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**Long Way for Hong Kong to Achieve Democracy:
Urgent Call for the Archives Law to Protect
Valuable Government Records**

**Informational Interview with
Cyd Ho, JP (何秀蘭議員)
(Former) Legislative Councilor of Hong Kong**

by

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Abstract

Cyd Ho is a former member of the Legislative Council of Hong Kong (LegCo). She is a founding member of the Labour Party and currently holds the position of vice-chairperson. Since 2006, she has been a founding councilor of the World Future Council. She has a reputation for promoting the legislation for equal opportunity and the advancement in the interests of women and minority groups. In this interview, Ho explains the pressing issues of not having an archives law in Hong Kong and her work with the Archive Action Group (AAG) to fight for this.

Patrick Lo (PL): I understand you are a current member of the Legislative Council of Hong Kong (LegCo)¹, could you briefly introduce yourself, and why and how did become a member of the Archive Action Group (AAG)²?

Cyd Ho (CH): I have been a member of the Labour Party³ in Hong Kong since December 2011, and I currently hold the position of Vice-Chairwoman. I was first elected to the Legislative Council of Hong Kong (LegCo) in 1998. From 2004 to 2008, I resigned from my position. In 2008, I was elected into the LegCo again. I remember when I first met Simon Chu (the current President of the Hong Kong Archives

¹ Legislative Council of Hong Kong (LegCo) – Homepage. Available at: <http://www.legco.gov.hk/>

² Archive Action Group – Homepage. Available at: <http://archivesactiongroup.org/main/>

³ The Labour Party (Hong Kong) – Homepage. Available at: <http://labour.org.hk/>

Society⁴) at a public forum on the advocacy of the archives law in Hong Kong back in 2008. After retiring from his position as the Director of the Government Records Service⁵, Simon Chu has made it his life's work to advocate for an archives law for Hong Kong.

Simon Chu's dedication and passion in advocating for the archives law undoubtedly made a deep impression on me. At this public forum, Simon Chu and I discussed how we could address the urgent needs for implementing the archives law during our regular LegCo meetings. At our Council meetings, Dr. Margaret Ng (吳靄儀大律師)⁶, local Hong Kong politician and barrister, and I are the two active LegCo members who keep addressing the issue – the pressing need for the city of Hong Kong to implement this archives law – a law that would safeguard public records from being lost under the maladministration of different government departments in both short and long runs. As stated repeatedly by Simon Chu over the mass media for many years, "If the documents are not properly archived, the general public will not be able to retrieve anything precious under the Code on Access to Information. Because of the absence of this piece of law, it is not necessary for the departments of the Hong Kong Government to create records during the policymaking process."

Despite our undying dedication, continuous hard work and repeated petitions over the years, Margaret [Ng] and I both found it extremely difficult to rally support and generate interest amongst the general public, as the issues concerning this piece of law are simply too far remote from the daily concerns of most people in Hong Kong.

Unfortunately, it is only when major political scandals or government maladministration are revealed that the general public might then begin to see the importance and urgency of having a proper archival system of public records management. For example, a pregnant woman was killed by falling tree in 2014; the Lamma Island ferry collision occurred in 2012, which caused the tragic loss of 39 lives, including children. If there is a good system of records, then we can certainly achieve accountability of the Hong Kong Government. This is the most basic for accountability, and of course, we also have sealed packets since the local political appointees and Government officials are not used to record keeping, and naturally they will resist efforts to archive their records. Indeed, when these public records are not in use on a daily or regular basis, it could easily be seen by many government officials as extra, unnecessary, as well as consuming in terms of time, manpower and resources, etc.

⁴ Hong Kong Archives Society – Homepage. Available at: <http://www.archives.org.hk/en/>

⁵ Government Records Service of the Government of the Hong Kong (SAR) – Homepage. Available at: <http://www.grs.gov.hk/ws/english/home.htm>

⁶ Dr. Margaret Ng (吳靄儀大律師) – Homepage. Available at: <http://www.siroswald.com/MembersDetails.aspx?id=43>

PL: Would you not agree that it would require the Hong Kong Government a great deal of manpower and resources to maintain a properly-run centralized government archives?

CH: That is unquestionably true! However, we must all be able to see its long-term benefits, and not just the short-term cost-savings. Taking the 2012 Lamma Island Ferry Collision tragedy as an example – we need to find out who was responsible for the gross negligence of this particular incident. We need to first find out the laws that were broken – who made such and such decisions – who was in charge of monitoring the conditions of maritime safety concerning this particular ferry? Why were there no children’s lifejackets on-board this ferry? – thereby ascertaining the causes of the incident and make appropriate findings accordingly. Furthermore, there might be some people who have been corrupt... By doing so, it would enable the responsible governmental departments to rectify the situations by make recommendations on safety measures, if any, required for preventing similar incidents or tragedies from happening in future.

In short, because the Hong Kong Government continues to refuse the need and the importance to enact the archives law that would protect our public property, public funds, public employees, as well as the rights and safety of the fellow citizens, high-level policy-making bureaus in the Hong Kong Government destroyed more than 1,000 linear meters of documents without following their own procedures for expert appraisal. As pointed out repeatedly by Simon [Chu], “the government records could help finding the responsible party and t[aking] action accordingly. Unfortunately, this action was not put in law, so departments can skip this work without having any consequences, and it was not needed to hire professionals to manage the archive. Thus, tracing for accountability became difficult. Since there is no legal protection of the documents, the governmental departments could easily dispose them or refuse to disclose them to the public. This would make the government less credible in taking responsibility.”

PL: After the Archives Action Group (AAG)⁷ was first established, did Simon [Chu] and William [Waung] invite you to become one of their [AAG] members? In addition, do you know why Simon Chu was invited to join the AAG as a member?

CH: I was invited by them to join the AAG as a member. I think a lot has to do with my role and my capacity in the LegCo, as well as my exposure and influence in the public media, which we all agree would be very beneficial for advocating public awareness of the archives law in Hong Kong. In short, my participation in the AAG and its subsequent activities would unarguably be useful for raising public concerns towards all matters related to the Hong Kong archives law.

In fact, the AAG has been writing to the local government for a number of years – urging them to consider the sample legislation drafted by us (the AAG), with the hope

⁷ Archives Action Group (AAG) – Homepage. Available at: <https://www.facebook.com/>

that they would enact the archives law as soon as possible. Unfortunately, their responses continue to be evasive and dubious.

PL: In addition to the ICAC (Independent Commission Against Corruption), which other governmental departments have begun to transfer documents to central Government Records Service (GRS) because of your joint efforts with the AAG?

CH: I dare not say that many governmental departments in Hong Kong have started transferring documents to the central GRS. However, it is true that because we have been urging via LegCo for the formulation of the archives law for a number of years, different governmental departments have begun to feel the pressure exerted by us, and they have definitely become more alert of the situation. In terms of my contributions to the AAA, there are several ways that the AAG and I can collaborate together. For example, during LegCo's annual budget meetings, instead of asking them "when" the government would enact the archives law, I would ask them:

1. What is the number of government records that have been appraised by the Government Records Service (GRS)⁸?
2. How many government records have been transferred to the GRS for the appraisal exercise?
3. What is the number of records transferred to GRS for retention, and destroyed with the consent of the GRS Director, by various policy bureau and government departments, etc.?
4. What are the current staffing and backlog situations at the GRS, and is the GRS functioning effectively, given its current staffing structure, standards and professionalism?
5. Which and how many governmental bureaus and departments have been transferring documents to the GRS?

As an AAG member, my presence in the LegCo is to encourage the Council members to debate a motion on enacting an archives law. In reality, the governmental departments and bureaus have been very reluctant to turn over their records for selection and preservation by the GRS. Our continual efforts to press them to release the information on the number of records that ended up being destroyed and/or by individual government bureaus or departments were meant to pressure the government to take active actions to carry out the archives law. Regrettably, the current atmosphere inside the government is still very much unfavorable for legislating this archives law.

⁸ Government Records Service (GRS) – Homepage. Available at: <http://www.grs.gov.hk/ws/english/home.htm>

PL: According to your understanding and observations, people of what of kind of social class and background would be more concerned about the archives law?

CH: I do not know because it is really difficult to attract attention of the general public. People who keep asking and writing about the archives law are mostly journalists and academics. For the general public, they are usually more concerned about Universal Retirement Protection Scheme than the need of an archives law. For this obvious reason, the archives law or other issues related to its management and professionalism are difficult to become a stand-alone issue to be addressed at our LegCo meetings.

PL: Having witnessed a series of unfortunate incidents, including: our former Chief Executive Donald Tsang (曾蔭權) being charged for failing to disclose plans to lease a luxury flat in Mainland China, a pregnant woman killed by falling tree in 2014, and the tragic loss of 39 lives caused by the Lamma Island ferry collision occurred in 2012 – what are the Government’s responses to the pressure exerted by you and the AAG for enacting the archives law at the LegCo meetings?

CH: The Government’s responses to the archives law have been most evasive. As mentioned earlier, the general public are far more concerned with the Retirement Protection Scheme in comparison to the presence of the archives law or the lack of it. By comparison, the archives law is something that is really too distant from the general public’s daily concerns. The only concerns amongst the general public have been raised, but unless the Government finally feels pressure, no process will be undertaken by them to enact this law.

PL: According to my understanding both William Waung (王式英) and Simon Chu (AAG) want to see Leung Chun-ying (梁振英)⁹, before he was elected to become our current Chief Executive of Hong Kong – proposing to him to enact the archives law, for the long-term benefits and welfare of the Hong Kong society as a whole. Leung’s response to both William and Simon at that time was, “I will seriously consider it once I am in charge.” However, once he became our Chief Executive, his answer became a “No!” Given your capacity and experiences at the LegCo, can you understand the hidden agendas behind Leung’s decision?

CH: I will not speculate Leung’s personal agendas. I can only analyze the situation objectively. Public records and safekeeping of them is one way of monitoring our government’s operations. In countries where an archives law is in force, government officials will have the legal obligation to account for their failures and/or other misconducts. For so many years, the local government has continued to refuse to support the archives law – it is obvious that our Hong Kong (SAR) Government is not used to, and is also not comfortable with the idea of being monitored – which could

⁹ Leung Chun-ying (梁振英) – Homepage. Available at: <http://www.ceo.gov.hk/eng/>

easily become a fatal oversight. In reality, no single government officials in charge or with powers wish to be monitored by the people. It is obvious that Hong Kong still has a long way to go in achieving democracy, despite Hong Kong people's effort for many decades. The lack of an archives law is one of the best examples.



Cyd Ho