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Opinions on chapter 6 of the  
draft (August 1987) of the  
Basic law  
[Hong Kong : s.n., 1987]

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OPINIONS ON CHAPTER 6  
OF THE DRAFT (AUGUST 1987) OF THE BASIC LAW

(passed by the Executive Committee on 4 November 1987)

Special Group on  
Culture, Technology, Education, and Religion

CCBL-SG/CES-RP01-03-871002(E)

#### Foreword

The discussion of this Special Group on the draft provisions of Chapter 6 was generally based on the following principle: all provisions under in the Sino-British Joint Declaration should be reflected in the Basic Law. Consequently, our Special Group do not entirely accept the opinions expressed by members of the Drafting Committee on Chapter 6 as recorded in the "summary of the drafters' opinions". For instance, on Article 1: "The HKSAR shall maintain the educational system previously practised in Hong Kong", a drafter held that the phrase "shall maintain" could be amended to "may maintain". Our members thought that this view was not in accordance with the provision under Section 10 of Annex I of the Sino-British Joint Declaration: "The Hong Kong Special Administration Region shall maintain the educational system previously practised in Hong Kong". Moreover, on Article 11: "The HKSAR shall maintain the policy previously practised in Hong Kong regarding the provision of subventions to organisations in all fields, including education, medicine, culture, arts . . . . previously implemented in Hong Kong", a drafter suggested deleting the word "maintain". According to the principle stated above, our members expressed objection.

Our Special Group would not comment on every single opinion of the drafters on Chapter 6 as recorded in the "summary of the drafters' opinions". But the drafters' opinions which we accept have already been included into our suggestions as below. As to other views, after comparing them with the draft articles, we still favour the latter. As regards the final report on "lifestyle" which was submitted at the previous stage, we find that the contents relevant to this chapter has not been included. Thus, we hope that members of the Drafting Committee will explain to us how this issue will be dealt with.

The following are our concrete suggestions on the draft of Chapter 6 of August 1987.

香港  
基本  
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Title: Education, Science, Technology, Culture, Sports,  
and Religion in the HKSAR

Article 1: The HKSAR shall maintain the educational system  
previously practised in Hong Kong.

The development and improvement of educational undertakings  
in the HKSAR shall be decided by the HKSAR Government on its own.

Article 2: The HKSAR Government shall on its own decide policies  
of this SAR in the field of education, 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.

Community organisations and individuals may run different  
kinds of educational undertakings in the HKSAR in accordance with  
law.

Article 3: Educational institutions of all kinds may retain  
their autonomy and have academic freedom. They may continue to  
recruit staff and use teaching material from outside the HKSAR.  
Educational institutions run by religious organisations may  
continue to offer courses on religious education.

Students shall enjoy freedom of choice of education and  
freedom to pursue their education outside the HKSAR.

Title: Education, Science, Technology, Culture, Sports, and Religion, Labour and Welfare in the HKSAR

Article 1: Apart from the policies decided by the HKSAR Government on its own regarding the development and improvement of the educational system, the HKSAR Government shall maintain the educational system previously practised in Hong Kong.

The HKSAR shall on its own decide policies of this SAR in the field of education, 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.

(After the meeting, a member, by written submission, proposed that the article be amended as follows: "The HKSAR shall maintain the educational system previously practised in Hong Kong.")

Article 2: Community organisations and individuals may run different kinds of educational undertakings in the HKSAR in accordance with law.

Educational institutions of all kinds may retain their autonomy and have academic freedom. They may continue to recruit staff and use teaching material from outside the HKSAR.

Educational institutions run by religious organisations may continue to offer courses on religious education.

Students shall enjoy freedom of choice of education and freedom to pursue their education outside HKSAR.

(A member proposed that the first sentence of the second paragraph be amended as follows: "Educational institutions of all kinds, so far as they are consistent with the educational policy decided by the HKSAR Government, may retain their autonomy and have academic freedom." After the meeting a member, by written submission, proposed that this article be rewritten as follows: "The HKSAR Government shall on its own decide policies in the field of education, 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. At the same time, the development and improvement of educational undertakings in the HKSAR shall be decided by the HKSAR on its own.")

香港  
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條例

(After the meeting a member, by written submission, proposed that the article be amended as follows: "Education institutions of all kinds may retain their autonomy and have academic freedom. They may continue to recruit staff and use teaching material from outside the HKSAR.

Educational institutions run by religious organisations may continue to offer courses on religious education.

Students shall enjoy freedom of choice of education and freedom to pursue their education outside the HKSAR.

Community organisations and individuals may run different kinds of educational undertakings in the HKSAR in accordance with law.")

Article 4: The HKSAR Government shall develop medical and health services, develop modern medicine and traditional Chinese medicine, encourage and support community and private organisations to set up medical and health facilities of all kinds.

Article 3: The HKSAR Government shall on its own decide medical and health policies, develop modern medicine and traditional Chinese medicine.

Community organisations and individuals may run different kinds of medical and health undertakings.

Article 5: The HKSAR Government shall promote the development of scientific and technological undertakings. It shall reward and protect achievements, inventions and discoveries in scientific and technological researches, and scientific and technological innovations.

Article 4: The HKSAR Government shall on its own decide policies regarding science and technology.

The HKSAR Government shall decide on its own standards and specifications relating to science and technology.

The HKSAR shall protect by laws the achievements, inventions and discoveries in scientific and technological researches.

Article 6: The HKSAR Government shall promote the development of cultural undertakings. It shall reward and protect achievements, honours and legitimate rights and interests acquired by authors in cultural creation.

Article 5: The HKSAR shall on its own decide policy regarding culture.

The HKSAR shall protect by laws achievements and interests acquired by authors with creative works in the field of culture.

Article 7: The HKSAR Government shall not interfere with or restrict religious activities or internal affairs of religious organisations. Religious activities shall not contravene the laws of the HKSAR.

Article 6: The HKSAR Government shall not interfere with the internal affairs of religious organisations, or restrict religious activities which do not contravene the laws of the HKSAR.

Religious organisations shall, in accordance with law, enjoy rights concerning the acquisition, use, disposal, and inheritance of property and the right to receive financial assistance. The previous rights and interests in respect of property shall be maintained and protected.

Religious organisations shall, in accordance with law, enjoy the right concerning the acquisition, use, disposal, and inheritance of property and the right to receive financial assistance. The previous rights and interests in respect of property shall be maintained and protected.

Religious educational institutions and other educational institutions, hospitals, welfare institutions, and other social services run by religious organisations may be continued and developed in accordance with previous practice.

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(After the meeting a member, by written submission, proposed that the article be amended as follows: "Education institutions of all kinds may retain their autonomy and have academic freedom. They may continue to recruit staff and use teaching material from outside the HKSAR.

Educational institutions run by religious organisations may continue to offer courses on religious education.

Students shall enjoy freedom of choice of education and freedom to pursue their education outside the HKSAR.

Community organisations and individuals may run different kinds of educational undertakings in the HKSAR in accordance with law.")

Article 3: The HKSAR Government shall on its own decide medical and health policies, develop modern medicine and traditional Chinese medicine.

Community organisations and individuals may run different kinds of medical and health undertakings.

Article 4: The HKSAR Government shall on its own decide policies regarding science and technology.

The HKSAR shall protect by laws the achievements, inventions and discoveries in scientific and technological researches.

Article 5: The HKSAR shall on its own decide policy regarding culture.

The HKSAR shall protect by laws achievements and interests acquired by authors with creative works in the field of culture.

Article 6: The HKSAR Government shall not interfere with the internal affairs of religious organisations, or restrict religious activities which do not contravene the laws of the HKSAR.

Religious organisations shall, in accordance with law, enjoy the right concerning the acquisition, use, disposal, and inheritance of property and the right to receive financial assistance. The previous rights and interests in respect of property shall be maintained and protected.

Religious educational institutions and other educational institutions, hospitals, welfare institutions, and other social services run by religious organisations may be continued and developed in accordance with previous practice.

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[Note] Some members proposed that the following clause be added to this Article: "The HKSAR Government shall list as public holidays religious commemoration days and folk festivals such as Buddhist festival, Christmas, and Easter." On the other hand, some members held that if the Basic Law specifically provided for religious holidays, other sectors might demand the provision for the holidays relevant to their sectors as well. Hence, it would not be appropriate to have any specific provision on this issue.

A member proposed that the following provision be added: "The HKSAR Government shall protect the existing rights of religious and charitable organisations in accordance with law, for example, those relating to the allocation of land, renewal of land leases, exemption from tax and rates payment, etc., shall be retained." Some members held that the foregoing proposal was within the scope of economy and should be dealt with by the Subgroup on Economy.

Article 8: Religious organisations and believers may maintain their previous relations with religious organisations and believers elsewhere.

Article 9: The HKSAR Government shall on its own decide the way to accredit and confer qualifications for professional practice.

Those who have obtained qualifications for professional practice before the establishment of the HKSAR may maintain their previous qualifications.

The HKSAR shall maintain the professions and professional organisations which have been recognised before the establishment of the HKSAR, and shall recognise new professions and professional organisations in accordance with the needs in social development.

[Note] A member suggested that the provision should also state that professional organisations may on their own decide professional qualifications, determine the standards of their respective professions, and decide and implement the codes of practice of their respective professions. The majority of members considered that such questions were internal affairs of professional organisations and should not be written in the Basic Law.



(It was proposed that the details of religious freedom be written in an annex to the Basic Law. Another member suggested deleting the following clause in the second paragraph: "The previous rights and interests in respect of property shall be maintained and protected.")

Article 7: Religious organisations and believers may maintain their previous relations with religious organisations and believers elsewhere.

Article 8: The HKSAR Government shall decide on its own the way to accredit and confer licensing qualifications. The way to accredit and confer licensing qualifications previously adopted in Hong Kong shall be maintained.

Those who have obtained professional and licensing qualifications before the establishment of the HKSAR may maintain their previous qualifications.

The HKSAR shall maintain the professions and professional organisations which have been recognised before the establishment of the HKSAR, and professional qualifications shall be accredited and conferred by those professional organisations in accordance with the previous practice.

The HKSAR may recognise new professions and professional organisations in accordance with the needs in social development and the opinions of the professional organisations concerned.

Article 10: The HKSAR Government shall support and develop sporting activities. Previous non-governmental sports organisations may continue to exist and develop in accordance with law.

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Article 11: The HKSAR shall maintain the policy previously practised in Hong Kong regarding the provision of subventions to organisations in all fields, including education, medicine, culture, arts, recreation, sports, social welfare, and social work. After the establishment of the HKSAR, personnel previously serving in subvented organisations in Hong Kong may remain in employment in accordance with the previous system.

Article 12: The HKSAR Government shall maintain the previous social welfare in Hong Kong and decide on its own the development and improvement of social welfare in accordance with economic conditions and social needs.

Article 13: Voluntary organisations engaged in social service in the HKSAR may on their own decide their forms of service.

Article 14: The HKSAR shall on its own formulate laws and policies regarding labour in the light of economic development, social needs, and the actual circumstances of labour-management consultations.

Article 15: The relationship between non-governmental organisations of all fields, including education, science, technology, culture, sports, the professions, and social welfare, in the HKSAR as well as religious organisations in the HKSAR, and their counterparts in the mainland shall abide by the principles of non-subordination, non-interference, and mutual respect.

Article 9: The HKSAR Government shall on its own decide policies regarding sports and recreational activities.

Previous non-governmental sports and recreational organisations in Hong Kong may continue to exist and developed in accordance with law.

Article 10: The HKSAR shall maintain the policy previously practised in Hong Kong regarding the provision of subventions to organisations in all fields, including education, medicine, culture, arts, recreation, sports, social welfare, and social work, and shall decide on its own their development and improvement in the light of economic conditions and social needs.

After the establishment of the HKSAR, personnel previously serving in subvented organisations in Hong Kong may remain in employment in accordance with the previous system.

Article 11: The HKSAR Government shall maintain the previous social service\* in Hong Kong and decide on its own the development and improvement of social service\* the light of actual social conditions.

Article 12: Voluntary organisations engaged in social service\* in the HKSAR may on its own decide their forms of service.

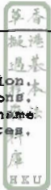
\* (According to the definition adopted by the Government at present, social service includes the following five aspects, namely, housing, welfare, labour, medicine and education.)

Article 13: The HKSAR shall, in the light of actual social conditions and with reference to the existing labour legislation in Hong Kong, on its own formulate laws and policies regarding labour.

(A member proposed that the following clause be added: "The provisions of the International Labour Convention which are applicable to Hong Kong shall remain in force.")

Article 14: Non-governmental organisations of all fields, including education, science, technology, culture, sports, the professions, and social welfare, in the HKSAR, as well as religious organisations in the HKSAR, and those in the mainland shall not be subordinate to each other or interfere with each other, but shall respect each other.

(A member held that the phrase "shall respect each other" should be deleted because it was not a legal concept and should not be written into the Basic Law.)



Article 16: Organisations in all fields, including education, science, technology, culture, sports, health, the professions, social welfare and religion, in the HKSAR may, using the name "Hong Kong, China", maintain and develop relations with states, regions and relevant international organisations.

[Note] If the above contents regarding organisations in all fields, including education, science, technology, sports, health, the professions, social welfare and religion were added to a relevant provision in Chapter 7 on External Affairs of the HKSAR, this Article could be deleted.

Article 15: Non-governmental organisations of all fields, including education, science, technology, culture, sports, health, the professions, social welfare, and religion, in the HKSAR may, using the name "Hong Kong, China", maintain and develop relations with states, regions and relevant international organisations.

# 對基本法第六章條文草稿 (一九八七年八月)的意見

(1987年11月4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

# 對基本法第六章條文草稿 (一九八七年八月)的意見

(1987年11月4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

前言

本組在討論第六章條文草稿時，基本上是根據以下的原則：《中英聯合聲明》所載明的規定必須在基本法中有所體現。基於此，本組對草委就第六章發表的一些意見（見於“意見匯集”）不能全完同意，例如有關第一條：“香港特別行政區政府保持原在香港實行的教育制度”，有的草委認為在“保持”一詞前加上“可”字，本組認為這建議不符合《中英聯合聲明》附件一第十節的規定：“香港特別行政區保持原在香港實行的教育制度”。還有，對於第十一條：“香港特別行政區保持原在香港實行的對教育、醫療、文化、藝術...的資助政策”，有的草委建議去掉“保持”二字，本組也基於上述原則予以反對。

對於草委就第六章發表的“意見匯集”，本組不會就每項內容提出意見，但本組已將匯集中可取的意見採納為本組的建議（見於下文），對於其他建議，經本組與討論稿條文相比後，本組仍比較接受後者。有關本組在上一階段提交的“社會生活方式”最後報告，本組發覺第六章並沒有將有關內容包括，希望草委可說明處理這問題的方法。

以下為本組對第六章（一九八七年八月稿）的具體建議。

條文草稿

諮委建議

標題： 香港特別行政區的教育、科學、技術、文化、體育和宗教

第一條 香港特別行政區保持原在香港實行的教育制度。

香港特別行政區教育事業的發展和改進，由香港特別行政區自行決定。

第二條 香港特別行政區政府自行制定本行政區教育方面的政策，包括教育體制及管理、教學語言、經費分配、考試制度、學位制度和承認學歷等政策。  
各社會團體和私人可依法在香港特別行政區興辦各教育事業。

標題： 香港特別行政區的教育、科學、技術、文化、體育、宗教、勞工和福利

第一條 除香港特別行政區政府自行制定有關教育制度的發展和改進的政策外，香港特別行政區政府保持原在香港實行的教育制度。香港特別行政區自行制定本行政區教育方面的政策，包括教育體制及管理、教學語言、經費分配、考試制度、學位制度和承認學歷等政策。

（會後有委員提出書面意見，建議將本條修改為：“香港特別行政區保持原在香港實行的教育制度。”）

第二條 各社會團體和私人可依法在香港特別行政區興辦各種教育事業。  
各類院校均可保留其自主性及享有學術自由，並可繼續從香港特別行政區以外招聘教職員和選用教材。



宗教團體所辦的學校可繼續開設宗教課程。學生享有選擇院教和在香港特別行政區以外求學的自由。

(有委員建議將第二款首句修改為：“各類院校在符合香港特別行政區政府制定的教育政策下，均可保留其自主性並享有學術自由”。會後有委員提出書面意見，建議將本條修改為：“香港特別行政區自行制定教育方面的政策，包括教育體制及管理、教學語言、經費分配、考試制度、學位制度和承認學歷等政策，同時，自行決定教育事業的發展和改進。”)

(會後有委員提出書面意見，建議將本條修改為：“各類院校均可保留其自主性並享有學術自由，可繼續從香港特別行政區以外招聘教職員和選用教材。

宗教團體所辦的學校可繼續開設宗教課程。學生享有選擇院校和在香港特別行政區以外求學的自由。

各社會團體和私人可依法在香港特別行政區興辦各種教育事業。”)

**第三條** 各類院校均可保留其自主性並享有學術自由，可繼續從香港特別行政區以外招聘教職員和選用教材。宗教團體所辦的學校可繼續開設宗教課程。學生享有選擇院校和在香港特別行政區以外求學的自由。

**第四條** 香港特別行政區政府發展醫療衛生事業，發展現代醫藥和我國傳統醫藥，鼓勵和支持社會團體和私人機構舉辦各種醫療衛生事業。

**第五條** 香港特別行政區政府發展科學、技術事業，獎勵和保護科學、技術的研究成果和發明創造。香港特別行政區政府自行決定科學、技術的各類標準和規格。

**第六條** 香港特別行政區政府發展文化事業，獎勵和保護作者在文化創作中所獲得的成果、榮譽和合法權益。

**第三條** 香港特別行政區政府自行制定醫療衛生政策，發展現代醫藥和我國傳統醫藥。

各社會團體和私人可依法在香港特別行政區興辦各種醫療衛生事業。

**第四條** 香港特別行政區政府自行制定科學技術方面的政策。

香港特別行政區以法律保護科學技術的研究成果和發明創造。

**第五條** 香港特別行政區政府自行制定文化政策。香港特別行政區以法律保護作者在文化領域中創作所獲得的成果和利益。

**第七條** 香港特別行政區政府不干預、不限制宗教活動和宗教團體的内部事務。宗教活動不得與香港特別行政區法律相抵觸。

宗教團體依法享有財產的取得、使用、處置、繼承以及接受資助的權利。財產方面的原有權益仍予保持和保護。

宗教團體所辦的宗教院校和其他院校以及醫院、福利機構和其他社會事業，可按照原有的辦法繼續存在和發展。

(說明) 有些委員建議，本條應增寫“香港特別行政區政府得將宗教紀念日及民間節日，例如佛誕、聖誕節復活節等，統一編列為公眾假期”。有些委員則認為，如特別規定宗教假日，各界可能要求增寫本界的節假日，故不宜特別規定。

有的委員建議，應增寫“香港特別行政區政府依據法律保障宗教及慈善團體的各種固有權利，如有關撥地、批地契、豁免差餉與稅項等，均予繼續保持”。有些委員認為上述內容屬經濟範疇，建議由經濟專題小組研究解決。

**第八條** 宗教組織和教徒可同其他地方的宗教組織和教徒保持原有的關係。

**第九條** 香港特別行政區政府自行制定關於各種專業執業資格的審定和授予辦法。在香港特別行政區成立以前原已取得專業執業資格者，可以保持原有的資格。

香港特別行政區保留在特別行政區成立以前已承認的專業和專業團體，並根據社會發展需要承認新的專業和專業團體。

**第六條** 香港特別行政區政府不干預宗教團體的内部事務，不限制與香港特別行政區法律沒有抵觸的宗教活動。

宗教團體依法享有財產的取得、使用、處置、繼承以及接受資助的權利。財產方面的原有權益仍予保持和保護。

宗教團體所辦的宗教院校和其他院校以及醫院、福利機構和其他社會事業，可按照原有的辦法繼續存在和發展。

(有建議將宗教自由的詳細內容寫在基本法的附件中。另有委員建議在第二款刪去“財產方面的原有權益仍予保持和保護。”一句。)

**第七條** 宗教組織和教徒可同其他地方的宗教組織和教徒保持原有的關係。

**第八條** 香港特別行政區政府自行制定關於各種執業資格的審定和授予辦法。原在香港實行的各種執業資格的審定和授予辦法則予保留。

在香港特別行政區成立以前原已取得專業和執業資格者，可以保持原有的資格。

香港特別行政區保留在特別行政區成立以前已承認的專業和專業團體，照原有辦法由該等專業團體審定和授予專業資格。

(說明) 有的委員提出，條文還應寫明專業團體可自行制定專業資格，確定有關的專業水平和制定及執行專業守則。多數委員認為這是專業團體內部事務，不宜寫在基本法內。

第十條 香港特別行政區政府支持和發展體育事業。香港原有的民間體育團體可依法繼續存在和發展。

第十一條 香港特別行政區保持原在香港實行的對教育、醫療、文化、藝術、康樂、體育、社會福利、社會工作等機構的資助政策。香港特別行政區成立後，原在香港各資助機構任職的人員均可根據原有制度繼續聘用。

第十二條 香港特別行政區政府保持原有的社會福利，並根據經濟條件和社會需要，自行決定其發展和改進。

第十三條 香港特別行政區從事社會服務的志願團體可自行決定其服務方式。

第十四條 香港特別行政區根據經濟發展、社會需要和勞資協商的實際情況，自行制定有關勞工的法律和政策。

香港特別行政區可根據社會發展需要及有關專業團體意見，承認新的專業和專業團體。

第九條 香港特別行政區政府自行制定體育及康樂活動方面的政策。

香港原有的民間體育團體可依法繼續存在和發展。

第十條 香港特別行政區保持原在香港實行的對教育、醫療、文化、藝術、康樂、體育、社會福利、社會工作等機構的資助政策，並根據經濟條件和社會需要，自行決定其發展和改進。

香港特別行政區成立後，原在香港各資助機構任職的人員均可根據原有制度繼續聘用。

第十一條 香港特別行政區政府保持原有的社會服務\*，並按社會的實際情況，自行決定其發展和改進。

第十二條 香港特別行政區從事社會服務\*的志願團體可自行決定其服務方式。

\*(根據現時政府的定義，社會服務包括房屋、福利、勞工、醫療和教育這五方面。)

第十三條 香港特別行政區按社會的實際情況，並參照香港的現行勞工法例，自行制定有關勞工的法律和政策。

(有委員建議在本條寫上“國際勞工公約適用於香港的規定繼續有效。”) )

第十五條 香港特別行政區的教育、科學、技術、文化、體育、專業、社會福利等方面的民間團體以及宗教團體同內地相應的團體的關係，應遵守互不隸屬、互不干涉和互相尊重的原則。

第十六條 香港特別行政區的教育、科學、技術、文化、體育、衛生、專業、社會福利以及宗教等組織可以“中國香港”的名義，同世界各國、各地區及有關國際組織保持和發展關係

(說明) 如果第七章“香港特別行政區的對外事務”的有關條文中增列上述教育、科學、技術、衛生、專業、社會福利以及宗教等內容，則本條可刪去。

第十四條 香港特別行政區的教育、科學、技術、文化、體育、專業、社會福利等方面的民間團體以及宗教團體同內地相應的團體互不隸屬、互不干涉和互相尊重。

(有委員認為應將“互相尊重”刪去，因為這不是法律概念，故不應寫在基本法內。)

第十五條 香港特別行政區的教育、科學、技術、文化、體育、衛生、專業、社會福利以及宗教等民間組織可以“中國香港”的名義，同世界各國、各地區及有關國際組織保持和發展關係。