

Time for trust

Emily Lau calls on the SAR government to truly reflect Hongkongers' views in its report on electoral reform, and for Beijing to have faith in and listen to the people in their quest for genuine democracy

Last week, Chief Executive Leung Chun-ying said that there is no problem with the relationship between the executive authorities and the legislature, and filibustering in the Legislative Council is caused by only a handful of radicals. His view was immediately refuted by Legco president Jasper Tsang Yok-sing, who said Leung had oversimplified the problem.

Legco House Committee chairman Andrew Leung Kwan-yuen also disagreed with the chief executive. He said that the relationship between the two branches of government had never been so abysmal, adding that it takes more than one cold day for the river to freeze three feet deep.

The chief executive's remarks showed a total lack of appreciation of the sharp contradictions in the community. Either he does not know, or does not want to know, that divergent views in society are threatening to rip the city apart. How can such an inept person be fit to run Hong Kong?

Some political commentators have said the Leung administration would be gravely mistaken if it thinks it can govern Hong Kong effectively as long as it gets the support of pro-establishment legislators, which form a majority in Legco.

To ensure its proposals can get smooth passage in Legco, the administration must have a constructive working relationship with all legislators, including those from the pro-democracy camp. The lack of it, together with many officials' refusal to listen to opposing views in the community, have created a hostile and confrontational environment in Legco, something I have not seen before since I got elected in 1991.

Pro-democracy legislators' anger and dismay with Leung led to the walkout on July 3 during the chief executive question time. Such a protest by 23 pro-democracy legislators was unprecedented in Legco's history. We wanted to show our disgust with the Leung administration's contempt for public opinion, particularly his refusal to respond to the overwhelming demand for universal suffrage expressed by the almost 800,000 people who voted in the civil referendum organised by Occupy Central, and by the half a million people who took to the streets on July 1.

Today, things may come to a head when Chief Secretary Carrie Lam Cheng Yuet-ngor comes to Legco to present the government's report on its five-month public consultation on constitutional reform. I have warned the administration not to ignore the views expressed by Hong



Kong people. Neither should they try to rule out popular proposals for electing the chief executive in 2017 by universal suffrage, such as the nomination of candidates by the general public and nomination by political parties. I expressed my views to the undersecretary for constitutional and mainland affairs, Lau Kong-wah, when I met him on July 7, telling him that any attempt by the SAR government to rule out proposals for genuine universal suffrage would trigger massive protests.

Meanwhile, 13 academics, including a member of the National People's Congress, have proposed that the chief executive should delay submitting the report to Beijing, so as to give the community more time for discussion. I support this idea; it would be desirable to give Hong Kong people and Beijing some time to cool down and try to reach a consensus, rather than go full speed ahead, resulting in serious confrontation.

As it stands, the decision by the NPC Standing Committee, which is expected to meet in the last week of August to scrutinise Leung's report, will be another flashpoint for confrontation. Given Beijing officials' hostile and intransigent remarks



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on universal suffrage, insisting that candidates for the chief executive election in 2017 must love China and love Hong Kong, and cannot seek to confront the central government, many people expect the Standing Committee to rule out civil nomination and nomination by political parties at its August meeting. That could trigger rounds of protests and even acts of civil disobedience.

The Democratic Party will continue to press the central government to respect the wishes of the Hong Kong people and honour its undertaking that the people can elect the chief executive by universal suffrage in 2017. But the hardline attitude and heavy-handed approach adopted by the State Council's white paper on "one country, two systems", published last month, has had a devastating effect both in Hong Kong and the international community. Many regard it as a signal that Beijing will renege on its policy of giving Hong Kong a high degree of autonomy. It has caused alarm, dismay and consternation, and many people have called on Beijing to withdraw it.

Given such an explosive environment, it would not be surprising if Beijing doesn't allow Hong Kong to have a chief executive election in 2017 that would comply with international standards. By that, we mean the election should not contain unreasonable restrictions and would allow the voters a genuine choice. If Beijing rules out any form of election that complies with

international standards, the Democratic Party will work with the Occupy Central trio and other organisations to kick-start the act of civil disobedience to occupy the streets of Central.

For members of my party and many Hong Kong people, there's more at stake than universal suffrage.

Many people fear that the freedoms we have grown used to – freedom to protest, freedom of speech and equality before the law – are being eroded. Without these freedoms, Hong Kong's role as a vibrant international city, an offshore financial centre and a hub for trade and investment would be jeopardised.

If such a tragedy is to be prevented, the SAR and Beijing officials must bring themselves down a peg or two, discard their struggle mindset, listen to and trust the Hong Kong people. They should have a dialogue with the pro-democracy camp and the Occupy Central organisers and seek to establish a constructive working relationship with them.

Hong Kong's reputation for peaceful and orderly demonstrations is the pride of the city. Thus, if we are pushed to acts of civil disobedience by Beijing refusing to keep its promise on universal suffrage, we will try to ensure the protests are peaceful and non-violent.

The next few weeks will be critical. The Hong Kong people and the international community will be watching with bated breath to see how Beijing handles the reasonable and concerted demands for democracy by people here.

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Contract hit

Lee Mason urges better consumer protection by amending the law on contracts for goods and services, and setting up a body to press claims

As consumers, we all enter into contracts to buy goods and services. But how often do we get to negotiate the terms of those contracts? They are almost always set out in standard form, on a "sign here" and "take it or leave it" basis. Examples include those for television services, gym memberships and beauty salon packages. And, in cases where we have taken a lot of time to discuss our "package", we often feel pressure to sign.

But if we take a closer look at the terms we have just agreed to, we will surely appreciate that they often seem too one-sided, in favour of the supplier of the goods or service. Other than terms which require the consumer to either indemnify the supplier for any losses caused by the consumer's negligence, or to limit or exclude the supplier's liability to the consumer for breach of contract, negligence or misrepresentation (for which there is adequate legislative protection under the current law), there are a multitude of other potentially unfair terms.

For example, there may be a term which states that the service supplier can unilaterally vary the terms of the contract without notifying the consumer, that certain (excessive) fees are payable for early cancellation of a contracted service, or that the supplier is entitled to automatically renew a contractually expired service.

So can we challenge these other terms? Only if they are "unconscionable". Is that the same as "unfair"? In the UK, there is legislation protecting consumers from "unfair" contract terms. But, in Hong Kong, the equivalent legislation – the Unconscionable Contracts Ordinance – protects consumers from "unconscionable" terms. We may ask how they differ. Does "unconscionable" mean there is a higher test in Hong Kong, whereby the contract term would have to be something more than merely unfair or unreasonable – something that, instead, goes against the conscience and is immoral? If so, it would make it more difficult to target unfair contract terms using the ordinance.

Why does the legislation not protect consumers from "unfair" terms, as does the UK legislation?

Since coming into force 19 years ago, there have only been four successful challenges to unfair terms under the ordinance. This difference in terminology – "unconscionable" as opposed to "unfair" – may be why. Moreover, in contrast to the UK's Office of Fair Trading, why does Hong Kong lack any enforcement body that can take representative action on behalf of local consumers to challenge unfair (or even "unconscionable") terms? The Consumer Council has a statutory function to "protect and promote the interests of consumers" – so why does it disavow any responsibility to take representative action on behalf of aggrieved consumers? Why is there no other body that can do this?

It seems clear there is a serious need for reform in this area of consumer law. First, we require effective legislation protecting consumers from "unfair" contract terms. And, second, there is a need for an appropriately empowered enforcement body which can take representative action on behalf of all consumers, including those not even aware of their right to basic protection from unfair, one-sided standard contracts.

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The Chinese dream will become reality only if China learns to manage change

G. Bin Zhao examines some of the challenges that stand in the way of this unifying goal

There has been much analysis already of President Xi Jinping's (习近平) vision of the "Chinese dream". One thing has become clear: striving to achieve the dream is a common goal.

From the perspective of modern management theory, the process of achieving the dream falls under the category of change management. Identifying the stakeholders and relevant environments will provide a better viewpoint to foresee the coming changes.

So who are the core stakeholders? The Politburo has given us the answer by introducing the "mass line" campaign, which proposes "doing everything for the masses, relying on the masses, from the masses, to the masses". We must also assess the external stakeholders.

On the political front, US-China relations will continue to experience friction, given that many Americas see China's rise as a threat to their nation's world leadership. In addition, there is Japan's alliance with the US, wedging China in. Therefore, it's clear that the international political environment for creating the Chinese dream is full of turbulence.

The economic environment is also in a state of turmoil. Though China's economy may be facing difficulties, its growth and size mean it has been dominant in recent years. This will provide a solid foundation for the Chinese dream.

The social environment involves a complex range of factors, such as population

growth, age distribution, health status and class structure, as well as lifestyle and social values. Globally, there is a significant gap in this sphere between developed and developing countries, and China is still very backward in many ways. Increasing the quality of China's social environment is particularly important, and will be a lengthy process.

The technological environment is not conducive to achieving the dream. Problems with internet security, for example, have sparked heated debate, following the revelations by Edward Snowden. American



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technology has long been used in industries in China, and this dependence makes the country very vulnerable.

The environment is an area of serious concern, globally as well as in China, where many cities are choking from smog, and soil and water pollution is a problem. Many see the Chinese dream as simply being able to enjoy blue skies, clean air and water, and safe food.

From a strategic viewpoint, China's decision to propose that

the state and all people should have a common dream or goal is laudable. Without a goal, we can achieve nothing. The realisation of the Chinese dream will lead to an improvement in people's lives; thus, it is a far-sighted strategy that unifies all.

In terms of leadership, the West often criticises China for its lack of democracy and for being a dictatorship, but this does not mean that outstanding officials do not get promoted to core leadership positions.

Human resources are today about knowledge and skills. China's college entrance examination system has long been of concern and recent reforms that focus on making it more scientific and rational are inspiring initiatives.

At the same time, some employees of state-owned enterprises have been accused of "inheriting" jobs, thus diminishing the concept of social fairness. Making the Chinese dream come true depends on promoting world-class people to critical positions and implementing a fair and equitable employment system. This will certainly require more reforms and improvements.

Chinese civilisation has a long and colourful history and the impact of a country's culture is an important soft power. The realisation of the Chinese dream will also allow China's culture to gradually spread around the world.

In terms of technology, there is a wide gap between China and developed countries, mainly reflected in the technological capabilities of a large number of

companies, as well as the strength of research institutions and universities. Closing the gap is one of the difficult tasks in achieving the dream. Nevertheless, the speed of China's development has been amazing; just take the aerospace industry as an example.

We should remember it took the US more than seven decades to move from a position of economic dominance to become the international powerhouse it is today, if we regard the end of the second world war, in 1945, as the landmark (the US became the world's largest economy in the 1870s). In terms of gross domestic product, America's economic aggregate in 2013 was twice that of China.

When using the US as the benchmark, the achievement of the Chinese dream will certainly be a long and difficult journey. Yet, as Lao Tzu said, "A journey of a thousand miles begins with a single step". At least for now, there is a common dream for all Chinese.

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Questions must be raised over third runway report

Edwin Lau calls on Hongkongers to study environmental impact claims

All project developers are required by law to conduct an environmental impact assessment and honestly report the potential effects their project may have.

Yet the government and legislators should not rely solely on such a report when considering whether to approve a third runway for the airport. Given that the project is a strategic development of mega scale, legislators should go beyond the narrow review to demand that the Transport and Housing Bureau conduct a strategic environmental assessment for the whole plan, using much broader perspectives.

This would be a prudent approach to take under the principles of sustainable development.

The Legislative Council has a duty to ask the administration whether the third runway option is more cost-effective and less damaging to the environment than enhancing the two existing runways. The latter option was played down at an early stage by the Airport Authority. It seems society, as a whole, has accepted the authority's swift conclusion that this option could not cope with projected growth. This is a pity; if it works, this option would help Hong Kong avoid yet another white elephant at huge cost to taxpayers.

The environment assessment report was released on June 20. The public has only 30 days to examine the metre-thick documents and raise questions to the Airport Authority. I was a

member of the Environmental Protection Department's Advisory Council on the Environment for six years, yet even I find it extremely difficult to digest all the technical data and understand the justification for the report's claims that the impact on air quality, marine ecology, noise levels, public health and the like would be acceptable.

Take the air quality assessment, for example. The Airport Authority bases its claims that the impact on air quality in 2031 would be "acceptable" on the government's 2020 targets of the



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emission reduction plan for the Pearl River Delta region. Given that authorities are already projecting a reduction of between 15 and 75 per cent of four key air pollutants, the report therefore believes that no serious mitigation measures are required.

As a result, the authority would not have to do much to gain approval for the impact assessment report.

The health impact assessment was based on the

favourable and optimistic assumptions by consultants hired by the Airport Authority, so it's hardly surprising that the potential health effects were also found to be "acceptable".

The authority has cleverly hired professional consultants to write lengthy assessment reports on every scope set out in the study brief, which makes it very difficult for ordinary people to question the judgments made in the report.

From 2000 to 2013, Tung Chung recorded a total of 213 days with very high air pollution levels, an average of 15 days per year. That is five times the standard of a maximum of three days a year for different districts. Tung Chung records the worst results among the 11 general monitoring stations.

More air and land traffic going through Tung Chung as a result of the third runway is unlikely to make the air cleaner, or meet the even more stringent air quality objectives in 2031. Residents of Tung Chung need to grasp this opportunity to raise questions to safeguard their health.

As a gatekeeper, the Advisory Council on the Environment must ensure that potential impact on people or animals is kept to an absolute minimum when it reviews the project's environmental impact assessment report next month. We are counting on it to safeguard our environment and all those at risk.

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