

*Issue 34 (06/2012)*

**Submissions to the Legislative Council  
in support of the setup of the Cultural Bureau**  
支持文化局的設立

*English*

**Foreword**

Apart from legal work, our firm is interested in social issues. We collaborated with Yahoo to offer free legal advice in their platform of Knowledge Plus (知識+) (<http://hk.knowledge.yahoo.com/my/my?show=HA08322191>) and maintained a Blog in Yahoo (<http://blog.yahoo.com/BA3TB4M6ZYEIHQDCZBRR5BUVJI/>) to allow legal discussions with the netizens. Law does not function alone. The understanding of dynamics of the society of Hong Kong will be the wisdom necessary for lawyers to apply law sensibly. This is why our senior Partner Mr. Maurice Lee made regular submissions to the Legislative Council ("LegCo") on legislative issues.

The re-organization of the Government Secretariat (concerning 3 Secretaries, 2 Deputy Secretaries and 14 Bureaus) proposed by the new Chief Executive Mr. CY Leung has attracted a lot of public attention. Particularly, the setup of the Cultural Bureau encountered great debates. In support of the setup of the Cultural Bureau, Mr. Lee made submissions to LegCo on 17 May 2012 to explain why Hong Kong does seriously need a Cultural Bureau.

The following summarizes Mr. Lee's submissions to LegCo. If you would like to express your view on the issue, please submit your views to LegCo and visit their webpage at <http://www.legco.gov.hk>.

## **Submissions**

(Summary)

### **(A) Background**

I am a practising solicitor, former Vice-Chairman of the Arts Development Council and former Director of the Hong Kong Design Centre. I am currently a member of the Advisory Committee on Arts Development. My devotion to and experience in the cultural industries backdated to 80s during which I worked as a part-time screenwriter, radio program host and newspaper columnist. I now serve as the legal adviser to various organizations in art, film, music, design and drama groups. I hope that my sharing here may be helpful.

### **(B) Culture**

- Our society consists of 4 fundamentals, namely politics, economy, livelihood of people and culture.
- For the past years, the pace of cultural development in Hong Kong was not fast enough. We may be behind the world-class cities such as New York, London and Paris. Big cities in Asia such as Tokyo, Seoul, Taipei and Beijing are competing with us vigorously.
- Culture is about the soul of Hong Kong but nowadays, it can also be a creative economic new force.

### **(C) Contribution of Culture to the Society**

- Enhances social harmony and spiritual well-being of a society.
- “Cultural economy” is a new concept and the creative industries thereunder can stimulate new economic growth.
- For creative industries, academic qualifications and experience of a person are usually not entry barriers. A college young man can create miracles for example in music or design. Creative industries can open up new opportunities for the young and help promote social and economic mobility in Hong Kong. The success of Facebook in America is a good example.

**(D) Five reasons for setting up the Cultural Bureau**

1. The setup of the Cultural Bureau represents the Government's long-awaited commitment towards making Hong Kong a world class city with art and culture.
2. An independent Cultural Bureau will be in a better position to raise more financial resources from the Government and rally the support from the society in order to promote art, culture and creativity.
3. Under the existing government arrangements, art, culture and creative industries are handled by different bureaus. For example, art development is the jurisdiction of the Home Affairs Bureau whereas film industry is under the Commerce and Economic Development Bureau. Such artificial demarcation hinders the strengthening of efforts for art and culture development.

The centralized powers and functions of the Culture Bureau will enable it to better facilitate a culture ecology constituting the fundamentals thereof: visions and beliefs, supply of talents, supply of contents and activities, emergence of culture intermediaries such as art curators, consultants and managers etc and finally, social and economic demands for art and culture consumption.

4. With an independent Cultural Bureau, it will be able to coordinate with and lobby other bureaus to seek their support of implementing well-organized and integrated culture policies swiftly. For example, the influx of art talents into Hong Kong will require the support from Immigration Department. The promotion of public art will need the efforts of Lands Department and Highways Department.
5. Hong Kong has limited natural resources except our human resources. Compared with finance, commerce and other professional sectors, the quality of the human resources in art and culture has to be further improved, both in terms of quality and quantity, and also for the supply and demand side of the said ecology.

**Culture Ecology**

**4 Fundamentals:**

1. talents
2. contents and activities
3. intermediaries

#### 4. social and economic demands

##### **Examples:**

##### (1) Talents

Such as artists, designers, critics, teachers and philosophers etc.

##### (2) Contents and Activities

Such as visual art, performing art, film, music, dance, media art, literature, TV, radio, magazines, designs, architecture, comics and animation etc.

##### (3) Intermediaries

Such as art managers, curators, promoters, fund raisers, venue managers, auctioneers and even professional services like accountants and lawyers.

##### (4) Social and economic demands

Such as public demand for art and culture education opportunities, demand (including government demand) for art and design products, sponsorship and donation from commercial sectors and finally export of art and design etc.

##### **Caution**

Now, the setup of Culture Bureau raises the expectations of the people of Hong Kong. Our Government must be prepared to face the challenge of greater expectations. The public have higher expectations of Government's abilities to plan, mobilize, execute and accomplish results. Government is expected to increase the expenditure on the grooming of art, culture and creative industries.

中文版

## 支持文化局的設立

### 引言

本所除了處理法律工作外，更關心社會時事，法律來自社會，社會依靠法律。

應否設立文化局在近期引起市民不少關注，本所合夥人李偉民律師在 2012 年 5 月 17

日向立法會解釋設立文化局的五大好處。總括來說，一個專業及獨立的文化局，有助統籌、制定及推動香港整體的長遠文化政策，及製造一個良好的文化生態(culture ecology)，令香港精神面貌，以至創意經濟，更上一層樓。

藉此機會我們與你分享設立文化局的理由，如果你贊同以下觀點及支持設立文化局的話，歡迎向立法局提出你的寶貴意見。

### **A) 背景經驗**

我是律師，前藝術發展局副主席及香港設計中心董事，現為藝術發展委員會委員，八十年代開始兼職電視編劇、電台主持、專欄及小說作家、話劇投資者，也是文化、電影、演藝、音樂、舞台等多個團體的法律顧問。希望二十多年的經驗，對大家有幫助。

### **(B) 文化的重要**

物質是人類的生存基礎，文化是人類的生活靈魂，社會的成功，有賴四大支柱：政治、經濟、民生及文化的建設，可惜過去一百年，香港的文化發展強差人意。我們比起國際大都會紐約、倫敦、巴黎，已經落後。在亞洲，亦處於被東京、首爾、台北及北京爭鋒，如果現在香港不趕上，香港人只會停滯在慣於衣食住行的經濟動物素質。

### **(C) 文化的社會及經濟貢獻**

文化除了促進社會精神昇華及和諧外，文化更推動藝術氣氛和文化產業(creative economy)，香港目前的舊產業如金融、旅遊、商業等，發展到成熟極限，而新的創意產業如果成熟，會帶動新的經濟收益，在某程度上，改善了貧富懸殊，特別是年青人在社會及經濟向上游的機會(social mobility and economic mobility)，因為創意成就，很多時候未必和歲數以及教育程度掛鈎。

### **(D) 成立文化局的五個理由**

1. 如上述所說，文化是社會四大支柱，但是過去被香港忽略。現在成立文化局，代表政府終於重視香港的文明建設，追上世界的標準。
2. 文化提昇為一個局，不再依附其他局去分割管理，這地位有利文化局長向政府內部以至社會爭取更大的財政資源，支持文化藝術創意。因為香港的文化發展，仍處於起步階段，財政資源的大量投入，是初期無可避免的策略。
3. 過去，香港文化基建不受重視，由各個局「代母」管理，極不理想。舉例來說，藝術只是民政事務局康樂文化事務之一，而電影作為工業，放在商務及經濟發展局，但電影作為文化，卻分開在民政事務局，而文化保育可以又變成地政規劃的一部

份，放在發展局。文化的建設，必須由風氣、人才、內容、市民精神以及經濟需求 (art consumption) 綜合統一管理，才能產生理想的「文化生態環境」(culture ecology)，否則，一盤散沙，由出至入，不能一環扣一環。

4. 過去，文化基建只是某些局下面的一些恆常工作，層次較低，如成為獨立的局，可以增強局長去說服其他局給予支援。舉例來說，外地藝術人才的融和合作，有賴保安局入境政策的配合，藝術教育的工作，有賴教育局的重視，公共地方藝術(public art)有賴房屋、地政及路政的配合，故此，文化基礎是需要「跨局」攜手的，故此提昇文化局，有利「局局相惠」。
5. 香港沒有天然資源，我們有的是人才資源，現在我們金融、商業、專業等的人才都有了，獨是文化藝術設計創意產業的人才，供(supply)的不夠，求(demand)的亦不夠。

故此創意產業經濟(creative economy) 不成氣候，把文化精神及經濟的建設放在一個文化局長的膊頭上，有利市民的問責，督促政府達標。故此，我支持文化局的成立，但同時補充三點：

- (1) 文化局提高了文化界及市民的期望，要滿足提高了的期望，政府必須同時大量增加文化建設的財政資源，否則變成「有心無力」；
- (2) 香港向來文化藝術都享有高度創作和享受自由，我不相信政治教育或者反自由態度會成為文化局的任務；及
- (3) 有些觀點認為如果文化局找不到他們認為適合的局長，不如不成立，那是很短見的，因為人選是短期問題，問責制度上可以加上專職問責文化局，帶來長遠的好處。

#### **(E) 文化生態環境(Culture Ecology)**

為了文化基建，政府要重點發展四大板塊。

##### **(A) 四大板塊**

1. 人才(Talent)
2. 內容(Contents)
3. 行政中介(Intermediaries)
4. 需求(Demands)

##### **(B) 人才**

包括七大類：

1. 藝術家
2. 文化人
3. 設計師
4. 評論家
5. 娛樂工作者
6. 創意科技人才
7. 文化教育工作者

## (C) 內容

### 1. 藝術

包括十大類：

- (1) 視覺藝術(如畫、雕塑、攝影)
- (2) 表演藝術
- (3) 電影
- (4) 歌唱
- (5) 戲曲
- (6) 音樂
- (7) 舞蹈
- (8) 媒體藝術(Media Art)
- (9) 文學
- (10) 藝術評論

### 2. 文化工業

包括十一大類：

- (1) 設計(內含多類如平面、珠寶、服裝、室內、產品、形象等)
- (2) 電影
- (3) 電視
- (4) 電台
- (5) 報刊/雜誌
- (6) 建築
- (7) 電腦/網上文化產業
- (8) 廣告及後期製作
- (9) 出版
- (10) 流行音樂
- (11) 動漫

## **(D) 行政中介**

包括十三大類：

- (1) 經理人
- (2) 行政人才
- (3) 代理人
- (4) 策展活動
- (5) 推廣宣傳
- (6) 專業服務(會計及法律)
- (7) 專業保險
- (8) 融資
- (9) 場地經營管理
- (10) 雜誌
- (11) 評論
- (12) 票務網絡
- (13) 技術支援(如拍賣、舞台工程)

## **(E) 需求**

包括四大類：

- (1) 市民需求(消費及非消費性)
- (2) 政府需求
- (3) 商界需求
- (4) 外國需求(即文化輸出)

希望大家在百忙中能夠細閱，共同推動香港文化基建的世紀使命。 謝謝!

Nothing shall constitute legal advice to any person by Messrs. Maurice WM Lee Solicitors (Tel: (852) 2537 5833) (Website: www.wmleehk.com)

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