

## **V. Governance**

**99.** Having discussed our economy and social development, I will now address the question of governance, including three issues of public concern, namely the relationship between the executive and the legislature, accountability and community involvement in public affairs.

### **A. Our Governing Philosophy**

**100.** With reunification, Hong Kong has been exercising a high degree of autonomy in accordance with the Basic Law. The approach of our governance has been to engage Hong Kong people in a collective effort to build a better future while balancing and looking after the interests of all. Governance in a modern society involves three main elements: first, to ensure equality for all before the law, judicial independence and that the rule of law prevails in all spheres of society; second, to respect the rights and dignity, and to safeguard the freedoms of each individual; and third, to maintain a highly transparent and accountable government which supports civic participation. These three elements are not only protected by the Basic Law, but have become a reality in the daily life of the Hong Kong SAR.

**101.** As Chief Executive, my primary concern is to ensure the successful implementation of "One Country, Two Systems", so as to enable Hong Kong to continue to progress. Now that Hong Kong has returned to the motherland, future development of the region is inextricably linked with that of the Mainland. Over the past two decades, Hong Kong and the Mainland have forged even closer economic ties and have strengthened mutual co-operation. Hong Kong has long benefited from the country's strong support. I still firmly believe that when China succeeds, Hong Kong will prosper.

**102.** Hong Kong's residents are mostly Chinese, who take pride in their nation. It is only natural that they should stand up and strongly support the nation. Since the reunification, we have had more opportunities to get to know and understand our country. I am pleased to see that this enhanced

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understanding is affirming the identification of Hong Kong people with our cultural and historical roots. This will provide a basis for developing our future political structure.

**103.** To safeguard the interests of Hong Kong and our country, we must abide by the Chinese Constitution and the Basic Law. We must earnestly maintain the two systems and work in accordance with the law to preserve our existing systems and way of life, and to protect the rights and freedoms of Hong Kong people.

**104.** Hong Kong is a pluralistic society. People have the freedom of speech, of assembly, of demonstration, of the press, of academic research and of religious belief. Hong Kong citizens hold diverse views, which are often reflected by the variety of public comments on controversial issues. Nevertheless, our community shares a set of common values, including the importance attached to education, respect for the elderly, caring for children, the emphasis on self-improvement, on charity and on benevolence. We all support upholding the rule of law, maintaining prosperity and stability, and adhering to the principle of "One Country, Two Systems". This provides a basis for us to broaden community consensus while accommodating differences. This can help establish social harmony and facilitate concerted efforts to further the progress of our society.

## **B. Political Structure**

**105.** Over the past three years, we have implemented the concept of "Hong Kong people running Hong Kong". The community and the SAR Government have worked together to meet the challenges of the financial turmoil, to restore economic growth and to maintain social stability. Hong Kong's achievements have been acknowledged by the Central Government. Our experience demonstrates that the political system stipulated in the Basic Law can function effectively. Of course, having inherited most of the systems and institutions operating prior to the reunification, the SAR has to go through a process of adjustment and adaptation before it can function optimally. This process takes time.

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## **Constitutional Development**

**106.** Our political structure outlined in the Basic Law is the manifestation of a spirit which encompasses respect for history and respect for reality. It establishes the principle of gradual and orderly progress and provides the SAR with ten years during which we can strengthen the foundation of our political structure and accumulate experience through the process of implementation before taking the next steps. Over the past three years, there have been different voices in the community: some favour expediting political reforms, while others are concerned that Hong Kong's political environment may be changing too rapidly. Constitutional development is obviously a most important subject. It encompasses a wide spectrum of issues. It will have a fundamental bearing on society as a whole. We need to allow for a period of gestation. We also need to create the appropriate conditions and environment, and to enable views to mature through implementation. We have ample time to go through this evolutionary process.

### **The Chief Executive and the Executive Council**

**107.** The Chief Executive is the head of both the SAR and the SAR Government. He is accountable to the Central People's Government and the Hong Kong SAR. As Chief Executive, I am responsible for leading the SAR Government, implementing the Basic Law, signing Bills passed by the Legislative Council, promulgating laws, deciding on government policies and issuing executive orders, as well as nominating and reporting to the Central People's Government for the appointment or removal of principal officials.

**108.** The Executive Council assists me in policy-making. It comprises Members drawn from among principal officials, the Legislative Council and public figures. Members of the Executive Council come from various sectors of the community and give me advice under the principles of collective responsibility and confidentiality. Over the past three years, the Executive Council has given me very valuable advice on the major policies and issues which we have addressed. In the light of changing circumstances and according to the demands of the Government's work, I will review the composition of the Executive Council at the appropriate time.

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## **Executive Accountability**

**109.** The SAR Government represents the executive authorities of Hong Kong, responsible for formulating and implementing policies, conducting a wide range of administrative affairs and drafting and introducing legislation. More than 20 principal officials play an important role in the formulation and implementation of policies pivotal to the effectiveness of the administration.

**110.** As I have mentioned earlier, following the reunification, a period of adjustment and adaptation is required for our transition from the former establishment to the new administration. The public demand for our officials to be held more accountable is one such example. At present, most of the principal officials' posts are held by pensionable civil servants. The advantages of having civil servants appointed as principal officials are that they focus on objective analysis, establish internal consensus, maintain the continuity of our policies and ensure a high degree of administrative efficiency. The civil service places special emphasis on discipline, follows very strict codes of conduct and disciplinary procedures, and has maintained a very high standard of integrity. SAR Government officials at different levels have been very open and active in explaining our policies and accounting for our work to the public, the various councils and the media.

**111.** I have noted that the previous Legislative Council and the community have expressed the view that as senior officials are involved in policy making and play a leading role in public affairs, they should be held accountable for the outcome of their policies. As Hong Kong people are now running Hong Kong, I appreciate their aspirations for the SAR Government to be subjected to a higher degree of accountability. I also agree that the SAR Government should respond seriously, undertake a thorough review, and make the system of accountability more complete. We can consider this issue at two levels.

**112.** The principal officials of the SAR Government at Secretaries and Directors of Bureaux rank assume an important role in policy formulation and implementation which is different from that of other civil servants. Therefore, we should examine how, under the leadership of the Chief Executive, the accountability of principal officials for their respective policy

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portfolios can be enhanced. This involves very complicated issues. We would need to consider devising a compatible system of appointment for these principal officials, setting out their powers and responsibilities and at the same time defining clearly their role in formulating and implementing government policies under the new system. I appreciate that the people of Hong Kong would like to see the establishment of a comprehensive system of public accountability. A decision will be taken as soon as possible on the basis of our deliberations.

**113.** Quite apart from these considerations pertaining to principal officials, a system of accountability has always been in place within the Government. We have an impartial investigation system to deal with disciplinary cases and to determine reasonable and appropriate penalties. In future, regardless of the system to be adopted in respect of the appointment of principal officials, we will maintain the stability of the civil service structure, preserve the principles of permanence and neutrality of the civil service, and maintain a highly efficient, professional and clean government.

### **The Legislature and the Executive**

**114.** The powers and functions of the Legislative Council include enacting laws, receiving and debating the Policy Addresses, examining and approving budgets introduced by the Government, and approving taxation and public expenditure. Under colonial rule, which lasted more than a hundred years, a top-down appointment system was adopted. The legislature and the executive authorities used to operate very harmoniously. However, since the introduction of elected seats to the Legislative Council, the political environment has undergone a profound change. The Basic Law provides for a system of checks and balances and a complementary relationship between the executive and the legislature. Therefore, it is not surprising that there are now divergent views and that, sometimes, tension exists between the two institutions. This is a natural phenomenon in a political system with a division of powers and constitutional checks and balances.

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**115.** While exercising these checks and balances, the executive authorities and the legislature should also seek to complement one another. I firmly believe there is scope for closer co-operation, and to this end I am ready to work together with Members of this Council.

**116.** At present, through various means in the policy-making process, government officials will discuss with Members of the Legislative Council our thinking and proposals. For instance, after introducing a Bill to the Legislative Council, the Government will discuss with Members the rationale and the specific provisions of the Bill in a Bills Committee to gather the views of Members and to reach consensus. Our experience shows that this is an effective channel of communication. We will continue with this approach in our deliberations with the newly-elected Legislative Council. We will examine ways of strengthening the existing mechanism of communication, so that the executive authorities will understand fully the standpoints and opinions of Members of the Legislative Council, and can better ensure that policies formulated and Bills submitted will have the support of the legislature. I also hope that throughout the term of the new Legislative Council, the Government and the legislature will work together to resolve problems and to promote all aspects of Hong Kong's future development in a spirit of mutual co-operation and understanding.

### **The Judiciary**

**117.** In Hong Kong, courts at all levels exercise judicial power independently. The Government respects and upholds judicial independence, and acts in accordance with the rulings of the Court of Final Appeal (CFA) and the lower courts. As a Special Administrative Region, Hong Kong enjoys the power of final adjudication - a unique constitutional arrangement. By comparison, the state or provincial courts of the United States, Canada and Australia are bound by the decisions of their supreme courts under their federal systems. The CFA of Hong Kong, however, has the power of final adjudication on all cases within the SAR's jurisdiction, and the power of interpretation of the Basic Law, Hong Kong legislation and the common law.