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中文版

支持文化局的设立

引言

本所除了处理法律工作外，更关心社会时事，法律来自社会，社会依靠法律。

应否设立文化局在近期引起市民不少關注，本所合伙人李伟民律师在 2012 年 5 月 17 日向立法会解释设立文化局的五大好处。总括来说，一个专业及独立的文化局，有助统筹、制定及推动香港整体的长远文化政策，及制造一个良好的文化生态(culture ecology)，令香港精神面貌，以至创意经济，更上一层楼。

藉此机会我们与你分享设立文化局的理由，如果你赞同以下观点及支持设立文化局的话，欢迎向立法局提出你的宝贵意见。

A) 背景经验

我是律师，前艺术发展局副局长及香港设计中心董事，现为艺术发展委员会委员，八十年代开始兼职电视编剧、电台主持、专栏及小说作家、话剧投资者，也是文化、电影、演艺、音乐、舞台等多个团体的法律顾问。希望二十多年的经验，对大家有帮助。

(B) 文化的重要

物质是人类的生存基础，文化是人类的生活灵魂，社会的成功，有赖四大支柱：政治、经济、民生及文化的建设，可惜过去一百年，香港的文化发展强差人意。我们比起国际大都会纽约、伦敦、巴黎，已经落后。在亚洲，亦处于被东京、首尔、台北及北京争锋，如果现在香港不赶上，香港人只会停滞在惯于衣食住行的经济动物素质。

(C) 文化的社会及经济贡献

文化除了促进社会精神升华及和谐外，文化更推动艺术气氛和文化产业(creative economy)，香港目前的旧产业如金融、旅游、商业等，发展到成熟极限，而新的创意

产业如果成熟，会带动新的经济收益，在某程度上，改善了贫富悬殊，特别是年青人在社会及经济向上游的机会(social mobility and economic mobility)，因为创意成就，很多时候未必和岁数以及教育程度挂钩。

(D) 成立文化局的五个理由

1. 如上述所说，文化是社会四大支柱，但是过去被香港忽略。现在成立文化局，代表政府终于重视香港的文明建设，追上世界的标准。
2. 文化提升为一个局，不再依附其他局去分割管理，这地位有利文化局长向政府内部以至社会争取更大的财政资源，支持文化艺术创意。因为香港的文化发展，仍处于起步阶段，财政资源的大量投入，是初期无可避免的策略。
3. 过去，香港文化基建不受重视，由各个局「代母」管理，极不理想。举例来说，艺术只是民政事务局康乐文化事务之一，而电影作为工业，放在商务及经济发展局，但电影作为文化，却分开在民政事务局，而文化保育可以又变成地政规划的一部份，放在发展局。文化的建设，必须由风气、人才、内容、市民精神以及经济需求(art consumption)综合统一管理，才能产生理想的「文化生态环境」(culture ecology)，否则，一盘散沙，由出至入，不能一环扣一环。
4. 过去，文化基建只是某些局下面的一些恒常工作，层次较低，如成为独立的局，可以增强局长去说服其他局给予支持。举例来说，外地艺术人才的融和合作，有赖保安局入境政策的配合，艺术教育的工作，有赖教育局的重视，公共地方艺术(public art)有赖房屋、地政及路政的配合，故此，文化基础是需要「跨局」携手的，故此提升文化局，有利「局局相惠」。
5. 香港没有天然资源，我们有的是人才资源，现在我们金融、商业、专业等的人才都有了，独是文化艺术设计创意产业的人才，供(supply)的不够，求(demand)的亦不够。

故此创意产业经济(creative economy)不成气候，把文化精神及经济的建设放在一个文化局长的膊头上，有利市民的问责，督促政府达标。故此，我支持文化局的成立，但同时补充三点：

- (1) 文化局提高了文化界及市民的期望，要满足提高了的期望，政府必须同时大量增加文化建设的财政资源，否则变成「有心无力」；
- (2) 香港向来文化艺术都享有高度创作和享受自由，我不相信政治教育或者反自由态度会成为文化局的任务；及

- (3) 有些观点认为如果文化局找不到他们认为适合的局长，不如不成立，那是很短见的，因为人选是短期问题，问责制度上可以加上专职问责文化局，带来长远的好处。

(E) 文化生态环境(Culture Ecology)

为了文化基建，政府要重点发展四大板块。

(A) 四大板块

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

(B) 人才

包括七大类：

1. 艺术家
2. 文化人
3. 设计师
4. 评论家
5. 娱乐工作者
6. 创意科技人才
7. 文化教育工作者

(C) 内容

1. 艺术

包括十大类：

- (1) 视觉艺术(如画、雕塑、摄影)
- (2) 表演艺术
- (3) 电影
- (4) 歌唱
- (5) 戏曲
- (6) 音乐
- (7) 舞蹈
- (8) 媒体艺术(Media Art)
- (9) 文学

(10) 艺术评论

2. 文化工业

包括十一大类:

- (1) 设计(内含多类如平面、珠宝、服装、室内、产品、形象等)
- (2) 电影
- (3) 电视
- (4) 电台
- (5) 报刊/杂志
- (6) 建筑
- (7) 电脑/网上文化产业
- (8) 广告及后期制作
- (9) 出版
- (10) 流行音乐
- (11) 动漫

(D) 行政中介

包括十三大类:

- (1) 经理人
- (2) 行政人才
- (3) 代理人
- (4) 策展活动
- (5) 推广宣传
- (6) 专业服务(会计及法律)
- (7) 专业保险
- (8) 融资
- (9) 场地经营管理
- (10) 杂志
- (11) 评论
- (12) 票务网络
- (13) 技术支持(如拍卖、舞台工程)

(E) 需求

包括四大类:

- (1) 市民需求(消费及非消费性)
- (2) 政府需求

- (3) 商界需求
- (4) 外国需求(即文化输出)

希望大家在百忙中能够细阅，共同推动香港文化基建的世纪使命。 谢谢!

Submissions to the Legislative Council

in support of the setup of the Cultural Bureau

支持文化局的设立

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.

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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