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香港
法律
顧問
辦事
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REPORT ON THE SEMINAR ON
"THE CIVIL SERVANTS & THE BASIC LAW"

Preface

The Secretariat of the Consultative Committee for the Basic Law organised a seminar titled "The civil servants and the Basic Law" on June 7, 1986. Justice Garcia, Justice T.L. Yang, and Dr. S.K. Lau had been invited as guest speakers on the above topic. Seven Consultative Committee members from the civil service, namely, Mr Au Sing Wai, Mr Pun Kwok Shing, Mr Lam Kwong Yu, Mr John S. Lambourn, Mr Ko Chan Gock, Mr Kwok Yuen Hon, and Mr Cheng Chung Wai took part in the questions and answers session.

The civil servants form an important stratum in the government structure. In order to implement government policies effectively so as to guarantee the stability and prosperity of Hong Kong, it is necessary to establish a stable civil service structure. Upon the reversion of the sovereignty of Hong Kong, the entire structure of the civil service will be changed accordingly.

In view of this, the Secretariat of the Consultative Committee for the Basic Law arranged this seminar to provide an opportunity for the civil servants to exchange their views on the topic of "The civil servants and the Basic Law".

After the seminar, the Secretariat has organised the opinions gathered at the seminar and compiled a report. Having been examined by the eight consultative members from the civil service, the report will be released to the public. Supplementary comments also be welcome. The opinions from various sectors available to the Secretariat will be sorted out and collected in an appendix. The report, together with the appendix, will be presented to the Drafting Committee for the Basic Law for reference.

** The report only reflects individual opinion and does not represent the views of the Consultative Committee for the Basic Law.

香江是木油
鹹水

1. Consideration should be given to all aspects on civil servant in the Joint Declaration being included in the Basic Law for example, payment of salaries and conditions of service. However it would be impractical for qualifications for appointment for example, to be included because amendment would be necessary from time to time, it would be a time taking process to amend the Basic Law. It would be more practical for two bodies to do this, one by statute and the other by appointment both having been established to give advice. Possibly the Public Service Commission could become executive and policy making in nature. Provision should be made for inclusion in the Basic Law. Membership should be not less than 3 nor more than 8 excluding the chairman. Appointing authority should be the Chief Executive. Function would be to confirm appointments and exercise control over Civil Servants. Provision should be made for terms of service of the chairman and members and qualification/disqualification criteria. They must be independent.
Similar provisions for the Standing Commission on Civil Service Salaries and Condition of Service should apply.
2. Civil servants do not have a right to their pensions under Section(5) of the Pensions Ordinance. Whilst it is rare for the Government to exercise its prerogative in relation to the payment of pensions, the possibility, however, remains.
3. Some civil servants express the fear that there might be such a huge amount of pensions bill to be paid out of General Revenue that other claims for priority on the revenue might reduce the size of the fund to be set aside for meeting the pension bill. The government under such circumstances would not under the present ordinance be liable to pay a civil pensioner his fully earned pension. Solutions to the problem are being sought.
4. According to the contract of employment with the government, pension formed part of the earned emoluments of an officer and would be payable to him/her at the end of his/her term of service, this contractual right could form the subject of an action against the government if the pension was not paid or the pension was reduced. However, it was also noted that the Ordinance will be amended to take into account the new retirement age, the commutable portion and possibly there will be a provision for the amendment of Section(5) as well.

5. The provision that pensions be paid to civil servants upon retirement from the service of the HKSAR Government or from the HK Government before July 1, 1997 should be expressly written into the Basic Law. Suggestion had been made previously for the setting up of a pensions fund so as to have payments of pensions guaranteed. The scheme has been examined but unfortunately due to the astronomical amounts involved, the proposal was considered to be neither feasible nor viable. However, even though payments made out of General Revenue do not have a certainty of payment, contributions to Widows and Orphans and Widows and Childrens Pension Schemes were paid into General Revenue by civil servants, it might therefore be advantageous to take into account of this because it was likely there remained a large credit in favour of the contributors. Perhaps the proposal to fund this scheme could be reviewed.

SUMMARY OF JUSTICE T.L.YANG'S SPEECH

1. The expatriate civil servants who have been working in HK before 1997 can continue their service in the government after 1997. However, British and other foreign nationals who wish to join the civil service after 1997 must provide proof of their right of abode.
2. The Joint Declaration does not specify that expatriate officers will not be appointed as the Chief Executive. However, it is foreseen that the heads of several major departments in the future government will be Chinese nationals. The Joint Declaration states that the HKSAR Government may also employ British and other foreign nationals as advisers to government departments. These advisers will probably not have real executive power, but their ranks and salaries are expected to be very high. When the need arises, the HKSAR Government may recruit qualified candidates from outside the HKSAR to fill professional and technical posts in government departments.
3. While there will be limitation on the promotion of expatriate officers and the appointments of them to certain positions after 1997, they will, however, continue to play an important role in the Government.
4. The question was, would harmony between expatriates and non-expatriates continue because whatever the conditions of employment were, if expatriates were unhappy they would leave.

SUMMARY OF MR. LAU SIU KAI'S SPEECH

1. Reasons for the acceptance and respect gained by the civil servants in the past century:
 - 1.1 Civil servants are recruited through examinations and are therefore considered capable people.
 - 1.2 Civil servants have all along demonstrated good administrative skills.
 - 1.3 Civil servants and officials are politically neutral.
 - 1.4 The Chinese Government admitted that the civil service structure of HK could maintain the stability and prosperity of HK.
 - 1.5 Officials are awe-inspiring figures in the Chinese tradition.
2. Political changes to be experienced by the civil servants:
 - 2.1 HK civil servants have all along been appointed by the British Government. The British Government's withdrawal in 1997 will naturally affect the civil service system.
 - 2.2 There will be changes in the general civil service structure as some senior Chinese and expatriate members of the civil service may leave HK.
 - 2.3 The civil servants will no longer be the highest ruling authorities as there will be a ruling stratum comprising the Chief Executive and principle officials emerging above the civil service. Member of this stratum will be appointed politically and will not be under the protection of the Civil Service Regulations.
 - 2.4 With social changes and an increase in the activities of political, economic and social bodies, HK political environment will be more complicated. Consequently the operation of the civil service will be affected. The public will demand more public services or expect certain services to be provided by other committees.
 - 2.5 In response to these demands and expectations, the Government may delegate certain power or convert certain departments into independent organizations in order to reduce her burden.
3. Probable changes in the civil service system:
 - 3.1 Trade union movements in the civil service will accelerate.

The Government in the past treated the conflicts with civil servants as an internal affairs not to be made known to the public, and the civil servants, well knowing that political influence in HK society is so slim that they could hardly find any support. The relationship between the future government and her staff will, however, be politicized as governmental leadership will no longer be assumed by the civil servants, but a politically appointed leader. In order to seek mass support, both the Government and the civil servants will try to establish good relations with organizations outside the Government.

3.2 Factors undermining the unity of civil servants:

3.2.1 Centralization of power and the establishment of a class of administrative officers in the civil service have been the government's policies. A member of this elite class is often transferred from one department to another as this posting system will give him/her an overall idea of the government. In this way, unity among civil servants will be promoted. In the future, the highest authority ruling HK will be the Chief Executive instead of administrative officers (A.O.). In addition, as the work of government departments become more specialized, the concept of an "all-round officer" is no longer applicable. These changes will have bearing on the unity and stability in the civil service.

3.2.2. In the future, various government departments may mix with the interest groups in society. In other words the interests of the departments will be combined with those of the interest groups. Hence, the government will be divided into small groups, each with its own outside association and development. Unity in the government will be undermined.

3.3 Civil servants have been the only ruling authorities. Though they can still be considered an important ruling class after 1997, they will play the role of a back-up force for the leadership. In order to protect their own interests, they will gradually form into interest groups. Hence, to maintain a strong and powerful A.O. class is of utmost importance. Though the administrative officers at present fall short of this requirement, if the stratum of the A.O. can be expanded and the practice of "cutting in" * is allowed, more qualified personnel will be recruited in the future. This, however, may undermine their unity.

* New recruits are not required to start from a junior grade. They can join the civil service as a senior officer.

- 3.4 The Chief Executive in the future will be appointed by the Chinese Government. Should he fail to co-operate with civil servants, the civil servants would seek political support from outside in opposition to the Chief Executive.

SUMMARY OF QUESTIONS AND ANSWERS

1. Civil Servants And Politics In Hong Kong

1.1 Safeguards against external influence on the future operation of the civil service

- 1.1.1. To restructure the Public Services Commission in order to make it independent. In addition to its present consultative function, it should be vested with the power of arbitration.
- 1.1.2. To extend the areas covered by the civil service regulations so that all civil servants below the rank of a deputy director or deputy secretary will be protected against any political changes which may affect their work.
- 1.1.3. To allow the practice of "cutting-in" so that more talented people will be included so as to promote the political status of civil servants and to facilitate their ties various social strata.
- 1.1.4. To allow those who have been civil servants to take up the posts of Chief Executive in order to give recognition to the status of civil servants.
- 1.1.5. To carefully select a person of great political and administrative abilities as the Chief Executive.
- 1.1.6. To emphasize the collective dignity of civil servants and to promote their morale.
- 1.1.7. To maintain the unity of civil servants so that they will give each other mutual support.

1.2 The title "crown servants" is related to the right of abode of foreign civil servants or members of the police force. According to the new nationality law in Britain, "crown servants" have the right to reside in Britain. When the sovereignty of HK reverts to China in 1997, the status of "crown servants" will no longer exist.

1.3 A member of the civil servant worried that civil servants of the HKSAR would be subject to certain restrictions. But specific conditions are yet to be decided by the future government.

- 1.4 Mr. Lau noted that for the time being, it was not appropriate for civil servants to take part in elections as it would undermine their political neutrality. If they were really interested in standing for elections, they should first resign their post as civil servants. Mr. Lau did not encourage the practice of standing for elections while in service and retiring or resigning only after being elected.
- 1.5 Mr. Lau held that an increase in the salaries of civil servant would not necessarily promote unity and stability in the civil service. He cited the example of civil servants in foreign countries. Though they were not rewarded with particularly attractive salaries, their sense of responsibility and commitment is sufficient to maintain their high morale. Mr. Lau pointed out that from a realistic point of view, unless the government adopted a more flexible remuneration system, that is, salaries were adjusted according to individual performance (rather than an automatic increment in the salary scale), the range of pay-rise in the government would never catch up with that in the private sector as each pay-rise applied across the board.
- 1.6 Mr. Lau was for the proposal that civil servants could take up the post of minister or secretary: not that only civil servants were entitled to such appointment but that the possibility of their taking up these posts should not be ruled out. But Mr. Lau predicted that once they assumed the positions of ministers or directorate grade official, they will cease to be civil servants. No longer under the protection of Civil Service Regulation, they would be subjected to political pressure.
- 1.7 If secretaries are not subject to protection of the Civil Service Regulation, no difference can be drawn between secretaries and minister. If they are protected by the Civil Service Regulations, there will be a ministerial rank emerging between the Chief Executive and the secretaries. Ministers may be elected in two ways:
- a) elected from the Legislature i.e. a minister is a member of the Legislature;
 - b) appointed by the Chief Executive. Details concerning ministers are not included in the Sino-British Joint Declaration.

2. Executive-led Or Legislative-led System

2.1 Mr. Lau said that since the local Legislature has not formed itself into an unified leading force, the strengthening of the executive framework to enable the Chief Executive to provide a stable environment for the civil servants to work effectively is desirable. He, therefore, supports an executive-led system.

2.2 As the Joint Declaration states that Executive should be accountable to the Legislature, contradiction may arise under the executive-led system. Mr. Lau argued that the issue depends on how the term "accountable" is defined. Take for example the right to recall the Chief Executive. Mr. Lau estimated that members of the future Legislature at most could only make recommendation to the Central Government to recall the Chief Executive through complicated procedures, or to recall principal officials (secretaries) via simpler methods.

3. The Chief Executive

3.1 It is stated in the Joint Declaration that the future Chief Executive will be appointed by the Central Government in China. However, he should be elected by a council of senior statesmen, the Legislature, or civil servants.

3.2 It should be expressly written down in the Basic Law that the Legislature is empowered to recall or to pass a vote of non-confidence on the Chief Executive. Though it is also suggested that the power of the Central Government to appoint the Chief Executive should be cancelled, this request contravenes the provision of the Joint Declaration.

3.3 To decide whether the Chief Executive should have the power to dissolve the Legislature, the following points must be taken into consideration:

3.3.1. The Government will become very unstable if the Chief Executive has the power to dissolve the Legislature which has great authority.

3.3.2. If the Legislature does not have much authority, the issue whether it can be dissolved by the Chief Executive will be insignificant.

3.4 Whether the Chief Executive should be considered as a civil servant or not is a matter to be decided by the future Legislature. He may have a civil servant status, or with a status superior to that of a civil servant.

4. The Pension Of Civil Servants

- 4.1 The Basic Law should elaborate the meaning of the phrase "no less favourable than before" expressed in Section 4, Annex 1 of the Joint Declaration, which states: "the SAR government shall pay to such person who retire or complete their contracts,.....all pensions, gratuities, allowances, and benefits due to them on terms no less favourable than before.....".
- 4.2 It might be necessary to write into the Basic Law for those retiring before 1997 that payment of pensions was a contractual right.
- 4.3 Most of the civil servants who retire now joined the government service in 1940's or 50's. As the number of civil servants during that time was limited to several ten thousands, and their salaries were relatively low, the government, therefore, does not face a very heavy pensions commitment at present. Civil servants who will retire by 1997 were largely recruited in the 60's, when a large number of government posts were created and higher salaries were offered. When they will retire at around 1997, a large amount of pensions will be due. According to the Pensions Ordinance, the government does not have the obligation to pay pensions to the civil servants. In view of the problems that may arise if the government really fails to pay pensions, special consideration should be given to this issue when the Basic Law is drafted.

5. The Employment of Expatriate

- 5.1 Since the Joint Declaration only specifies that positions of secretary level should be filled up by Chinese nationals without mentioning the point of localization of civil servants, it will not be considered as a contravention of the Joint Declaration if localization policy will not be carried out by the HKSAR Government.

6. Others

- 6.1 HK has been a stable and prosperous society so far. In view of the reversion of sovereignty after 1997, changes are expected due to the following reasons:

- 6.1.1. Mr. Lau calculated that when the Joint Declaration is presented to the British Parliament, a document stating that government reforms will take place in HK was also presented, so that the Joint Declaration will be palatable to more easily by the Parliament.
- 6.1.2. After WWII, the political, economic and social environment of HK has undergone rapid changes. Since the HK Government still has to administer HK for another 11 years, certain political reforms are necessary to win the support of local people.
- 6.1.3. Although the general public might not understand what political reform is, subconsciously, they feel that the present system would not fit into the future political structure. For example, in the past, legislative councillors were appointed by the British Government; if this practice is adopted by the Chinese Government after 1997, the people of HK may not accept it. Therefore, requests for reform of the political structure also come from the local people.

*** If there is any discrepancy between the Chinese and the English versions, the Chinese version shall prevail.

「公務員與基本法研討會」報告

前言

基本法諮詢委員會秘書處於六月七日舉行了「公務員與基本法研討會」，邀請了楊鐵樑按察司、賈斯雅按察司和劉兆佳先生就上述問題發表意見；另七位公務員諮詢委員：歐成威、潘國城、林光宇、林邦莊(John S. Lambourn)、高贊覺、郭元漢、鄭鍾偉，在問答環節主持討論。

公務員是香港政府架構中的重要部分，要有效的推行政府政策，從而保障香港的安定繁榮，必須建立一個穩定的公務員架構。隨著香港主權的轉移，整個公務員架構亦會有相應的改變。

基於以上原因，基本法諮詢委員會秘書處舉辦是次研討會，希望能提供機會，讓各位公務員就「公務員與基本法」這題目，互相交換意見。

研討會後，秘書處將會上發言整理成以下報告，經八位公務員諮委審閱後，公開給各界人士參考，並歡迎提出補充意見。秘書處會將收集到的各界意見，整理成附件，然後連同此報告，一併遞交起草委員會，以作參考。

※報告內容僅代表會上講者個人意見，不代表基本法諮詢委員會的意見。

賈斯雅按察司講話大綱

1. 聯合聲明提及關於公務員的事項(如薪金和工作條件)都應考慮在基本法中列出，但在基本法中列明所有聘用細節，卻並不實際，因為這些細節會經常改變，而修改基本法則要經過很繁複的過程。因此，較可行的方法是由兩個諮詢性質的組織去安排這些細節。「公務員叙用委員會」可成為負責行政及決策的組織，並規定要列入基本法內。該會成員(不計主席)應不少於二人、不多於八人，均由行政長官委任。該會的功能是確認委任和管制公務員。主席及委員的任期、委任和罷免都應有所規定。這些組織必須是獨立的。「公務員薪酬及服務條件常務委員會」亦應有類似的規定。
2. 根據現存的長俸條例第五章第一節，政府是沒有法律上責任分發長俸給公務員的。雖然香港政府鮮有這樣做，這個可能性還存在。
3. 有公務員擔心將來在財政累縮的情況下，政府為了應付其他開支，而要削減公務員的長俸。雖然已知政府正尋求解決辦法，但結果怎樣現在仍未能知。
4. 根據政府的聘用合約，長俸構成公務員所賺薪酬的部分，應在其任滿後支取。如政府未能支付長俸金或縮減長俸金額，此合約權利則可成為控告政府的事由。但據知長俸法例將獲修訂，能顧及新退休年齡及長俸折現部分，並可能修訂第五章第一節。
5. 基本法應明確規定，不論是香港特別行政區政府的公務員，或是在一九九七年七月一日前香港政府的公務員，退休後均可獲付長俸。為保障公務員能獲付應得的長俸，曾有人建議設立一長俸基金。這計劃已獲研究，但所涉金額極龐大，因此並不可行。從政府一般收入中撥款支付之款項不一定可獲支付。撫恤孤寡想俸計劃與遺孀及子女恩俸計劃的供款是由公務員納入政府一般收入，供款中很可能還有大筆可給供款人享用的餘額，政府應參考這一點，也許可重新審議撥款備付長俸的建議。

楊鐵樑按察司講話大綱

1. 九七年前已經在香港工作的外籍公務員，九七年後可以繼續留任，而九七年後加入香港政府任職的外籍人士，就必需要提出香港居留權的證明。
2. 聯合聲明中沒有提及外籍公務員不能任政府首長，但估計在特別行政區政府中幾個最重要部門的最高級職務，將會留給華人擔任。不過聯合聲明中亦提到設立顧問，這些顧問可能是外國人，他們未必有實際的行政權，但職級與薪酬都非常高。此外，在某些特別的專業，比如工程或醫學界中，仍可任用外籍人士。
3. 預料九七年後香港的外籍公務員可能受到升職，或者不能擔任某些職位的限制，但他們仍會擔當重要的角色。
4. 不論聘用的條件是什麼，問題是本地和外籍公務員是否能和諧相處，如果外籍公務員工作得不愉快，他們會離開。

劉兆佳博士講話大綱

1・ 公務員過去百多年能被接受和尊重的原因：

- 1・1 公務員是透過考試才能得到委任的，因此被認為是極有才幹的人。
- 1・2 公務員百年來均表現良好的行政能力。
- 1・3 公務員和官僚在政治上都是中立的。
- 1・4 中國政府承認香港的官僚架構能保護香港的安定繁榮。
- 1・5 傳統中國人對官僚都既敬且畏。

2・ 公務員面對的政治轉變

- 2・1 香港的公務員一直由英國政府委派，九七年後英國政府撤出後，自然會影響他的工作。
- 2・2 九七年後，可能有部分華籍和外籍高級公務員會離港，因而影響整個公務員架構。
- 2・3 公務員不再是香港的最高統治力量，因為在官僚架構以上還出現一個由行政長官及主要官員組成的階層。他們全由政治任命，不受公務員條例保障。
- 2・4 隨著社會轉變，本地的政治、經濟或社會團體的活動漸多，使香港的政治環境變得更複雜，因而影響公務員的運作，比如市民會要求政府增加公共服務，又或者希望某些服務能交由其他委員會執行。
- 2・5 有見及此，政府可能會把部分權力下放，或者把某些部門變成獨立運作的機構，以減少政府的負荷。

3・ 公務員體制未來可能有的轉變：

- 3・1 公務員工會的運動將會不斷激烈。過往，政府處理與公務員的矛盾，總想把它當作家內事，不想四處張揚。而公務員有見於社會上政治力量薄弱，亦知難以尋求支援。但未來政府與僱員之間的關係會變得政治化，因為將來領導香港的不再是官僚架構，而是一個以政治任命的領袖。況且，不論是政府或是公務員，為了得到群眾的支持，亦會盡量與外界團體攞好關係。
- 3・2 公務員的團結性受到考驗：
 - 3・2・1 過往，政府主要實行中央集權制度和建立政務官階層，又把這群精英四處調配，使他們對政府有一整體觀念，從而建立公務員的團結。但將來，統治香港的最高階層已經不是政務官，而是行政長官；加上政府內部很多工作已經變得專門化，政務官的通才主義已經不合時宜，需要改變，因而會影響公務員的團結和穩定性。

3·2·2 將來，可能政府不同部門會與社會的利益團體混在一起，把該部門的利益與團體的利益混和，並在政府內部分為一個個小團體，各自外向發展，減少團結性。

3·3 以前公務員是唯一的統治力量，以後他們雖然也是重要的統治力量，但卻變成是幫別人去統治了。為了保障自己的利益，他們就會逐漸爭取成為利益團體。因此，保持一個強而有力的政務官階層是極為重要的。現在的政務官仍未有足夠的力量這樣做，但將來只要擴大政務官的階層，而且容許「橫向切入」（中、高級不一定要從下級中提升，可以向外聘請），就可以招聘到更多人才。雖然，這樣做又可能破壞他們的團結性及士氣。

3·4 未來的行政長官由中國任命，如果他不能與公務員合作，公務員就可能會向外界尋求政治支援，以與最高行政長官對抗。

問答大綱

1. 公務員與本地政治

1.1 保證公務員未來的運作不受外界影響的方法

- 1.1.1 重整公務員叙用委員會，將它獨立，而且除諮詢權外，還付予它接受投訴的審裁權及其他權力。
- 1.1.2 受公務員條例保障的範圍應擴充，使副署長或副司級以下的職員亦受到保障，使政治上就算有任何變動，亦不會影響他們的工作。
- 1.1.3 容許公務員橫向切入，以提高他們的政治地位，亦有助於他們與社會各階層打交道。
- 1.1.4 公務員可以出任未來的行政長官或部門首長的機會，藉以肯定公務員的地位。
- 1.1.5 謹慎選擇一個兼具政治和行政能力的最高長官。
- 1.1.6 強調公務員的集體尊嚴。
- 1.1.7 各公務員保持團結，互相支持，提高他們的士氣。

1.2 「皇家公僕」這銜頭與外籍公務員或警隊人員去英國居留有關係的，九七年後，香港的主權由英國轉回中國，因此就不會有皇家公僕這身份。

- 1.3 有公務員顧慮九七年後香港特別行政區的公務員會受到特別的限制，但具體情況，現時還未能知，要未來的政府才能決定。
- 1.4 劉兆佳先生認為暫時而言，公務員仍不適宜參加選舉，因為這會破壞他們政治的中立性，如果他們真有興趣參選，也應該先辭去本身的職位。劉先生不鼓勵公務員在職時參選，待被選後才退休或辭職。
- 1.5 劉先生認為提高公務員的薪酬未必有助於他們的團結和穩定。他舉西方國家的公務員為例，指出他們的薪酬都不高，但卻能靠責任感，貢獻和承擔精神去提高士氣。再者，他指出，從現實觀點看，除非政府釐定薪酬時以彈性的方法處理，按職員的表現而不是級別去加薪，否則每次加薪都是整個級別一起加，他們的升幅是怎樣也追不及私人機構的水平。
- 1.6 劉兆佳先生支持公務員出任部長或司級官員，但不是說唯有他們才能擔任，只是不排除這個可能性，但劉先生預測將來如果他們做了部長或司級官員，他們就不再是公務員。即不受公務員條例保障要承受政治壓力。
- 1.7 如果司級官員不受公務員條例保障，他們就與部長沒有分別；如果他們受公務員條例保障，則可能促成界乎行政長官與司級官員之間出現部長。部長的選舉方法有兩種：(一)由立法機構產生，即部長為立法議員。(二)由行政長官委任。但關於部長的細節，聯合聲明沒有提及。

2. 行政或立法主導

- 2.1 劉兆佳先生認為本地的立法機構還未能團聚成一股統一的領導力量，因此寧願強化行政架構，使行政長官能提供一個穩定的環境，讓公務員可以有效地運作。因此他贊成行政主導的模式。
- 2.2 聯合聲明提到行政架構向立法架構負責，如果依照行政主導的方式，便可能產生矛盾。劉兆佳先生認為這純粹在乎如何解釋「負責」二字。他估計未來的立法機關成員最多只能做到透過一個繁複的程序，向中央政府建議罷免最高行政長官，或者透過一個較簡單的程序，向中央政府建議罷免司級官員。

3. 行政長官

- 3.1 聯合聲明提到未來的行政長官由中央政府任命，但他該由元老院、立法院或是公務員推選，要弄清楚。
- 3.2 有要求在基本法上寫清楚立法機構能對行政長官行使不信任或罷免權，或者根本取消中央政府有任命行政長官的權力，但這要求是違背中英聯合聲明的。
- 3.3 要決定未來的行政長官應否有解散立法機構的權力，要考慮下列兩點：
 - 3.3.1 如果立法機構的權力很大，而行政長官有解散它的權，那麼政府很容易就變得不穩定；
 - 3.3.2 如果立法機構沒有重要權力，那麼行政長官能否解散它便不重要。
- 3.4 未來的行政長官的身份是否公務員要由當時的立法機構決定，他可以是公務員，但地位也可以比公務員高。

4. 公務員的長俸：

- 4.1 基本法中應詳細解釋聯合聲明附件一第四節中所謂：「公務員退休金將由特別行政區政府按不低於原來的標準發放」中「不低於原來的標準」的意思。
- 4.2 基本法中應該列明九七年前退休的公務員都應有權得到長俸。
- 4.3 現在退休的公務員多數在四、五十年代加入政府服務，那時人數只有數萬，而且他們的薪酬不高。因此現在政府要付的長俸數目不大。但在九七年退休的公務員多數是在六零年代加入政府工作的，那時因環境的需要曾招聘了大量的公務員，而且他們的薪酬不低，因此在九七年前後，當他們漸次退休時，那筆長俸便會很龐大，根據長俸法例，政府是沒有法律上的責任分發長俸給公務員的，但如果到時政府沒有長俸發給公務員，便會產生問題，因此草擬基本法時應該仔細考慮這點。

5. 外籍公務員的聘用

聯合聲明只提出司級職員由中國人擔任，但沒有提到公務員本地化，因此因果特別行政區政府不實行本地化，它亦沒有違反聯合聲明。

6· 其他

6· 1 香港社會雖然一直都很安定繁榮，但面對九七年，除了政權轉移外，還有其他改變的原因如下：

6· 1· 1 劉兆佳先生估計英國政府把中英聯合聲明提交國會時，曾加上一份文件，說明香港將會有政制改革，令英國的政治家容易接受聯合聲明。

6· 1· 2 香港戰後整個政治、經濟和社會環境都在改變，某種形式的轉變是必要的。再者，香港政府還要統治本地十一年，為了得到本地人的支持，亦必需要作某程度的政制改革。

6· 1· 3 一般人雖然不知道什麼是政制改革，但下意識都覺得現行的政制不適合未來。比如以前是由英國政府委任立法局，如果九七年後改由中國政府委任，香港人都未必接受，因此政制改革亦是一種內部的要求。