

2 November 1998

To: Mrs. Percy Ma
Clerk to Panel on Constitutional Affairs
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RE: Legco Panel on Constitutional Affairs meeting 9 November

From: Michael E. DeGolyer,
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1.0 The proposal put forward by the Tung Administration in October 1998 to abolish the Urban and Regional Councils is based on several mistaken understandings. These misunderstandings are first, of public opinion; second, of the function of the Municipal Councils in Hong Kong's governance; and three, of the contributing role the Municipal Councils play in developing Hong Kong's ability to exercise "Hong Kong people ruling Hong Kong" and in the development, according to the Basic Law, of fully directly elected government.

2.0 **Public opinion and methods in the report**

2.1 The first serious misunderstanding of public opinion is based on methods used in the "Review of District Organisations Consultation Report" (October 1998). The conclusions rest NOT on a scientifically selected representative sample of public views, nor do they rest on a representative sample of expert views. They rest fully on data collected by one of the most notoriously mistaken means of so-called "research": a self-selected "sample". The results of random sample public opinion surveys are brushed aside rather quickly with little analysis of the questions posed or the results returned by the surveys.

2.2 No one can take views gathered unscientifically seriously, no matter how they write up tries to convey a sense of "balancing" quantitative and qualitative assessment. The sample method used in the consultation report is simply NOT an acceptable one on which to base serious conclusions. This is even more true of the "sample" of academic views which seem to be drawn from only 4 academics. No Masters candidate or even Honours Project at the BA level would be allowed to proceed to graduation on the basis of such research. To base a serious decision of government, with many repercussions and implications, on such weak "research" design and flawed "sampling" is irresponsible. It is also completely unnecessary since many well-known methods for responsibly determining representative views exist, with many practitioners of the same available within Hong Kong. (For example, deliberative opinion polling, Delta method, etc.) The administration needs to reconsider its sadly outdated and poorly conducted methods of consultation with the public.

2.3 Based on random sampling using CATI over 24 Oct to 31 Oct 1998 of 800 respondents by the Hong Kong Transition Project, 80% indicated they had heard of Tung Chee-hwa's proposal to abolish the Urban and Regional Councils. This is a very high indication of public awareness of the proposal. In properly conducted surveys of such issues, finding out who is even aware of the issue is a necessary first step. Of the 80% of those aged 18 and above with permanent right of abode in Hong Kong and who were aware of the proposals, 15% supported abolishing the councils, 8% supported abolishing the councils "but transferring most powers and budgets to the District Boards." 44% supported merging the two councils into one body and 17% wanted to refuse to abolish the Urban and Regional Councils and keep both unchanged. 16% were unsure about the options or had no opinion. *This means that a clear majority, 61% prefer merger or no change in the councils. Only 23%, or about one in four who are aware of the proposals, support the Administration's views.* This scientifically selected and polled sample of Hong Kong opinion serves to point out just how mistaken the Consultation Report is on the state of public opinion about the councils. There is no majority, not even close to a majority, supporting the administration's proposals. The administration should pull together into one room all the researchers on public opinion on the issue, and/or set up a one day seminar conference to explore the results of these surveys. This would more credibly allow academics to detail and explore the various questions posed and perhaps lead to a genuine consensus about the results. Follow up polling might also be undertaken to clarify any issues raised and make the state of public views clearer. Other methods, as alluded to in 2.2, might be used to shore up telephone survey weaknesses and flesh out possible options and likely reactions to such options if presented to experts and the public.

3.0 Structural and functional role of the councils

3.1 The argument that the municipal councils are a burdensome additional layer of politicians in the Hong Kong structure of government is not correct. For a population of 6.7 million people to have only about 600 elected officials serving as the public voice and watchdog over nearly 190,000 civil servants and quasi-government organizations is NOT, by any means, an excessive number compared with other governmental entities of similar level of economic and social development. To abolish an entire layer of representative government and about 100 of the 600 elected representatives of the people is a substantial change in Hong Kong's previous form of government, and thus contravenes the solemn promise of 50 years without change stipulated in the Sino-British Joint Declaration and embodied in the Basic Law. Such drastic moves should be more carefully considered and certainly more publicly discussed, especially as various proposals are made known. One time consultations are ill advised; thus the practice of many governments in issuing preliminary papers with analysis and proposals (green papers) and then later, after further deliberation and discussion, more finalized proposals (white papers). This practice was not followed in the present instance, though it certainly should be.

3.2 Further, given the flaws and powerlessness of the current Legco and District Boards, to abolish the municipal councils is a clear step backward in the development of

representative government in Hong Kong. This proposed move thus is also contrary to the spirit of the Basic Law which projects a step by step forward march toward more representative and accountable government. The municipal council is the oldest elected body of government in Hong Kong, with direct elections, though with a severely limited franchise, taking place since 1952 and with wide franchise elections since 1982. To abolish this entire layer of government is a serious step which requires more careful and prudent consideration. The power of history and long practice should not be so lightly dismissed.

3.3 Structurally, the municipal councils are the ONLY bodies in Hong Kong which incorporate elected representatives of the people debating and setting policy and administering a budget. They are also the only group in Hong Kong which, having set policies and budget allocations, also “supervise” the civil servants implementing their decisions. This “normal” form of government elsewhere in the world is considered, for some strange reason, in Hong Kong a form of blight on “executive led” government. This could not be more untrue. Only the members of the municipal councils have the balanced experience of representativeness and accountability and administrative responsibility to properly learn the skills absolutely necessary for a successful future Chief Executive. If anything, the municipal councils should be given power to set rates. Only then will come the recognition of the public that municipal services come with a cost and that they should hold their representatives strictly accountable for expenditures and rates levels. The councillors should also be given more power over the Urban and Regional services departments so that the representative and accountable views of the public’s chosen representatives may have stronger impact on the efficiency of services to their constituents.

3.4 If the point is to provide more efficient service and satisfy customers of those services more, then representativeness and accountability must be considered along with efficiency. “Efficiently” doing things the public do not want, or worse, resents, is not true efficiency. Nor is efficiently doing 96% of trivial things as important as accomplishing something important—as the October “Progress Report” made plain. Answering phone calls within so many minutes is not on the same scale as ensuring the successful opening of the new airport. The ability of the public to punish its representatives for failures is important as a release of public resentments. Abolishing the councils will eliminate this critical avenue of venting frustrations. Instead, these resentments will focus more on the civil service and the Chief Executive—which is potentially a very dangerous development. The municipal councils thus provide a real means of diminishing the buildup of minor frustrations to dangerous levels.

4.0 Role of the Municipal Councils in better government and democracy

4.1 The proposals to “bureaucratize” the services presently covered by the municipal councils in the name of efficiency totally overlook the role the municipal councils play in teaching Hong Kong people the realities and dynamics of representative and responsible government. The civil service bureaucracy is responsible, at present, but not representative. The Legco is representative, but cannot propose policy and cannot

administer a budget or functionally supervise a department. It is not fully responsible for its actions, and this leads to irresponsible proposals or amendments or blocking of administrative initiatives. The Chief Executive is responsible, but not yet fully representative, and stands alone as the single person outside the civil service trying to bring both representative and accountable pressures on the 190,000 civil servants. This is an impossibly large and difficult task. The District Boards are close to the people (at least the directly elected element) but have little power to actually supervise the various civil service departments affecting their constituents. Further, they cannot by definition settle issues and problems larger than a single district, and these are many and serious.

4.2 The Legco is not sufficiently numerous, nor with only 20 geographically elected members, at all sufficiently equipped and staffed to deal with affairs above the district such as water or air pollution and traffic affairs which impinge on constituents in a district. These require people focused on those issues at those levels. The municipal council could be a very useful representative body to deal with those issues which affect Hong Kong people at the geographic and district levels. In the current Legco, half or more of seats are not even focused on local, geographic based affairs, and they are not suitable to solve issues such as public venue supervision and utilization policies and schedules. But neither is a civil service bureau which has no representative contacts suitable to make decisions between one community group and another if their plans conflict. Only elected representatives who daily monitor community affairs and sentiment and faithfully reflect community values.

5.0 Conclusion and recommendations

5.1 At present, District Boards should be strengthened and given larger budgets for local constituency services, and they should be more closely integrated into a merged single Municipal Council. These bodies should all be directly elected, with members of the community serving on various committees and boards related to the Council and District Boards, as at present. The Municipal Council should be given responsibility for setting rates, up to a certain level, and the accountability of members strengthened by their exercising control over the budget for the Municipal Services Department (a merger of Urban and Regional Services departments). The Municipal Council could be somewhat reduced in number if the District Boards were strengthened and perhaps expanded in number. Ultimately, the administration might look into “municipalizing” districts, with, for example, the election of “mayors” of places like Yuen Long, Tai Po, Sha Tin and other distinctly recognizable urbanized localities. This could be enhanced by privatizing many municipal services currently done by civil servants. (The US holds many examples of the advantages of privatized municipal services.) District boards could take up many of the functions now served by the municipal councils, but the present government proposal does not do this, and hence, unless and until it does, the municipal councils should be merged, not abolished.

5.2 In any case, in principle significant changes in government should be done slowly, with careful steps decided on only after full and lengthy deliberation. This is the model followed in the development of the Basic Law itself, a process of drafting which

took several years of writing and consultation. It sets out a process of change with slow steps taken over several years, and has built in pauses for further consultation. This is a better pattern to follow in introducing significant reform than the current “revolutionary” proposals of Tung Chee-hwa, which in destroying the old forms of government fail to introduce new forms sufficient to the challenges ahead. The present “Consultation Report” should be considered a “green paper” and more scientific and more deliberate consultations should be held over a longer period to map out better and more acceptable district level governance options.