

Public Administration of Macao Advances Steadily with the Development of the Anti-Corruption System

XU Chang*

I. The historical evolvement of the anti-corruption system in public administration of Macao

Public administration refers to the effective management of public affairs by national administrative organs. The term “public”, which indicates its nature, determines that it aims at providing the society with the most efficient, appropriate and reasonable public services on condition that the public institutions make the most of resources. The functions of public administration are to provide public products which can generate profits shared by all members of the society; to bring about social equality in accordance with contribution, demand or the principle of equal opportunities; to enable the government to control social development as well as the market via laws and regulations and during this process, exercise micro-economic control over employment, prices, equilibrium growth, international balance of payment, income distribution, population, eco-environment and resource distribution.

As a local administrative region under the direct jurisdiction of Central Government which has been granted a high degree of autonomy, Macao’s public administration is mainly embodied by a system constituted by government institutions, departments, public entities and their personnel with the purpose of realizing general administrative benefits and the interests of the Macao Special Administrative Region (SAR). Currently, under the leadership of the Chief Executive, 5 departments respectively in charge of administrative and legal affairs, economy and finance, security, social culture and public transportation have been established; more than 60 functional bureaus, or institutions of the same level (including project teams), covering different social domains have been set up; 23,634 public administrators (excluding 2,053 employed on private labour contracts) hold offices in government departments. Among them, more than 600 are officials of or above the bureau, departmental and divisional levels.¹ The public administration, as an active part of the executive-led political system of the Macao SAR, functions in accordance with the 14 legal principles of legality, public interests and protection of residents’ legal rights, equality, proportionality, use of official language, fairness and justice, good faith, cooperation between the administration and the private, participation, intervention, decision, debureaucratization and efficiency, gratuitousness, access to justice. Regulated by laws concerning authorities and responsibilities and by codified written rules, civil servants at different levels earnestly honour their legal obligations of impartiality, contribution, service, loyalty, confidentiality, respect and diligence,

* Research Fellow of Professor Grade, One Country Two Systems Research Center, Macao Polytechnic Institute

trying to sustain an equal and just social order and uphold the legitimate rights of the residents. Therefore, just as Edmund Ho Hau-Wah, the first Chief Executive, put it: “A fair and clean society is the corner-stone of human civilization and socio-economic development. It is also the long-standing aspiration of the Macao citizens.”²

Promoting and safeguarding honest administration as well as eradicating and curbing abuse of public power and corruption are the principles brought up and having been adhered to since the establishment of the Macao SAR. Before Macao’s return to China, corruption and malpractice were quite rampant and Macao, back then, had not gone through any anti-corruption campaign similar to the “anti-corruption storm” in Hong Kong at the early 1970s. However, anti-corruption efforts made in Macao’s public administration have their unique advantages: first, during the rule of the Portuguese, the ruling methods were quite outdated. The administrative department of the Macao government had been controlled by the Portuguese until the handover, thus having not gone through any transitional period. Amid such kind of changes, dramatic personnel shakeups occurred and members of the administrative organs were rarely restrained by vested interest. This served as a head start for the government’s anti-corruption campaign. Second, thanks to the long-standing patriotic tradition and profound affections for Macao, the Macao people’s pride of being the masters of the city and their sense of responsibility have been greatly boosted by the policies of “Macao People Ruling Macao” and “a high degree of autonomy”. The exercise of public power has been tied up with the appeals of the general public and the society takes on a positive, upbeat, solidary and harmonious ambience. Third, thanks to the double concessions from both the Central Government and the Government of the Macao SAR, Macao’s gaming industry, especially its reforms and development, has brought about profound changes to the overall economic climate of the region. The government gets unprecedently deep-pocketed. Because of the improvement of the general quality and moral values of civil servants, the effect of the policy of “high salary for honest government” has been further brought out. Fourth, the Macao SAR strictly holds to the *Basic Law of the Macao Special Administrative Region of the People’s Republic of China* (hereinafter as “the Macao Basic Law”), putting in place an executive-led political system featured by mutually-restrained executive and legislative branches and by judiciary independence. The formulation and promotion of government policies have won concerted support from public administrative institutions and the supervising capacity of the legislative and judiciary organs have been greatly enhanced.

Over the past 12 years, the Macao SAR has made the most of the policies of “One Country, Two Systems” and a high degree of autonomy and stepped up the anti-corruption endeavours in the realm of public administration with a series of measures. This is highlighted by the following facts:

First, as for the formulation of laws and regulations, by August this year, the Legislative Assembly, during its four terms of office, has enacted 168 laws. Among them, except those related to the protection of residents’ rights, economic and social management, basic norms regarding the criminal, civil and commercial laws, development of the legal system, etc. which are very important, a great number are laws concerning the organization of government, government departments and public entities, the powers limits and functioning procedures, management of people holding public offices, etc.. In the meantime, the Chief Executive has issued 378 administrative regulations, among which a greater many are about the organization, procedure and related rules of administrative institutions. All of the above has laid a solid regulatory foundation for the establishment and functioning of a limited and transparent government which performs its

administrative duties in accordance with law.

Second, as regards policies and principles, the first Chief Executive, at the very beginning of his term of office, brought up the idea of reinforcing the principle of "putting people first" among civil servants and pressing ahead with the anti-corruption endeavours to increase the quality of public officials. The government of the Macao SAR has adopted the administrative measures of the e-government and "one-stop" services and strengthened value for money audit for financial budget and statement. In so doing, the government has reinforced the accountability, efficiency and the overall managing capacity of public administration through its coordinated efforts in ideological education, moral promotion, institutional restrictions, assessment-based rewards and punishments, crackdown and prevention of illegal conducts, etc. Under such circumstances, the conscientiousness of public officials to serve the people and residents' satisfaction with the government has grown to an unprecedentedly large extent.

Third, as for the development of anti-corruption supervisory organs and the formulation of policies, though the former governor of Macao Raul Leandros Santos made proposals in this connection in 1975 and deliberations over the first bill bidding for the establishment of the "Anti-corruption Committee" began in 1983, the "High Commission Against Corruption and Administrative Illegality" almost did nothing before Macao's return to the People's Republic of China (PRC). This was because the governor and the Legislative Assembly could not reach any agreement upon the nature and functions of the Commission and thus did not vest it with any power to investigate bank accounts or take actions which might be related to personal rights. Therefore, the Commission was described as "a constrained toothless tiger". After the establishment of the Macao SAR, its government immediately made bold and resolute efforts to carry out reforms in this respect. In August 2000, the Organic Law of the Commission Against Corruption, formulated in accordance with Article 59 of the Macao Basic Law, was passed by the Legislative Assembly. In the same month, the Chief Executive issued the administrative regulation of Organization and Operation of the Service of the Commission Against Corruption, explicitly stipulating that investigators of the Commission can wield the power of arrest, search, detention, possession of pistols and investigating bank accounts, etc. as criminal police. Meanwhile, the regulation also provides that the Commission Against Corruption works independently and is accountable to the Chief Executive. These radical measures provided sufficient legal grounds for anti-corruption supervisory organs to perform their duties according to the law, signifying the real start of the functioning of the Commission.

Fourth, as regards public participation and supervision, the establishment of the Macao SAR has brought an end to the governor-centered political system spanning centuries, putting in place a democratic legislation and supervision system in which different social classes of Macao could have equal opportunities to participate. The Legislative Assembly exercises the supervisory power, holding debates on the administrative policies and financial management of the government, especially on issues concerning public interests, hearing policy addresses, making inquiries and holding related administrative approvals accountable; consultative and advisory bodies of the government which have the absorbing function hold consultations at different levels on government policies; even the common people can express their interests through various conduits including protests. All of this helps paint a dynamic picture of Macao featured by political interaction, bring about a relatively high degree of social harmony through conflicts of interests on the surface and give expression to the unique features of the "Macao formula" under the policy of "One Country,

Two Systems”.

Fifth, the Commission Against Corruption has handled several typical cases in a resolute manner. For example, the case of corruption concerning the former Secretary for Public works and Transport, the case of awarding contracts to unreasonably high bidders related to the Macao Municipal Council in 2002 and the case of authority abuse involving the chairman of the Macao SAR Government Consumer Council in 2008. All of them made quite a stir in the society. The handling of these cases rang alarm bell for public officials and was highly relevant to the removal of long-standing and corrupt misdeeds.

In a word, through the above endeavours, the anti-corruption campaign in the field of public administration has made rapid progress and won unanimous recognition from both the Central People’s Government and Macao people. It is fair to say that under the current conditions, the nasty inclination for corruption of the first-line public officials has almost gone extinct. Officials, when discharging their duties, strictly adhere to the law and substantive legitimacy is guaranteed by procedural justice. A positive social tendency has thus taken shape. Not an achievement easily made in an acquaintance society like Macao, this is highly commendable. Just because of this, although affected by a small number of cases, Macao was still ranked the 4th, with a score of 3.75, in a report of corruption assessment involving 14 Asian countries and regions issued by the “Political and Economic Risk Consultancy” in 2009 and 2010. In the Corruption Perceptions Index covering more than 180 countries and regions in the world issued by “Transparency International”, Macao was ranked approximately the 40th with scores of 5.3 and 5.8 in the above two years respectively.³ That is to say, the international society also holds an affirmative attitude towards the progress made on the anti-corruption front in Macao.

II. The latest embodiments for the development of the anti-corruption system in Macao’s public administration

In 2009, the Macao Special Administrative Region successfully carried out the “double election” – election of a new term of Chief Executive and of the Legislative Assembly. In his first Policy Address, the incumbent Chief Executive Fernando Chui Sai On made special report on the anti-corruption program of the government. He pointed out, “Building on the strong foundation laid over the past 10 years, the Government... shall faithfully uphold the people-first approach and bear in mind the people’s immediate interests, by improving the people’s well-being, paying heed to the people’s opinions, and maintaining integrity and pragmatism in public administration...The Government shall further strengthen the building of clean administration by fighting corruption and promoting integrity and fair play, to support the objective of establishing a clean and open administration.”⁴ Guided by such administrative ideas, the program of building an honest government, with institutional progress as its focus, has yielded new achievements. Its latest embodiments are as follows:

2.1 Improvement of rules concerning the tenure of office has been accelerated

Since the new term of government took office, three legal documents including *Limitações Impostas aos Titulares do Cargo de Chefe do Executivo e dos Principais Cargos do Governo após Cessação de Funções* (Restrictions Imposed on Holders of the office of Chief Executive and

Principal Officials of the Government after Leaving the Service, Law No. 22/2009), *Estatuto dos titulares dos principais cargos da Região Administrativa Especial de Macau* (General Rule for the Principal Officials of the Macao Special Administrative Region, Administrative Regulation No. 24/2010) and *Normas de Conduta dos Titulares dos Principais Cargos da Região Administrativa Especial de Macau* (Norms of Conduct of the Principal Officials of the Macao Special Administrative Region, Executive Order No. 112/2010) have been successively formulated, filling the void left by the absence of legal documents for related issues. *Disposições Fundamentais do Estatuto do Pessoal de Direcção e Chefia* stipulates that the Chief Executive and other principal officials of the government, within the first year after leaving the office, shall not get involved in any private business. After this period, participation of any official, within a time limit stipulated by the law, in private business shall be approved by the incumbent Chief Executive. It also provides for the officials' duty of confidentiality and corresponding punishments for breach of duty. *Estatuto dos titulares dos principais cargos da Região Administrativa Especial de Macau* specifies rights and obligations of principal officials, stating that they are accountable to the Chief Executive and stipulating specific ways of taking civil, criminal and financial responsibilities according to law. Also, it makes regulations for their assumption of leading and managing posts. *Normas de Conduta dos Titulares dos Principais Cargos da Região Administrativa Especial de Macau* sets rules, in accordance with laws in force, for the officials' scientific administration, efficient management and honest performance of duties and specifies their political duty of assisting the Chief Executive in the policy-making process and duties related to the Legislative Assembly. These legal documents have an important impact on the institutional operation of the Macao SAR and are of great exploratory value for the improvement of the legal system and management of officials in the Region.

2.2 The asset declaration system covering all public officials has been further regulated

The personal asset declaration system for civil servants was established in Macao as early as 1998. In 2003, the government of the Macao SAR further improved the asset declaration system covering all public officials, giving detailed provisions for the declarant, declarable assets and way of declaration. People ranging from the Chief Executive to ordinary public officials should minutely complete the declaration for his movable property, real estate, benefits and liabilities both at home and abroad under all conditions, be it the assumption of office, transfer of post, or the contract renewal of the civil servant. The solemn arrangement that the Court of Final Appeal and the Commission Against Corruption handle declarations as specialized agencies has enhanced the authoritativeness and the binding force of the legal declaration. The government of the Macao SAR has also made reviews on the implementation and effects of this system, setting up ad hoc teams to conduct research and consultation on the revision of related laws. Such revision aims at introducing a mechanism to disclose data concerning officials' properties to a proper extent, thus reinforcing the transparency and credibility of the "Sunshine Law".

2.3 Efforts start to be made to improve the norms for the management of public servants at different levels

Disposições Fundamentais do Estatuto do Pessoal de Direcção e Chefia (Fundamental Provisions on the General Rule for Leaders and the Management Staff, Law No. 15/2009) has been

enacted, remaking stipulations concerning the prerequisites for the appointment and contract-based employment of officials below the bureau level and regulations for their removal. Also, it specifies the executive, financial and leadership responsibilities and lays out detailed rules for officials' authorities and adjustment of their remuneration package. In the meantime, *Recrutamento, Seleção, e Formação para Efeitos de Acesso dos Trabalhadores dos Serviços Públicos* (Recruitment, Selection and Training for the Promotion of Public Servants, Administrative Regulation No. 23/2011) has been formulated, aiming at establishing a unified system for the recruitment, selection and training of civil servants to address problems concerning the independent recruitment of public officials by different departments. Conducive to the unified assessment, the concentrated management and the deployment of the public officials, this will bring great improvement to the overall picture of Macao's public administration.

2.4 Organic and institutional laws of the Commission Against Corruption have been revised to bring corruption cases of the private sector under the jurisdiction of the commission

Prevenção e Repressão da Corrupção no Sector Privado (Prevention and Suppression of Bribery in the Private Sector, Law No. 19/2009) enacted in 2009 has vested the Commission Against Corruption with the power to investigate bribery cases in the private sector. Accordingly, the Legislative Assembly of the Macao SAR is now making deliberations upon the Organic Law of the Commission Against Corruption to make it in line with such an expansion of power. Bills regarding the revision of laws also proposed to enhance the Commission's function of making appeals, to specify the time limit for investigation on criminal cases and to further promote the institutionalization and legalization of the Commission's anti-corruption authorities and of operational procedures. The government of the Macao SAR has also dedicated to improving functions and powers of the "Commission for Discipline Supervision and Inspection of the Personnel of Commission Against Corruption", laying out its scope of responsibility and creating conditions for it to play its due role of supervision and inspection. In so doing, the administrative supervision and inspection power of the Commission Against Corruption has also been brought under the supervision of statutory bodies. This is conducive to the enhancement of the Commission's credibility.

2.5 Grant of land and approval of public projects should be based on open tender

As for the grant of land and approval of public projects, the current laws of Macao, while stipulating the implementation of the open tender system, always vest senior government officials with exceptional administrative discretionary power. However, since the third term of office of the Macao SAR government, the Chief Executive and principal officials of the Department of Transport and Public Works, drawing hard lessons from cases in history, have made public declarations and repeated reiterations that the grant of land and approval of public projects must be based on open tender and in line with related laws. This is highly relevant to the protection of the general and long-term interests of the Macao residents, the enhancement of operational transparency of public departments and the consolidation of an administrative culture featured by honesty and integrity.

2.6 The advisory system of the commission against corruption has given rise to public pressure

The Commission Against Corruption exercises supervision and inspection on the procedural legality and rationality of the public administration. However, due to institutional constraints, statutory conduits to inform the public of the effects of such supervision are inadequate and related binding forces are even rarer. Therefore, during the recent two years, the Commission Against Corruption has been promoting an "Integrity Management Plan", signing cooperation protocols with relevant government departments and institutions to encourage the latter to get involved in the Plan. More notably, when handling administrative complaints, the Commission, besides giving advice to related departments on specific cases, releases investigation and analysis reports on issues such as the applicability of franchise agreements, problems concerning the operation and management of certain departments, etc. which rivet public attention. Suggestions are also made for the improvement and revision of relevant policies. Meanwhile, the Commission also took part in the formulation of regulations such as the Guidelines on the Procurement and Acquisition of Public Goods and Services and standards for remunerations for government officials taking business trips at public expense, etc. The publication of reports can make a stir in government departments and even in the society, thus paving the way for the progress of anti-corruption projects.

Just as the 2010 Annual Report of the Commission Against Corruption of Macao put it, to promote the anti-corruption endeavours in the public administration, we must have our eyes on objectives and hands on work. Meanwhile, administrative management needs to be levelled up for the "supervision on integrity", "supervision on law-enforcement" and "supervision on effectiveness". Only in this way can the goal of building a highly efficient, impartial and people-centered civil service system in an independent, objective and lawful manner become reality.

III. Profound implications of and problems faced by the development of anti-corruption system in the Macao SAR

The development of the anti-corruption system in Macao's public administration has profound implications as follows: first, the essence of the anti-corruption system is to handle issues in accordance with law and give priority to institutions and policies. To put in place substantive policies and procedural regulations which help fulfill the fundamental principle of serving the people, to revise outdated regulations and laws which are out of tune with the public demand and features of the times, to keep powers on the tight rein and enable officials to wield powers fair and square... all of this can not be realized relying on hasty, utilitarian and short-term policies. Instead, they must be guaranteed by long-standing and persistent institutions. A good system produces righteous people and virtuous deeds and carries forward such spirit, while a bad one can never have its nature refined, not even by righteous people or virtuous deeds. Institutions and the rule of law are the most important. Second, the wellspring for the advancement of the anti-corruption system lies in public supervision and the driving force of public opinions. Currently, the universal value under the democratic system directs the public opinions in accordance with the law. Catering to public opinions is the one and only effective approach for the administration of the government and this is also the case with the development of the anti-corruption system. Anti-corruption organs

should pin down, in accordance with public criticisms, a direction for the anti-corruption endeavours in public administration and identify, from general behavioural approaches, objective laws in this regard. Also, they need to take public supervision as an encouragement for them and as a powerful backing for anti-corruption supervision and inspection, thus comprehensively expanding the reach of anti-corruption endeavours to all levels of the public administration. Third, explicit and highly operable rules are of great importance for the development of the anti-corruption system. To establish norms for anti-corruption endeavours, specific, detailed, explicit and highly operable rules need to be formulated and implemented, while empty slogans and the behaviour of just paying lip service must be guarded against. In so doing, related promotions will be well-targeted, actions to honour duties and obligations will have far-reaching implications, the awareness of civil servants at different levels to discharge their anti-corruption duties will be boosted and the effectiveness of exterior supervisions will be escalated. The above experience is worth sharing and in the meantime, will further light the future for the development of the anti-corruption system in the realm of public administration.

Needless to say, the anti-corruption endeavours in Macao's public administration are also facing challenges and problems as follows:

For one thing, changes should be brought to outmoded conventions and customs. Provisions concerning the civil servant system and the decision-making power of the government in previously-established laws of Macao have been, more or less, influenced by the "sunset mentality" of the Macao government under the Portuguese rule. These provisions, together with customs built upon them, have a lingering impact on the thinking and decision-making patterns of the government of the Macao SAR to some extent. Anti-corruption endeavours in Macao's public administration must highlight the capacity of the government to make legal, scientific and democratic decisions and revise outdated laws such as the Land Law, Budget Law and Law on the Structure of Public Administrative Organs, etc. To complete these tasks and put in place a new type of legal system which better serves the public interests, part of the vested interests inconsistent with the public welfare will be inevitably offended. That being the case, it is easy to imagine how difficult this would be.

For another, the authoritativeness and binding force of the rectifying mechanism of the Commission Against Corruption for illegal conducts need to be further reinforced. The revision of related laws of the Region grants the Commission unprecedentedly mighty power to crack down on corrupt and illegal conducts. However, as an important part of the anti-corruption endeavours in the public administration, this is constrained by existing systems for management and authority. A large number of cases pertaining to illegal and irregular administrative conducts, low efficiency and dereliction of duty can not be handled in a lawful and efficient manner. Therefore, to better meet the actual demands posed by development of the anti-corruption system in the public administration, it is necessary to enhance the responsibilities of the Commission to handle administrative complaints, intervene in and redress illegal administrative conducts as well as to make suggestions for administrative legislations.

Eliminating the outdated and ushering in the new, we can definitely expect a more honest and transparent government. And we have every reason to believe that the anti-corruption endeavors in Macao's public administration will score more remarkable achievements with contributions of the public, especially of the Commission Against Corruption.

Notes:

- ¹ The above statistics are cited from the official statistics released by the Macao SAR Government on 30th September 2011.
- ² Ho Hau-wah, Edmund (2002). Message from the Chief Executive. In Macao Commission Against Corruption (Ed.) *10 Years of Safeguarding Honesty and Transparency in Macao*. Macao: Macao Commission Against Corruption.
- ³ Macao Commission Against Corruption (2010). *Annual Report 2009*. Macao: Macao Commission Against Corruption. 31. Macao Commission Against Corruption (2011). *CCAC Bulletin No. 10/2011*.18.
- ⁴ Chui Sai On, Fernando (2010). *Policy Address for the Fiscal Year 2010 of the Macao Special Administrative Region*. 16th March 2010.