

# **Consultative Governance, Legitimacy Problem and Democracy Deficit in Macau**

**Sonny Shiu-Hing LO\***

## **1. Introduction**

Since the establishment of the Macau Special Administrative Region (MSAR) of the People's Republic of China (PRC) on 20<sup>th</sup> December 1999, the MSAR governance has been characterized by a consultative style. This feature was prominent during the Edmund Ho Hau Wah administration from 1999 to 2009, whereas the current Fernando Chui Sai On government is elevating consultative governance as a "sunshine policy." Indeed, from a comparative perspective, consultative governance is aimed at legitimizing any regime; nevertheless, in the case of the MSAR, consultative governance has arguably been marked by not only a persistent effort by various government agencies to collect public opinion qualitatively but also a democracy deficit. This democracy deficit is defined here as the absence of sufficient governmental efforts at institutionalizing and stimulating citizen participation in the processes of public policy-making and formulation (Bovard, 2005; Institute on Governance, 2005; Bekkers, 2007). Although Macau is by no means a Western-style democracy where the chief executive is directly elected by citizens, its governance is characterized by governmental consultation with public opinion. Still, there is a lack of democratic elements in Macau's style of consultative governance, as this paper will argue. If democratization of the MSAR institutions can be implemented at the grassroots level, and at the legislative level, consultative governance in Macau would arguably be strengthened and its regime legitimacy would be consolidated rather than being undermined.

## **2. The Modes and Problems of Consultative Governance in Macau**

Consultation with the public is arguably a significant way of reinventing the government and making it more approachable or accessible to the ordinary citizens, thus narrowing the gap between the rulers and the ruled (Osborne and Plastrik, 1997; OECD, 2001; Davis and Weller, 2001). From a comparative perspective, consultative governance can be seen in many city-states, especially Macau's neighbour the Hong Kong Special Administrative Region (HKSAR). Consultative governance in the HKSAR has taken the form of establishing various grassroots level institutions, such as District Councils, District Management Committees, Mutual Aid Committees and Owners Corporations, to improve the way in which local administration is governed (Lo, 2001). This consultative style is not new because the British colonial authorities had long injected various consultative committees to tap the views of interest groups and individual citizens even before Hong Kong's sovereignty was returned from Britain to the PRC on 1<sup>st</sup> July 1997 (Miners, 1998). Through citizen and elite participation in these grassroots-level institutions, district-level officials in the HKSAR have to listen to the views of elected members of District Councils and appointed members of District Management Committees, whereas citizens in private and public housing can learn how to govern their own affairs through a network of Owners Corporations and Mutual Aid Committees. In recent years, with the rise of party politics in Hong Kong, many of these grassroots-level institutions has witnessed a certain

\* Professor in the Department of Social Sciences, the Hong Kong Institute of Education

degree of politicization, affecting the discussions in these committees in which members might join competing political parties and groups and struggling for political power (Lo, 2004). The recent decision by the HKSAR Government in 2010, with the support and approval of the Central Government in Beijing, to allow candidates from District Councils to run for the directly elected seats in the Legislative Council in the near future represents a significant step toward democratization. Combined with a partially democratized political system, consultative governance in the HKSAR can arguably legitimize the post-1997 administration, channel citizen participation skilfully to institutional discussions, and attempt to narrow the elite-mass gap.

The situation of Macau is similar to the HKSAR in that consultative governance is emphasized. Macau under the Portuguese rule set up the municipal councils, Legislative Assembly and various consultative committees on youth and environmental protection (Lo, 1996). However, the MSAR abolished the Municipal Councils shortly after the return of the territory's administrative right from Portugal to the PRC. Municipal Councils in Macau under Portuguese rule had both elected and appointed members, and they served as a useful channel for elite participation so that issues like the environment, library and public health could be discussed and tackled. The abolition of Municipal Councils by the MSAR Government was arguably not well thought immediately after Macau's return to China, but perhaps its decision was affected by the HKSAR decision to abolish the Urban Council and Regional Council. The HKSAR Government abolished the two Councils on the grounds that it needed to centralize the administration of public health and environmental issues after the outbreak of the bird flu in 1997-1998. From a critical perspective, however, the HKSAR Government made a policy error in that public health crises, like Severe Acute Respiratory Syndrome (SARS) broke out in 2002-2003, could erupt regardless of the existence of the two municipal councils. The two municipal councils in Hong Kong actually served the important functions of providing elite participation, checking the government on various environmental and health policies, and forced local-level officials to tackle grassroots concerns in a serious manner (Cheung, 2003).

Arguably, the MSAR Government, by following the HKSAR administration in abolishing the municipal councils, repeated the same mistake and deprived elites and community activists of a critical channel of participation (Lo, 2008). Although the Edmund Ho administration later set up the local district committees to consult the opinion of community elites and local activists on various policy issues, ranging from environmental hygiene to local transportation, the composition of these local district-level committees does not have any elected element.

The current Fernando Chui administration is keen to consult public opinion in a variety of ways. First and foremost, as the Chief Executive, Chui himself adopts a person-based diplomacy to consult the views of interest groups and individual citizens widely and extensively. The preparation of his annual policy address to the Legislative Assembly is a case in point. Prior to his policy address in 2010, Chui has actively and assertively consulted the opinions of Macau elites and masses, including civil servants, business people, educators, and Macau members of the PRC National People's Congress. Second, various government departments are mobilized to consult citizen opinions on their policies, especially the Public Affairs and Administration Department whose staff members visit districts and constituents to collect public opinions. Other departments such as environment, transport and education also hold forums and consultative sessions to listen to the views of the citizens. Third, the MSAR Government set up think tanks to conduct public opinion surveys to gather the views of citizens. The Chui administration has established a policy advisory committee under its Chief Executive Office to study various policy issues and options. Overall, it appears that the Chui administration has implemented an assertive policy of consultative governance.

Critics of consultative governance in the MSAR have argued that there were lots of activities involving official consultation with public opinion, but the outcomes appear to be unsatisfactory partly because some government departments consult public views less enthusiastically than others, and partly because the government on the whole does not generate an image of adopting the views of the public. In September 2010, the

Public Affairs and Administration Department issued guidelines to all departments on how they can consult public opinion. Clearly, different government departments have their own conceptions of how consultative governance should be conducted.

Another problem of consultative governance in Macau is that bureaucrats are encouraged to consult the views of the public without knowing how public opinion can be aggregated, analyzed and utilized in the policy-making processes. Unless the performance appraisal system assessing the work of senior civil servants includes the degree of public consultation as one of the criteria, it is difficult to see how senior bureaucrats will really take public consultation into serious consideration in their policy-making decisions. On the import of labourers from China and other Southeast Asian states, for example, local workers and unemployed working-class members complain frequently that the MSAR Government has done insufficiently. Some also complained in May 2009 that the labour-related officials did not receive their petitions. Similarly, on the availability of public housing, some citizens complain that the gap between the rich and the poor remains so serious that they do not afford to live in apartments that they own. Although the Chui administration vows to increase the units of public housing, there seems to be a persistent gap between public perception on the effectiveness of governmental consultation and the governmental insistence on the need to consult the views of ordinary citizens. Arguably, the absence of bureaucratic incentive in consulting public opinion and the citizen perception of a non-consultative regime have undermined the effectiveness of consultative governance in Macau.

This discrepancy in bureaucratic response to consultative governance and public perception of governmental consultation can arguably be ameliorated by a more assertive regime keen to implement democratization. In other words, using democratic reforms at the grassroots level can compensate for the weaknesses of persistent bureaucratic inertia and public indifference to and distrust of consultative governance.

### **3. Consultative Governance and Legitimacy Problem**

To many Macau citizens, the Macau Chief Executive is elected by a group of elites and endorsed by the Central Government in Beijing. As such, the power origin of the Chief Executive and his politically appointed officials comes from the Central Government rather than the ordinary people of Macau. This is natural given the ways in which the Chief Executive is elected. As such, the legitimacy of the Macau government is based more on its performance, especially economic performance, rather than how the Chief Executive and his political appointees are selected. To use the late Samuel Huntington's terminology, Macau has been traditionally assessed by its citizens more on performance legitimacy than on procedural aspects (Huntington, 1991).

The ruling philosophical assumption held by both the Edmund Ho and Fernando Chui administrations is that consultative governance can legitimize the MSAR regime. This assumption is understandable given the political tradition that many intellectuals and educated elites in the Macau society have been co-opted into the establishment. They include business people, academics, educators, professionals, religious leaders, labour unionists and legal experts. Nevertheless, from a critical perspective, the politico-administrative absorption of elites can stabilize the society and polity so long as the civil society is relatively weak and as long as the masses accept the legitimacy of elite rule. Recent years, however, have witnessed the constant and almost annual confrontations between the police and street protestors, particularly on 1<sup>st</sup> May as the working-class unionists are keen to take their complaints to the streets of Macau. The recent rise in the activities of new social groups and civic associations also envisages various forums that critically discuss various social, economic and political affairs of the MSAR. If so, more citizens and groups are actually demanding for a reform of the procedural legitimacy of the MSAR. In their eyes, there is a democracy deficit in the MSAR and legitimacy stems not simply from performance of the government but also from the procedures in which their representatives and political leaders are selected.

If this analysis is accurate, the legitimacy problem, if not crisis, of the current MSAR Government is that some citizens and groups perceive the existence of a legitimacy problem, which stems from the democracy deficit of Macau where the ruling elites have so far failed to put forward concrete plans and options on how the Macau political system should move forward in a more accountable and responsive manner.

Indeed, Macau has relied on its rapid economic development, mainly through casino capitalism, as a means to buttress and strengthen its regime's performance legitimacy (Lo, 2009). On the other hand, casino capitalism also delegitimizes the Macau government by widening the income gap between the rich and the poor, exacerbating the dominance of the capitalist class over the working class both inside and outside the casino industry, and bringing about social ills such as addictive gambling and cross-border crime (Leung and Lo, 2010). If casino capitalism has brought about contradictory or dialectical tendencies in Macau's regime legitimacy, its administration has been forced to distribute more subsidies to individual citizens so as to tackle the detrimental impacts of casino-driven economic growth. Hence, Macau under the context of casino capitalism is by no means secure in its performance legitimacy. Arguably, consultative governance has to be inclusive as most citizens and groups as possible so that a corporatist and co-optive regime can win the hearts and the minds of most Macau people. Still, consultative governance in Macau has its exclusive and selective nature; individual citizens and groups critical of the MSAR Government are quite often marginalized politically and sidelined in the quest for public opinion. This problem of selective consultation widens the communication gap between the haves and the have-nots and between the capitalist class and the working-class. From a Marxist perspective, so long as the capitalist class, including both the casino capitalist elite and the ruling stratum, maintains political power in Macau, the legitimacy problem of the MSAR persists. Even if the crisis of legitimacy is by no means apparent, it surfaced whenever a governing crisis broke out, such as the revelation of the Ao Man Long scandal in late 2006 and early 2007. The confrontation between police and the protestors on 1<sup>st</sup> May 2007 was a testimony to the latent

legitimacy crisis or the persistent legitimacy problem in the MSAR.

Macau's consultative governance has recently been marred by the failure of the MSAR Government in setting policy agendas skilfully so as to avoid unnecessary public controversy and citizen distrust of the regime. A case in point was the sudden introduction of the issue of the rights of civil servants to enjoy having legal aid. The governmental argument was that civil servants should enjoy having the right of legal aid so as to protect their interest. However, critics argued that civil servants should not have the privilege of being protected by the government, that they would be unnecessarily powerful, and that their right of enjoying access to legal aid would deter citizens from seeking redress of public grievances. Both sides of the arguments appeared to be valid. Nevertheless, the crux of the problem was that the Macau government put forward the issue of legal aid for civil servants at an inappropriate time when citizens saw the bureaucracy as relatively privileged and unresponsive to their demands. If the bureaucracy remains, as with the Edmund Ho administration, the target of persistent public sector reform rather than distracting public attention to the right of having legal aid on the part of civil servants, the Macau government's image could have avoided being tarnished and many citizens would not have seen it as giving undue priority to the protection of the interest and welfare of civil servants. In short, the controversy over the legal aid for civil servants proved that the MSAR Government sometimes failed to shape its policy agenda skilfully and sensitive so as to avoid having its own image tarnished. Consultative governance has arguably been undermined by inappropriate policy agenda setting in the MSAR.

#### **4. Democracy Deficit, Consultative Governance and Electoral Reforms**

As a matter of fact, the MSAR administration has since December 1999 lacked any concrete ideas on how to combine democratizing reforms with consultative governance. Arguably, democratization of Macau's political institutions can consolidate consultative

governance and strengthen regime legitimacy in the long run. Moreover, through democratization, the elite-mass gap as often seen in the confrontation between police and working-class activists can be perhaps minimized.

Democratization of Macau's political institutions can be considered in a number of ways. First and foremost, at the Legislative Assembly level, electoral reforms should ideally be implemented on two major areas: (1) a possible expansion of the overall number of legislators so that the elected representatives will better reflect the population's views; and (2) a need to amend how some indirectly elected legislators will be selected through the revamp of the franchise and the reform of occupational groups (business, sports, charity and religious as well as labour) that have returned the people's representatives to the Legislative Assembly. With an expanding population in Macau, it is imperative for the administration to reform the composition and election method of the Legislative Assembly. However, so far no government document has been published on how to move the legislative reforms forward.

Second, at the grassroots level, the district-level consultative committees under the jurisdiction of the Public Affairs and Administration Department should witness some directly elected members parallel to the good old days during which the two Municipal Councils had the participation of many directly elected representatives. What the district-level committees are operating is actually similar to the functions of the two now-defunct Municipal Councils. But at the present, the Macau government shies away from proposing any scheme that would inject any elected elements to the district-level committees, and which would narrow the gap between the elites and the masses. One favoured justification for inaction in democratic reform at the grassroots level is that the people of Macau should study and understand the mini-constitution of Macau, namely the *MSAR Basic Law*. This again bureaucratic excuse has failed to understand the necessity of reforming Macau's political institutions in an era during which more Macau citizens, especially intellectuals and young people, are more politically demanding than ever before. The emergence of civil society groups that have become increasingly concerned about Macau's social and political

affairs since the last several years is a testimony to an embryonic civil society. Comparatively speaking, the civil society in Macau remains less developed and assertive than the Hong Kong counterpart. But it can be anticipated with the increase in the educational level of Macau citizens, with the maturity of more civil society groups, the MSAR Government will increasingly encounter a more assertive and vociferous civil society than ever before. In the event that the MSAR Government remains stagnant in its ideas of political reforms both at the legislative and grassroots level, its legitimacy would perhaps be challenged in a more serious way in the near future.

Thirdly, the Public Affairs and Administration Department must arguably shoulder the responsibility of organizing the election of housing committees in all sorts of public and private housing units in Macau in a more aggressive and assertive manner. Recently, some housing residents have complained about the lack of housing self-management and organization. This could perhaps be attributable to the persistence of social and political apathy on the part of many housing residents, but it was also ascribable to the absence of sufficient governmental efforts at mobilizing housing residents to organize themselves and to manage their own affairs in a more assertive way. Compared to the management of private and public housing in the HKSAR, the MSAR remains to be improved further. These housing committees, if established comprehensively in Macau, can be ideally integrated into a newly elected district-based committee system in which some members can be elected from various housing committees, both public and private ones. Unfortunately, so far, there is no government document which proposed how to integrate the reform of housing committees, both private and public, into the reform of the district-based consultative committees.

Fourth, another area of democracy deficit in Macau is that, from the court hearings of the Ao Man Long scandal in which the former Secretary for Transport and Public Works was found guilty of taking bribes, the discretion of Ao, as a politically appointed official, in granting land and construction projects to the private sector was not curbed. In Macau, politically appointed officials can issue directives so that their subordinates,

including senior civil servants, follow. There is currently no rigorous review of, for example, how many directives are issued by each of the politically appointed officials in the MSAR since 20<sup>th</sup> December 1999. Arguably, an in-depth study and calculation of the number of directives issued by these politically appointed officials, and of the degree of obedience by their subordinates, is necessary so as to determine and perhaps plug a potentially huge loophole in the absence of accountability in the MSAR administration. If politically appointed officials can issue directives, as with the case of Ao, arbitrarily while senior civil servants, as a few in the case of Ao showed in the court hearings, followed the directives uncritically and obediently, the accountability of the MSAR administration is arguably at stake. If democratization entails a curtailment in the exercise of discretionary powers by the politically appointed officials, a study and review of the past and current practices are imperative.

Fifth, the Macau administration may need to consider integrating the existence of the current think tanks, including the newly created policy research committee under the Chief Executive Office, into the rubric of democratization. This does not mean that the policy research committee members will have to be elected by citizens; instead, their dialogue and communication with the social groups and citizens should be more transparent, more open, more intensive and more accessible than ever before. As with the Hong Kong Central Policy Unit, the Macau policy research committee under the Chief Executive Office should ideally hold conferences in which research papers should be made available to the public through its website, thus enhancing the degree of E-Government in the MSAR. Furthermore, members of the policy research committee should ideally visit the district-based committees to tap the views of the social activists, community leaders and ordinary citizens on various policy issues shaping the livelihood of the Macau people.

Sixth, the current town hall meetings held by the Public Affairs and Administration Department should ideally be reformed so that citizen participation will come extensively from various housing committees and social groups. Although the Department has been holding consultative sessions in public meeting halls, the mode

and extent of participation can be improved by, for example, requiring departmental officials to listen and respond to the views of citizens, and mobilizing housing committees concerned to take part in public meetings extensively and actively.

Seventh, to improve the quality of consultative governance, each government department should ideally be required to issue an annual report informing of the citizens and groups how it implements the policy of consultative governance or “sunshine” administration. The annual reports should be made accessible to the public through the departmental websites. This way, consultative governance or “sunshine policy” will be implemented substantially instead of having some bureaucrats to pay lip service and display formalism toward governmental consultation.

Eighth, while Macau has a powerful internal checks and balance mechanism through which the Audit Commissioner and the Commission Against Corruption are playing a critical role in ensuring the persistence of good and clean government in the MSAR, both bodies can also ideally build into various criteria of consultative governance into their assessment of various government departments. If government departments are required by the administration to issue annual reports that include their responses to any criticisms and concerns raised by the Audit Commissioner and the Commission Against Corruption, Macau’s consultative governance would bring about enhanced accountability and improved transparency.

Ninth, the performance appraisal of all civil servants should ideally build in the element of “sunshine administration” so that they will have stronger incentives to not only consult public opinions but also respond to them. In the annual performance appraisal of civil servants, especially for those who need to interact with citizens and groups frequently, the degree to which they consult public opinions and the extent of governmental responsiveness should be embraced. This does not mean that all civil servants have to respond favourably to all public demands – an impossible task as the bureaucratic elites have to judge whether some demands are feasible or not. However, the performance appraisal system of senior, middle-ranking and grassroots-level civil servants must

embrace the twin pillars of consulting with and respond to public opinions so that consultative governance will be legally enshrined and entrenched.

Tenth, in terms of the public access to government documents, each department should review how to ensure that its documents that are not of confidential nature will be accessible to the public for understanding and research in a more active and open manner. At present, there seems to be no discussion on how all government departments can make their non-confidential materials accessible to the public through the Macau archive in a far more transparent way so that the mass media, academia and ordinary people will have their right of access to government information. If “sunshine administration” entails the public access to government information and documents, it is high time for the MSAR government, its archival officials and the public to reform this important aspect so that consultative governance will be fully backed up by empirical evidence and documentary accessibility.

## 5. Conclusion

In order to consolidate regime legitimacy, in both performance and procedural terms, the Macau administration can arguably improve its stress on consultative governance through democratization. Democratization of Macau embraces not only institutional dimensions but also consultative, bureaucratic and policy aspects. Institutionally speaking, the composition and the selection method of the Legislative Assembly should be ideally revamped and reviewed. Furthermore, the existing and relatively new district-based consultative committees should be expanded and injected with elected elements so as to widen public participation into various policy-making processes. Consultatively, citizen mobilization should ideally be launched so as to involve more citizens from various housing committees and social groups in the public consultative sessions and town hall meetings. Bureaucratically speaking, the directives issues by politically appointed officials should be checked, curbed and reviewed, whereas civil servants’ performance

appraisal system should also be revamped to incorporate elements of consultative governance and governmental responsiveness. In terms of policy-making processes, government departments should be required to issue annual reports and publish their responses in their websites after public opinions are solicited, thus entrenching and developing an administrative culture of consultation and responsiveness, as well as establishing the foundation of e-government. Think tanks should be required to hold conferences and forums in which research papers and discussions should be made available to the public through their websites and other governmental channels. Last but not the least, a more transparent and a new archival policy reviewing the accessibility of government documents should be conducted in each government department so that the spirit of the “sunshine administration” would be really implemented.

Given the fact that the civil society in Macau has been growing, that the middle class is increasing, and that a rise in the educational level are going to enhance new demands and expectations on the government of the MSAR, it is imperative for the post-colonial regime to democratize its governance consultatively, bureaucratically and also in policy aspects, as argued in this paper. Otherwise, the persistent stagnation in political reform, continuity in bureaucratic inertia and inadequacy of public access to government documents will sooner or later plunge the latent legitimacy problem of the MSAR Government into a crisis. To pre-empt such a crisis from sudden eruption, the MSAR administration should accelerate the democratization of political institutions and the transformation of bureaucratic culture from relative closeness to openness. If so, Macau would be able to maintain its relatively high degree of social and political stability while developing democratization gradually in accordance with its slowly changing political culture and sustained social and educational development. The constant complaints about the lack of governmental consultation and transparency in the MSAR are signs that consultative governance has achieved limited successes in co-opting the elites and winning the hearts and minds of the masses. It is imperative for the MSAR Government to be more proactive and much bolder in its ruling

philosophy, incorporating more ingredients of democratization into the existing institutions, bureaucracy and

policy-making processes so that the challenges to Macau's legitimacy would be pre-empted and tackled.

## Bibliography:

---

1. Bekkers, V. J. J. M. (2007). *Governance and the Democratic Deficit*. Aldeershot: Ashgate.
2. Bovard, J. (2005). *Attention Deficit Democracy*. New York: Palgrave.
3. Cheung, C. (2003). Local Administrative Reforms and Decentralization in Hong Kong. Unpublished MPhil Dissertation, Department of Politics and Public Administration, University of Hong Kong.
4. Davis, G. and P. M. Weller (2001). *Are You Being Served? State, Citizens and Governance*. New South Wales: Allen and Unwin.
5. Huntington, S. (1991). *The Third Wave: Democratization in the Twentieth Century*. Norman: University of Oklahoma Press.
6. Institute on Governance (2005). *Roundtable on the Democratic Deficit, Citizen Engagement and Consultation*. Ottawa: Institute on Governance.
7. Leung, B. and S. Lo (Eds.) (2010). *The Gaming Industry in China's Macau* (in Chinese). Hong Kong: City University of Hong Kong Press.
8. Lo, S. S.-H. (2009). Casino Capitalism and Its Legitimacy Impact on the Politico-administrative State in Macau. *Journal of Current Chinese Affairs: China Aktuell*. Volume 18, No. 1. 19-47.
9. Lo, S. S.-H. (2008). *Political Change in Macau*. London: Routledge.
10. Lo, S. S.-H. (2004). Party Penetration of Society: Political Parties and Mutual Aid Committees in Hong Kong. *Asian Journal of Political Science*. Volume 12, No. 1. 31-64.
11. Lo, S. S.-H. (2001). *Governing Hong Kong: Legitimacy, Communication and Political Decay*. New York: Nova Science.
12. Lo, S. S.-H. (1996). *Political Development in Macau*. Hong Kong: The Chinese University Press.
13. Miners, N. (1998). *The Government and Politics of Hong Kong*. Hong Kong: Oxford University Press.
14. OECD (2001). *Citizens as Partners: Information, Consultation and Public Participation in Policy-Making*. Paris: Organization for Economic Cooperation and Development.
15. Osborne, D. and P. Plastrik (1997). *Banishing Bureaucracy: The Five Strategies for Reinventing Government*. Massachusetts: Addison-Wesley.