



FINAL REPORT ON
LIFE-STYLE

(passed by the Executive Committee on 12 June 1987)

Special Group on
Culture, Technology, Education, and Religion

1 Introduction

The Joint Declaration provides that after China resumes the exercise of sovereignty over Hong Kong on 1 July 1997, "Hong Kong's previous capitalist system and life-style shall remain unchanged for 50 years." Since the term "life-style" is not elaborated under the Joint Declaration, nor is its scope clearly defined, and the meaning of "life-style" is quite broad, Hong Kong people are concerned that socialist China and capitalist Hong Kong may interpret the term differently. For the reference of the Drafting Committee, this paper describes the present life-style of Hong Kong people in the following aspects: the basic necessities in life such as food, clothing, shelter and transportation; and the life cycle -- birth, growth, old age, illness and death. It is hoped that the Basic Law will provide for the various freedoms in these aspects.

2 Relevant provisions under the Joint Declaration:

Section I of Annex I:

"The National People's Congress of the People's Republic of China shall enact and promulgate a Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (hereinafter referred to as the Basic Law) in accordance with the Constitution of the People's Republic of China, stipulating that after the establishment of the Hong Kong Special Administrative Region the socialist system and socialist policies shall not be practised in the Hong Kong Special Administrative Region and that Hong Kong's previous capitalist system and life-style shall remain unchanged for 50 years."

Section VI of Annex I:

"The Hong Kong Special Administrative Region shall maintain the capitalist economic and trade systems previously practised in Hong Kong. The Hong Kong Special Administrative Region Government shall decide its economic and trade policies on its own. Rights concerning the ownership of property, including those relating to acquisition, use, disposal, inheritance and compensation for lawful deprivation (corresponding to the real value of the property concerned, freely convertible and paid without undue delay) shall continue to be protected by law."

Section X of Annex I:

"The Hong Kong Special Administrative Region shall maintain the educational system previously practised in Hong Kong."

Section XII of Annex I:

"The maintenance of public order in the Hong Kong Special Administrative Region shall be the responsibility of the Hong Kong Special Administrative Region Government."

Section XIII of Annex I:

"The Hong Kong Special Administrative Region Government shall protect the rights and freedoms of inhabitants and other persons in the Hong Kong Special Administrative Region according to law. The Hong Kong Special Administrative Region Government shall maintain the rights and freedoms as provided for by the laws previously in force in Hong Kong, including freedom of the person, of speech, of the press, of assembly, of association, to form and join trade unions, of correspondence, of travel, of movement, of strike, of demonstration, of choice of occupation, of academic research, of belief, inviolability of the home, the freedom to marry and the right to raise a family freely."

Section XVI of Annex I:

"Unless restricted by law, holders of valid travel documents shall be free to leave the Hong Kong Special Administrative Region without special authorisation."

3 Consensus:

- 3.1 All kinds of life-style should exist as permitted by the legislation at that time, and such legislation should be enacted in accordance with the following principle: to respect social customs (including those of people of non-Chinese descent) and to protect public interests.
- 3.2 Any life-style concerning the public at large may be maintained according to the previous traditions and customs under the capitalist system provided that it does not contravene the law.
- 3.3 As to any life-style which concerns only the personal life of individuals, Hong Kong citizens may enjoy full autonomy under the capitalist system. The government may not, by administrative means, force the people to change their life-style.

- 3.4 As the life-style of society changes with time, physical environment, and moral principles, the provision on this issue under the Basic Law should not be too specific lest it lacks flexibility.
- 3.5 Factors which form the basis on which the present economy works, such as free operation in the economy, private ownership, etc, should be retained.
- 3.6 The government should not differentiate inhabitants of non-Chinese descent from ordinary inhabitants lest the gap would be widened artificially. As their habits and customs may not be the same as ordinary inhabitants, the government should allow them the freedom to choose their own life-style provided that it is in accordance with law.

4 Specific questions

4.1 Birth and life --

The SAR Government should protect the freedom to marry and the right to raise a family freely. The provisions of the Chinese Constitution namely Articles 25 and 49 which require the practice of family planning should specifically be made inapplicable to Hong Kong. Family planning should be encouraged by the government, it may advise the public in the light of economic and social conditions at that time but there should not be express provision to restrict the freedom to raise a family.

The law of the HKSAR should retain the spirit of the existing laws on abortion i.e. the doctor's advice, the health of the person concerned, etc. should all be taken into consideration. In no circumstances should the practice of or submission to abortion be mandatory. Some members reflected the view of women that the mother's wish should also be respected.

Children not born out of marriage should enjoy equal right of birth as other children. Every person, upon birth, shall have the right to life (except for those who have been sentenced to death), as well as the right to enjoy all kinds of social welfare. No one should have the right to deprive other persons of the right to life.

4.2 Growth and old age --

The public have the freedom of choice of occupation and employment. The minimum material and spiritual needs of the elderly should be attended to by society. The government should provide such basic welfare as entertainment and recreational facilities for the elderly, provident fund, old-age pension, and old people's home.

4.3 Illness --

The government should provide adequate medical services and facilities, and be responsible for protecting public health.

4.4 Marriage and funeral --

Inhabitants have the freedom of choice of spouse. The ceremony or form of marriage and funeral may be decided freely by the person concerned or his/her friends and relatives, unless it is against the law. The various religious organisations may continue to run cemeteries.

4.5 Food and clothing --

Inhabitants may retain their right of choosing their clothing freely. Except for special cases, the government should not restrict the import of different kinds of food. But the government should provide protection for food safety.

4.6 Shelter and transportation --

Inhabitants have the freedom of movement and of choice of shelter and its form, and enjoy inviolability of the home. As regards transport, the road driving system of China at present is different from that of Hong Kong. The arrangement after 1997 will depend on the economic and social conditions at that time. The SAR inhabitants should have the freedom to travel outside Hong Kong, and to leave and enter Hong Kong.

4.7 Social customs --

"Fung-shui", fortune-telling, astrology, sacrificial rites and paying respect at temples may continue in the existing way unless they are against the law at that time. All kinds of value systems may continue to exist unless they are against the law.

4.8 Recreation --

Mass media, recreational facilities and services, cultural activities and facilities, etc, if in accordance with law, may continue to operate in the existing way.

4.9 Forms of economic activities of Hong Kong inhabitants --

Inhabitants may freely choose to engage in any form of legitimate economic activities, e.g. investment and transaction.

5 Conclusion:

Members held that since the term "life-style" covers a very broad scope (its material aspect can be easily felt and described whereas its spiritual aspect is more abstract; both aspects change with time, physical environment and moral principles), it is difficult to be described verbally item by item, and the "life-style" after a decade or so should not be rigidly laid down at this stage.

Members held that to maintain the capitalist system unchanged for 50 years we should start with some basic principles. The administration system of civil service and the system that any public spending must be subject to approval of the Legislative Council should also be retained.

The existing rights and freedoms of Hong Kong people, including freedom of the person, of speech, of the press, of assembly, of association, to form and join trade unions, of correspondence, of travel, of movement, of strike, of demonstration, of choice of occupation, of academic research, of belief, inviolability of the home, the freedom to marry and the right to raise a family freely should all remain unchanged. In addition, the Basic law should specify that the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights should be applicable to Hong Kong.

What Hong Kong people need in their life are opportunities, and not inflexible guarantees. Society does require effective conditioning and co-ordination, but not excessive restrictions. The people's life should be able to remain diversified and not be reduced to homogeneity.

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

社會生活方式

最後報告

(1987年6月12日經執行委員會通過)

中華人民共和國香港特別行政區基本法諮詢委員會

文化教育科技宗教專責小組

社會生活方式、宗教政策分組

1. 引言

《中英聯合聲明》里指出在一九九七年七月一日中國對香港恢復行使主權後，將「保持香港原有的資本主義制度和社會生活方式，五十年不變。」由於聯合聲明並沒有進一步闡釋「社會生活方式」，亦沒有把這名詞清楚畫出範圍；而且「社會生活方式」範圍甚廣，港人亦擔心實行社會主義的中國與實行資本主義的香港可能會對此名詞有不同的理解，故此，本分組嘗試從衣、食、住、行、生、老、病、死等各方面，詳細列出香港人目前的生活方式，及希望基本法中能保障的各項自由，以供起草委員會參考。

2. 《中英聯合聲明》中的有關條文：

附件一第一節：

「中華人民共和國全國人民代表大會將根據中華人民共和國憲法制定並頒佈中華人民共和國香港特別行政區基本法(以下簡稱《基本法》)，規定香港特別行政區成立後不實行社會主義的制度和政策，保持香港原有的資本主義制度和生活方式，五十年不變。」

附件一第六節：

「香港特別行政區保持原在香港實行的資本主義經濟制度和貿易制度。香港特別行政區政府自行制定經濟和貿易政策。財產所有權，包括財產的取得、使用、處置和繼承的權利，以及依法徵用財產得到補償(補償相當於該財產的實際價值、可自由兌換、不無故遲延支付)的權利，繼續受法律保護。」

附件一第十節：

「香港特別行政區保持原有香港實行的教育制度。」

附件一第十二節：

「香港特別行政區的社會治安由香港特別行政區政府負責維持。」

附件一第十三節：

「香港特別行政區政府依法保障香港特別行政區居民及其他人的權利和自由。香港特別行政區政府保持香港原有法律中所規定的權利和自由，包括人身、言論、出版、集會、結社、組織參加工會、通信、旅行、遷徙、罷工、遊行、選擇職業、學術研究和信仰自由、住宅不受侵犯、婚姻自由以及自願生育的權利。」

附件一第十四節：

「有效旅行證件持有人，除非受到法律制止，可自由離開香港特別行政區，無需特別批准。」

3. 共識：

- 3.1 各種生活方式均須在當時法例容許下存在，而此等法例應是以尊重風俗習慣（包括非華裔人士的風俗習慣）及維護社會公眾利益為原則而制定的。

- 3.2. 凡與香港市民整體有關的生活方式，在資本主義制度的基礎上可依固有傳統、習慣，在不違反法律的條件下，予以保持。
- 3.3 凡只與市民個人生活有關者，香港市民可在資本主義的基礎上有充份的自決權。政府不能以行政手段強逼人民改變生活方式。
- 3.4 由於社會生活方式會隨着時間、物質環境及道德精神的轉變而有所改變，故此，基本法中有關此項之條文不應太詳盡，以免缺乏彈性。
- 3.5 現時社會經濟運作的基礎，如自由經濟運作、產權私有制等，在九七年後應予以保留。
- 3.6 政府不應將非華裔居民從一般居民中區別出來，以免人為擴大鴻溝，至於他們的生活習慣與一般居民不盡相同，政府應允許他們有選擇自己生活方式的自由；惟他們的生活方式也得在法律規限之內。

4 具體問題：

4.1 生育與生存——

特區政府應保障婚姻自由及自願生育的權利。中國憲法第二十五及四十九條列明國家推行計劃生育，政府應訂明此項條文不適用於香港。有計劃的生育應受政府鼓勵，政府可按當時之經濟、社會情況勸喻市民，但不應有明文規定，限制市民生育之自由。

特區的法律應保持固有有關墮胎法律的精神，就是醫生的意見及當事人的健康狀況等均應受到考慮。在任何情況下，進行或接受墮胎均非強制性的。有委員反映婦女界意見認為母親的意願應被尊重。

非婚生子女應與其他嬰兒享有同等的出生權利。每個人在出生後都有生存的權利（除被判死刑者外），並有權享受各種社會福利。無人有權剝奪別人生存的權利。

4.2 成長及年老——

市民有選擇職業及就業的自由。老年人起碼的物質及精神需要應受社會關注。政府應提供基本的照顧，例如老人消遣及康樂設施、公積金、退休金、安老院等。

4.3 病——

政府應提供足夠醫療服務及設施，並負責保障公眾衛生。

4.4 婚喪——

居民有擇偶自由，婚禮及喪禮的儀式與方式只要不違反法律，便可由當事人或其親友自由作選擇。不同宗教組織可繼續營辦墳場。

4.5 衣、食——

居民可保留自由選擇其衣物服飾的權利。政府除特別情況外，不應管制各種種類的食物進口；但對食物安全的保障，政府有責任提供。

4.6 住、行——

居民有遷徙及選擇居住設施及形式的自由，並享有住宅不受侵犯的權利。至於道路交通方面，中國國內現時的行車方式與香港不同，但到九七年之後可按照當時經濟及社會的情況而定。特區居民應享有出外旅遊及出入香港的自由。

4.7. 風俗習慣——

風水、問卜、星相、祭祀及參拜神廟等，只要不違反當時的法律，便可按固有方式繼續。各種不同的價值觀念，只要不違反法律，便可繼續存在。

4.8 文娛康樂——

大眾傳媒、康樂設施和服務及文化活動和設施等，若合乎法律，便可保持固有形式運作。

4.9 香港居民的經濟活動方式——

居民可自由選擇從事任何合法經濟活動方式，例如投資、買賣等。

5. 總結：

總括來說，委員們都認為「社會生活方式」一詞的範圍很廣泛，物質生活方面易于感知及描畫，而精神生活方面則較抽象，兩者均會隨着時間、物質環境及道德精神的轉變而有所改變，故很難用文字全盡地點錄，現在亦不應刻板地訂下十多年後的「社會生活方式」。

委員們認為維持資本主義制度五十年不變，應從一些基本原則及基本精神着手。公務員的管理制度和公共開支必須經立法局批准等制度亦需保留。

香港人現有的權利和自由，包括人身、言論、出版、集會、結社、組織和參加工會、通訊、旅遊、遷徙、罷工、遊行、選擇職業、學術研究和信仰、住宅不受侵犯、婚姻自由以及自願生育的權利，均應保持不變。並且，基本法應列明「公民權利和政治權利國際公約」及「經濟、社會與文化權利國際公約」均適用於香港。

香港人生活上需要的是機會而非死板的保證，社會中必須有良好的制約和調協，而非過多的管制；人民的生活應可保持多元化而非單一化。

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