



FINAL REPORT OF THE SUBGROUP ON
EDUCATION SYSTEM AND CULTURAL POLICY

(passed by the Executive Committee on 12 June 1987)

THE SPECIAL GROUP ON
CULTURE, TECHNOLOGY, EDUCATION, AND RELIGION

FOREWORD

Up to April, the Subgroup on Educational System and Cultural Policy have held twelve meetings where the educational system and cultural policy of the HKSAR was thoroughly discussed. In respect of education, the Subgroup has maintained close contact with the Basic Law Joint Conference of the Educational Sector and collected their opinions. In respect of culture, a number of forums were held with members of the cultural sector to take stock of their views. In addition, the Subgroup wrote to educational and cultural bodies to solicit opinions and received more than twenty replies. The Subgroup then discussed the replies and reached consensus on several points. The Subgroup also discussed what should be included in the Basic Law regarding education and culture, and proposals on the Basic Law provisions were drafted according to the members' consensus and the Joint Declaration. To show due respect to the written submissions, the Subgroup resolved to include them as appendices to the report which will be submitted to the Drafting Committee through our Executive Committee.

The contents of the report include:

- A. Educational System
 - 1. Members' opinions on the educational system of the HKSAR
 - 2. Consensus
 - 3. Provisions regarding educational system in the Basic Law (proposed)

- B. Cultural Policy
 - 1. Members' opinions on the cultural policy of the HKSAR
 - 2. Consensus
 - 3. Provisions regarding cultural policy in the Basic Law (proposed)

- C. Summaries of meetings

- D. Appendices -- Written submissions from outside the CCBL

A. EDUCATIONAL SYSTEM

- I With regard to education, members' opinions on the educational system of the future HKSAR can be summed up as follows:
- 1 The development of education should be diversified. The future SAR Government should, without discrimination, allow all kinds of educational institutions to continue to develop.
 - 2 The government has the responsibility to provide funds for education but the bodies and organisations which run educational institutions in the future should have a high degree of autonomy.
 - 3 In formulating educational policies, there should be wide consultation with professional bodies and individuals.
 - 4 According to the Joint Declaration, the Basic Law should ensure that the HKSAR Government shall on its own formulate policies in the fields of culture, education, science, and technology and shall on its own decide the language of instruction.
 - 5 Educational institutions run by religious bodies should have the right to continue to provide religious education.

Members held that the foregoing points should be ensured by the Basic Law. Members also maintained that any educational reforms should provide linkage during the transitional period and it would be undesirable to introduce abrupt changes in 1997.

II Consensus of members on the educational system after 1997

- 1 The development of education should be diversified.(1) The future SAR Government should treat all kinds of educational institutions fairly and allow them to continue to develop.
 - (1) "Diversified" refers to diversification in all aspects i.e. schools may be run by the government, private sector or social/religious bodies. The educational system may include one-year and two-year systems, leading to a certificate or a diploma. Tertiary institutions may either be universities or polytechnics.

- 2 The government has the responsibility to subsidise educational undertakings. When utilising its funds, the government should be fair and reasonable and at the same time maintain the high degree of autonomy of subsidised schools, for instance, the right to run religious classes.
- 3 The formulation of educational policy should involve sufficient participation of educationalists and wide consultation with relevant bodies and individuals.
- 4 Institutions of all kinds should be allowed to maintain connections with relevant organisations inside and outside the country in such respects as employment, exchange, conference, assessment, and transfer.

III Provisions regarding education in the Basic Law

Members expressed the following views at the meetings:

- 1 Provisions regarding education in the Basic Law should be drawn up on the following two bases:
 - i. Elaboration on the provisions regarding educational system under the Joint Declaration.
 - ii. The law of China regarding educational policies -- Article 46 of the the Constitution provides that citizens of the People's Republic of China have the duty as well as the right to receive education, and that the state promotes the all-round moral, intellectual and physical development of children and young people.
- 2 The future educational policies of Hong Kong should only observe the indigenous laws of Hong Kong and should not be based on the PRC Constitution because Article 24 of the Constitution specifies that the state educates her people in dialectical and historical materialism. The education specified in Article 46 refers to this kind of education which is in conflict with the existing education objectives and inconsistent with the spirit of the Joint Declaration.
- 3 The existing educational system is not yet perfect. Also the educational system should be modified in the light of social changes and domestic needs. If the future policies are laid down now, there will be negative results.
- 4 Some members maintained that the part on education in Section X of Annex I to the Joint Declaration was well written. Under the Joint Declaration, the Chinese government authorises the SAR Government to decide educational policy on its own. Hence, the Basic Law should not restrict the future SAR Government's power in deciding educational policy.

5 There are also members who held that certain important principles should be laid down in the Basic Law.

After rounds of discussions, members agreed to expressly stipulate certain important principles in the Basic Law but did not rule out the possibility of including the details as appendices to the Basic Law. Members have put forward several proposals on provisions regarding education in accordance with the points of consensus and the Joint Declaration:

Proposal I:

1. The Hong Kong Special Administrative Region shall maintain the educational system as previously practised in Hong Kong before 1 July 1997, including (1) a diversified educational system i.e. institutions may be run by the government or private sector or subsidised by the government; (2) diversified curricula e.g. one-year or two-year courses leading to a certificate or a diploma; tertiary institutes may be universities, polytechnics, etc; and (3) a consultative structure with sufficient participation of professionals and relevant educational bodies.
2. The Hong Kong Special Administrative Region shall on its own decide educational policies, including policies regarding the educational system and its administration, the language of instruction, the allocation of funds, the examination system, the system of academic awards, and the recognition of educational and technological qualifications.
3. Institutions of all kinds, including those run by religious, private and community organisations, may retain their autonomy.
4. Institutions of all kinds may continue to recruit staff and use teaching materials from outside the Hong Kong Special Administrative Region. They may maintain connections with the relevant organisations inside and outside the country in such respects as employment, exchange, conference, assessment, and transfer.
5. The Hong Kong Special Administrative Region Government shall safeguard academic freedom.
6. Students shall have the freedom of choice of education and freedom to pursue their education outside the Hong Kong Special Administrative Region.

Proposal II:

1. The Hong Kong Special Administrative Region shall maintain the educational system as previously practised in Hong Kong before 1 July 1997, including (1) a diversified educational system i.e. institutions may be run by the government or private sector or subsidised by the government; and (2) diversified curricula e.g. one-year or two-year courses leading to a certificate or a diploma; tertiary institutes may be universities, polytechnics, etc.
2. The Hong Kong Special Administrative Region shall on its own decide educational policies, including policies regarding the educational system and its administration, the language of instruction, the allocation of funds, the examination system, the system of academic awards, and the recognition of educational and technological qualifications. The formulation of educational policies shall involve sufficient participation of educationalists and wide consultation with relevant bodies and individuals.
3. Same as Proposal I
4. Same as Proposal I
5. Same as Proposal I
6. Same as Proposal I

Proposal III:

1. The Hong Kong Special Administrative Region shall maintain the educational system as previously practised in Hong Kong before 1 July 1997, including (1) a diversified educational system i.e. institutions may be run by the government or private sector or subsidised by the government; schools should continue to be subsidised by the government in the same way and on the basis of the same criteria applied before July 1997; (2) diversified curricula e.g. one-year or two-year courses leading to a certificate or a diploma; tertiary institutes may be universities, polytechnics, etc; and (3) a consultative structure with sufficient participation of professionals and relevant educational bodies.
2. Same as Proposals I and II.
3. Institutions of all kinds, including those run by religious, private and community organisations, may retain their autonomy. No institution should be refused government subsidies because it is run by a religious or community organisation.

4. Same as Proposals I and II.
5. Same as Proposals I and II.
6. Same as Proposals I and II.

See summaries of meetings for details of the members' discussions.'

B. CULTURAL POLICY

I Members' opinions on the cultural policy of the HKSAR

Members held that the HKSAR should have the power to decide any cultural policy on its own. Members also maintained that the Basic Law should protect the existing cultural freedoms in Hong Kong. As to freedom of the press, members held that it was an important factor that maintained the stability and prosperity in Hong Kong and should therefore be protected. The Subgroup members proposed that the CCBL members from the press set up a working group to discuss how to protect the press freedom. A press seminar was held by such a group and the contents of the discussion were compiled as the "Report on Freedom of the Press" which has been endorsed by the Special Group on Culture, Education, Technology and Religion and forwarded to the Drafting Committee.

II Consensus of members on the cultural policy after 1997

- 1 The HKSAR Government should ensure that organisations or individuals enjoy the right to cultural life and the freedom to participate in cultural activities, including freedom of creation, of publication, of performance, of the press, of broadcasting, of criticism, of interflow, of sale, of assembly, of association, of research, etc.
- 2 The SAR Government should fairly and reasonably utilize its resources to promote without any intervention the development of cultural undertakings.
- 3 The HKSAR may on its own, using the name "Hong Kong, China", establish and maintain relations and conclude and implement agreements with states, regions, and relevant organisations in the cultural field.
- 4 The formulation of cultural policy should involve sufficient participation of people from the cultural field as well as wide consultation with relevant bodies and individuals.
- 5 The SAR Government should protect the material and non-material interests gained by organisations or individuals through artistic creation.

Note: "non-material interests" included interests such as renown deserved by an artist and the freedom to accept awards etc.

III Provisions regarding culture in the Basic Law

Members expressed the following views at the meetings:

- 1 Members generally held that culture was extremely comprehensive and included a large number of small items which could hardly be exhausted. As the Basic Law would only set down broad principles, general directions should first be identified and certain principles governing culture as a whole be drawn up. Then supplementary articles or detailed rules and regulations could be laid down according to the characteristics and requirements of individual items.
- 2 Most members present held that provisions regarding the "cultural policy" in the Basic Law should be concise and specific, and be flexible in the long run. It was unnecessary to set down too many policies at present because policies will change with time and social needs. To formulate too many policies or at too early a time would stifle future development. At this stage, only broad principles should be laid down.

After further discussions, members have put forward several proposals on provisions regarding culture in accordance with the points of consensus and the Joint Declaration:

Proposal I:

1. The Hong Kong Special Administrative Region shall ensure that organisations or individuals enjoy the right to cultural life and the freedoms to participate in the cultural activities, including freedoms of creation, of publication, of performance, of the press, of broadcasting, of criticism, of interflow, of sale, of assembly, of association, of research, etc.
2. The Hong Kong Special Administrative Region shall protect the material and non-material interests gained by organisations or individuals in respect of cultural creation, including such interests as renown deserved by an artist and the freedom to accept awards.
3. The Hong Kong Special Administrative Region may on its own formulate cultural policies.
4. The Hong Kong Special Administrative Region may on its own, using the name "Hong Kong, China", maintain and develop relations and conclude and implement agreements with states, regions and relevant international organisations in the cultural field.

Proposal II:

1. Same as Proposal I
2. Same as Proposal I
3. The Hong Kong Special Administrative Region may on its own formulate cultural policies. The formulation of cultural policies shall involve sufficient participation of people from the cultural field as well as wide consultation with relevant bodies and individuals.
4. Same as Proposal I

See summaries of meetings for details of the members' discussions.

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

教育制度、文化政策

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

教育制度、文化政策分組

前 言

「教育制度、文化政策分組」迄四月止共召開十二次會議，就九七年後香港特別行政區的教育制度及文化政策作出深入討論。在教育方面，本分組與教育界基本法聯席會議保持緊密聯系，得到不少意見。在文化方面，亦曾舉辦多次各文化界別的座談會，取得很多意見。此外，本分組曾去函教育界及文化界團體徵詢其意見，共收到二十多封回信，分組即就所得之意見進行討論，並達至數項共識。分組隨即開始討論基本法在教育及文化方面應包括的內容，並根據各點共識及《中英聯合聲明》的內容草擬成數項基本法條文的提議，供基本法起草委員會參考。為尊重來函團體的意見，分組決定把來函原文以報告附件的形式連同本報告經執行委員會轉交起草委員會參考。

本報告內容包括：

甲、教育制度

- 一、委員對香港特別行政區教育制度的意見
- 二、各點共識
- 三、基本法有關教育制度的條文(提議)

乙、文化政策

- 一、委員對香港特別行政區文化政策的意見
- 二、各點共識
- 三、基本法有關文化政策的條文(提議)

丙、歷次會議紀要

丁、附件：外界來函

甲、教育制度

一、有關教育方面，委員對將來特別行政區教育制度的意見，可歸納為：

- ①教育發展應多元化，未來特別行政區政府應容許各類學校繼續發展，不加以排斥；
- ②政府有責任出錢辦學，但將來辦學團體及機構應能保有高度自主性；
- ③教育政策的釐定，應廣泛諮詢專業團體或人士的意見；
- ④按中英聯合聲明，基本法應確保將來特別行政區政府有權自行制定文化教育科技政策和自行決定教學語言。
- ⑤宗教團體辦的學校應有權繼續開設宗教課；

委員認為以上各點應該在基本法中得到保障。委員並認為任何教育改革應在過渡期有所銜接，不希望至九七年時有突然改變。

二、委員對九七年後的教育制度的共識

1. 教育發展應多元化(註一)，未來特別行政區政府應公平和合理對待各類院校，並容許其繼續發展。

(註一：「多元化」所指的是各方面的多元化，即學校可以是，例如：官辦、私辦、或由社會團體、宗教團體所辦；學制可以是一年、兩年的證書制、文憑制等；專上學府可以是大學、理工學院等等。)

2. 政府有責任資助教育及辦學，但政府運用經費時，應做到公平和合理，同時保留受資助院校的高度自主權，例如有權開設宗教課。
3. 教育政策的釐定，應有教育專業人士充份參與及應廣泛諮詢有關團體及人士的意見。
4. 各類院校應可與國內外有關機構保持聯繫，如：邀聘、交流、研討、評核、保送等各方面。

三、基本法有關教育的條文

在會議中，有委員曾提出以下的意見：

1. 訂定九七年後香港基本法中有關教育條文方面應有兩個依據
 - ①中英聯合聲明有關教育政策的表述；
 - ②中國有關教育政策的法律——憲法第四十六條：規定中國公民有受教育的權利及義務，及國家能使青年、少年及兒童在德育及體質上都得到發展。
2. 將來香港的教育政策只應依香港本身的法律而不應以中國憲法為依據。因為憲法第二十四條列明國家要教育人民辯証歷史唯物論，而第四十六條指的教育就是這意思，這是與現行的教育目的和中英聯合聲明的精神相異的。
3. 現存的教育尚未完美，再加上教育政策應隨社會的變遷及內部的需要而改變，若現已規限將來的政策，反而會有反效果。

4. 有委員認為聯合聲明附件一第十節，有關教育部分已寫得很好，同時中國政府在《中英聯合聲明》中授權特區政府自行制定教育政策，故基本法中不應加上限制將來特區政府制定教育政策決策權的條文。

5. 亦有委員認為，某些重要原則應在基本法內寫明。

經反覆討論後，委員同意某些重要原則應在基本法中寫明，亦不排除把比較細節的問題寫成基本法的附件。委員就各點共識及《中英聯合聲明》的內容提出數項有關教育的條文的建議：

提議(-)：

1. 香港特別行政區保持1997年7月1日以前在香港實行的基本教育制度，包括(-)多元化的教育體系，即各類院校可以是官立、私立、或是政府資助等；(二)多樣化的學制及課程，例如學制可以是一年、兩年的證書制、文憑制等；專上學府可以是大學、理工學院等等；(三)有教育專業人士和有關教育團體充份參予的諮詢架構。
2. 香港特別行政區政府自行制定有關教育的政策，包括教育體制及管理、教學語言、經費分配、考試制度、學位制度、承認學歷等政策。
3. 各類院校，包括宗教、私人及社會團體所辦院校均可保留其自主性。
4. 各類院校可繼續從香港特別行政區以外招聘教職員，選用教材，並可與國內外有關機構保持聯繫，如：邀聘、交流、研討、評核、保送等各方面。
5. 香港特別行政區政府保障學術自由。
6. 學生享有選擇院校和在香港特別行政區以外求學的自由。

提議(二)：

1. 香港特別行政區保持1997年7月1日以前在香港實行的基本教育制度，包括(-)多元化的教育體系，即各類院校可以是官立、私立、或是政府資助等，(二)多樣化的學制及課程，例如學制可以是一年、兩年的證書制、文憑制等；專上學府可以是大學、理工學院等等。
2. 香港特別行政區政府自行制定有關教育的政策，包括教育體制及管理、教學語言、經費分配、考試制度、學位制度、承認學歷等政策。教育政策的釐定，應有教育專業人士充份參與並廣泛諮詢有關團體及人士的意見。
3. 與提議(-)同
4. 與提議(-)同
5. 與提議(-)同
6. 與提議(-)同

提議(三)：

1. 香港特別行政區保持1997年7月1日以前在香港實行的基本教育制度，包括(-)多元化的教育體系，即各類院校可以是官立、私立、或是政府資助等。政府應依據1997年7月以前採用的方式及準則，繼續資助學校；(二)多樣化的學制及課程，例如學制可以是一年、兩年的證書制、文憑制等；專上學府可以是大學、理工學院等等；(三)有教育專業人士和有關教育團體充份參予的諮詢架構。

2. 與提議(-)、(二)同
3. 各類院校，包括宗教、私人及社會團體所辦院校均可保留其自主性。政府不可因某教育機構是由教會或社會團體所辦而不予以資助
4. 與提議(-)、(二)同
5. 與提議(-)、(二)同
6. 與提議(-)、(二)同

有關委員在會議上的討論詳情，可參考會議紀要。

乙、文化政策

一、委員對香港特別行政區的文化政策的意見：

委員認為香港特別行政區政府應有權自行訂定其文化政策，並認為基本法應能保障香港現有的各種文化自由。有關新聞自由方面，委員皆認為此乃維持香港安定繁榮的重要一環，應該受到保障。本分組委員曾建議由新聞界諮詢委員成立一工作組，由該組詳細討論如何保障新聞自由。該組曾舉行新聞界研討會，最後把討論內容輯成「新聞自由報告」，且經文化教育科技宗教專責小組議決，已另行遞交起草委員會參考。

二、委員對九七年後的文化政策的共識

1. 香港特別行政區政府保障團體或個人均享有文化生活的權利及參與文化活動之自由，如創作、發表、表演、出版、傳播、評論、交流、銷售、結社、集會、研究等的自由。
2. 特區政府應公平和合理地運用資源以促進文化事業的發展，但不作干預。
3. 特別行政區可以“中國香港”的名義在文化領域單獨地同世界各國，各地區有關組織建立及保持關係，並簽定和履行有關協定。
4. 文化政策的釐定，應有文化界人士充份參與及應廣泛諮詢有關團體及人士的意見。
5. 特別行政區政府應保障團體或個人在文化創作上所獲得之精神與物質權益。
註：「精神權益」乃包括藝術家應得的名譽以及可以自由接受獎項等之權益。

三、基本法有關文化的條文

在會議中，有委員曾提出以下意見：

1. 委員一般認為，文化的範圍非常廣泛，其中包含很多細小項目，實無法一一列出及逐一討論，同時基本法上所寫的是大原則，所以應循大路線，從整體方面討論出一些原則，然後再根據個別項目的特性及需要，訂出其他附則或細則。
2. 與會者大都認為，基本法中關於“文化政策”應寫得簡潔具體，保持長遠彈性，現在更無須制訂太多政策，因為政策會隨時間及社會需要而變，太多的或過早制訂政策，反而會遏止將來的發展，故目前只需找出一些大原則。

經進一步詳細討論後，委員就各點共識及《中英聯合聲明》的內容提出數項有關文化的條文的建議：

提議(-)：

1. 香港特別行政區政府保障團體或個人均享有文化生活的權利及參與文化活動之自由，如創作、發表、表演、出版、傳播、評論、交流、銷售、結社、集會、研究等的自由。
2. 香港特別行政區政府保障團體或個人在文化創作上所獲得之精神與物質權益，包括藝術家應得的名譽以及可以自由接受獎項等之權益。
3. 香港特別行政區政府自行制定文化政策。
4. 香港特別行政區可以“中國香港”的名義在文化領域單獨地同世界各國，各地區有關組織建立及保持關係，並簽定和履行有關協定。

提議(=)：

1. 與提議(-)同
2. 與提議(-)同
3. 香港特別行政區政府自行制定文化政策。文化政策的釐定，應有文化界人士充份參與及應廣泛諮詢有關團體及人士的意見。
4. 與提議(-)同

有關委員在會議上的討論情況，可參考會議紀要。

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