

Balanced Participation and Effective Governance:

Remarks on Hong Kong's Political Reform and Universal Suffrage

By Antony Leung, June 2nd 2015

Overview

- The purpose of all political reform is to attain equilibrium between balanced participation and effective governance; Hong Kong's political reform is no exception. As a Special Administrative Region (SAR) of the People's Republic of China (PRC) with a high degree of autonomy, Hong Kong's political reform is both special and difficult, whether viewed from legal status, political framework and culture, and so forth. Thus, to get going with our political reform, there must be reasonable objectives and expectations for each phase as well as full consideration of the equilibrium between balanced participation and effective governance.
- Under its existing political structure, the SAR's political reform, of which universal suffrage for the election of the Chief Executive is an integral part, must be based on the following: 1. Hong Kong is not an independent country; it is a SAR with a high degree of autonomy authorised by the Central Government; 2. ours is an executive-led government, not one where political parties compete to obtain the right to rule; 3. The power of Hong Kong's executive, judiciary and legislative branches stems from the authorisation of the Central Government; 4. While the Chief Executive is the representative of the Central Government, he is also the representative of the Hong Kong people. The former role is based on the authorisation of the Central Government; the latter is based on the approval and authorisation of the Hong Kong people with the permission of the Central Government. Notably, the two cannot be separated from each other.
- The idea of balanced participation is to let all those who are empowered to have a chance to participate extensively in political governance. The final objective is to arrive at a consensus that pays due regard to the interests of all concerned. And this is done via exchanges as equals, mutual consultation, comparative analyses, as well as give and take. Under political reform as currently constituted,

there is a broadly representative nomination committee of 1,200 to nominate eligible candidates, after which one man, one vote by all enfranchised Hong Kong citizens will produce the Chief Executive for Central Government's appointment. This systemic arrangement is the most effective way of expressing balanced participation at this stage.

The legal constitutionality of balanced participation

The PRC constitution is the ultimate or most fundamental law of the country. It possesses unimpeachable or supreme legal authority. The Basic Law of Hong Kong is formulated by the National People's Congress (NPC) in accordance with the constitution. And it is from the constitution that the Basic Law, the embodiment and legalisation of "one country, two systems", derives its validity. In interpreting the Basic Law in accordance with the constitution, the NPC – the most authoritative institution of the country – is giving vent to the constitution and exercising China's sovereignty over Hong Kong. Balanced participation, which had been a guiding principle for the drafting of the Basic Law, was enunciated yet again in the NPC's August 31st 2014 decision on universal suffrage in Hong Kong; it possesses full legal constitutionality.

The political compatibility of balanced participation

In truth, "one country" is the precursor or prerequisite of "two systems". I believe this is also the political perspective most shared by the people of Hong Kong. To properly understand "one country, two systems", we have to be clear about two facts: (a) Hong Kong is not a country in and of itself. Nor is it an independent political entity; (b) a high degree of autonomy does not equate to absolute independence or complete self-rule. In the light of such national political characteristics as centralisation of power, a unitary state, the NPC and democratic centralism, the powers wielded by local administrative regions are not inherent in them. Rather, they stem from the delegation of the Central Government and evolve from the exercise of national sovereignty.

There is no legality without authorisation, therefore, and legal responsibilities must be faithfully executed. The HKSAR cannot define the scope and contents of its own powers. There is no question of "implicit" delegation and residual powers: should it hope for powers that have not been stipulated in the Basic Law, the HKSAR must have authorisation from the Central Government in the first place. As authoriser, the Central

Government can supervise, guide, annul or retract powers as it sees fit. With the NPC explicating and interpreting the concept of “balanced participation”, the Central Government is exercising its legal status and authority as the authoriser – with *ex officio* political compatibility.

The procedural propriety of balanced participation

Universal suffrage is not the same as direct election. The former refers to each and every adult citizen’s right to vote, whereas direct election is an election method – a *modus operandi*, if you will – that contrasts with indirect elections. Universal suffrage and direct election are completely distinct concepts; they are, however, confusable and easily confused. The former stipulates that the right to vote, such as one man, one vote, is the preserve of all and sundry. The latter relates to the way of exercising the right to vote – direct vote being an example.

Historically, universal suffrage and direct elections sometimes converged but they also diverged at other times. There could be universal suffrage without direct elections such as in the United States. On the other hand, there could be direct elections without universal suffrage: in 19th century Britain, for instance, women did not have voting rights. Thus, implementing “one man, one vote” is genuine universal suffrage; this we must note. Balanced participation is a way of implementing the right to vote. It is not mutually inconsistent or even mutually exclusive with universal suffrage, direct elections or indirect elections. Procedurally, it is altogether proper.

Balanced participation is progressively democratic, merging democracy with the rule of law, and equity with efficiency.

Democracy and the rule of law are both indispensable to the proper functioning of contemporary constitutional mechanisms. The promulgation of balanced participation underscores, on the one hand, the precedence of the constitutional rule of law over democracy. The existing legal system must be respected. The rights of others, society’s right to self-determination as well as public rules and order must not be impinged upon or violated. Social divisiveness and confrontation, which lead all too easily to policy short-termism, must not be fomented. Rather, the objective is to rectify the shortcomings of precocious and defective democracy, and to erect a preferred model of “direct democracy plus public rationality” founded on public interest and accountability.

On the other hand, having been affirmed by the legal process, balanced participation will in effect systematise and legalise democracy, imparting legitimacy to the Chief Executive, enabling him and the HKSAR Government to wield their legal powers. This will help make democracy rational, legally circumscribe wanton power, and elevate democracy from symbolism to substantialness.

The crux of the supposed trade-off between equity and efficiency lies in balance and inclusiveness. That is to say, how to forfeit the minimum amount of equity, which is the cost, for a maximum degree of efficiency, which is the benefit; or to lose as little efficiency as possible (cost again) in return for as much social equity as possible (benefit). Balanced participation fosters compromise between and among the different interest and pressure groups within society. It promotes the peaceful coexistence of civic-mindedness, collective rationality and social harmony. It facilitates comprehensive participation even as it brings out the efficiency gains of centralised nomination. Thus, balanced participation has met such governance criteria as justice, fairness, effectiveness, efficiency and accountability, while striking an appropriate balance between equity and efficiency.

Balanced participation is the only practical and viable proposition amidst current reality.

Universal suffrage for the election of the Chief Executive is a milestone in the development of democracy in Hong Kong. It signifies the determination and sincerity of the Central Government. It also represents the collective aspiration of the 7.2 million people of Hong Kong. And now, we are just a stone's throw from this historic landmark. We have to cherish the opportunity, get on with it and fortify it. At present, society has divergent views on the contents, objective, scale and speed of democratisation. I fear that if these differences are not resolved or bridged any time soon, political reform will not be passed, impeding our democratic development.

The Chief Executive represents HKSAR as well as the Hong Kong Government. His legal status is doubly authorised by the Central Government and the local populace. His election and appointment must be embraced by the Hong Kong people; and he must have the official approval of the Central Government, for this has to do with "one country, two systems and Hong Kong people ruling Hong Kong". These are absolutely vital issues that defy debate or change.

Given present reality, it is already a significant step for our democratic development that the Central Government has authorised HKSAR to introduce universal suffrage while also cementing the process with constitutional law. We should cherish the prospect and be justly proud. Meanwhile, we have to remember that throughout history, universal suffrage is not a slam-dunk; nor is there a one-size-fits-all paradigm. Be it the Central Government, its Hong Kong counterpart or people from all walks of life, there is insufficient experience with universal suffrage. A longer gestation period and gradualism are in order on many fronts.

We have to respect ideal and reality, support democracy and progress, and come to grips with electing the Chief Executive by one man, one vote. Meanwhile, I hope that all of us will see that our political reform is like rowing a boat against the tide: if we don't press ahead, we'll swept backwards. If the universal suffrage as currently constituted is not passed, we will for sure be at sea as to how to re-launch political reform. Xunzi (荀子), a Chinese Confucian philosopher who lived during China's Warring States period, once wrote that "without undertaking successive half-steps, traversing to terrains thousands of miles away is impossible; without the coalescence of small trickling streams, there will be no lakes and seas." "不積跬步，無以至千里；不積小流，無以成江海。" His words are instructive, even for Hong Kong's political reform at the present crossroads.

We cannot afford to go to extremes. We must not make a sacrificial lamb of Hong Kong's social stability and economic prosperity. Rather, we should think hard on how to arrive at consensus on how to improve balanced participation. In the meantime, we should waste no time with implementation, so we can learn by doing as soon as possible. The current proposal on political reform fully reflects the systemic requirements of balanced participation at this stage. It has both inherited reality as it is – and reformed it too. It has preserved what works in the existing political setup while reflecting the interests and aspirations of most Hong Kong people. Its point of departure is Hong Kong's legal status and practical circumstances, having full regard to the well-being of society as a whole. It is orderly and gradual; it breaks new ground. As such, it is a remarkable step forwards – and one that we should persevere with.

On the synthesis of balanced participation and effective governance

The governance of contemporary society needs to be democratised and scientised. Meanwhile, people from all walks and strata of life have to play a more active role in society's management. This is modern-day's two-way, interactive governance process. In this connection, balanced participation will motivate people to participate in politics, rational decision-making and civic governance. This will lead to effective public management. But electing the Chief Executive is just the beginning. There is a lot more on the agenda.

1. Maintaining the rule of law

Without a doubt, this is the most important thing for Hong Kong, in every aspect from preserving the "one-country two-systems" to improving governance effectiveness.

2. Enhancing government's administrative capabilities

The Chief Executive elected by one man, one vote as well as authorised and approved by the Central Government enjoys strong legitimacy. This is a major prerequisite for effective governance. In the wake of his election and as efforts to form a government get under way, all channels of communication must be kept open and unobstructed. Further, the Chief Executive designate must reach out and recruit able and like-minded individuals to form an efficient and industrious executive team. This team will be supported by Hong Kong's high quality civil servant. All executive measures must be fair, just and suitable. All administrative procedures must be kosher, proper and user-friendly. Those in dereliction of duty should and must be held accountable and legally responsible.

3. Improving executive-legislative relations

Pursuant to the Basic Law and the bill governing his selection, the Chief Executive is to have no party affiliation. Contrary to conventional perception, political parties in Hong Kong are merely political organisations or groups that can provide checks and balances against the executive branch of government only by virtue of their Legislative Council (LegCo) seats. This has led to prolonged bipolar confrontation between the government and LegCo.

What can we do about this sorry state of affairs? A Chief Executive elected by universal suffrage will have greater legitimacy than otherwise and will, in all likelihood, better reflect people's interests and aspirations. And he should proceed to invite select members of political parties with substantial LegCo votes, to serve as secretaries and under-secretaries of policy bureaus. Policy discussion and formulation as well as political consensus will be easier to conduct and reach in this way, particularly with the help of consultative organisations on which I'll have more to say later. What is, in fact, a coalition government that has co-opted the support of many a LegCo member will minimise internal friction, heighten administrative efficacy and maximise social well-being.

4. Strengthening the consultative institutions

We have a unique consultative political model in Hong Kong, with the government establishing over 300 consultative committees that advise the many parts and activities of the government. Throughout the policymaking process, they can assist with feasibility studies beforehand, consult and counsel as the measures are being implemented, and help monitor and evaluate results and progress. In this way, we can assemble popular opinion and civilian intelligence, facilitate compromise and enhance governance effectiveness.

Moreover, the experienced and capable individuals working in these institutions can be tapped in due course to fill civil service and political vacancies.

We can make these bodies and the whole consultative institution more effective by recruiting more people with different political and policy orientations as members, and possibly as chairmen. I strongly believe that diversity will result in better ideas and decisions. Plus, it is always better to resolve differences over words in meeting rooms, rather than fighting them out physically on the streets.

5. Nurturing and attracting political talent

Public discourse often laments Hong Kong's relatively lack of talent in politics, particularly when compared to mature political jurisdictions such as the United Kingdom. This is not exactly fair as we had, until

quite recently, been an apolitical administrative entity. But in Singapore, a city state whose name has often been invoked in any discussion on Hong Kong, there is a systematic and long-term programme to nurture political talent from as early as the secondary school stage. Their crème de la crème would typically be recruited into the ruling People's Action Party and subsequently the government. If, in future, our own Chief Executive is indeed elected by universal suffrage, presumably he or she has a certain degree of charisma; as well, his/her legitimacy will have been greatly enhanced. This, plus the prospect for members of political parties to serve in a de facto coalition government and not just as the opposition, will incentivise people who want to serve Hong Kong and make not so much money but a difference.

6. Taking youth issues and concerns seriously

I don't want to refer to "the problems of the youth" as that sounds too negative. So I'll use the phrase "issues and concerns" instead. These involve not just the younger generation but also their elders. Not only Hong Kong's present but her future is at stake as well. It is quite understandable that youths should demand change. We must take their upbringing and development to heart. Instead of telling them to be satisfied with what they have got (i.e. live with the status quo), we should make society as upwardly mobile as possible such that they can realise their greater dreams and aspirations.

Thus, for instance, we can set up a higher-level youth affairs co-ordinating committee to help mitigate issues and concerns that are causing the younger generation anxiousness and even restlessness. The zest and passion of young students are the mainstay of Hong Kong's future. We need to galvanise them to map out a future for Hong Kong with their wisdom and intelligence. In LegCo and other consultative organisations, for instance, we can increase the proportion of youth representatives – this with a view to creating more platforms and opportunities for them to have their say in public affairs, be heard and feel important in their own right.

7. Strengthening communication and co-operation with the Central Government as well as the Guangdong provincial and city of Shenzhen governments

We have to strengthen co-operation and exchanges with the Central Government. We should actively participate in the Central Government's formulation of strategies for economic development and globalisation. We should give free rein to our unique functionality to service China's grand economic development scheme. This is one of the prerequisites for enhancing the governance effectiveness of the HKSAR Government. We should augment our cooperation with the mainland's provinces and cities, especially Guangdong province and the city of Shenzhen, with a view to increasing interactions on all fronts. This is of appreciable significance to the effectiveness of the HKSAR Government.

Conclusion

There is no denying that Hong Kong has been overshadowed in recent years by negative sentiment. This is especially the case over the past two years, when internal dispute over political reform intensifies, culminating in Occupy Central and related street protests. As a result, there is a lot of pessimism. We don't seem to be going anywhere with our international competitiveness; if anything, we are slipping behind as places like Shanghai and Singapore post noticeable improvements. People's livelihood cause greater and greater concern as inequality of income and wealth increases and the housing situation worsens. Meanwhile, we spend the bulk of our time in a mutual blame game. Emigration is becoming the talk of the town again.

But to foreigners who live among us or who have been following our development, this is beyond comprehension. Their impression is that our economic activity has been robust. There is full employment. Economic prospects look promising. Our tax rates are low by international comparison. We continue to be ranked the freest economy in the world. An international agency thinks our healthcare is the most efficient and effective worldwide. According to various international surveys, our educational system continues to be among the top performers year in, year out. The city is safe, streets are clean and we are famously convenient, sporting world-class infrastructure. So why all the gloom and doom?

In the past two months, I have had the opportunity to revisit Israel and Singapore on business, talking with some of their senior officials, among other people. I have been struck by the care and determination that their communities have shown towards nation building. This is in stark contrast to Hong Kong. Now, obviously, we are not, as I have already mentioned, a country in and of ourselves. But the collective build-Hong Kong sentiment, which is among the all-important determinants of our future, seems to be conspicuous by its absence. If we continue to spend our time and energy on internal bickering to the neglect of improving our global competitiveness and people's livelihood, then downhill we'll go, for sure.

There is now only half a month before LegCo votes on the current political reform proposal. I sincerely hope that in the view of Hong Kong's long-term well-being, the honourable members will vote in its favour. Passing political reform, coupled with the measures that I have suggested for improving governance, will better reflect popular opinion and advance HKSAR's long-term well-being. There will be improved policy formulation as well as implementation. If all this comes to pass, then under the auspices of the Central Government and guided by the principle of "one country, two systems", Hong Kong will radiate and dazzle again. Over time, it will be an even better place to be called home and, of this, we – and our future generations – can be justly proud.