

堅守監警會獨立的價值觀

Upholding the value of “I” in “IPCC”



今期的《監警會通訊》，請來剛卸任的監警會副主席林大輝議員及委員張達明先生及方敏生女士，訪問他們對現時警民關係的看法、監警會近六年的發展，以及監警會將所面對的挑戰。

警民關係

林議員首先指出監警會的職能，並不包括改善警民關係，但在處理投訴個案時，可間接做成影響。他補充警民關係的好與壞，不是一朝一夕，正所謂「冰封三尺，非一日之寒」。

林議員表示：「香港是一個多元化社會，市民及媒體享有很大的自由去發聲。這個社會出現多元化的聲音，因而很多事情變得所謂『政治化』。今天的社會與幾年前相比，已經變得複雜，而且充滿了矛盾和對立。」

For this issue of the *IPCC Newsletter*, we interviewed the recently retired IPCC Vice-Chairman and Members Dr Hon Lam Tai-fai, Mr Eric Cheung Tat-ming and Ms Christine Fang Meng-sang, who shared with us their thoughts on the current relations between the Police and the citizens, the IPCC's growth during their past six years of service, and future challenges for the IPCC.

Police-citizen relations

On the topic of police-citizen relations, Dr Hon Lam started by saying it is not the IPCC's role to mend this relationship, but it could indirectly affect it through its involvement in handling complaints. He added that the improvement or worsening of relations does not happen overnight, but is the result of accumulated interaction over time.

Dr Hon Lam continued, "Hong Kong is a diverse society in which the citizens and the media enjoy a lot of freedom. Society therefore has a multitude of voices and as a result, many issues have been, so to speak, 'politicised'. Even compared to just a few years ago, today's society is complicated and contains a lot of conflict and tension."

張先生說：「這段時間警民關係面對的考驗很大。這個情況比我過去六年所看到的更嚴峻。」他認同林議員有關監警會不是處理警民關係的見解，但亦希望藉着現有機制，透過監警會預防投訴、提出建議，從而間接改變警民關係。

方女士強調，監警會不是監察警方工作的每一個範疇，但她留意到投訴指控性質有所改變 - 過去的指控大多是「疏忽職守」，在佔領運動後「濫用職權」的指控大幅上升。她更指出，監警會應細心分析「濫用職權」和「毆打」的指控數字顯著上升背後的原因。

專業性

另外，在保持政治中立這棘手的問題上，林議員強調要求警察完全沒有政治立場是不切實際的，因為以香港這樣一個多元化社會，每個人均可以有自己的政見。重要的是，就他所見警務人員在執勤時沒有政治偏頗。

林議員強調：「香港警隊是一支優秀的隊伍，而香港是一個安全、舒適的城市。」從他在現場觀察所見，前線警員面對十分困難的處境，他續說：「一方面他們須確保在場人士，包括示威者和路人的安全，但同時亦要受到他們所保護人士的挑釁和辱罵。不論是智慧或情緒，都必須管理得很好。這是對警方應有的專業態度。」

監警會的委員也需要同樣的專業精神。委員來自社會不同層面，有律師、會計師、學者、泛民和建制派議員。林議員解釋：「這是很妥善的安排，因為可以不同角度、觀點、分析每宗個案。我們各有個人的意見及思維，所以對每件事都有自己的看法。然而，即使有個人的思維、看法，沒有一個委員能左右任何個案的決定。」

林議員進一步解釋，過去的六年，在監警會秘書處的協助下，很多規則和程序得以完善，而委員也跟從這些規則和程序執行職務。因此，根本不可能因任何一位委員的個人觀點，而改變個別個案的結果。

張先生認同香港警隊是一支出色的隊伍，故此很多人不希望看到警隊的形象受到近日事件的影響。憑著他過往任監警會期間看到由大型公眾活動衍生投訴的經驗，張先生指出縱使大多數事件都有政治背景，警方過往的職責只是維持公眾秩序，因為示威人士均是守法的。然而，佔領運動和以往大型公眾活動有很大分別，首先事件性質

Mr Cheung commented, "The challenges facing police-citizen relations are tremendous. The current situation is more serious than anything I have seen in my past six years of service." He echoed Dr Hon Lam's view that the IPCC does not handle police-citizen relations, but that through the existing system and the IPCC's function of suggesting ways to prevent future complaints, it could indirectly improve such relations.

Ms Fang emphasised that the IPCC does not monitor every aspect of the police's work, but she drew attention to the fact that the nature of many allegations against the police has changed. In the past a majority used to be "Neglect of Duty", but with complaints related to the Occupy Movement, the ratio has tipped more towards "Unauthorised Use of Authority". She pointed out that the IPCC should carefully analyse the reasons for the notable increase in the number of allegations of "Unauthorised Use of Authority" and "Assault".

Professionalism

On the topic of professionalism, Dr Hon Lam stressed that it is impracticable to expect no political views within the Police Force, because in a diverse society, everyone is entitled to his or her own views. What matters is that, from what he has seen so far, police officers have not been politically biased in discharging their duties.

"The Hong Kong Police Force is of a very high calibre and Hong Kong is a safe, comfortable city," Dr Hon Lam emphasised. From his own onsite observations, he could see that frontline officers faced very difficult situations during the Occupy Movement. "On the one hand they had to ensure the safety of everyone at the scene, both protestors and passers-by, and at the same time they had to face incitement or insults from the very people they had to protect. So the police officers have had to control both their IQ and EQ extremely well. This is the professionalism required of the police," Dr Hon Lam stated.

The same professionalism is required of IPCC Members as well. Members are from different sectors of society; there are lawyers, accountants, educators and party members from both the pan-democratic and pro-establishment sides. Dr Hon Lam explained, "This is a good thing because it means that every single case is viewed and analysed from different angles and perspectives. We each have our individual opinion and therefore we will have our own personal view of each and every incident. However, even with such individual opinions, no one Member can determine the decision in any case."

Dr Hon Lam further explained that in the past six years, with the assistance of the Secretariat, a lot of rules and procedures have been improved and every Member has to follow these rules and procedures in carrying out his or her duties. Therefore, it is simply impossible for any Member's personal view to determine the outcome in any individual case.

Mr Cheung agreed that the Hong Kong Police Force is of an exceptional quality and stated that this is the reason a lot of people do not wish to see the police's image undermined by the incidents of the past few months. Drawing from his experience of how the IPCC oversaw complaints arising from public order events in the past, Mr Cheung pointed out that while most of these events were driven by strong political motives, the police's duty was simply to maintain public order, because the protests themselves were lawful. There was, however, a crucial difference with the Occupy Movement. For one, the nature of the movement was very politicised.

非常政治化，加上此運動是一種公民抗命。因此，警方的着眼點應在於如何在非常政治化的環境下，不滲入任何政治元素及保持專業態度來執法。

張先生強調，佔領運動是史無前例的，有鑑於警方從未處理過同類事件，以這第一次的經驗很難要求警方能完美地處理事件。「我們應體諒到警務人員所承受的壓力，尤其當時他們已精神疲倦。」張先生稱：「一方面，我們不應以幾件負面事例來評價整個警隊，這是不公道的。另一方面，任何警務人員如果做出不當行為都不能縱容，必須以公平公正的態度嚴肅處理。」

回應林議員有關專業精神的話題，張先生強調個人的專業精神必須凌駕於政治立場之上。張先生指出，回顧過去六年，監警會的委員都有各自的政見，但當處理投訴個案時，他們的專業態度蓋過他們的政治立場。他重申：「我們的政治立場不會影響我們對指控分類的決定，我們只看證據、事實和警務人員應有的準則。」

方女士個人認為不是警方變得政治化，而是整體社會和公眾活動變得政治化。她指出：「警方執法的職能沒有改變。現今的社會好像只分為黃絲帶和藍絲帶兩種陣營，越來越少人採取中間立場。因此，在這樣政治化的環境下，社會對警方的執法職務要求改變了。事實上，警方的角色沒有改變，變的是市民。所以，對警方和監警會而言，處理佔領運動衍生的投訴是十分艱鉅的挑戰。」

說到擴大監警會的職能，方女士表示過去六年，監警會不斷優化審視投訴程序已達致成果。如要修改監警會的權力，需經社會諮詢和立法會討論。

獨立價值觀

展望監警會的未來，林議員說：「首要是必須堅守獨立監察委員會的獨立性。不受外在因素，包括政治、行政長官或任何政治團體影響，不偏不倚監察投訴，這就是監警會最核心的價值。如果監警會不能堅守獨立精神，便很難發揮獨立監察的效果。」

對新任委員，林議員有以下期望：「他們必須在任何情況下，緊記和捍衛監警會的獨立精神。他們審視個案時須保持客觀持平、公開公正的原則。不論未來委員會的組成如何，委員的背景是什麼，也要維持獨立監察的精神。」

More importantly, it took the form of civil disobedience. Therefore, the focus of the police should be on how to enforce the law under a highly politicised situation in an apolitical and professional manner.

Mr Cheung went on to emphasise that this situation was unprecedented and that consideration must be given to the fact that the police were handling something they had never done before and it was difficult to manage it perfectly the first time. "We should also consider the pressure these police officers were under, and that things were very difficult for them when they were under physical and mental strain," said Mr Cheung. "Moreover, it must be made clear that we cannot judge the entire Force based on some negative incidents – this is unfair. On the other hand, any misconduct on the part of police officers must not be condoned and must be dealt with seriously in a fair and impartial manner."

Echoing Dr Hon Lam's notion of professionalism, Mr Cheung stressed that it meant one's professional self must override one's political self. Looking back at the past six years, Mr Cheung said the IPCC itself had a lot of Members with differing political views. But when they handled complaint cases, their professional selves would always override their political selves. "Our political views did not influence our decisions on whether a certain case was "Substantiated" or not. We looked at the evidence, we looked at the facts and we looked at the proper standard required of the police," Mr Cheung reiterated.

Ms Fang observed that, in her view, it was not the Police that were becoming politicised, but society as a whole and public order incidents that had become politicised. "The Police's role and function in enforcing the law has not changed," Ms Fang emphasised. "It seems that the whole society is divided between blue and yellow ribbons, and there are fewer and fewer people taking the middle ground. Therefore, in such a politicised environment, society's expectations of the police's duty in enforcing the law seem to have changed. In reality, it is the citizens who have changed, not the role of the police. Therefore, handling complaints arising from the Occupy Movement is a tremendous challenge for both the police and the IPCC," Ms Fang concluded.

With regard to expanding the IPCC's functions, Ms Fang commented that over the past six years the IPCC had been continuously optimising its procedures for investigating complaints, and had fulfilled its mission in setting up this framework. Further perfection of the system should be discussed within society and debated in the Legislative Council, she said, to decide whether the IPCC's statutory powers should be amended.

Independence

Looking at the future of the IPCC, Dr Hon Lam said, "Upholding the value of the "I" in "IPCC" - Independent - is paramount. If the IPCC were to lose this value, it would be very hard for it to fulfil its function. This is the IPCC's core value – to monitor complaints without any external influence, whether from the government, the Chief Executive or any political organisation."

Dr Hon Lam expressed his hope for every future IPCC Member: "They must remember and safeguard the spirit of independence at all times. They must be objective, impartial, transparent and fair in reviewing cases. This spirit of independence must be maintained and exercised in the future, regardless of the composition of the Council Members."