in our legislature ... As such, business, commerce and professional groups will maintain a direct line in the legislative process and in performing a “check and balance” function on the Government. But, as we head down the road to our ultimate goal of electing all LegCo members by universal suffrage, then functional constituencies will have to evolve with this process.

The business community as a whole needs to start thinking about how it deals with this change. It must be prepared to get more involved. For example, business can do more to nurture and support political talent and parties ... In my view, a more vocal, community-spirited and transparent business lobby would garner public trust, which in turn would help dispel any misconceptions about collusion ...”<sup>103</sup>

The above statements show how deeply the longstanding government-business alliance has coloured Hong Kong’s political life. Powerful elites have often opposed reforms because they already had what they wanted from their privileged position in the political structure. For example, in recent years, some of them have been far from enthusiastic with competition policies to open Hong Kong’s domestic markets even though market-augmenting reforms would be beneficial to Hong Kong as a whole. Thus, when reference is being made to “balanced participation” and the need for business interests via the FCs and ECs to continue to be protected, the HKSAR government and Beijing need to also distinguish the difference between what are self-serving interests of certain business elites or business sectors, and what are in the interest of Hong Kong as a whole.

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<sup>103</sup> Donald Tsang, Chief Secretary, Speech to the Hong Kong General Chamber of Commerce luncheon on 16 June 2004 [www.info.gov.hk/gia/general/200406/16/0616128.htm](http://www.info.gov.hk/gia/general/200406/16/0616128.htm)