

# Executive-legislative Disconnection in Post-colonial Hong Kong

The dysfunction of the HKSAR's executive-dominant system, 1997-2012

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**ABSTRACT:** During the British colonial days, Hong Kong's system of governance was usually described as an "executive-dominant system." When crafting Hong Kong's post-colonial political order in the 1980s, the Chinese leaders decided to maintain this executive-dominant style of governance in the HKSAR. Nevertheless, in spite of a wide range of constitutional powers conferred upon the Chief Executive by the Basic Law as well as the installation of a pro-government majority in the Legislative Council, unlike its colonial predecessor, the HKSAR government struggles to maintain its dominant position vis-à-vis the legislature over policy-making. This article attributes the dysfunction of the executive-dominant system after 1997 to Beijing's resistance to the development of party-based government in Hong Kong. By marginalising political parties in the organisation and policy-making process of the HKSAR government, the executive and legislature have become disconnected since 1997, and the coalition between the non-partisan Chief Executive and pro-government parties remains fragile. In order to get Hong Kong out of the existing political quagmire, the development of some form of party-based government in Hong Kong is a critical issue that the Chinese government and the HKSAR government must confront.

**KEYWORDS:** Executive dominance, executive-legislative relations, legislative success rate, Hong Kong.

Since the establishment of the Hong Kong Special Administrative Region (HKSAR) on 1 July 1997, "governance crisis" has become the most popular term used by local politicians and academics to describe the politics of post-colonial Hong Kong. If "governance" is defined as "the capacity of government to make and implement policy,"<sup>(1)</sup> then it is obvious that Hong Kong is experiencing a general decline in the quality of governance under Chinese sovereignty: the HKSAR government appears to be incapable of assembling a stable legislative majority for its policy initiatives, and in the face of criticisms and challenges from the Legislative Council, postponement or even withdrawal of legislative proposals is not uncommon.<sup>(2)</sup>

Paradoxically, Hong Kong's system of governance has traditionally been described as an "executive-dominant system" (*xingzheng zhudao*) since the old colonial days, and under the constitutional design of the Basic Law, the HKSAR Chief Executive was supposed to maintain this executive-dominant style of governance after 1997. In other words, executive-legislative tensions and disharmony are clearly something not anticipated by the drafters of the Basic Law.<sup>(3)</sup> Why has the HKSAR government, in spite of the wide-ranging constitutional powers conferred upon it by the Basic Law and the installation of a pro-government majority in the Legislative Council, failed to maintain the executive-dominant system since 1997?

The principal argument of this article is that the dysfunction of the executive-dominant system in post-colonial Hong Kong is the result of Beijing's resistance to the development of party-based government, which results in a fragile coalition between the non-partisan Chief Executive and pro-government parties. The remainder of this article will be divided into four sections.

Firstly, I will discuss the notion of executive dominance in Western democratic contexts. Secondly, I will trace the legacy of executive dominance in colonial Hong Kong. Thirdly, I will discuss Beijing's strategies for maintaining executive dominance after 1997. Fourthly, I will examine why since 1997 the Chief Executive has failed to command the pro-government majority in the Legislative Council and struggles to uphold executive dominance. The conclusion section of this article argues the pressing need for the HKSAR government to develop some form of party-based government.

## *Executive dominance in comparative perspective: The Western experiences*

In the discussion of executive-legislative relations, the notion of executive dominance could be defined as the executive holding a dominant position vis-à-vis the legislature over the legislative process, i.e., the capacity of the executive to control the legislative agenda and get its proposal accepted by the legislature.<sup>(4)</sup> This concept was pioneered by Arend Lijphart, who de-

Part of the empirical data in this article was derived from the research database of SynergyNet, a policy think-tank in Hong Kong. The author gratefully acknowledges the research support from SynergyNet.

1. Pierre Jon and Peters B. Guy, *Governance, Politics and the State*, Basingstoke, NH, Macmillan Press, 2000, p. 1.
2. SynergyNet, *Review of the Governance Performance of the HKSAR Government 2012*, Hong Kong, SynergyNet, 2012.
3. See Xiao Weiyun, *One Country, Two Systems: An Account of the Drafting of the Hong Kong Basic Law*, Beijing, Peking University Press, 2001.
4. George Tsebelis, *Veto Players: How Political Institutions Work*, New York, Russell Sage, Princeton, NJ, Princeton University Press, 2002, p. 111.

**Table 1 – Patterns of executive-legislative relations in modern democracies**

| Political system                                  | Pattern of executive-legislative relations            | Characteristics  |
|---|---|--|
| Westminster model (parliamentary system)          | Executive dominance                                   | The majoritarian electoral system and cohesive party system usually give rise to the formation of a single-party majority government, enabling the prime minister and cabinet to dominate policy-making. |
| Continental European model (parliamentary system) | Executive-legislative balance                         | The proportional representation electoral system and multiparty system often give rise to a kind of power-sharing between the executive and the legislature under coalition governments.                 |
| Presidential and semi-presidential systems        | Executive dominance/<br>Executive-legislative balance | The strength and cohesion of the president's party in the legislature will decide the relative power of executive and legislature.   |

Source: Author's work.

scribed executive dominance and executive-legislative balance as the two major patterns of executive-legislative relations in modern democracies.<sup>(5)</sup>

According to Lijphart, executive dominance is most commonly found in parliamentary systems, in which the executive is normally backed by a legislative majority and can count on its support to stay in office and get its legislative proposals approved. As such, the executive is clearly dominant vis-à-vis the legislature.<sup>(6)</sup> On the other hand, executive-legislative balance is more common in presidential systems, under which a kind of power-sharing between the executive and the legislature over policy-making is essential in order to get legislative proposals passed.<sup>(7)</sup>

Nevertheless, Lijphart and subsequent political scientists have pointed out that the parliamentary-presidential distinction does not directly determine the relative power of the executive and the legislature in modern democracies, because in practice parliamentary systems vary widely in the balance of power between the executive and the legislature, and so do presidential systems.<sup>(8)</sup> Rather, the literature shows that the varying capacity of the executive to command a legislative majority is the overriding factor determining the relative power of the executive and legislature: the stronger the capacity of the executive to command a legislative majority, the higher the degree of executive dominance over policy-making.

Among parliamentary systems, the Westminster model tends toward executive dominance while the Continental European model is inclined toward executive-legislative balance.<sup>(9)</sup> For the Westminster model as in the United Kingdom, Canada, and Australia, the majoritarian electoral system and the cohesive party system facilitate the formation of a single-party majority government. The executive then effectively concentrates decision-making powers in its hands and commands the legislative majority through partisan control, effectively marginalising the role of the legislature in policy-making.<sup>(10)</sup> For the Continental European model as in Belgium and Italy, executive-legislative balance often prevails because the proportional representation electoral system often brings about a multiparty system and coalition government. Within a coalition government, the prime minister is the leader of only one of the governing parties, and he or she cannot dominate the decision-making in the cabinet. In other words, under such a system the executive must share policy-making power with its legislative majority, resulting in a greater balance of power between the executive and the legislature.<sup>(11)</sup>

For presidential and semi-presidential systems such as in the United States and the Fifth Republic of France, whether executive dominance or executive-legislative balance will prevail depends very much on the strength and cohesion of the president's party within the legislature. In accordance with the principle of separation of powers, the executive and the legislature under presidential and semi-presidential systems are elected separately, and the president's party may or may not control the legislature. Taking France as an example, since the establishment of the Fifth Republic in 1958, presidents have often been supported by legislative majorities (i.e., the president's party held a majority of seats in the Parliament), and as a result the degree of executive dominance in France is quite similar to that found in the United Kingdom.<sup>(12)</sup> But this situation will change drastically when the president's party has lost its legislative majority, at which point the president will be forced to abandon his executive-dominant style of governance and share executive power with the premier from the opposition party in the form of "cohabitation." This is exactly what happened in 1986, when Gaullists won the legislative majority and Jacques Chirac became premier under the Socialist president Francois Mitterrand, and in 1997 when Socialists won the parliamentary election and Lionel Jospin became premier under Gaullist president Jacques Chirac.<sup>(13)</sup> In the case of the United States, while historically the pattern of executive-legislative relations has tended toward executive-legislative balance, executive dominance is still possible when the president is firmly supported by a majority in Congress. A striking example was the period from 2001 to 2007, when the George W. Bush administration

5. Arend Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-six Countries*, New Haven, Yale University Press, 1999, p. 116.

6. Arend Lijphart, *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-one Countries*, New Haven, Yale University Press, 1984, p. 7.

7. *Ibid.*, pp. 33-34.

8. Arend Lijphart, *Patterns of Democracy*, *op. cit.*, p. 127; Helen V. Milner, *Interests, Institutions and Information: Domestic Politics and International Relations*, Princeton, NJ, Princeton University Press, 1997, p. 119.

9. Jan-Erik Lane, *The New Institutional Politics: Performance and Outcomes*, London, Routledge, 2000, pp. 214-215.

10. Helen V. Milner, *Interests, Institutions and Information*, *op. cit.*, pp. 120-121.

11. *Ibid.*, p. 121.

12. Arend Lijphart, *Democracies*, *op. cit.*, pp. 82-83.

13. Arend Lijphart, *Patterns of Democracy*, *op. cit.*, pp. 121-122.

**Table 2 – The changing composition of the Legislative Council (from 1843 to 1995)**

| Year | Appointed |            | Elected            |                         |                  | Total |
|------|-----------|------------|--------------------|-------------------------|------------------|-------|
|      | Official  | Unofficial | Election Committee | Functional constituency | Directly elected |       |
| 1843 | 4         | 0          | 0                  | 0                       | 0                | 4     |
| 1850 | 4         | 2          | 0                  | 0                       | 0                | 6     |
| 1896 | 8         | 6          | 0                  | 0                       | 0                | 14    |
| 1966 | 13        | 13         | 0                  | 0                       | 0                | 26    |
| 1983 | 29        | 29         | 0                  | 0                       | 0                | 58    |
| 1984 | 29        | 32         | 0                  | 0                       | 0                | 61    |
| 1985 | 11        | 22         | 12                 | 12                      | 0                | 57    |
| 1988 | 11        | 22         | 12                 | 14                      | 0                | 59    |
| 1991 | 3         | 17         | 0                  | 21                      | 18               | 59    |
| 1995 | 0         | 0          | 10                 | 30                      | 20               | 60    |

Source: Adapted from Ma Ngok, *Political Development in Hong Kong*.

exercised predominant policy-making power on both foreign and domestic fronts by virtue of solid support from cohesive and compliant Republic majorities in both houses of Congress.<sup>(14)</sup>

In a nutshell, at least three types of political systems, namely the Westminster model, Continental European model, and presidential/semi-presidential system, can be distinguished in modern democracies, and the varying capacity of their executives to command a legislative majority will determine the relative power of the executive and legislature. Executive dominance is most assured in the Westminster model, under which the executive usually musters a strong capacity to command the legislative majority by virtue of the majoritarian electoral system and cohesive party system. Executive-legislative balance is most commonly found under the Continental European model, where the proportional representation electoral system and multi-party system will give rise to a kind of power-sharing between the executive and the legislature under coalition governments. The relative power of executive and legislature under presidential and semi-presidential systems can and often does change drastically depending on the strength and cohesion of the president's party in the legislature (Table 1).

### **Executive dominance in colonial Hong Kong: A unique legacy of British colonial government**

During the British colonial days, Hong Kong's system of governance was usually described as an "executive-dominant system." In the context of colonial Hong Kong, the notion of executive-dominant government entailed vesting most of the policy-making power in the hands of the Governor and upholding the dominant position of the executive branch in the executive-legislative relations, with the Legislative Council holding little substantive power.<sup>(15)</sup>

Similar to democratic executives that hold a predominant position vis-à-vis legislatures, executive dominance in colonial Hong Kong rested upon on the Governor's capacity to command a legislative majority – but such a commanding capacity was not built upon democratic practices; it was the result of an undemocratic appointment system. Until 1985, the Legislative

Council was wholly constituted by appointed official and unofficial members: senior civil servants were appointed as official members to form a majority in the legislature, and they were bound to support the Governor, while unofficial members were appointed by the Governor and they also owed their allegiance to the colonial government. Even after the gradual democratisation of the Legislative Council in the 1980s-90s (Table 2), the colonial government maintained a comfortable degree of control over the legislature majority through the support of appointed members and its business allies from functional constituencies until 1995. As a result of the Governor's control over the legislative majority, nearly all legislation and budgetary proposals were under the control of the executive authorities, and the role of the Legislative Council was largely confined to rubber-stamping the colonial government's policy.<sup>(16)</sup> From this perspective, by virtue of the undemocratic appointment system, the colonial government maintained executive dominance in a way that is quite unique when compared with Western democracies.

### **The politics of transition: The Chinese government's crafting of the HKSAR executive-dominant system**

The executive-dominant style of governance in colonial Hong Kong was admired by the incoming sovereign, the Chinese government. It was clear from the outset that Chinese leaders intended to preserve the colonial executive-dominant system and therefore adopted the notion of executive dominance as the overriding guiding principle in drafting the Basic Law.<sup>(17)</sup>

14. Arend Lijphart, *Thinking About Democracy: Power Sharing and Majority Rule in Theory and Practice*, New York, Routledge, 2008, p. 14.

15. Ma Ngok, *Political Development in Hong Kong: State, Political Society and Civil Society*, Hong Kong, Hong Kong University Press, 2007, p. 58.

16. Li Pang-kwong, "The Executive-Legislature Relationship in Hong Kong: Evolution and Development," in Joseph Cheng (ed.), *Political Development in the HKSAR*, Hong Kong, City University of Hong Kong, 2001, pp. 85-100.

17. Lau Siu-kai, "Hong Kong's Partial Democracy under Stress," in Yeung Yue-man (ed.), *New Challenges for Development and Modernisation: Hong Kong and the Asia-Pacific Region in the New Millennium*, Hong Kong, Chinese University Press, 2002, pp. 181-205.

**Table 3 – Composition of the HKSAR Legislative Council (1998 to 2012)**

| Composition                      | 1998-2000 | 2000-2004 | 2004-2008 | 2008-2012 |
|----------------------------------|-----------|-----------|-----------|-----------|
| Geographical constituencies (GC) | 20        | 24        | 30        | 30        |
| Functional constituencies (FC)   | 30        | 30        | 30        | 30        |
| Election Committee (EC)          | 10        | 6         | 0         | 0         |
| <b>Total</b>                     | <b>60</b> | <b>60</b> | <b>60</b> | <b>60</b> |

Source: Adapted from Basic Law Annex II.

**Table 4 – Partisan distribution of the Legislative Council (1998 to 2012)**

|   | 1998-2000 | 2000-2004 | 2004-2008 | 2008-2012 |
|---|-----------|-----------|-----------|-----------|
| Democratic Party (DP)                                     | 13        | 12        | 9         | 9         |
| Civic Party (CP)  | -         | -         | 6         | 5         |
| Other pro-democracy political parties/political groups    | 5         | 6         | 6         | 8         |
| Democratic Alliance for the Betterment of Hong Kong (DAB) | 10        | 9         | 10        | 10        |
| Hong Kong Federation of Trade Unions (FTU)                | -         | 3         | 4         | 4         |
| Liberal Party (LP)  | 10        | 8         | 10        | 3         |
| Other pro-government political parties/political groups   | 13        | 13        | 6         | 10        |
| Independents*   | 9         | 9         | 9         | 11        |
| <b>Total</b>  | <b>60</b> | <b>60</b> | <b>60</b> | <b>60</b> |

Source: Author's research based on data in the website of the Legislative Council ([www.legco.gov.hk](http://www.legco.gov.hk)).

\*Note: Independents refer to legislators who are not affiliated with any political parties/political groups. But many of these independents are business-professional elites returned by functional constituencies and they are generally considered pro-government.

For Chinese leader Deng Xiaoping, the HKSAR political system was to be based on neither the US model of separation of powers nor the British parliamentary system.<sup>(18)</sup> Instead, the notion of executive dominance was seen by Beijing as highly compatible with its policy toward Hong Kong. First, in the eyes of Chinese leaders, the executive-dominant system had been doing a fine job in maintaining effective governance in colonial Hong Kong. In order to provide a high degree of institutional continuity, Beijing intended to retain this key feature of the colonial political system while accommodating necessary changes, particularly the introduction of an elected legislature as promised in the Sino-British Joint Declaration.<sup>(19)</sup> Second, the executive-dominant system was seen by Beijing as compatible with its strategy of exercising political supervision over the HKSAR. For Chinese leaders, a powerful legislature dominated by political parties and elected politicians could provide a conduit for hostile foreign forces to interfere in Hong Kong and mainland affairs.<sup>(20)</sup> Conversely, an executive-dominant system, under which the executive holds a dominant position vis-à-vis the legislature, would provide a better safeguard for Beijing; by concentrating power in the hands of the Chief Executive and principal officials who are substantively appointed by the Chinese government and are directly answerable to it under the Basic Law, the Chinese government could, through this chain of accountability, effectively maintain its political supervision over the HKSAR and prevent it from taking any action that would go against the Communist regime.<sup>(21)</sup>

Obviously, Beijing knew that it was practically unfeasible to completely adopt the colonial executive-dominant system after 1997, and the Chief

Executive could not govern the HKSAR as autocratically as the colonial Governor, but it still intended to maintain a high degree of executive dominance featuring a strong executive and a weak legislature.<sup>(22)</sup> Reflecting the intention of Chinese leaders to uphold executive dominance, many provisions of the Basic Law were carefully designed by the Chinese government to grant the Chief Executive an extensive range of constitutional leverage at the expense of the Legislative Council.<sup>(23)</sup> This constitutional leverage includes almost unlimited power over political appointments,<sup>(24)</sup> the exclusive power to initiate legislation and make

18. Anthony B. L. Cheung, "The Changing Political System: Executive-dominant Government or 'Disabled' Governance?" in Lau Siu-kai (ed) *The First Tung Chee-hwa Administration*, Hong Kong, Chinese University Press, 2002, pp. 41-68.

19. Ma Ngok, *Political Development in Hong Kong*, op. cit., p. 58.

20. Lau Siu-kai, "The Making of the Electoral System," in Kuan Hsin-chi, Lau Siu-kai, Timothy Ka-ying Wong, and Louie Kin-sheun (eds), *Power Transfer and Electoral Politics: the First Legislative Election in the Hong Kong Special Administrative Region*, Hong Kong, Chinese University Press, 1999, pp. 3-35.

21. Lau Siu-kai, "The Executive-dominant System of Governance: Theory and Practice," in Lau Siu-kai (ed), *Blueprint for the 21st Century Hong Kong*, Hong Kong, Chinese University Press, 2000, pp. 1-36 (in Chinese).

22. Lau Siu-kai, *The Executive-dominant System of Governance*, op. cit.

23. Lau Siu-kai, *Hong Kong's Partial Democracy under Stress*, op. cit.

24. Under Basic Law Article 48, the Chief Executive can appoint civil servants of different ranks, most judges, and members of and chairmen of advisory and statutory bodies without the approval of the legislature. The Chief Executive can also nominate principal officials for appointment or removal by the Chinese government without the need to obtain consent from the Legislative Council. Concentrating the power of political appointment in the hands of the Chief Executive grants him a high degree of autonomy in forming his governing team.

**Table 5 – Legislative success rates of the HKSAR Government since the handover (1998-2012)**

|  | 1998<br>1999 | 1999<br>2000 | 2000<br>2001 | 2001<br>2002 | 2002<br>2003 | 2003<br>2004 | 2004<br>2005 | 2005<br>2006 | 2006<br>2007 |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| (a) Government bills proposed                                    | 70           | 57           | 73           | 44           | 38           | 17           | 39           | 26           | 28           |
| (b) Government bills shelved or postponed                        | 32           | 21           | 30           | 23           | 9            | 5            | 12           | 15           | 10           |
| (c) Government bills tabled                                      | 38           | 36           | 43           | 21           | 29           | 12           | 27           | 11           | 18           |
| (d) Government bills passed                                      | 38           | 27           | 42           | 21           | 24           | 8            | 27           | 11           | 18           |
| (e) Government bills not passed                                  | 0            | 9            | 1            | 0            | 5            | 4            | 0            | 0            | 0            |
| Percentage of government bills shelved and postponed [(b) / (a)] | 45.71%       | 36.84%       | 41.10%       | 52.27%       | 23.68%       | 29.41%       | 30.77%       | 57.69%       | 35.71%       |
| Legislative success rate [(d) / (a)]                             | 54.29%       | 47.37%       | 57.53%       | 47.73%       | 63.16%       | 47.06%       | 69.23%       | 42.31%       | 64.29%       |

|  | 2007<br>2008 | 2008<br>2009 | 2009<br>2010 | 2010<br>2011 | 2011<br>2012 | Tung Chee-hwa<br>administration<br>(1998-2005) | Donald Tsang<br>administration<br>(2005-2012) | Total  |
|--|--------------|--------------|--------------|--------------|--------------|--|---|--------|
| (a) Government bills proposed                                    | 20           | 31           | 26           | 27           | 16           | 338  | 174   | 512    |
| (b) Government bills shelved or postponed                        | 7            | 14           | 10           | 10           | 7            | 132  | 73  | 205    |
| (c) Government bills tabled                                      | 13           | 17           | 16           | 17           | 9            | 206  | 101   | 307    |
| (d) Government bills passed                                      | 13           | 17           | 16           | 16           | 9            | 187  | 100   | 287    |
| (e) Government bills not passed                                  | 0            | 0            | 0            | 1            | 0            | 19   | 1   | 20     |
| Percentage of government bills shelved and postponed [(b) / (a)] | 35.00%       | 45.16%       | 38.46%       | 37.04%       | 43.75%       | 39.05%   | 41.95%  | 40.04% |
| Legislative success rate [(d) / (a)]                             | 65.00%       | 54.84%       | 61.54%       | 59.26%       | 56.25%       | 55.33%   | 57.47%  | 56.05% |

Source: Author’s own research based on the information available on the website of the Policy Address ([www.policyaddress.gov.hk](http://www.policyaddress.gov.hk)) and the Legislative Council ([www.legco.gov.hk](http://www.legco.gov.hk)).

Note: The legislative success rate for each legislative year is calculated according to the following steps. Firstly, I will ascertain the number of bills proposed by the HKSAR Government during a particular legislative year by conducting a content analysis of the Chief Executive’s Policy Address (including the Policy Agenda and relevant Legislative Council panel papers) and the Legislative Programme provided by the HKSAR government to the Legislative Council. A policy statement will be counted as “Government bills proposed” if the HKSAR government expressed a clear plan to introduce such a bill into the Legislative Council. Secondly, I will trace the status of each government bills proposed in the respective legislative year. If a government bill was tabled in that legislative year as originally proposed in the Policy Address and/or Legislative Programme, it will be counted as “Government bills tabled” and further action will be taken to trace whether the bill was finally passed by the Legislative Council (if it is checked that the government bill was finally passed by the Legislative Council within its four-year term, it will be counted as “Government bills passed”; otherwise, it will be counted as “Government bills not passed”). If a government bill was not tabled in that legislative year as originally proposed in the Policy Address and/or Legislative Programme, it will be counted as “Government bills shelved or postponed.” Thirdly, on the basis of the information gathered I will calculate the “Legislative success rate” and “Percentage of government bills shelved and postponed” for that legislative year.

public policies,<sup>(25)</sup> the power to veto legislation,<sup>(26)</sup> and the power to dissolve the Legislative Council.<sup>(27)</sup>

While the Chief Executive enjoys a wide range of constitutional powers vis-à-vis the Legislative Council under the Basic Law, executive dominance becomes empty talk if the HKSAR government cannot command a stable majority within the legislature. The reason is obvious: if legislators are united against the executive and they threaten to veto government bills and budgetary proposals by exercising their negative veto power, the Chief Executive is bound to do the bidding of the Legislative Council.<sup>(28)</sup> Therefore, in order to uphold the dominant position of the Chief Executive vis-à-vis the Legislative Council, the Chinese government considered it necessary to install a stable pro-government majority through a carefully designed electoral system.<sup>(29)</sup> The first way to achieve a pro-government majority was the functional constituency electoral system. In this connection, Annex II of the Basic Law provides that not more than half of the 60-strong Legislative Council is made up by directly-elected members in the first ten years of post-colonial era, while another half will be elected through functional constituencies (Table 3). Such a composition of the legislature is to ensure that

the Chief Executive receives stable support from the business-professional legislators returned by functional constituencies (who are co-opted by Bei-

25. Under Basic Law Article 72 and Annex II, the executive holds the initiative to legislate and make public policies, as government bills have a priority to get onto the Legislative Council’s agenda under Article 72 and only need a simple majority vote to pass. On the other hand, the legislative power of the Legislative Council has been restricted by two provisions, including Article 74, which prohibits legislators from introducing private member bills that are related to public expenses, political structure, or government operations, and Annex II, which specifies that all non-government bills and motions require a double majority of functional constituency members and directly-elected members under the voting-by-group system. The effect of Article 74 is that legislators are basically deprived of their power to propose private member bills with meaningful policy implications, while the voting-by-group system makes it difficult for legislators to pass any private member bill or motion.
26. Under Basic Law Article 49, if the Chief Executive considers that a bill passed by the legislature “is not compatible with the overall interests” of Hong Kong, he can return it to the Legislative Council for reconsideration, and such a veto can only be overridden by a two-third majority.
27. Under Basic Law Article 50, the Chief Executive has the power to dissolve the legislature if he refuses to sign a bill passed the second time by the Legislative Council, or if the legislature refuses to pass the annual budget or important bills. This provision gives the Chief Executive a constitutional edge over the Legislative Council in times of executive-legislature gridlock.
28. Lau Siu-kai, *Hong Kong’s Partial Democracy under Stress*, op. cit.
29. Lau Siu-kai, *The Executive-dominant System of Governance*, op. cit.

**Table 6 – Political affiliations of political ministers under the Tung Chee-hwa and Donald Tsang administrations**

| Political affiliation  | Political ministers (Senior Secretaries and Policy Secretaries) appointed between July 2002 and March 2005 |        | Political ministers (Senior Secretaries, Policy Secretaries, Under Secretaries and Political Assistant) appointed between March 2005 and June 2012 |        | Total  |        |
|--|--|--------|--|--------|--------|--------|
|  | Number   | %      | Number   | %      | Number | %      |
| (1) Independent  | 16   | 94.1%  | 32   | 86.5%  | 48     | 88.9%  |
| (2) Pro-democracy political groups                               | 0  | 0.0%   | 0  | 0.0%   | 0      | 0.0%   |
| (3) Pro-establishment political groups                           | 1  | 5.9%   | 5  | 13.5%  | 6      | 11.1%  |
| Democratic Alliance for the Betterment and Progress of Hong Kong | 0  | 0.0%   | 3  | 8.1%   | 3      | 5.55%  |
| Liberal Party  | 1  | 5.9%   | 2  | 5.4%   | 3      | 5.55%  |
| (4) Total  | 17   | 100.0% | 37   | 100.0% | 54     | 100.0% |

Note 1: "Independent" refers to a political appointee who has no affiliation with any political parties/political groups.

Note 2: "Pro-democracy political groups" refer to Democratic Party, Civic Party (previously Article 45 Concern Group), League of Social Democrats, People's Power, Association for Democracy & People's Livelihood, Hong Kong Confederation of Trade Unions, Neighbourhood & Workers Service Centre and Frontier.

Note 3: "Pro-establishment political groups" refer to Democratic Alliance for the Betterment and Progress of Hong Kong, Hong Kong Federation of Trade Unions, Liberal Party, Economic Synergy, Professional Forum (previously The Alliance/Breakfast Group), Federation of Hong Kong and Kowloon Labour Unions, New Century Forum, New People's Party (previously Savantas Policy Institute) and Hong Kong Progressive Alliance (disbanded).

Source: Author's own research based on the background information of the political appointees announced by the HKSAR Government.

**Table 7 – Representatives of major pro-government parties in the Executive Council (2002-2012)**

| Name               | Political party   | Position in the party | Time period  |
|--------------------|---|-----------------------|--------------|
| Tsang Yok-sing     | Democratic Alliance for the Betterment of Hong Kong (DAB) | Chairman*             | 2002-2008    |
| Cheng Yiu-tong     | Hong Kong Federation of Trade Unions (FTU)                | President             | 2002-Present |
| Tien Pei-chun      | Liberal Party (LP)  | Chairman              | 2002-2003    |
| Chow Liang Shuk-ye | Liberal Party (LP)  | Vice-chairman         | 2003-2008    |
| Lau Kong-wah       | Democratic Alliance for the Betterment of Hong Kong (DAB) | Vice-chairman         | 2008-2012    |

Source: Author's own research based on the list of unofficial members provided by the Executive Council Secretariat.

\*Tsang Yok-sing resigned from the position of Chairman of the DAB in November 2003 (as a result of DAB's defeat in the 2003 District Council elections) but he continued to serve as the party representative in the Executive Council until 2008.

ing as the HKSAR government's coalition partners), while limiting the political influence of pro-democracy legislators returned by geographical constituency elections.<sup>(30)</sup> The second way to achieve a pro-government majority was to replace the "single-member constituency system" of geographically constituency elections with the "proportional representation system." The intention of Beijing was that after the adoption of the proportional representation system, the more popular pro-democracy candidates would not be able to win a great majority of directly-elected seats, while the less popular pro-Beijing leftists would be decently represented with their minority vote.<sup>(31)</sup> In a word, the wishful thinking of Beijing is that, as a consequence of the combined effects of functional constituency and proportional representation system, a stable pro-government majority comprised of business-professional elites and pro-Beijing leftists will be installed in the HKSAR Legislative Council to serve as a solid support base for the HKSAR government.<sup>(32)</sup> Indeed, the post-colonial political developments indicate that Beijing's strategy to engineer a pro-government majority in the Legislative Council has been very successful, because since 1997, the electoral system carefully designed by the Chinese government has indeed returned a stable pro-government

majority and has effectively restricted pro-democracy legislators to a minority position (Table 4).

### ***Explaining the dysfunction of the HKSAR executive-dominant system: The underdevelopment of a party-based government after 1997***

With the various constitutional powers conferred upon the Chief Executive under the Basic Law and installation of a pro-government majority in the legislature by institutional default, it was generally anticipated that executive-legislative relations after 1997 would be complementary rather than confrontational.<sup>(33)</sup>

30. Lau Siu-kai, *Hong Kong's Partial Democracy under Stress*, op. cit.

31. For an account of the making of HKSAR electoral system, see Lau Siu-kai, *The Making of the Electoral System*, op. cit.

32. Ma Ngok, *Political Development in Hong Kong*, p. 120, op. cit.

33. Lau Siu-kai, *Hong Kong's Partial Democracy under Stress*, op. cit.

However, contrary to the original design of the HKSAR political system, under which the Chief Executive was expected to dominate the political scene and put forward his policy agenda without much resistance in the Legislative Council, the HKSAR government has been trapped in a political quagmire of executive-legislative disconnection since the handover. Most local political scientists accept that in the post-colonial era, the HKSAR government, whether under the leadership of the first Chief Executive Tung Chee-hwa (from 1997 to 2005) or the second Chief Executive Donald Tsang (from 2005 to 2012), has been exposed to political challenges from legislators across the political spectrum and has encountered great difficulty in steering legislative changes.<sup>(34)</sup> There is a significant gap between the constitutional design and constitutional practice of the executive-dominant system in the HKSAR period.<sup>(35)</sup>

The dysfunction of the executive-dominant system has been reflected in the “legislative success rates” of the HKSAR government after 1997 – a measure of the HKSAR government’s capacity to convert its annual legislative agenda (as expressed in the Policy Address and Legislative Programme) into bills that are ultimately passed by the Legislative Council.<sup>(36)</sup> Empirical research indicates that both the Tung Chee-hwa and Donald Tsang administrations experienced the same difficulties in steering legislative changes, and the legislative success rates of both governments stood at similar levels of 55.33% and 57.47%. On average, the HKSAR government managed to get only about half of its annual legislative agenda approved by the Legislative Council, with the average legislative success rate standing at a relatively low level of only 56.05% from 1998 to 2012. On many occasions, when tensions were on the horizon, the HKSAR government was inclined to avoid controversy, and it shelved and postponed 40.04% of legislative initiatives that were originally planned in its annual Policy Address and Legislative Programme. All of this contributed to the relatively low legislative success rate of the HKSAR government<sup>(37)</sup> (Table 5).

The legislative success rates of the HKSAR government since 1997 are obviously unimpressive if we take into account the fact that a stable pro-government majority in the Legislative Council has existed throughout the post-colonial era, and the so-called opposition parties from the pro-democracy camp have so far been restricted to a minority position under the HKSAR electoral system as engineered by Beijing. In this connection, a fundamental question that we need to address in explaining the dysfunction of the executive-dominant system in post-colonial Hong Kong is: why does the pro-government majority in the Legislative Council, contrary to the constitutional design of the HKSAR executive-dominant system, fail to function as a stable support base for the Chief Executive’s legislative agenda?

The principal argument of this article is that Beijing’s resistance to the development of party-based government in Hong Kong has resulted in a fragile coalition between the non-partisan Chief Executive and the pro-government parties. With such executive-legislative disconnection, the HKSAR government has limited capacity to command the pro-government majority in defence of its legislative agenda within the Legislative Council. In other words, the marginalisation of political parties in the organisation and policy-making process of the HKSAR government is the overriding factor that contributes to the dysfunction of the executive-dominant system after 1997.

In the colonial period, the power of the colonial Governor to appoint official and non-official Legislative Councillors had provided the foundation for the smooth operation of the executive-dominant system.<sup>(38)</sup> As the ultimate political patron in colonial Hong Kong, the Governor exercised strong

control over the legislative majority by monopolising the power of appointment and selection,<sup>(39)</sup> thus facilitating the close connection between the executive and the legislature for much of the colonial period. While the appointment system had been gradually phased out since the 1980s, the Chinese government intended to maintain the executive-dominant system by installing a similar pro-government majority in the HKSAR Legislative Council through the functional constituencies and the proportional representation system. In other words, under the game plan of Beijing, business-professional and leftist legislators should have, like the appointed members in the colonial era, functioned as a stable support base for the HKSAR executive-dominant system.

However, pro-government legislators after 1997 are not appointed members as in the colonial past; they are returned by either geographical constituencies or functional constituencies, and most have organised themselves into political parties. The emergence of political parties has put

34. See Li Pang-kwong, “The Executive-Legislature Relationship in Hong Kong: Evolution and Development,” in Joseph Cheng (ed), *Political Development in the HKSAR*, op. cit., pp. 85-100; Sing Ming, “Legislative-Executive Interface in Hong Kong,” in Christine Loh and Civic Exchange (eds), *Building Democracy: Creating Good Government for Hong Kong*, Hong Kong University Press, 2002, pp. 27-34; Anthony B. L. Cheung, “Executive-led Governance or Executive Power ‘Hollowed-out’ – The Political Quagmire of Hong Kong,” *Asian Journal of Political Science*, Vol. 15, No. 1, April 2007, pp. 17-38.
35. Lau Siu-kai, *The Executive-dominant System of Governance*, op. cit.
36. The measure of government legislative success, or legislative effectiveness, is an indicator adopted by many political scientists in the analysis of executive-legislative relations. It intends to measure the proportion of government-initiated and/or government-sponsored proposals that become law. However, there is no universally accepted formula for calculating legislative success rates. Sebastian Saiegh and Jose Antonio Cheibub defined legislative success as the number of government proposals passed to the number of such proposals introduced to the legislature. Political scientists in the United States such as Steven A. Shull usually examine the legislative success of a president by measuring the extent to which his “legislative positions” (as expressed in the State of the Union Address and other speeches) were supported by the Congress. Scholars such as Barry Ames and David Samuels advocate measuring legislative success by identifying the government’s agenda on the basis of presidential statements reported by the press and then comparing it with what the government actually sends to the legislature and with what the legislature ultimately approves. In the Hong Kong context, the notion of legislative success has been used to some extent by scholars such as Ma Ngok. In calculating the “passing rates” of the HKSAR government, Ma only counted those government bills that have been formally put into the Legislative Council for first reading but ignoring bills that have been shelved and postponed due to political resistance. As a consequence, according to Ma’s studies the passing rates for government bills were extraordinarily high (91.9% in 1998 to 2000 and 97% in 2000-2004). Such figures have significantly overestimated the legislative success of the HKSAR government and also fail to grasp the dynamics of executive-legislative relations in the HKSAR period. This article aims at addressing this problem by proposing to count the legislative success rate of the HKSAR government on the basis of the annual Policy Address and Legislative Programmes, the two official and authoritative documents that should accurately reflect the legislative preferences of the HKSAR government in each legislative year. For discussions on the concepts of legislative success, see Sebastian Saiegh, *Government Defeat: Coalitions, Responsiveness, and Legislative Success*, PhD dissertation, Department of Politics, New York University, 2004; Jose Antonio Cheibub, *Presidentialism, Parliamentarism, and Democracy*, New York, NY, Cambridge University Press, 2007, pp. 87-88; Steven A. Shull, “Enduring Rivals: Presidential Success and Support in the House of Representatives,” *Congress and the Presidency*, Vol. 33, No. 2, Autumn 2006, pp. 21-46; Barry Ames, *The Deadlock of Democracy in Brazil*, Ann Arbor, University of Michigan Press, 2001; David Samuels, *Ambition, Federalism and Legislative Politics in Brazil*, Cambridge University Press, 2003. For existing studies in the Hong Kong context, see Ma Ngok, *Political Development in Hong Kong*, op. cit., p. 119.
37. According to comparative studies, the average rate of legislative success for parliamentary systems is 80.99% while that of the presidential governments was 61.63%. Also, governments in both parliamentary systems and presidential systems are more effective in a majority situation. The rate of legislative success for parliamentary governments under a majority situation is 89.12%, versus 76.25% for parliamentary governments under coalition or minority status. Similarly, the rate of legislative success for presidential governments under a majority situation is 66.53%, versus 57.05% for presidential governments under coalition or minority status. On the basis of these cross-country data, it is conceivable that the average legislative success rate of the HKSAR government, which stood at 56.05% from 1998 to 2012, is on the low side. For details on the cross-country data, see Jose Antonio Cheibub, *Presidentialism, Parliamentarism, and Democracy*, op. cit., p. 89.
38. Anthony B. L. Cheung, *Executive-led Governance or Executive Power “Hollowed-out,”* op. cit.
39. Lau Siu-kai, “From Elite Unity to Disunity: Political Elite in Post-1997 Hong Kong,” in Wang Gungwu and John Wong (eds), *Hong Kong in China: The Challenges of Transition*, Singapore, Times Academic Press, 1999, pp. 47-74.

Table 8 – Illustrative examples of shelved/postponed bills

| Legislative proposal                                     | Reasons for being shelved/postponed   |
|--|---|
| 1. Survey and Mapping Corporation Bill                   | The HKSAR government proposed to corporatise the survey and mapping services. But this proposal faced with strong resistance within the legislature and the HKFTU was the leading critic. In light of the opposition, the HKSAR government failed to put the legislative proposal to the Legislative Council for first reading in 2000-2001. The HKSAR government finally decided to shelve the legislative plan completely.  |
| 2. Hong Kong International Airport Bill                  | The HKSAR government proposed to privatise the Airport Authority. But this proposal faced strong resistance within the legislature and the HKFTU was the leading critic. In light of the opposition, the HKSAR government failed to put the legislative proposal to the Legislative Council for first reading for two consecutive legislative years, 2004-2005 and 2005-2006. The HKSAR government finally decided to shelve the legislative plan completely.   |
| 3. Public Health and Municipal Services (Amendment) Bill | The HKSAR government proposed to put in place a regulatory regime for central poultry slaughtering. But this proposal faced strong resistance within the legislature, and the DAB (which represented the poultry trade) and the LP (which represented the catering trade and retail/wholesale industries) were the leading critics. In light of the opposition, the HKSAR government failed to put the legislative proposal to the Legislative Council for first reading for four consecutive legislative years: 2006-2007, 2007-2008, 2008-2009, and 2009-2010. The HKSAR government finally decided to shelve the legislative plan completely.  |
| 4. Race Discrimination Bill                              | The HKSAR government proposed to prohibit racial discrimination by law. But the details of the legislative proposal were opposed by legislators across the political spectrum, and pro-business legislators were the leading critics. In light of the opposition, the HKSAR government failed to put the legislative proposal to the Legislative Council for first reading for two consecutive legislative years including 2004-2005 and 2005-2006. The HKSAR government finally submitted the bill to the Legislative Council for first reading in 2006 and managed to pass it in 2008. The legislative process of this bill lasted more than five years.                              |
| 5. Food Safety Bill                                      | The HKSAR government proposed to put in place a new food safety regulatory regime. But this proposal faced strong opposition from pro-business legislators, and the LP (which represented the catering trade and retail/wholesale industries) was the leading critic. In light of the opposition, the HKSAR government failed to put the legislative proposal to the Legislative Council for first reading for two consecutive legislative years in 2007-2008 and 2008-2009. The HKSAR government finally submitted the bill to the Legislative Council for first reading in 2010 and managed to pass it in 2011. The legislative process of this bill lasted for more than five years. |
| 6. Employment (Amendment) Bill                           | The HKSAR government proposed to empower the Labour Tribunal to issue reinstatement/re-engagement orders to employers for cases of unreasonable and unlawful dismissal. But this proposal faced strong opposition from pro-business legislators. In light of the opposition, the HKSAR government was forced to postpone its legislative plan at least ten times, in 2000-2001, 2001-2002, 2003-2004, 2005-2006, 2006-2007, 2008-2009, 2009-2010, 2010-2011, 2011-2012, and 2012-2013. Although the HKSAR government had planned this bill for more than 14 years, it has so far failed to introduce this bill to the Legislative Council for first reading.                            |

Source: Author's own research based on the information available on the website of the Policy Address ([www.policyaddress.gov.hk](http://www.policyaddress.gov.hk)) and the Legislative Council ([www.legco.gov.hk](http://www.legco.gov.hk)).

the executive-dominant system in a political context that is completely different from the colonial period, because political parties do not owe allegiance to the Chief Executive but have their eyes mainly on electoral considerations. However, the logic of electoral and party politics contradicts Beijing's preference to maintain a non-partisan government in Hong Kong. It is an open secret that the Chinese government does not want to see vibrant party politics in Hong Kong and has been unfavourable to the formation of a governing party.<sup>(40)</sup> For Chinese leaders, a strong ruling party with mass support and deep roots in society would be difficult to control and might even nurture populist local politicians who could confront Beijing by mobilising public support. So the Chinese government is more inclined to put in place a non-partisan Chief Executive who should broker interests among different local political forces.<sup>(41)</sup> Beijing's resistance to the development of a party-based government in the HKSAR has been very evident

in the legal requirement of non-partisanship for Chief Executives<sup>(42)</sup> and the appointment of independents to fill most of the ministerial offices<sup>(43)</sup> (Table 6). The former arrangement has made it impossible to form a governing party in Hong Kong, while the latter arrangement has effectively prevented pro-government parties from sharing any real executive power in terms of ministerial offices.<sup>(44)</sup> In addition, although the Tung Chee-hwa and Donald

40. Ma Ngok, "Political Parties and Elections" in Lam Wai-man, Percy Luen-tim Lui, Wilson Wong, and Ian Holiday (ed), *Contemporary Hong Kong Politics: Governance in the Post-1997 Era*, Hong Kong, Hong Kong University Press, 2007, pp.117-134.

41. Ma Ngok, *Political Development in Hong Kong*, op. cit., p. 141.

42. Section 31 of Chief Executive Election Ordinance provides that the winning candidate of the Chief Executive Election must make a statutory declaration that he is not a member of a political party.

43. Ma Ngok, *Political Development in Hong Kong*, op. cit., p. 141.

44. Ma Ngok, *Political Development in Hong Kong*, op. cit., p. 76 and p. 153.

Tsang administrations both attempted to develop closer partnerships with major pro-government parties by appointing their representatives as unofficial members of the Executive Council (Table 7), the role of pro-government parties in the policy-making process remains marginalised.<sup>(45)</sup>

As a result of the marginality of political parties in the organisation and policy-making process of the HKSAR government, the executive and legislature in post-colonial Hong Kong have become disconnected since 1997, and the coalition between the non-partisan Chief Executive and pro-government parties remains fragile. Failing to share executive power in any real sense, pro-government parties tend to maintain some degree of distance from the Chief Executive and are very prudent in throwing their support behind the HKSAR government.<sup>(46)</sup> In particular, because the programmes of the pro-government parties are not adequately reflected in government policies, there is no institutional guarantee that they will support the legislative agenda of the HKSAR government.<sup>(47)</sup> Rather, the pro-government parties will not hesitate to oppose the Chief Executive's legislative agenda whenever they consider it politically more important to accommodate their own constituencies in either geographical elections or functional elections. A closer examination of "shelved and postponed bills" clearly illustrates the dynamics of this executive-legislative disconnect. Between the periods of 1998 to 2012, the HKSAR government had on average shelved and postponed 40.04% of its annual legislative proposals, and many of these initiatives were frustrated not only because of challenges from the pro-democracy parties but also due to opposition from the business-professional elites and pro-Beijing leftists of pro-government parties (Table 8).

To sum up, as the Legislative Council has gradually democratised since the 1990s, and legislators from both geographical and functional constituencies have organised themselves into political parties, the rise of political parties has become an inevitable trend in post-colonial Hong Kong. However, the underdevelopment of a party-based government in post-colonial Hong Kong points to the fact that the *modus operandi* of the HKSAR government has not yet been re-engineered to accommodate the dynamics of electoral and party politics. Therefore, in spite of the constitutional design of an executive-dominant system under the Basic Law and the installation of a pro-government majority in the Legislative Council, the executive and legislature remain disconnected after 1997, and the non-partisan Chief Executive has limited political leverage to command the pro-government parties. Without the support of a stable legislative majority, the executive-dominant system as envisaged by the Chinese government is actually built on sand and is destined to fail.

### **Conclusion: In search of a new governance system for the HKSAR**

Western literature indicates that the varying capacity of the executive to command a legislative majority is the overriding factor determining the relative power of the executive and legislature: the stronger the capacity of the executive to command a legislative majority, the higher the degree of executive dominance over the legislative process. From this perspective, Hong Kong has a very long tradition of governing through an executive-dominant system, and in the context of colonial Hong Kong, the dominance of the executive was clearly built upon the colonial Governor's capacity to command a legislative majority through the appointment system. While the Chinese government envisaged maintaining the executive-dominant system after 1997 and installed a pro-government majority in the Legisla-

tive Council by institutional default, the underdevelopment of party-based government means that the political alliance between the non-partisan Chief Executive and pro-government parties remains fragile. Failing to muster a strong capacity to command the legislative majority, the non-partisan HKSAR government struggles to uphold the executive-dominant system, and executive-legislative relations have become increasingly confrontational.

At the time of writing, the new Chief Executive, Leung Chun-ying, who assumed office in July 2012, has already repeated the patterns of the Tung Chee-hwa and Donald Tsang administrations in his first year of governance. Similar to his two predecessors, since taking up office Leung Chun-ying has been embroiled in tensions between the executive and the legislature, and a number of key policy initiatives put forward by the new administration, such as the re-organisation of the Government Secretariat<sup>(48)</sup> and the expansion of landfills,<sup>(49)</sup> have been frustrated by the Legislative Council. As in the past, the Leung Chun-ying administration has failed to mobilise the pro-government majority in defence of its policy agenda, and tensions within the pro-government camp have significantly undermined its capacity to accommodate the challenges of the pro-democracy parties in the legislative arena.

Without a doubt, executive-legislative disconnection has already become the defining characteristics of HKSAR politics and it is also the fundamental factor that has brought about the decline in the quality of governance in the HKSAR. In the colonial period, the majority of Hong Kong people were in favour of the governance of the colonial government and also harboured

45. It is an open secret that the Policy Committee, chaired by the Chief Secretary and comprised of all policy secretaries, is the real centre of policy-making within the HKSAR government. All major policies will first be discussed and decided by the Policy Committee before they are submitted to the Executive Council for consideration. Being excluded from the Policy Committee, representatives of pro-government parties in the Executive Council have usually complained that they are marginalised by political ministers in the policy-making process. For details, see *Apple Daily*, "Zhengce weiyuanhui caishi zhangquan jiguan" (Policy committee is the real centre of power), 7 June 2005; and *Hong Kong Daily News*, "San da dang yaoqiu gaige Xinghui" (Three major parties urged Donald Tsang to reform Executive Council), 8 February 2007.
46. Anthony B. L. Cheung, *Executive-led Governance or Executive Power "Hollowed-out,"* op. cit.
47. Anthony B. L. Cheung, "Restoring Governability in Hong Kong: Managing Plurality and Joining Up Governance," in Julia Tao, Anthony B. L. Cheung, Martin Painter, and Chenyang Li (eds), *Governance for Harmony in Asia and Beyond*, New York, Routledge, 2010, pp. 158-185.
48. After winning the Chief Executive election on 25 March 2012, Leung Chun-ying announced his proposal to restructure the Government Secretariat by increasing the number of Policy Bureaux from 12 to 14 and creating deputies for the Chief Secretary and Financial Secretary. Leung's proposal drew criticism across the political spectrum as legislators argued that the proposal was tantamount to expansion of the unpopular political appointment system and would incur extra government expenditure on hiring new ministers. In the face of a filibuster threat by legislators from the pro-democracy People's Power, Leung Chun-ying moved a motion requesting that the Legislative Council pass his restructuring plan ahead of other outstanding bills. Nevertheless, the motion was narrowly defeated as a result of opposition votes casted by two pro-government legislators, namely Chim Pui-chung and Tse Wai-chun, an abstained vote casted by Regina Ip Lau Suk-yeet of NPP, and the absence of several pro-government legislators such as Li Kwok-po, Cheung Hok-ming, Chan Mo-po, and Cheung Yu-yan. The failure to pass the restructuring plan dealt a severe blow to the new administration and was widely seen by political pundits as demonstrating Leung Chun-ying's weak capacity to consolidate a stable support base in the Legislative Council.
49. In May 2013 the Leung Chun-ying administration proposed to the Finance Committee of the Legislative Council the expansion of the three strategic landfills in Tseung Kwan O, Tuen Mun, and Ta Kwu Ling. However, the funding proposals of the Leung administration met with strong opposition from the major pro-government parties, including the HKFTU and the LP, while the DAB was vague over its leanings. By mid-June 2013, major pro-government parties, including the DAB, all clearly indicated that they wouldn't support the Leung administration's plan to expand the landfill in Tseung Kwan O because of its close proximity to populated areas. Without enough votes to push it through, the Leung administration was first forced to withdraw the funding proposal for the Tseung Kwan O landfill in late June 2013. One month later, the Leung administration suffered another setback as pro-government parties and pro-democracy parties joined hands to pass a motion deferring scrutiny of the proposals for expanding landfills in Tuen Mun and Ta Kwu Ling to the next legislative session. As a consequence, the funding proposals for expanding the three landfills all ended in failure.

a high regard for its performance.<sup>(50)</sup> In this connection, the relatively stronger capacity of the colonial government to steer policy changes was undoubtedly an important factor that helped sustain public satisfaction with the colonial political order. But the situation reversed after 1997. Struggling to command a stable majority in the Legislative Council, the HKSAR government's overall policy-making effectiveness has significantly deteriorated, along with its popular support. Opinion surveys indicate that for most of the time since the handover, the number of people dissatisfied with the overall performance of the HKSAR government has clearly outnumbered those who were satisfied.<sup>(51)</sup> It is conceivable that the failure of the HKSAR government to maintain its policy-making effectiveness is one of the important factors contributing to the erosion of popular support for the HKSAR political order.

The clock can't be turned back. The colonial-style executive-dominant system was a product of a bygone era and it could not survive in the current era of electoral and party politics. The lingering executive-legislative disconnect since 1997 points to the conclusion that the HKSAR government can no longer muster the necessary capacity to maintain its policy-making effectiveness. To address the problem of executive-legislative disconnection and to restore the steering role of the HKSAR government in the legislative process, there is a pressing need for the Chief Executive to strengthen his capacity to command a legislative majority by developing some form of party-based government in Hong Kong. Allowing the Chief Executive to be affiliated with a political party (by means of abolishing Section 31 of Chief Executive Election Ordinance) and forging a "coalition government"<sup>(52)</sup> between the Chief Executive and major political parties (by means of negotiating an explicit and binding coalition agreement on a common policy agenda and allocation of ministerial offices) should be integral to the organisation of a viable party-based government. Doing so would allow a more cohesive governing coalition to be established between the Chief Executive and the major political parties, and the HKSAR government could muster a stronger capacity to steer legislative changes through the Legislative Council.

The discussion in this paper sheds light on our understanding of the governance crisis in post-colonial Hong Kong. Currently, legitimacy deficit is the most popular explanation adopted by local political scientists when accounting for the HKSAR governance crisis.<sup>(53)</sup> This mainstream perspective emphasises that challenges by the democrats and civil society have undermined the legitimacy of the HKSAR government and have plunged it into serious governance crisis since 1997. But the discussion of the fragile coalition between the non-partisan Chief Executive and pro-government parties in this paper points to the fact that the post-1997 governance crisis is not simply the result of a legitimacy deficit. By establishing the causal relationship between the underdevelopment of party-based government and the failure of the executive-dominant system, this paper argues that the HKSAR government's limited capacity to command a legislative majority has fuelled the post-1997 governance crisis. From this perspective, the analysis of this paper is useful in shedding new light on possible solutions to the HKSAR governance crisis. Given that the post-1997 governance crisis does not emanate merely from legitimacy deficit but also from the fragile coalition between the non-partisan Chief Executive and pro-government parties, rebuilding Hong Kong's governance requires fundamental reforms on implementing universal suffrage (for restoring the political legitimacy of the HKSAR government) and developing some form of party-based government (for strengthening the Chief Executive's capacity to command a legislative

majority). In other words, apart from the implementation of universal suffrage for the Chief Executive election in 2017 as promised by the National People's Congress in its 2007 decision, the development of a party-based government in Hong Kong is an equally important issue for the Chinese government and the HKSAR government to confront.

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50. Lau Siu-kai, "The Rise and Decline of Political Support for the Hong Kong Special Administrative Region Government," *Government and Opposition*, Vol. 34, No. 3, July 1999, pp. 352-371.
51. For tracking polls on public satisfaction rates on the overall performance of the HKSAR government after 1997, see the website of the Public Opinion Programme of the University of Hong Kong: <http://hkupop.hku.hk/chinese/popexpress/sargperf/sarg/index.html> (accessed on 11 February 2014).
52. Coalition government is a common form of government in both presidential and parliamentary systems for forging collaborative alliances between the executive and legislature in multi-party contexts. For a discussion of coalition government in presidential systems, see Eduardo Aleman and George Tsebelis, "Political Parties and Government Coalitions in the Americas," *Journal of Politics in Latin America*, Vol. 3, No. 1, 2011, pp. 3-28. For a discussion of coalition government in parliamentary systems, see Wolfgang C. Müller and Kaare Strom (eds), *Coalition Governments in Western Europe*, New York, Oxford University Press, 2000.
53. See Ian Scott, "Legitimacy, Governance and Public Policy in Post-Handover Hong Kong," *Asia Pacific Journal of Public Administration*, Vol. 29, No. 1, 2007, pp. 29-49; Sing Ming, "Hong Kong at the Crossroads: Public Pressure for Democratic Reform," in Sing Ming (ed), *Politics and Government in Hong Kong: Crisis Under Chinese Sovereignty*, Hong Kong, Hong Kong University Press, 2009, pp. 112-135.