

A basic primer for the Basic Law

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In his policy address, Chief Executive Tung Chee-hwa announced the setting up of a taskforce, headed by Chief Secretary Donald Tsang Yam-kuen, to look at constitutional development. One of its duties is to consult the relevant authorities in Beijing.

This led to a strong reaction among certain sectors of the community. There was a mood of disappointment, with one party chief saying it felt like a black cloud is hanging over constitutional reform. There was surprise, that the voice of the people (reflected in the July 1 and January 1 demonstrations) had been ignored, and anger, because consultation with the central government was tantamount to inviting Beijing's interference in Hong Kong's affairs and would undermine its autonomy.

Almost immediately after the handover, a group of radical activists was already advocating immediate, full democratic elections to choose the chief executive and the entire legislature. As dissatisfaction with the Tung administration grew during the economic downturn, a new idea came into being which suggested universal suffrage could be a cure for all Hong Kong's woes. Over the past year, and especially following the July 1 demonstration - which was actually directed at a host of different, perhaps unrelated, matters - community-wide discussions took place and it was thought by some sectors at least that a consensus could possibly be reached on some form of universal suffrage for the chief executive elections as early as 2007. This might partly explain why some people were not prepared for the taskforce.

When in Hong Kong recently, mainland Basic Law drafter Xiao Weiyun said that it would be improbable for universal suffrage to be introduced in 2007. He also said that no one had thought of the possibility, and if that had been the intention, it would have been clearly spelled out at the time of drafting. Mr Xiao did say that his views did not represent those of Beijing, a statement backed by a senior Hong Kong official. But it does pose the question that if he was not carrying Beijing's message, why did the Hong Kong media, and local politicians, pay so much attention to him?

To understand even superficially what one country, two systems really means and where Hong Kong stands in relation to the central government, we should look at some of the relevant sections in the Basic Law. Article 1 tells us that Hong Kong is an inalienable part of China, while Article 2 says that it is the National People's Congress,

being the source of authority, that authorises the special administrative region to exercise a high degree of (but not full) autonomy and enjoy executive, legislative and independent judicial power. Therefore, without one country, two systems would not exist. Article 12 says that Hong Kong is a local administrative region of China, enjoying a high degree of autonomy but coming directly under the central government. Article 15 says that Beijing shall appoint the SAR chief executive and principal officials, in accordance with provisions in Chapter IV of the Basic Law.

Turning to the controversial subject of how the chief executive and the legislature are selected by election, including the introduction of universal suffrage, we need to carefully study Articles 45 and 68. The specific methods for selecting the chief executive and the legislature (including the methods for amending the way selection takes place after 2007, if the need arises) are given in Annex I and Annex II, respectively. Both articles say that the ultimate aim is selection by universal suffrage, but both mention in accordance with the principle of gradual and orderly progress.

Given some general understanding of these sections of the Basic Law, it is not difficult to see that Beijing has an important role to play in Hong Kong's constitutional development. Therefore, why should we be surprised that the central government is being consulted? After all, any amendment to the method for selecting the chief executive has to be approved by the Standing Committee of the National People's Congress.

One question I would like to ask is: do most Hong Kong people want universal suffrage quickly, at any cost, or would they prefer real stability and prosperity for the whole of society? I know for sure that most wealthy people, who could transfer their assets elsewhere if need be, would prefer stability. One problem we must face is that Hong Kong has made little, if any, progress in promoting the Basic Law effectively. Education on this vital matter remains at kindergarten level. Therefore, I wish to make four proposals:

First, the SAR government should pay greater attention and spend more on discharging its responsibility to better educate the public on the Basic Law. This should include people's duties (not just rights) as SAR citizens, what one country, two systems means and the relationship between Beijing and Hong Kong. Second, the Tung administration should encourage more public debate and discussions in a sensible and rational manner on the Basic Law, preferably organised by non-governmental institutions and if necessary, inviting scholars and academics from the mainland or elsewhere to participate. Third, important parts of the Basic Law

should be included in high school and university education.

And fourth, before introducing any major proposals which touch the Basic Law, whether on constitutional development or Article 23, Hong Kong's busy population - many of whom know little about the Basic Law - need to be given a proper education on the subject.

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