
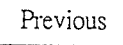


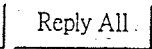
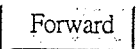



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Date:2005/11/30 Wed PM 09:02:49 CST
To:"Constitutional Development Task Force" <views@cab-review.gov.hk>
Subject:5th Report of the Constitutional Development Task Force

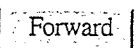
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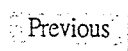
Dear Sirs,

We would like to enclose our response to the 5th Report of the Constitutional Development Task Force. The original is in post to you.

Regards,
The Secretariat
Hong Kong Democratic Foundation

Download Attachment: [HKDF Response to Task Force Constitutional Development 5th...pdf](#)

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30 November 2005

Secretariat
Constitutional Development Task Force
3/F, Main Wing
Central Government Offices
Lower Albert Road
Hong Kong

Dear Sirs,

5th Report of the Constitutional Development Task Force

Enclosed is our response to the 5th Report of the Constitutional Development Task Force.

Although our detailed views are set out in the attached paper, we would like to make some brief comments in this covering letter.

The Hong Kong Democratic Foundation was greatly disappointed by the failure of the recommendations made in the 5th Report to progress constitutional development for the Hong Kong SAR in any material way. We believe that, even given the constraints imposed on short-term constitutional development by the NPC Decision earlier this year, there was plenty of opportunity to implement significant progress towards the objective of universal suffrage in respect of the election of the Chief Executive and the return of all seats in the Legislative Council by universal suffrage. Accordingly, we have set out in our response measures we consider would result in tangible progress towards these twin goals.

Furthermore, the Hong Kong Democratic Foundation is deeply dissatisfied with the failure of the 5th Report to address the glaring anomalies and deficiencies of the present Functional Constituency system and we have therefore set out our proposals for the necessary remedies in the attached response, which we have previously proposed in our response to previous Reports by the Task Force.

We believe the proposals in our response are constructive and are in accordance with the provisions of the Basic Law as modified by the NPC Decision of 26th April 2005. We would therefore be pleased to discuss these in greater depth with the Task Force.

Yours sincerely,

George W. H. Cautherley
Vice Chairman
Hong Kong Democratic Foundation

Enclosure



**HONG KONG DEMOCRATIC FOUNDATION
RESPONSE TO
THE FIFTH REPORT
OF THE
CONSTITUTIONAL DEVELOPMENT TASK FORCE**

Given the sustained majority public support for universal suffrage for the election of the Chief Executive (CE) in 2007 and the election of all members of the Legislative Council (LegCo) by universal suffrage in 2008, we are greatly disappointed at the Task Force's failure to come up with proposals to advance the progress to full democracy more vigorously with options that are still available within the existing constraints.

**ROLE OF THE DISTRICT COUNCILLORS IN THE SELECTION OF THE
CHIEF EXECUTIVE AND THE LEGISLATIVE COUNCIL ELECTIONS**

Since the Task Force has included a role for the District Councilors (DCs) in the selection of the CE in 2007 and an enhanced role in the formation of the Legislative Council in 2008, we would like to make some general observations of principle.

The participation of the appointed DCs in both these roles is unacceptable to us. We believe the inclusion of the appointed DCs in these roles significantly dilutes the enhancement of progress towards universal suffrage that would have resulted if only the elected DCs had been included.

Furthermore, we do not see that there is any obligation on the Government, in terms of preserving fairness, to include the appointed DCs in these new roles. The appointed DCs were included in the District Councils for very specific purposes and there is no logical linkage between their role in these bodies.



METHOD OF SELECTING THE CHIEF EXECUTIVE IN 2007

(i) Election Committee

In our response to the 4th Report of the Task Force, we proposed an Election Committee (EC) consisting of 6,800 members of which 3,400 would be directly elected.

Provided the proportion of directly elected members of the EC remains at 50%, the HKDF would support a substantially smaller EC, where the directly elected element comprises:

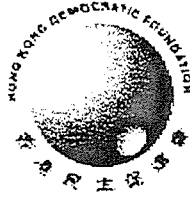
- 400 elected DCs
- 27 ex-officio DCs
- 35 directly elected Legislative Councilors (LCs)
- 22 representatives of the Heung Yee Kuk

This would result in a directly elected element of 484 members. As a result the total size of the EC would be 964 members as follows:

Industrial, commercial and financial sectors	120
The professions	85
Labour, social services, religious and other Sectors	200
Fourth Sector (directly elected)	484
All Hong Kong deputies to the National People's Congress	36
Representatives of Hong Kong Members of the National Committee Of the Chinese People's Political Consultative Committee	43

Regarding the issue of "balanced participation" raised in paragraph 5.10 of the 5th Report of the Task Force, the HKDF has a fundamental difference of opinion to the philosophy stated, which essentially is one of "managed participation" of the community in the electoral process, rather than the commonly accepted concept of "free market democracy".

We would strongly caution that, the continued practice of the Government of ascribing factors other than the purely numeric to its definition of "balanced participation" and thus promoting a bias in favour of certain minority groups, will inevitably lead to instability within the community.



(ii) Nomination Mechanism

The HKDF disagrees with the proposal in paragraph 5.11 and supports the continuation of the present requirement of not less than 100 subscribers for each candidate.

As previously proposed, in our responses to the 3rd and 4th Reports of the Task Force, the HKDF recommends an upper limit of nominees per candidate and in view of the small size of our proposed EC, we would set this at 100 subscribers. Furthermore, we disagree with the position on this set out in paragraph 5.12 that setting an upper limit would unduly restrain EC members from exercising their right to nominate candidates. EC members do not in fact have a right to nominate, they are only qualified to be nominators if invited to do so by a candidate.

(iv) Requirement that the Chief Executive should not have any Political Affiliation

In its response to the 4th Report of the Task Force, the HKDF supported the proposition that it should not be a bar for the CE to have a political affiliation and we still maintain this view, as we believe this could be beneficial for the reasons we have previously stated in our response to the 4th Report of the Task Force, paragraph 5. Furthermore, we would contest the remark in paragraph 5.14 of the 5th Report of the Task Force that the existing requirement has not impeded effective governance with the reminder that there has been a very strongly held view in the community as to the inadequate level of effective governance during much of the period 1997 to 2005.

OTHER ISSUES

In our response to both the 3rd and 4th Reports of the Task Force, we have made various recommendations regarding the composition of the First, Second and Third sectors of the EC and we propose that the principles behind these still be applied to the 968 seat EC proposed in this submission. In respect of the **Number and Composition of Members of the Election Committee**, our previous submission (paragraphs 1.1.5, and 1.2.2 - 1.2.9 of the HKDF's response to the 3rd Report of the Task Force) continue to be relevant.

The HKDF also continues to support its recommendations in paragraphs 1.5.1 – 1.5.3 of its response to the 3rd Report of the Task Force regarding election process issues for the selection of the CE.



METHOD OF FORMING THE LEGISLATIVE COUNCIL

(i) Number of Seats

In view of the fact that the Task Force has proposed that an additional 5 Functional Constituency (FC) seats be filled by DCs, on the basis that appointed DCs will not be allowed to either vote for these members or stand for election in their own right, the HKDF withdraws its previous opposition to an increase in the number of LegCo seats and supports the proposal to increase the size of LegCo to 70 seats.

(ii) Number of Seats Returned by Functional Constituencies

With regard to the method of election of the members for the District Council FC, the HKDF proposes this be by the STV proportional representation system.

(v) Nationality Requirement

The HKDF proposes that the ratio of LegCo members who are not of Chinese nationality be retained at 20% and therefore 14 seats should be available for election of members who are not of Chinese nationality. Almost all members returned in previous elections in seats available to members who are not of Chinese nationality have been ethnic Chinese and we believe such members are able to make a useful contribution to the governance of Hong Kong.

OTHER ISSUES

(i) Timetable for Universal Suffrage

The HKDF agrees with the Task Force's statement in paragraph 5.26 that there are divergent views on this issue. However, there is simply no doubt that the continued significant majority view of the community is that at least a Roadmap and preferably with a timetable, for the introduction of universal suffrage both for the election of the CE and all LegCo seats needs to be issued as part of the Task Force's final proposals.

(ii) Future of Functional Constituencies

It is the HKDF's view and we believe the dominant community view that FCs should be abolished at the earliest opportunity, which should now be by no later than the 2012 LegCo elections. While not in agreement with the wishes of supporters of the FC concept that certain sections need to have a continuing channel for participation in the legislative process, the HKDF believes it would be prudent to try to accommodate the influence of the business sector. Therefore we would strongly support the exploration of the introduction of a "bicameral" system with a fully directly elected primary chamber and a secondary chamber to accommodate specific sectoral groups.



We would like to take this opportunity to reiterate the issues raised in the **Delineation and Size of the Electorate of Functional Constituencies** (paragraphs 2.2.1 – 2.2.7 of our response to the 3rd Report of the Task Force), as we believe the recommendations made are integral to redressing anomalies in the present FC system, which are urgently needed.

In Appendix 1 we show our proposed composition of the FCs based on the issues raised in the **Delineation and Size of the Electorate of Functional Constituencies** (paragraphs 2.2.1 – 2.2.7 of our response to the 3rd Report of the Task Force) and taking into consideration the proposal to provide 5 additional FC seats, all of which would be allocated to District Councillors.

(iii) Replacing Corporate Voting by Individual Voting

The HKDF believes there still remains a strong case for the replacement of corporate voting by individual voting in all FCs which currently have corporate voting. While only a few proposals have been made as to how this might be accomplished, as stated in paragraph 5.32, the HKDF considers the proposals on this it has made previously in **Corporate Voting in the Functional Constituencies** (paragraph 2.3.1 of its response to the 3rd Report of the Task Force) is both practical and sustainable and should be adopted for the 2008 LegCo election.

VOTING, VOTING SYSTEMS & POLITICAL PARTIES

The HKDF have made numerous recommendations on the above issues in the **Voting System for the Geographical Constituencies, Postal Voting Method and Political Party Legitimization** (reference paragraphs 2.5.1 – 2.7.2 in its response to the 3rd Report of the Task Force), and believes that those in paragraphs 2.5.1 – 2.6.5 are worthy of incorporation in the arrangements for the 2008 LegCo elections and that the recommendations regarding Political parties in paragraphs 2.7.1 – 2.7.3 also merit action.

CONCLUSION

The HKDF considers that the proposals set out in the 5th Report of the Task Force, while on the surface appear to be an advance towards the objective of universal suffrage and a fair and open electoral system, in reality are only at best a marginal improvement over the current situation, based on the reasons presented above.

In view of this it is the HKDF's contention that these proposals do not merit support in their present form and unless there are substantive improvements made, there is little point in changing from the status quo. Moreover, to support the Task Force's 5th Report proposals would be to endorse a "snail's pace" approach to the transition to universal suffrage, which would not be acceptable to the majority of the community.



APPENDIX I

PROPOSED FUNCTIONAL CONSTITUENCIES FOR 2008 LEGISLATIVE COUNCIL ELECTIONS

Production Enterprises FC	3 seats
Agriculture & Fisheries	
Industrial (First)	
Industrial (Second)	
Publications (from the present Sports, Performing Arts, Culture and Publication FC)	
Real Estate & Construction	
Textiles & Garments	
Commercial	4 seats
Commercial (First)	
Commercial (Second)	
Import & Export	
Wholesale & Retail	
Technology	3 seats
Architectural, Surveying & Planning	
Engineering	
Information Technology	
Transport	
Financial	3 seats
Finance	
Financial Services	
Insurance	
Services	2 seats
Catering	
Tourism	
Professions	3 seats
Accounting	
Legal	
Medical	



Social	3 seats
Health Services	
Social Welfare	
Sports, Performing Arts & Culture	
Labour	5 seats
Education	2 seats
Heung Yee Kuk	1 seat
District Councils	6 seats



香港
下亞厘畢道
政府總部
中座三樓
政制事務局
政制發展專責小組秘書處

敬啟者：

政制發展專責小組第五號報告

附上是我們對政制發展專責小組第五號報告的回應。

雖然附件列出了我們詳細的意見，但是我們希望在這裡作一些簡短的解释。

香港民主促進會對第五號報告未能為香港特區政制發展進度作出實質的建議感到非常失望。我們相信，就算在今年較早時人大常委會作出短期政制發展的限制下，仍然有許多機會為達致行政長官產生辦法推行普選和立法會選舉的所有議席進行普選的目標作出重大的改進。因此，我們在我們的回應中列出了我們認為將會達成這個雙重目標實質進步的方法。

此外，香港民主促進會深切地不滿第五號報告未能提出功能界別制度的反常和不足，因此，如以往我們對專責小組各報告回應的建議一樣，在附件列出了必需的補救辦法。

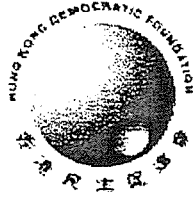
我們相信我們在回應中的建議是建設性，並且符合二〇〇五年四月二十六日人大常委會就基本法所作出的修改。因此，我們希望能與專責小組作較深度的討論。

香港民主促進會

副主席 高德禮

二〇〇五年十一月三十日

附件：香港民主促進會對政制發展專責小組第五號報告的回應



香港民主促進會
對政制發展專責小組
第五號報告的回應

就公眾持續支持 2007 年全民普選行政長官和 2008 年全民普選的立法會的情況下，對於專責小組未能在現有環境下，就民主的進度提出更進取的建議，我們表示非常失望。

區議會議員在行政長官和立法會選舉的角色

既然專責小組在 2007 年行政長官選舉和 2008 年立法會的組成中，加入了區議員的角色，我們希望作出一些原則性的觀察。

我們無法接受「區議會委任議員」參與這兩項選舉中的角色。我們相信加入委任區議員這些角色，會嚴重影響邁向全民普選投票的進程。

此外，我們並不認為政府有任何義務或需要為表示公平，使「委任區議員」享有這些角色。委任區議員加入區議會中，是有非常特定的目的，但相信他們的角色與這兩項選舉並沒有合乎邏輯的鏈結。



2007 年行政長官產生辦法

(i) 選舉委員會

在我們向專責小組的第 4 號報告中的回應，我們建議選舉委員會由 6,800 個成員組成，其中 3,400 個將會由直接選舉產生。

目的是選舉委員會直選成員的比例維持在 50%，我們將會支持一個實質上較小的選舉委員會，直接選舉的元素包含：

- 400 直選區議員
- 27 非官方區議員
- 35 直選立法會議員
- 22 鄉議局代表

這樣直選將會是 484 個成員。而結果選舉委員會將會是 964 個成員如下：

工商、金融界	120
專業界	85
勞工、社會服務、宗教等界	200
第四界別（直接選舉）	484
所有香港特區全國人大代表	36
香港特區全國政協委員的代表	43

關於專責小組第五號報告第 5.10 段中提出的「均衡參與」的議題，我們對所述的理論基本上有不同的意見，「均衡參與」並不等如在「管理下的等數參與」，這也並非是在「自由市場民主政治」普遍被接受的觀念。

我們強烈提醒，政府如繼續對「均衡參與」再作純粹數字上的「等數參與」定義，而因此促成向支持某少數的組織的傾斜，必定會對「社會穩定」產生不利影響的。

(ii) 提名機制

我們不同意第 5.11 段的提議和繼續支持現行所需的每位候選人至少有 100 位提名人的制度。

就如我們先前對專責小組的第 3 和第 4 號報告的回應一樣，考慮到一個小的選舉委員會，我們建議每位候選人的提名人上限為 100 人。此外，我們不贊成第 5.12 段所述：「設定一個上限將會不適當地限制選舉委員會委員執行他們提名候選人的權利。」選舉委員會委員事實上是沒有權利提名的，他們只是在一位候選人邀請的情況下，才有資格成為提名人。



(iv) 行政長官不屬任何政黨的規定

我們對專責小組第 4 號報告的回應中，我們支持行政長官可以屬於政黨，而且我們仍然維持這個觀點，正如我們以前所說的，這樣會較為有利。此外，我們不認同專責小組第 5 號報告（第 5.14 段中說），目前的規定沒有妨礙有效的管治；在 1997 年至 2005 年期間，社會中已經存在一個非常強烈的見解，認為政府管治上是出現了問題的。

其他

在我們對專責小組第 3 和第 4 號報告的回應中，我們已經就關於選舉委員會第一、第二及第三界別的組成作出各種的建議，在這裏我們認為這些原則仍然應用於 968 個選舉委員會席位。因此，我們之前對選舉委員會成員人數和組成的建議〔回應專責小組第 3 號報告中第 1.1.5，和 1.2.2 至 1.2.9 段〕繼續適用於此。

我們同時繼續支持我們回應專責小組第 3 號報告第 1.5.1 至 1.5.3 段就行政長官產生辦法的選舉程序的建議。



立法會產生辦法

(i) 議席數目

我們撤回先前反對增加立法會議席數目，而且支持建議增加立法會議席數目至 70 席，條件是委任區議員不能有選舉權利。

(ii) 功能界別的數目

關於功能界別區議員議席選舉方法，我們建議採用 STV 比例代表制。

(v) 國籍規定

我們建議非中國籍立法會成員的比率保存在 20%，因此 14 席可用作選舉非中國籍成員。以往幾乎所有用作選舉非中國籍成員的席位均為華人，而且我們相信這些成員能夠對香港的管治作出有用的貢獻。

其他

(i) 普選時間表

我們同意專責小組在第 5.26 段中所述這一個議題上有分歧的意見。然而，大部分社會人士希望見到一個「路線圖」，後來才討論一個時間表。

(ii) 功能團體的未來路向

這是我們的意見，而且我們相信絕大多數社會人士的意見是：應該盡早廢除功能界別議席的，現在應該是不能延遲超過 2012 立法會選舉。雖然我們並不贊同保留功能團體的概念，認為某部分需要在立法程序中繼續保留商界的影響力，但是我們認為這個想法是值得審慎保留的。因此，我們強烈地支持探討引入一個具有完全直選第一議會和第二會議的「兩院制」以配合特別功能組織。

我們希望藉這一個機會重申糾正目前功能界別議席所引起的反常現象是必需和有急切需要的。

在附錄 1 中，我們列出由區議員互選的新增功能界別議席的提議。



(iii) 「團體票」改為「個人票」

我們相信需要將目前的「團體票」投票權改為「個人票」。我們認為我們對功能組別中的「團體票」的建議〔專責小組第三號報告回應中第 2.3.1 段〕是既實際又可行的，並且應該於 2008 年立法會選舉中實行。

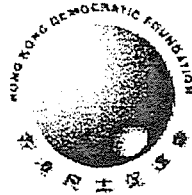
投票、投票機制及政黨

我們已經在回應專責小組第三號報告中，對地區選舉的投票、郵遞投票方法和政黨法律作出了很多建議〔參考第 2.5.1 至 2.7.2 段〕，而且相信那些在第 2.5.1 至 2.6.5 段的建議值得加入就安排 2008 年立法會的選舉中，而在第 2.7.1 至 2.7.3 段對政黨的建議也是值得推動的。

結論

我們認為在專責小組第 5 號報告中的建議，表面上似乎進一步邁向普選的目標和是一個公平和公開的選舉制度，實際上，只是極有限的進步而已。

因此，我們認為這些建議是不值得支持的，而且除非有實質的改善，否則沒有論點去改變現有的選舉方法。此外，支持專責小組第 5 號報告的建議將會是對達致普選贊同的一個「蝸牛式速度」的方式，這並不是大多數社會人士所能接受的。



附錄一

2008年立法會選舉
建議功能團體

製造業	3 個議席
漁農界	
工業（第一）	
工業（第二）	
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