

The Dynamics of Executive-Legislative Discord in Hong Kong: Conflict, Confrontation and Adaptation

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Abstract

Executive-legislative relations in Hong Kong have been transformed from harmony during the British colonial era to a far more conflict-ridden and confrontational mode after the handover of the British territory to the People's Republic of China on July 1, 1997. The conflict-ridden relations between the executive branch of the government and the legislature have worsened since the introduction of more directly elected members to the Legislative Council. The confrontational relationships have been compounded by the mutual distrust between the government and the pan-democratic forces, and between the pro-establishment camp and the pan-democratic front. Exacerbating the political impasse is the partially reformed political system in Hong Kong, where the Executive Council is filled with pro-establishment elites without co-opting a few directly elected democrats. As a result of the politics of exclusion and the patronage nature of the political appointees system that was introduced into Hong Kong in July 2002. The media criticisms of the personal integrity and performance of a few appointees have delegitimized the Hong Kong administration under the leadership of the new Chief Executive C. Y. Leung. Without a more drastic overhaul of the Hong Kong political system, especially in the form of appointing representatives of the pan-democratic camp into the top-policy Executive Council, executive-legislative relations are bound to be conflict-ridden, confrontational and controversial, albeit the government will continue to adapt to the politicized circumstances and respond to public demands in a more pluralistic manner.

Introduction

Unlike British-style parliamentary democracies where the rotation of political party takes place and where the executive branch, especially the cabinet, has members elected by citizens (Munro 1987; De Smith and Brazier, 1994), the Hong Kong Special Administrative Region (HKSAR) is neither a parliamentary system nor an American presidential one in which the Chief Executive is elected with a powerful mandate from the ordinary citizens. Without a legislature fully direct elected by citizens, and without a

top policy-making Executive Council (ExCo) operating like the British cabinet with some members elected by the voters, the HKSAR executive-legislative relations are separated with mutual distrusts and confrontations. With a Chief Executive in the HKSAR elected by 1,200 members of an Election Committee, he does not garner the legitimacy and mandate as with the American President.

As a matter of fact, executive-legislative relations have become one of the most hotly discussed topics in Hong Kong politics in recent years, especially in view of the apparently weak political leadership of the government after the handover. In the minds of the government, an uncooperative legislature is an impediment to its effective capacity. But to most legislators, particularly to the opposition camp, the crux of the problem lies with a relatively "hostile" government which is loath to listen to, let alone respect, their views, which supposedly represent the crystallization of public opinions. The frequent scenes of the two sides blaming each other are a testimony to the disharmonized executive-legislative relations in the HKSAR.

In the Western political systems, the legislature is supposed to play the role of being a linkage between the government and citizens, a representation of constituents, a debating forum, and a legitimizing function for political institutions (Kreppel, 2008). Apparently, the Legislative Council (LegCo) of the HKSAR is operating in a way that demonstrates these four major roles; nevertheless, the executive-legislative relations in the HKSAR show serious discord, as this article will discuss. Due to the largely unelected nature of the executive branch of the government, and to mutual distrusts between the executive leaders and legislators, the LegCo of the HKSAR serves as a serious forum for political struggle and ceaseless disputes.

This article aims at examining the changing dynamics of executive-legislative relations in the HKSAR. As the LegCo of Hong Kong is still not fully directly elected, to what extent does it represent the interest of the general public? What political resources does it have in shaping government policies? This article will first trace the transformations of the LegCo — its composition, functions and powers — from the colonial era to the present. Then, it will discuss executive-legislative relations after the handover, and more attention will be focused on the period from 2005 to 2012 in order to explore the powers of LegCo vis-a-vis the government. Finally, the article will discuss the prospects of executive-legislative relations in Hong Kong. It will argue that unless the executive branch of the HKSAR government is democratized further, the tense and conflict-ridden relationships between the executive and the legislature will persist in the years to come, thus continuing to undermine the legitimacy of the HKSAR government.

Legislative Council in Hong Kong under the Colonial Rule

Under the colonial rule of the British empire, Hong Kong's political regime was

characterized as an executive-led government in which the Governor, who was appointed by the Queen, possessed tremendous power not just in running the administration but also in initiating legislation. Since LegCo's establishment in 1843 until 1985, all of its members were government appointees, including both official and non-official members. However, reforms were implemented to enhance the representativeness of the LegCo. The first major breakthrough occurred in 1976, when the Governor appointed more non-official members (22) to the LegCo than the official members (20) (also see Table 1). Peter Harris's following description succinctly captured the status of LegCo at that moment.

In Hong Kong, the Legislative Council is a 'bureaucratic' rather than a 'legislative' arm of the machinery of government. Before 1976, it had a majority of civil servants who sat as the spokesmen of their departments. After 1976, it was *just theoretically* possible for all the members who were not government officials to find an issue on which they could 'vote' against the government with a 'majority' opinion (Harris, 1988: 91; italics added).

The reasons why the LegCo at that time could "just theoretically" challenge the government were fourfold: (1) some of the members, though non-official in capacity, were still appointees of the government; (2) the members did not form a party or coalition to bargain with the government; (3) members did not actively engage in LegCo debate; and (4) the Governor was the LegCo chairman overseeing the whole LegCo business (Harris, 1988: 91-92).

Table 1: The Legislative Council's composition, 1947-1982

	Ex officio (including the President)	Nominated officials	Nominated unofficials	Total
1947	6	3	7	16
1951	6	4	8	18
1964	6	7	13	26
1966	5	8	13	26
1973	5	10	15	30
1976	5	15	22	42
1977	5	16	24	45
1980	5	18	26	49
1982	5	18	27	50

Source: N.J. Miners, *The Government and Politics of Hong Kong* (Hong Kong: Oxford University Press, 1981), p. 126.

Therefore, the truly historic turning point of LegCo formation was the introduction of elected members from functional constituencies (different occupational groups) in

1985. In Table 2, 12 out of 57 legislators were elected into the law-making chamber through occupational groups, such as the Hong Kong Bar Association and the Professional Teachers Union. Leading democratic figures entered the political arena through this channel, such as Martin Lee (legal constituency) and Szeto Wah (education constituency), who, unlike the appointed LegCo members, held more liberal values and were more critical of the government and its policies, particularly on issues like political reform. In Kathleen Cheek-Milby's words, prior to 1985, the legislature's main function was systems maintenance, and as such, what mattered was "the ability of the legislature to promote integration of the political system, mobilize support for its policies, and legitimize those who are in power" (Cheek-Milby, 1995: 175), while the two other main functions of legislature — policy-making (policy formulation, deliberation, and oversight) and representation — were not carried out to the full extent.

Table 2: The Legislative Council's Composition, 1984-1995

Years	Officials	Appointed Members	Elected by			Total
			FC	EC	GC	
1984	17	30	--	--	--	47
1985	11	22	12	12	--	57
1988	11	20	14	12	--	57
1991	4	18	21	--	18	60
1995	--	--	30	10	20	60

Note : FC=Functional constituencies. EC=Electoral College or Committee.
GC=Geographical constituencies.
Source: Lo Shiu-hing, *Governing Hong Kong: Legitimacy, Communication, and Political Decay* (New York: Nova Science Publishers, 2001), p. 166.

Since the 1990s, patron-client relationships between the government and legislature have started to change drastically. Most notably was the introduction of directly elected seats from geographical constituencies in the 1991 LegCo election. In Table 2, in 1991, 18 of the 60-member LegCo were directly elected by citizens in geographical constituencies. This election altered the political landscape of Hong Kong in the sense that, first, for the first time the elected members (both from geographical and functional constituencies) outnumbered the appointed members; and second, more democratic figures were brought into the LegCo to challenge the traditionally conservative LegCo members. Subsequent to the expansion of election was the fading of the Governor's role in the LegCo. In 1991, the Governor, though remaining as a LegCo member and the president, decided not to preside over the meeting. In 1993, the Governor ceased to be a LegCo member and the president. With the decline of executive influence and the rise of elected legislators' role in the LegCo, the functions of LegCo in policy making and representation increased while its 'decorative' dimension of supporting and legitimating the government declined (Cheek-Milby, 1995).

However, the transformation of LegCo was the most drastic in the final years of the

colonial era. The last Governor Chris Patten (1992 - 1997) further separated the executive and legislative branches by de-linking the Executive Council (ExCo) from the LegCo's composition. Previously, there was a higher degree of overlapping membership of ExCo and LegCo, when the Governor appointed respected elites to be the members of both the ExCo and LegCo. These members were expected to be the middle men, messengers, and brokers between the two branches. The second political reform undertaken by Chris Patten was the enhancement of the representativeness of the functional constituencies. By expanding the voter base from companies (employers) to individuals (labors), functional constituencies became a 'pseudo-geographical constituencies', which for sure antagonized Beijing. In face of the showdown between the colonial government and Beijing, the conservative and pro-establishment political parties were reluctant to support the colonial government as they did before, fearing that it would offend the 'future master'. Unable to form a stable pro-government alliance, the colonial government was required to seek cooperation from and form *ad hoc* alliances with different legislators on different issues. In other words, a partner on one policy issue might be the 'enemy' on another one. The de-linking between the administration and the LegCo empowered LegCo members, because they had more 'political chips' to engage in the give-and-take political game with the government (Choy and Lau, 1996).

Originally, the operation of the newly-formed LegCo in 1995 would span from the colonial era to 1999 after the handover. However, with Beijing's rejection of the Patten reform, the LegCo could not ride a "through train" and had to be re-elected in 1998 in accordance with the Basic Law. During the 1997-1998 legislative session, the LegCo was replaced by the Provisional Legislative Council (PLC), in which 60 members were selected by a 400-member Selection Committee for the first HKSAR Government. This Selection Committee was also responsible for selecting the first Chief Executive. With the majority of democrats boycotting the PLC election, and due to its closed selection method, many PLC members were pro-establishment. Yet they overturned some important pieces of legislations made by the LegCo from 1995-1997, because they perceived the bills, e.g., the rights of collective bargaining, and the supremacy status of the Hong Kong Bill of Rights over the Basic Law, passed by the democrats in the pre-1997 LegCo as detrimental to Hong Kong's capitalist foundation and executive-led political structure.

Formation and Powers of the Post-1997 Legislature

From a historical perspective, what distinguishes the post-1997 legislature from the pre-1997 one is the emergence of party politics amidst democratization. Table 3 illustrates the evolution of LegCo composition from 1998 to 2012. While the number of total seats in LegCo has remained unchanged from 1998 to 2012, the LegCo's transformations were attributable to the reduction of appointed members since the 1980s, the introduction of direct elections (geographical constituencies) in the early

1990s, and its further expansion from then onwards. With an increase in mandate and representativeness, party-affiliated legislators have started to take sides in policy debates and the scrutiny of various government bills. They often mobilize their supporters outside the LegCo to oppose unpopular government policies. As such, the strength of political opposition has increased considerably both inside and outside the legislature, even though the LegCo is so far not fully directly elected.

Table 3: The Legislative Council's Composition, 1998-2012

Election method	Number of Seats				
	1998	2000	2004	2008	2012
Geographical constituency	20	24	30	30	35
Electoral Affairs Commission	10	6	0	0	0
Functional constituency	30	30	30	30	35
Total	60	60	60	60	70

Source: Lo Shiu-hing, *Governing Hong Kong: Legitimacy, Communication, and Political Decay* (New York: Nova Science Publishers, 2001), p.166.

The structure of the post-1997 legislature is prescribed by the Basic Law, which was promulgated in 1990 with the goal of largely maintaining the colonial system, i.e. the executive-led government, of Hong Kong after the handover. Article 73 stipulates the functions, duties and powers of the LegCo. Some of the main elements are outlined below:

1. To enact, amend or repeal laws in accordance with the provisions of this Law and legal procedures;
2. To examine and approve budgets introduced by the government;
3. To approve taxation and public expenditure;
4. To receive and debate the policy addresses of the Chief Executive;
5. To raise questions on the work of the government;
6. To debate any issue concerning public interests;
7. To endorse the appointment and removal of the judges of the Court of Final Appeal and the Chief Judge of the High Court;
8. To receive and handle complaints from Hong Kong residents.

The constitutional powers of the Chief Executive and the LegCo are unparallel. According to Basic Law, the Chief Executive has the power to dissolve the LegCo, while the LegCo has the power to impeach the Chief Executive, but the former is easier done than the latter. Article 50 of the Basic Law prescribes that "If the Chief Executive of the Hong Kong Special Administrative Region refuses to sign a bill passed the

second time by the Legislative Council, or the Legislative Council refuses to pass a budget or any other important bill introduced by the government, and if consensus still cannot be reached after consultations, the Chief Executive may dissolve the Legislative Council." Article 52 of the Basic Law prescribes that the Chief Executive must resign only under the following circumstances: (1) when he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons; (2) when, after the LegCo is dissolved because he or she twice refuses to sign a bill passed by it, the new LegCo passes by a two-thirds majority of all the members the original bill in dispute, but he or she still refuses to sign it; and (3) when, after the LegCo is dissolved because it refuses to pass a budget or any other important bill, the new LegCo still refuses to pass the original bill in dispute. This stipulation means that the Chief Executive has the power to dissolve the LegCo if there is a huge disagreement, before a newly-formed LegCo can exercise its power to remove him or her from office. But so far, such serious confrontation has not taken place.

Constitutionally, after the handover, the Hong Kong LegCo is only expected to retain its powers in policy deliberation and oversight, but its power of initiating policy-making is restrained. Article 74 of the Basic Law stipulates that, LegCo members can only introduce those private bills unrelated to public expenditure, political structure and the operation of the government. Furthermore, before the bills can be introduced, the written consent of the Chief Executive has to be sought. Therefore, the opportunity of introducing a private bill is limited, as the government is reluctant to surrender its powers of policy initiation to the legislature.

This imbalance of power, namely "the government has the power but no mandate, while the LegCo has the mandate but it has no power", is frequently cited as the explanation accounting for the stalemate in executive-legislative relations. The imbalance has been exacerbated after the handover as LegCo has democratized with more legislators being directly elected from geographical constituencies. The popular saying that LegCo is in lack of power is referred specifically to the power of initiating policy change. The policy deliberation and oversight functions of LegCo are often downplayed and belittled, because to many, the worthy battlefield is to initiate policy legislation rather than monitoring and supervising the government. From 1995 to 1997, the colonial government became more tolerant of legislators' political initiatives. This period, however, might be unusual in Hong Kong when the Britain was departing (Ma, 2002: 367).

In fact, a closer and systematic look at the LegCo work points to the fact that the LegCo does have a say in policy-making through policy influence, oversight and financial control. As a local political scientist (Ma 2002: 355-365) accounts, 'policy influence' includes legislation, legislative viscosity (i.e. the number of amendments and the time spent on legislation and policy deliberation in the LegCo), committee work, and motion debates; 'oversight' includes questioning and panel works, no-confidence

motions and investigation powers, and the redress information system through which the LegCo receives complaints from the public about policy matters. For financial control, it is one of the most important powers that the LegCo enjoys in supervising the government budget. The Finance Committee of the LegCo, which comprises of all LegCo members, has the duty and right to examine the estimates of government expenditure and to vote for proposals to change the approved estimates of expenditure presented by the Financial Secretary (Legislative Council of HKSAR, 2010: 1). The LegCo's power to reject the annual budget prepared by the Financial Secretary is an important bargaining chip for members to negotiate with the government.

Policy influence possesses different political tools. While private bill and bill amendment are directly related to policy change, the result of motion debates is not legally abiding, which means that it has no impact on policy even though it is passed. However, quite often, the motions are raised by legislators to express their opinions and stimulate public awareness. For example, every year the democrats put forward a motion debate over the June 4 incident to indicate their commitment to mainland China's democratic movement, and to force the pro-establishment members to reveal their stance. Another example is that, in every year, after the Chief Executive's delivery of the policy address, it is followed by a debate as to whether a 'the motion of thanks' should be passed. 'The motion of thanks', like any motion debate, is merely a political expression and carries no legal implications, but it is a symbolic act indicating the LegCo's views towards the government's performance, and hence illustrating the status of executive-legislative relations.

However, admittedly, the LegCo has limitations in exercising its powers, particularly if democrats want to challenge the government. Apart from the restraints set by the Basic Law on LegCo's power, the political reality suggests a rather bleak picture for LegCo members to initiate policy change. Central to this is that the influence of the geographical constituencies members is hampered by the 'separate voting mechanism'. For an amendment or motion proposed by the LegCo member to be passed, it has to be approved by the simple majority in both geographical and functional constituencies. The political reality is that, after the handover, the pro-establishment can secure the control of LegCo by dominating the seats in the functional constituencies while checking the number of seats occupied by democrats in the geographical constituencies. For instance, in the 2008 LegCo election, democrats won 19 seats out of 30 in geographical constituencies but only 4 seats out of 30 in functional constituencies. With the majority of pro-establishment legislators in functional constituencies, many amendments which get passed in geographical constituencies are blocked. Since legislators returned from the geographical constituencies possess a greater mandate and have enjoyed higher popularity and public approval ratings,¹ it is frustrated for them when their power is checked by their counterparts in functional constituencies.

Due to the majority of pro-establishment legislators in LegCo, the LegCo President,

who is elected by the LegCo members, is always a pro-establishment figure, firstly Rita Fan (1997-1998 and 1998-2008), who is now a member of the Standing Committee of the National People's Congress, and secondly Tsang Yok-sing (2008-2012), the former Chairman of the pro-establishment Democratic Alliance for the Betterment and Progress of Hong Kong (DAB). Quite often, their rulings in blocking the introduction of private bills, bill amendments and motion debates are perceived as a protective umbrella for the government.

The Power of LegCo vis-a-vis the Tung Administration: 1997-2005

The Tung Chee-hwa administration was generally conceived as a failure. After the handover, Hong Kong was hit hard by the 1997-1998 Asian Financial Crisis, the subsequent burst of the private housing bubble, and the 2003 Severe Acute Respiratory Syndrome (SARS) Disease, just to name a few. Since 1997, the Hong Kong people have high expectations for the SAR government, given their relatively high living experiences under the final years of the colonial rule. According to a survey conducted in June 1997, 68.6% of Hong Kong people said they were somewhat or very satisfied with the British colonial rule, only 7.2% said they were somewhat or very unsatisfied with it (Chung et al., 2000). In assessing the contributions and mistakes of the colonial government with regard to the development of the society, 64.5% of Hong Kong people said that it offered "more contributions", while only 2.9% said it committed "more mistakes" (Chung et al., 2000). But with all these crises, the glory of the colonial legacy suddenly came to a halt. The inability of Tung to deal with these crises undermined Hong Kong people's confidence in his government and their belief in the 'one country, two systems'.

Numerous factors account for the failure of the Tung administration. From a political economy perspective, the governance crisis after the handover originated not only from rising public discontent but also due to the failure of building a stable state-business alliance, which took the form of a strong governing coalition in colonial rule (Lui and Chiu, 2007). From an institutional perspective, the governance crisis was due to the "institutional incongruity" or "institutional incompatibility" after the handover, when the well-established colonial political practices, such as the adoption of non-interventionist economic policies and fiscal conservative economic ideas which are highlighted in the Basic Law, could no longer deal with the socio-economic changes, whereas the post-1997 government has been hard-pressed to demonstrate its leadership and to perform a steering role (Cheung, 2005; Lee, 1999). From an administrative perspective, the executive-led governance has been "hollowed out" due to external political challenges (from politicians and civil society) and internal fissures (i.e. failure of absorption of elites, and the fight between civil service and the executive). Moreover, the inability of the political society in mediating the state-society relations (Ma, 2007) and the administration's communication crisis also led to the governing failure (Lo, 2001). The post-1997 government has little resemblance to the administrative state in

the colonial era, which was characterized by its efficiency in a vibrant market environment. The shrinking of state capacity has finally culminated in a governance crisis (see Cheung, 2004, 2007a). And among all, the "disarticulation" (Scott, 2002) between the executive and the legislative was conceived as one of the contributing factors.

Failure in Rebuilding the Governing Coalition

Before the governance crisis, Tung tried several means to rescue his ailing administration. The first act was to increase his administrative power. Since the beginning of the second term in mid-2002, the government implemented the 'Principal Officials Accountability System', with all government bureau heads changing from civil servants to politically-appointed officials. Under the system, the bureau heads have to be accountable directly to the Chief Executive, while previously they were mostly accountable to the head of the civil service, namely the Chief Secretary. The second move was to strengthen the executive-legislative relations. The Tung administration resumed the linkage between the ExCo and the LegCo in order to build a strong and stable political partnership with its LegCo allies. In his two terms (1997-2002 and 2002-2005), Tung invited legislators from the two major pro-establishment parties in LegCo to become non-official ExCo members, such as DAB legislators Tam Yiu-chung and Tsang Yok-sing, and pro-business Liberal Party legislators James Tien Pei-chun and Selina Chow.

With the benefit of hindsight, Tung's moves failed to rejuvenate his governance. The strengthening of the executive-legislative relations was misplaced, because legislators being co-opted into the ExCo were not the critical and most oppositional ones in LegCo, namely the democrats. Executive-legislative relations remained stressful as there was no bridge built between the establishment and democratic camps. Even worse, pro-establishment legislators were reluctant to support the government unconditionally. Most notably, in the 2003 debate over Article 23 on national security,² which the democrats viewed as a threat to civil liberties, the resignation of James Tien as ExCo member in face of strong negative public opinion against the legislator was critical to the Tung government's fragile coalition collapse.

It was no doubt that Tung's vision of building a strong governing coalition in LegCo failed. The major difference between the co-option strategies in the colonial era and the post-handover era is that being appointed to the ExCo now is devalued, as nowadays political parties have to cast their covetous eyes on LegCo's directly elected seats. In this regard, not all pro-establishment legislators are content with the executive-led government, which often regards them as a rubber stamp and makes them the scapegoat of failed government policies in the eyes of the general public. For instance, after the DAB's huge defeat in the District Council election in late 2003 following the half a million people protest on 1 July, Tsang Yok-sing had to step down from the

chairmanship and he described the DAB's partnership with the government as "sharing the shame but enjoying no pride". Clearly, the pro-government alliance was unhappy with the administration.

In sum, the executive-legislative relations under the Tung Administration could only be described as shaky, unstable and weak, for both sides accused each other for policy errors and governing failures. Finally, in March 2005, Tung Chee-hwa had to resign in the name of health concerns.

The Power of LegCo vis-a-vis the Tsang Administration: 2005-2012

After the resignation of Tung Chee-hwa, the former Chief Secretary Donald Tsang, a career bureaucrat, was selected as the replacement and later succeeding Chief Executive. The general perception was that, Beijing hoped that his administrative experience could rejuvenate a strong administrative state with efficient governance by bureaucrats (Cheung, 2008). Though not democratically elected, Tsang was conceived by the public as a relatively suitable successor, as his public approval rating was at times higher than 70 percent. Recognizing his perceived strength, Donald Tsang delivered his first policy address in 2005-2006, with the theme of "Strong Governance for the People". In his vision of 'strong governance', Tsang highlighted the importance of harmonious executive-legislative relations:

In full recognition of the status, powers and functions of the Legislative Council, my colleagues and I will strengthen communication with Honorable Members, let them understand our thinking on policy and legislation as early as possible, listen to their views, and foster co-operation. As long as the Executive Authorities and the Legislative Council exercise their powers and perform their functions as laid down explicitly in the Basic Law, they will complement each other and operate with due checks and balances. The issue of one bypassing the other does not arise. (Tsang, 2005: para 10)

His pledge for strong governance was anticipated, but this rhetoric failed to be translated into practice; the fragile executive-legislative relations were an undeniable factor. In terms of strengthening the executive-legislative relations, Tsang did no more than Tung, as he only followed Tung's approach of co-opting some pro-establishment legislators into ExCo, such as DAB legislator Lau Kong-wah. To many people's surprise, he even made it clear that his co-option strategy showed preferential treatments for his closest allies while opponents were bound to be excluded. This polarizing co-option strategy backfired. In his first term (2005-2007), Tsang failed in some major initiatives — most notably the political reform plan in 2005, West Kowloon Cultural District, the goods and services tax — all due to LegCo's opposition.

These policy failures demonstrated tense executive-legislative relations in different ways. First, the case of West Kowloon Cultural District (WKCD) committed the same

mistake that Tung made in assuming that a major bill could be easily passed in the LegCo with the support of pro-establishment legislators without paying attention to public opinion. The WKCD is a landmark construction project, which intends to enhance the cultural competitiveness and status of Hong Kong. However, the government's decision of issuing a single tender to a particular real estate developer, together with other disputes about the artistic design and the proportion of estate and commercial buildings in the district, drew severe criticisms and led to allegations of government-business collusion from the public. Under this social atmosphere, LegCo passed a motion debate with the support of the democrats and pro-establishment legislators in January 2005 to rescind the decision of single tender. Recognizing that the bill had no hope of passing in LegCo, the government withheld the project.

Second, the debate over political reform aggravated the political disagreement between the government and democrats. In 2004, the Hong Kong government unveiled a political reform package on the election methods for Chief Executive in 2007 and the LegCo electoral arrangements in 2008. As the proposals were criticized as being too conservative, the government tried hard to secure a few votes from some moderate democrats to achieve a two-thirds majority votes in LegCo to get the bill passed. The democrats were united in opposing the bill. After their veto of the political reform package, the government began to label the democrats as the "opposition". In liberal and multi-party democracies, political 'opposition' is a neutral term and has no negative connotation, since it merely refers to the party which is not in power. But in Hong Kong, the government attempts to frame the 'opposition' parties for "being oppositional just for the sake of opposing" but not acting constructively and responsibly. This negative labeling irritated the democrats who regard Beijing and the HKSAR governments as violating their promise of achieving universal suffrage in the HKSAR.

Third, the goods and services tax debate illustrated the government's unstable partnership with its LegCo allies, especially the pro-business elites. In the 2005-2006 budget, the government proposed raising a goods and services tax to broaden the tax base, which met huge resistance in LegCo. The pro-establishment and pro-business Liberal Party refused to lend its support to the bill because it feared the business sector would be hampered, while other pro-establishment parties and the democrats opposed severely by citing the regressive nature of the tax and by insisting that the new tax would be unfair to the middle and working class. In 1999-2000, the Liberal Party had already opposed the Tung's government's idea of levying a land departure tax and a sales tax (Ma, 2002: 364-365). Despite being the government's ally, the pro-establishment parties are not the government's puppet in LegCo; but they have their own agendas driven by self-interests. In face of LegCo's united opposition, the government withdrew the tax plan.

Because of these failures in his first term, Donald Tsang's image of being a strong and an efficient leader was severely tarnished. Hence, he claimed in his second term

that he would repair the executive-legislative relations. In the 2007-2008 policy address, Tsang said: "A good relationship between the Executive Authorities and the Legislature is conducive to smooth governance, high efficiency in policy implementation and a harmonious society" (2007: para 108). In the 2008-2009 policy address, Tsang highlighted that improving the relationships between the executive authorities and the legislature was critical to effective governance and social harmony, alongside with the need to improve the political appointment system and the electoral methods for 2012 and to enhance the quality of public services and public engagement (Tsang, 2008: para 117).

Although Tsang downplayed his governance rhetoric from "strong governance" to "smooth governance", success was not ensured. For example, in 2008-2009, the government only submitted 27 bills to the LegCo for deliberation and voting. Many controversial bills, such as the Competition Bill, the Employment (Amendment) Bill, and the Motor Vehicle Idling (Fixed Penalty) Bill, etc., were not put forward to the LegCo. Some bills that were submitted to the LegCo had to seek its financial approval. Recognizing the public demand for increased government spending to help the poor and the middle class, in 2011 and 2012, when elections were held District Councils and LegCo, the LegCo rejected a number of funding applications deemed to be out of touch with the public. For instance, in January 2011, LegCo's Financial Committee vetoed the government's HK\$ 6 billion funding request for the 2023 Asian Games, with 40 veto votes and just 14 affirmative votes. In December 2011, the Education Bureau's application for a HK\$42 billion funding for financing the eight government-subsidized higher education institutions for the academic year 2012/13 to 2014/15 was rejected, because it refused to freeze an increase in tuition fees in that period. In January 2012, the government backed down by accepting the legislators' demand on higher education tuition fees. In both incidents, opposition parties casted the veto votes, while some pro-establishment legislators also joined forces, thus crippling the government's power.

The challenge for the Tsang administration to consolidate the support of pro-business legislators in the LegCo was more daunting. In September 2011, twelve pro-business and pro-establishment legislators formed a loose alliance,³ making it the largest political group in LegCo. On the one hand, the consolidation of pro-establishment force offered the government a more stable working partner, which could save the regime's efforts to lobby each legislator for support. But on the other hand, on issues unfavorable to pro-business legislators, the government would have difficulties seeking their support, especially when pro-business legislators pointed fingers at the government, accusing it of violating the 'big market, small government' principle in some legislations, notably the legislation of minimum wage and the Competition Bill. In pushing the Competition Bill, which intends to fight against market monopoly, the democrats supported the government, while pro-establishment legislators, especially those with business background, vehemently opposed it, with the cooperation of powerful business unions and representatives of small and medium-sized enterprises.

At the end of the Tsang administration in 2012, the Chief Executive was exposed by the mass media for accepting favors from some Hong Kong business people without declaring his interest. The incident aroused public anger and Tsang himself had to set up a committee chaired by the former Chief Justice Li Kwok-nang to investigate his possible wrongdoing. The committee found that the Prevention of Bribery Ordinance had a loophole of excluding the Chief Executive from the scope of investigation and prosecution. By the time Tsang left the HKSAR government on June 30, 2012, and when he was succeeded by the new Chief Executive Leung Chun-ying, his credibility and image were tarnished severely.

Due to the lame duck nature of the outgoing Tsang administration, Leung's attempt at reorganizing the POAS system by expanding the number of secretaries from three to five was rejected by the LegCo members, who believed that such a reorganization plan should not be rammed through the legislature, especially before the September 2012 LegCo election. Due to the credibility problem of Tsang, and his relatively weak administration in June 2012, Leung's reorganization plan was not approved by LegCo and he had to wait for the politically ripe time to reintroduce his restructuring blueprint to the legislature. After Leung became the Chief Executive on July 1, 2012, he and his subordinates slowly introduced an expanded version of the POAS, including undersecretaries and political assistants. The cautious way in which he tackled the slightly expanded version of the POAS demonstrated that his autonomy was quite constrained.

In a nutshell, the two administrations after the handover have pledged to achieve harmonious executive-legislative relations, but both failed. Not only did they fall short of tempering the relationships with democrats and allies, their constant tensions also rose from time to time, thus hampering efforts at building a strong governing coalition and to shoring up political legitimacy.

Democrats' New Means of Opposition

To the Hong Kong government, the legislature has been too assertive and uncompromising in opposing its policies, but at the same time, some of the pro-democracy voters have found their legislators too gentle and supportive of the administration, failing to constitute strong checks and balances. Therefore, a "radical" fraction within the democratic camp has emerged in recent years. The rise of "radical" politics after 2006, with the establishment of the leftist League of Social Democrats, has posed a new challenge to executive-legislative relations. Not only did it mobilize social movements, but it also launched demonstrations inside the LegCo by throwing bananas and hurling verbal abuse at government officials. Always citing Taiwan's Legislative Yuan as a reference point, the "radical" legislators argue that their protests have precedents, and their protests are justified due to the "unfair" political system.

The emergence of "radical" politics has implications for the role of LegCo as

perceived by the public. The "radical" politics has tapped into the mentality of some democratic voters, who have found the traditional way (e.g. British gentleman-style) of legislative politics futile and who believe that the representative democracy epitomized by LegCo is no longer working for the general public. Hence, "radical" politics is a viable and attractive alternative to them.

The emergence of "radical" politics has altered the LegCo landscape in such a way that the LegCo has been further polarized. For instance, in early 2010, Hong Kong was overwhelmed by a heated debate over the need of Hong Kong to build an over HK\$60 billion high-speed railway connected to the mainland. The opinions of the public towards the construction were split,⁴ so did the LegCo members'. The pro-establishment legislators emphasized the need for economic development, especially Hong Kong's economic integration with mainland China, while the democrats countered with the reasons of procedural justice, environmental conservation, and the careful use of taxpayers' money. To challenge the government's move and undermine the legitimacy of the construction project, the democrats used various tactics to postpone and obstruct the LegCo's voting procedure by making endless bill amendments. Their tactics were echoed by other social activists and citizens surrounding the LegCo building. They were staging festival-like demonstrations for days. Despite the democrats' 21 veto votes, the high-speed railway project was approved with 31 affirmative votes mainly by pro-establishment legislators.

Another controversial act of democrats in the LegCo was the 'pseudo-referendum' movement amidst the political reform debate in 2010. Led by the League of Social Democrats and Civic Party — a middle-class party led by many lawyers — the 'pseudo-referendum' movement intended to have five legislators resigning in order to trigger by-elections, which could be seen as a test of the mandate of the two parties whose LegCo members resigned. To the two parties, the movement was a creative oppositional tactic — using the LegCo seats to push for a political movement and to garner public support as bargaining chips for subsequent negotiations with the government. But to Beijing and the Hong Kong government, the two parties were exploiting a "loophole", and the movement was a provocative act, especially the use of a sensitive term like "referendum" that to Beijing referred to Hong Kong as a separate political entity.

The late 2000s has witnessed some political tactics neglected by LegCo members. However, these tactics backfired quite immediately. For the 'pseudo-referendum' movement, although the five resigned legislators were eventually re-elected, it was generally perceived as a failure with the low turnout vote of about 17%. In the 2011 District Council election, the democrats suffered a loss, with seats going down from 99 (in 2007) to 83. The so-called defeat was interpreted as partially due to public dissatisfaction with the political strategies and personal behaviors of both the "radical" democrats inside and outside LegCo and the democratic camp. Although the Hong Kong people are generally dissatisfied with the government's performance, they

disapproved of the adoption of "radical" means both inside and outside LegCo. According to a survey, a majority of citizens (65.8%) regarded the use of physical conflicts and occupation of roads during protests as "radical" behaviors. Most citizens (62.2%) opposed these actions, while only 17.4% approved them (Hong Kong Institute of Asia-Pacific Studies, The Chinese University of Hong Kong, 2011). Before the 2011 District Council election, the moderate democrats, mainly legislators from the Democratic Party, attempted to distance themselves from their radical colleagues, but to no avail. In May 2011, the moderate democrats joined forces with the pro-establishment legislators to pass an amendment to LegCo's Rules of Procedures, which grant the chairpersons of all panels the power to expel "misbehaved" members from the meeting. Prior to this rule change, such power was only conferred on the LegCo president. After the 2011 District Council election, some members of the public demanded that the moderate democrats should sever their ties with the "radical" counterparts so as to regain the trust of the public.

Before the Chief Executive-elect C. Y. Leung tried to get his reorganization plan of the POAS approved by the LegCo in June 2012, some "radical" democrats such as Raymond Wong and Leung Kwok-hung had already deployed filibustering tactic to first prevent the Tsang government from having a new by-election blueprint being approved by the LegCo. Although Wong and Leung failed to stop the government from rushing the by-election plan, which would prevent any legislator who resigns from LegCo to run again in any by-election for the legislature, their action prompted the LegCo chair Jasper Tsang to restrict the time limit of the filibusters. In response to Tsang's discretion, Leung and Wong took the case to the court for judicial review. However, the court judge Lam Man-hong in June 2012 declared that due to the principle of separation of powers, the court did not intervene in the decision made by the LegCo President. Due to the tendency of judicial passivism of the court judge, who interpreted the tenet of separation of powers as non-interference with the LegCo President's discretion of constraining the time limit of the LegCo filibusters, Leung and Wong's judicial review failed. Yet, the entire saga illustrated the bitter struggle between the legislators and the executive branch. It also demonstrated that some pro-democracy legislators had to resort to judicial channel to challenge the legitimacy of the decision made by the LegCo President regarding filibustering action inside the legislature.

Although C. Y. Leung was eventually elected as the Chief Executive in the March 2012 Chief Executive elections in the HKSAR by securing 689 votes out of 1,132 voters in the Election Committee, his legitimacy has been constantly challenged by the pan-democrats, oppositional activists and the mass media. They focused on his home's illegal structures and severely criticized some appointees made by Leung under the POAS arrangements. Just twelve days after being appointed as the Secretary for Development, Mak Chai-kwong had to resign in the midst of the investigation by the Independent Commission Against Corruption over his alleged attempt at claiming housing allowances through cross-lease arrangements with another civil servant almost

twenty years ago. The Mak incident de-legitimized the Leung administration, while the newly elected Chief Executive has been severely criticized by the mass media and pan-democrats for his home's illegal structures since he took office on July 1, 2012. Public distrust of both the Leung administration and the Chief Executive has not been conducive to the process of legitimacy-building of the new HKSAR government, not to mention the rocky executive-legislative relations, which are arguably a reflection of the mutual mistrust between the government and the pan-democratic opposition.

After the September 2012 LegCo elections, when the democrats secured 27 out of the 70 seats, their confrontational tactics and bargaining power have increased. They tried to initiate a motion to impeach the Chief Executive for his home's illegal structures, but their attempt failed. Of the 34 geographical constituency legislators present, 14 opposed the motion moved by the Democratic Party member Wu Chi-wai, 18 voted for it and one abstained (Luk, 2012:9). Of the 33 functional constituency legislators present, 20 opposed the motion, nine voted for it and four abstained. Since the motion needed to be passed by both sectors, it was blocked by the pro-government legislators elected from functional constituencies. The implications are clear: as long as the functional constituencies are maintained, pro-government forces can act as a powerful check against the increasingly assertive pro-democracy legislators. If so, the central government in Beijing would likely continue to see the persistence of functional constituencies as an effective blockage of any attempt by the pan-democratic front to challenge the "executive-led" administration and grasp political power.

The deadlock of political reforms

In face of the tense executive-legislative relations, political reform is arguably a solution; nevertheless, as mentioned above, any drastic reform along the line of abolishing functional constituencies or reducing their number will very likely arouse the concern and opposition from the central government. Furthermore, the business sector which dominates the functional constituencies tends to see a fully directly-elected legislature as detrimental to the interest of the business people and beneficial to the interest of the working class only. Due to the concerns from Beijing and the business class, political reform in the HKSAR is bound to be controversial and protracted.

However, there is still room for minimal political reform at least in the short run. As stipulated in the Chief Executive Election Ordinance, the Chief Executive cannot be a member of political party. At present, the Chief Executive does not rely on any dominant party in LegCo to support his bills and policies. Hence, seeking a stable governing coalition remains a hard task. Since the late 1990s, different solutions have been proposed. The first option is to co-opt more pro-establishment legislators to the ExCo. But as shown in the experiences of the Tung and Tsang administrations, this option was futile as most government bills and policies were not guaranteed to be approved by LegCo, including pro-government parties. If the HKSAR needs to develop

political parties as a precondition for further political reform, ideally the Chief Executive can be allowed to be a political party member. In reality, previous candidates participating in the Chief Executive elections, such as Alan Leong of the Civic Party in 2007 and Albert Ho in 2012 (both defeated in the two Chief Executive Elections) were already allowed to be affiliated with political parties, but a more progressive step in amending the Chief Executive Election Ordinance can arguably be considered in the next Chief Executive elections.

The second option is the Chief Executive's target at some moderate democrats, such as legislators from the Democratic Party, in the selection of the members of the Executive Council in the future. But bound by the values that they steadfastly uphold, the democrats have long rejected the idea of joining the governing coalition for fear that it would become an unconditional endorsement of the undemocratically elected Chief Executive. Moreover, once being a member of the governing coalition, they would have to honor the confidentiality agreement of ExCo's internal discussions and to shoulder the collective responsibility of policy decisions. Therefore, they would no longer perform the role of opposition.

Still, a few moderate democrats can be considered by the Chief Executive and his think tank when appointments to the Executive Council will have to be made. Arguably, a deadlock in executive-legislative relations can be broken if a few moderate democrats were appointed to the Executive Council, thus serving as a bridge narrowing the communication gap between the executive and the legislative branches. Indeed, as Chris Patten had long realized in 1993 when he put forward his controversial political reform package, this coalition model of involving more directly elected legislators into the Executive Council would likely transfer the debates from the legislature into the top policy-making body. However, the advantage of this coalition model is that it is real rather than the current practice of the Leung administration in appointing overwhelmingly pro-establishment elites into the Executive Council. In other words, the present patronage or spoil system in the HKSAR at the level of the Executive Council is by no means conducive to a harmonious executive-legislative relationship.

Other relatively less discussed options being proposed by politicians and academics include: (1) co-opting politicians from different parties to become appointed officials who would be held more accountable to the public; (2) encouraging the Chief Executive and bureau heads to attend more LegCo meetings and consult LegCo before presenting bills in legislature (Tsang, 2003); (3) establishing institutionalized communication channels between the government and LegCo, such as forming strategic legislative groups within each bureau to undertake policy formulation and negotiations with LegCo members (Fong, 2008). However, no major changes have been made. Finally, the most ideal option is to allow the formation of ruling party elected by universal suffrage. But it is obvious that this option is impossible to be implemented, at least in immediate future, for Beijing does not wish to envisage fully-fledged party politics in

Hong Kong. Suffice to say that Hong Kong has come to a political deadlock, and political reform is always easier said than done.

Needless to say, apart from the need to implement political reforms, the HKSAR government has to enhance its efforts at promoting and explaining government policies to the members of the public. The policy of national education, which had been promoted by the Leung government to the public in an insufficient manner, became a political campaign issue before the September 2012 Legislative Council elections. Although the Leung administration made concessions to the oppositionists just one day before the legislative elections, it demonstrated the inadequacy of governmental efforts at explaining and promoting policies to the public. If political reform is not accompanied by better efforts at selling government policies, the HKSAR government's legitimacy will continue to be challenged easily by both the pan-democratic forces and the ordinary people.

Beijing government's straitjacket: the "executive-led" political structure

The above analysis focuses on the operation and powers of LegCo vis-a-vis the HKSAR government. To the dismay of many who see democratization as the panacea of improving the legitimacy and powers of the LegCo and hence ameliorating the tense executive-legislative relations, Beijing has adopted a relatively distrustful attitude towards LegCo in particular and universal suffrage in general. However, the lack of democratic reform is exactly the crux of the problematic relationships between the government and oppositional democrats.

After 1997, Beijing has built a number of roadblocks in democratic reform. The two major blocks were made by the Standing Committee of the National People's Congress (NPCSC). In 2004, it ruled out the possibility of universal suffrage of the 2007 Chief Executive election and the 2008 LegCo election. In 2007, the NPCSC eliminated the possibility of double direct elections (of the CE and LegCo) in 2012 by stating that there would perhaps be the universal suffrage of the Chief Executive in 2017, and after that, members of the LegCo would perhaps be directly elected. Following the NPCSC's decisions, the Hong Kong government could only adopt ambivalent rhetoric on democratic reform and produce modest, or conservative, proposals. Not only has it irritated the "radical" democrats, but it also alienated the moderate ones.

The rejection of a fully-elected legislature indicates that Beijing is wary of the transformation of political regime from being executive-led to legislative-led. Although the legislature has long been politically polarized, cooperation between pro-establishment legislators and democrats is possible. Apart from the formation of *ad hoc* strategic partnerships, one of the striking moves under the Tung administration was the formation of the so-called "alliance of eight parties", which mainly serves as a platform

for both sides of the aisles to exchange views on livelihood issues during economic recession times. However, under the pressure of the Hong Kong and Beijing governments, the alliance was finally disbanded (*Apple Daily*, 7 February 2002). In a word, the loss of executive power is what Beijing is most concerned about.

Beijing is also deeply concerned about the idea of separation of powers, even though LegCo's powers are already constrained by the Basic Law. In the mind of Beijing, an executive-led regime is essential to the stability and long-term prosperity of Hong Kong, and thus should be unassailable. In this line of thought, the "ideal" political arrangement is that the Hong Kong government, where the top leader is indirectly elected and is under the control of Beijing authorities, is superior to other powers, namely the legislature and the judiciary. Not only should the two powers be subordinate to the executive, but they also have to be co-operative. However, this idea of "cooperation of powers" runs contrary to Hong Kong's core value of "separation of powers". In early July 2008, during his visit in Hong Kong, Vice Premier Xi Jinping delivered a political message that touched the nerves of pro-democracy politicians and the legal professions. He first affirmed the importance of the executive-led governance style of the HKSAR government by urging it to be united and efficient. What was provocative was that, by "unity", he referred to the "mutual understanding and support of the executive, legislature, and the judiciary" (*Ming Pao*, 8 July 2008). In 2009, during the tenth anniversary of Macau's return of sovereignty to China, a senior official of the Hong Kong and Macao Affairs Office of the State Council praised the success of the 'cooperation of powers' in Macau, which was interpreted by Hong Kong human rights advocates and pro-democracy politicians as an innuendo directed against Hong Kong (*Ming Pao*, 11 November 2009).

In the same vein, the rhetoric of "judiciary dominance/hegemony challenging the executive-led government" can increasingly be heard from the pro-establishment forces. With limited power in LegCo, more political parties and politicians use judicial review to resist or perhaps overturn those policies that could not be vetoed in LegCo. A notable example was the government's decision to privatize public housing facilities by setting up a real estate investment fund (in 2004). Another case was about the Interception of Communications and Surveillance Ordinance, which prescribes the legal foundations for public officers to carry out interceptions of communications and covert surveillance (in 2006). In both cases, some democratic legislators were deeply dissatisfied with LegCo's approval of the government's decisions, and decided to take the cases to the court. In Cheung and Wong's wordings, judicial review has now become "a new arena of political bargaining and game-play" (Cheung and Wong, 2006: 131) between the government and politicians and ordinary citizens. After all, the increased adoption of judicial review, whether assisted or carried out by legislators or not, has shown the public dissatisfaction with the government and its frustration at LegCo's inability of blocking unpopular policies.

The need for trust and 'responsibility politics'

Due to the fact that the pro-democracy legislators elected from both geographical constituencies and functional constituencies distrust the political leaders of the HKSAR government, and that the latter also distrust the former by refraining to appoint at least a few moderate democrats into the ExCo, executive-legislative relations in the HKSAR are destined to be controversial, confrontational and conflict-ridden. Yet, trust-building is not an easy process given the fact that some pro-establishment elites view the democrats, especially the "radical" ones as "troublemakers" stirring up all the confrontational moves inside and outside the legislature. The mutually distrustful relationships are not conducive to a harmonious executive-legislative linkage and developments. Compounding the current political impasse are the divisions between the moderate democrats and the radical ones, and also the distrust between the pro-C. Y. Leung camp and the pro-Henry Tang forces since the 2012 Chief Executive elections. The pro-Henry Tang camp has been supported by influential business people, who do not fully trust the HKSAR government led by Leung. On the one hand, the political fragmentation of the pan-democratic camp has already made legislative politics difficult and controversial. On the other hand, the disunited pro-government camp has also rendered the executive branch relatively weak, leaving the task of promoting and explaining government policies to a batch of comparatively inexperienced political appointees under the POAS. In particular, when a few appointees belonging to the POAS have their integrity questioned and challenged by the mass media and members of the public, the entire legitimacy of the Leung administration has been undermined. As a result, there is a vicious circle of public distrust that brings about a relatively weak executive branch of the government, whose authority has been unfortunately undermined by the assertive mass media that target at the ethical conduct and integrity of a few appointees under the POAS.

To the executive, a weak and fragmented legislature is a double-edged sword. On the one hand, it helps the government to maintain control of the policy-making process by preventing the opposition from taking up a leading role to direct the course. But on the other hand, without the possibility of becoming the government, pro-democracy and opposition as well as pro-regime legislators are free from their political responsibilities, because the easiest job for them is to criticize the government instead of proposing serious and feasible policy ideas (Li, 2001: 94). Therefore, in recent years, some media and political commentators have been calling for a kind of "responsibility politics", which can be actualized through universal suffrage (*Ming Pao*, 20 July 2009). In the view of the advocates, "responsibility politics" is a rejection of "conviction politics" of the past so that politicians, despite facing many political hurdles, should not be satisfied with merely stating their political beliefs, but taking pragmatic actions against the odds (Chan, 2009). As political scientist Anthony Cheung, a former democratic legislator in the colonial era and an ExCo member after the handover, has argued, the most essential thing is that legislators, whether the pro-establishment or oppositional ones, should not

simply cling to their partisan positions but to make serious policy deliberation through strengthening ties with academics and professionals, conducting thorough consultations with interested parties before proposing a bill, and fostering community-wide debate and discussion. Only by doing so can the legislators shatter the myth that LegCo is useless, and then the government cannot resist cooperation with LegCo (Cheung, 2007b: 39-40).

Conclusion

Unless the HKSAR political system is democratized further so that the ExCo would perhaps reflect at least some degree of public opinion by co-opting a few directly elected legislators, especially those from the pan-democratic camp, the tense and conflict-ridden relationships between the executive and the legislature are bound to persist in the HKSAR. At present, the executive branch, especially the ExCo, had no representative from the pan-democratic forces. The end result is a confrontational relationship between the LegCo and ExCo, with the directly elected pro-democracy legislators seeing the ExCo as a blind supporter of the Leung government. In particular, the "radical" democrats, who performed impressively in the September 2012 LegCo elections, regard the existing executive-legislative impasse as the outcome of an "undemocratic" political system not only biased in favor of the business elites but also filled with overwhelmingly pro-government and pro-Beijing elites without sufficient communications with the pan-democratic front. Compounding the existing deadlock in executive-legislative relations is the internal division among the democrats, with the moderate democrats seeing the "radical" colleagues as "troublemakers," while the "radical" democrats regarding the moderates as selling out the people of Hong Kong in 2010 because of a political compromise over the pace and scope of democratic reform between the moderates and the central government in Beijing.

The dynamics of executive-legislative discord in the HKSAR are very complex. They include the weakness of the government attempt at promoting policies, the controversial nature of the appointees made under the POAS arrangements, the assertive mass media, the aggressive oppositional tactics, the need for politicians to appeal to voters' support through the mobilization of anti-governmental forces, the harmful legacies of a bitter struggle between C. Y. Leung and Henry Tang in the March 2012 Chief Executive election, the patronage system of appointing political elites into the Executive Council, and the structural difficulties of reducing the number of functional constituencies in the Legislative Council because of the twin opposition from Beijing and the business class. The quest for solutions is by no means easy, but short-term and minimal political reform in the direction of appointing at least a few moderate democrats into the Executive Council, as this article has argued, can be considered. Other necessary reforms embrace the need to develop political parties and to build up the legitimacy of the HKSAR government through better public explanation, promotion and consultation of government policies.

The battles between LegCo and the government have no absolute winner and loser. Despite Hong Kong's constrained executive-led political structure, it is always simplistic to jump to the conclusion that LegCo is entirely a toothless institution, for some new political tools and resources inside and outside the legislature are deployed by legislators to shape policy-making and monitor policy implementation. Such checks and balances can be seen through bills amendment, motion debates, political movements, filibustering, no-confidence motion, and judicial reviews. All these tactics may not work every time, but at the very least, they have raised the political consciousness of ordinary citizens on current affairs, which would have impacts on government policies in the long run. Most importantly, the government has become far more cautious in its policy initiatives, trying its best to respond to the critical demands from the democrats while securing the staunch support of the pro-establishment forces.

The conventional interpretation of executive-legislative relations in Hong Kong from the colonial to the post-colonial one is that the executive is far more dominant than the legislative branch. However, as this article illustrates, the executive-led nature of the HKSAR regime hides a number of important issues: (1) the legislature does have significant inputs into the policy-making process and can check and scrutinize governmental policies; (2) opposition within and outside the legislature can act as a powerful check against government policies that are deemed as unpopular; (3) the absence of party rule in Hong Kong means that the executive branch is dominated by a seemingly no-party coalition but with a loose alliance of pro-government parties inside the legislature; and (4) this relatively disarticulated executive-legislative relations can be traced historically to the drafters of the Basic Law who in 1985-1990 did not foresee the gradual growth of party transformations and political development in Hong Kong after 1997, namely the emergence of new political parties and stronger social call for democratization.

Nevertheless, the problematic and conflict-ridden executive-legislative relations in Hong Kong need not be exaggerated, because the phenomenon is surely not unique in Hong Kong. The political interplay between the executive and the legislative is not always a zero-sum game. A low approval rating of the government does not necessarily imply strong public support for the legislature, and vice versa. As the Hong Kong people are politically pragmatic, what they want are less political showdown but more practical solutions to problems, yet such solutions could not be produced without cooperative and harmonious executive-legislative relations. Ultimately, in a free and open society like Hong Kong, though there is still no universal suffrage that selects both the entire legislature and the Chief Executive, both the government and LegCo have to respond to public opinion, and they are required to adapt to the changing circumstances for the benefits of both the society and polity. It is imperative for the government to build up the trustful relations with not only all legislators, especially the pan-democratic ones, but also members of the public through a rigorous demand on the performance and integrity of the appointed members under the Principal Officials Accountability

System. It is also urgent for the Leung administration to engage those who have strong views on government policies. If so, governmental adaptation to "radical" tactics adopted by some pro-democracy legislators, and governmental responses to the persistent public opposition to unpopular policies, will continue to mark the evolution of executive-legislative relations in the years to come. In short, mutual adaptation amidst confrontational politics, serious mistrusts, and occasional policy paralysis due to fierce opposition will very likely continue to shape executive-legislative struggles in the HKSAR in the foreseeable future.

Notes

1. Details of the public opinion polls can be referred to the "Ratings of Top Ten Legislative Councillors" conducted by the Public Opinion Programme of the University of Hong Kong, www.hkupop.hku.hk, accessed on 1st Feb 2012.
2. Article 23 of the Basic Law stipulates that: The Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies.
3. The alliance was formed by of legislators from three pro-business groups in LegCo: Liberal Party, Professional Forum, and Economic Synergy.
4. Public opinions about the construction of high speed railway varied as indicated in different public opinion polls. The poll conducted by the Public Opinion Programme of the University of Hong Kong indicated that 47% of interviewed citizens supporting the construction. But the poll conducted by the Bauhinia Foundation, a think tank with close ties with the government, indicated that a supporting rate of 69.1% (*Ming Pao*, 9 January 2010).

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