

## **Content**

<b>Chapter One :</b>	<b>Background</b>	<b>1</b>
	Legislative Council Ordinance (Cap. 542)	1
	The High Court's Judgment on Three Judicial Review Cases on Prisoners' Voting Right	3
	The High Court's Judgment on Relief Granted	3
	Summary of Proposals and Policy Options in the Consultation Document	5
	Proceedings of the Consultation Exercise	7
<b>Chapter Three :</b>	<b>Results of the Public Consultation Exercise</b>	<b>9</b>
	Policy Option on Relaxing the Restriction on Prisoners' Registration Right	9
	Prisoners' Right to Vote	9
	Practical Voting Arrangements for Prisoners and Remanded Unconvicted Persons	11

<b>Chapter Four :</b>	<b>Proposals on Relaxing the Restrictions on Prisoners' Right to be Registered as Electors and Voting Right</b>	<b>14</b>
	Prisoners' Right to be Registered as Electors	14
	Prisoners' Voting Right	14
	To Remove Existing Disqualification of Persons Convicted of Election-related or Bribery Offences	15
	Practical Voting Arrangements for Prisoners and Remanded Unconvicted Persons	16
Annex I :	List of Organizations Met to Discuss Prisoners' Voting Right	
Annex II :	Summary on the Forums on Prisoners' Voting Right	
Annex III :	Result of the Opinion Poll	

## **Chapter One: Background**

### **Legislative Council Ordinance (Cap. 542)**

- 1.01 The Legislative Council Ordinance (“LCO”) governs, among other things, the registration of electors and conduct of elections for the Legislative Council (“LegCo”) of the Hong Kong Special Administrative Region.

#### **(A) Registration of Electors**

- 1.02 As provided under section 48 of the LCO, only a registered elector is eligible to vote at a LegCo Election. A registered elector is a person whose name appears on the final register (“FR”) of electors as compiled and published by the Electoral Registration Officer under the Ordinance.
- 1.03 All Hong Kong permanent residents aged 18 or above who ordinarily reside in Hong Kong may apply for registration as an elector. Eligible electors may submit the application at any time of the year. However, they need to apply before the statutory deadline<sup>1</sup> of the year if they wish to have their names included in the FR to be published in that year. If the application is made after the deadline, their names will only be recorded in the FR to be published in the subsequent year.

#### **(B) Disqualification from Registration as Electors**

- 1.04 The LCO also provides for disqualification of persons from being registered as electors. Amongst other disqualification provisions, section 31(1)(a)-(c) of the Ordinance applies to persons convicted of certain types of crimes and to prisoners. A natural person is disqualified from being registered as an elector for a constituency if the person—
- (a) has, in Hong Kong or any other place, been sentenced to death or imprisonment (by whatever name called) and has not either—

---

<sup>1</sup> The statutory deadline is 16<sup>th</sup> July for a District Council election year, and 16<sup>th</sup> May for other years.

- (i) served the sentence or undergone such other punishment as a competent authority may have substituted for the sentence; or
  - (ii) received a free pardon; or
- (b) on the date of application for registration, is serving a sentence of imprisonment; or
- (c) without limiting paragraph (a), where the election is to be held or is held within 3 years after the date of the person's conviction, is or has been convicted:
  - (i) of having engaged in corrupt or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554); or
  - (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap. 201); or
  - (iii) of any offence prescribed by regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541).

**(C) Disqualification from Voting**

1.05 The LCO also sets out the circumstances under which a person is disqualified from voting. Section 53(5)(a)-(c) of the LCO specifies the disqualification provisions applicable to persons convicted of certain types of crimes and to prisoners. An elector is disqualified from voting if the elector—

- (a) has, in Hong Kong or any other place, been sentenced to death or imprisonment (by whatever name called) and has not either—
  - (i) served the sentence or undergone such other punishment as a competent authority may have substituted for the sentence; or
  - (ii) received a free pardon; or
- (b) on the date of the election, is serving a sentence of imprisonment; or

- (c) without limiting paragraph (a), where the election is to be held or is held within 3 years after the date of the person's conviction, is or has been convicted:
  - (i) of having engaged in corrupt or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554); or
  - (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap. 201); or
  - (iii) of any offence prescribed by regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541).

### **The High Court's Judgment on Three Judicial Review Cases on Prisoners' Voting Right**

1.06 In August 2008, the Court granted leave to three judicial review ("JR") applications which challenged the constitutionality of the existing across-the-board restrictions on prisoners' right to be registered as electors and to vote under the LCO. After hearing the cases in November 2008, the Court handed down its judgment ("main judgment") on the three JR cases on 8 December 2008. The Court considers that the existing general, automatic, and indiscriminate restrictions on prisoners' right to register as electors and to vote unconstitutional. Arrangements should be made to enable prisoners to vote on the election day. The Court also takes the view that arrangements should be made to enable remanded unconvicted persons to vote on the election day whilst being held in custody.

### **The High Court's Judgment on Relief Granted**

1.07 Another hearing on the JR cases was held on 23 February 2009 during which the Court heard the submissions made by the parties on the appropriate relief (i.e. form of remedies) to be granted. On 11 March 2009, the Court handed down the judgment on the relief granted to the JR cases as summarised below—

- (a) the Court declares that the existing across-the-board restrictions on prisoners' right to be registered as electors and to vote under the LCO unconstitutional;
- (b) the Court also declares that the Electoral Affairs Commission (“EAC”) has a statutory duty to make all necessary arrangements that are within its powers to provide prisoners and remanded unconvicted persons who are registered as electors and are either held in custody or serving sentences of imprisonment to vote on the election day; and
- (c) the Court grants a temporary suspension order in relation to its declaration relating to prisoners’ voting right up to 31 October 2009.

## **Chapter Two: The Public Consultation Exercise**

- 2.01 In order to take forward the main judgment, the Administration published the Consultation Document on Prisoners' Voting Right ("the Consultation Document") to consult the public on the policy options for relaxing the restrictions on the voting right of prisoners and on the practical voting arrangements on 9 February 2009.

### **Summary of Proposals and Policy Options in the Consultation Document**

- 2.02 The proposals in the Consultation Document relating to the policy options on relaxing the ban on prisoners' voting right and the practical arrangements for prisoners and remanded unconvicted persons to exercise their voting right are summarised below—

#### **(A) Policy Options on Prisoners' Right to be Registered as Electors**

The proposal is to remove the disqualification of prisoners from applying to be registered as electors. In other words, eligible persons would not be disqualified from being registered as electors due to imprisonment.

#### **(B) Policy Options on Prisoners' Voting Right**

- (a) Option One is to remove the existing disqualification provisions in section 53(5)(a)-(b). The disqualification of persons convicted of election-related or bribery offences from voting under section 53(5)(c) will remain.
- (b) Option Two is to disqualify prisoners from voting if they are serving a sentence of imprisonment for a sufficiently long period (say, 10 years or over). The right to vote would resume upon completion of sentence and release from imprisonment.
- (c) Option Three is to disqualify prisoners from voting if they are serving a sentence of imprisonment for a sufficiently long period (say, 10 years or over) while enabling them to resume the right to vote when they

are serving the last few years of imprisonment (say, last five years).

**(C) Practical Arrangements for Prisoners to Vote**

*Registered Address of Eligible Prisoners as Electors*

- (a) For prisoners who have not yet been registered as electors before they serve their sentence of imprisonment, they may apply to be registered to the address of their home if they continue to maintain a sole or main home outside the prison.
- (b) For prisoners who have already been registered as electors before they serve their sentence of imprisonment, their registered addresses would follow the address of their sole or main home.
- (c) For registered and non-registered prisoners who no longer maintain any sole or main home outside the prison, their last dwelling-place in Hong Kong at which they resided before serving their sentence of imprisonment would be deemed to be their only or principal residence in Hong Kong for the purpose of voter registration.

*Canvassing for Votes*

- (d) Prisoners may receive electoral documents and election advertisements sent by post.
- (e) Prisoners may have access to the election-related information covered by the mass media such as newspapers, radio and television.

*Practical Arrangements*

- (f) To arrange mobile polling stations to visit prisons with eligible electors or to set up polling stations inside prisons.
- (g) To consider reasonable limitation on the polling hours for prisoners, and to regulate the flow of prisoners in the polling stations.



**(D) Arrangements for Remanded Unconvicted Persons**

- (h) To work out arrangements for remanded unconvicted persons to cast their votes which would be similar to those for prisoners.

**(E) Counting Arrangements**

- (i) Depending on the actual polling arrangement to be adopted, the EAC would need to work out the counting arrangements, including the arrangements for transferring the ballot papers to the relevant counting stations, to be mixed with other ballot papers to ensure the secrecy of votes, etc.

**Proceedings of the Consultation Exercise**

- 2.03 The six-week public consultation exercise on prisoners' voting right was conducted from 9 February 2009 to 23 March 2009. We placed newspaper advertisements and arranged Announcement of Public Interests and interviews on the radio to publicise the consultation exercise.
- 2.04 The public could obtain the Consultation Document from the Public Enquiries Services Centers of the Home Affairs Department, or download a soft copy of the Consultation Document from the website of the Constitutional and Mainland Affairs Bureau. Copies of the Consultation Document were also mailed to the major organizations interested in the issue of prisoners' voting right.
- 2.05 To publicise the consultation to prisoners and remanded unconvicted persons, the Correctional Services Department posted notices on the consultation exercise at conspicuous places in the penal institutions. Prisoners were provided with the Consultation Document upon request. We made further appeals to prisoners and remanded unconvicted persons through a radio programme catered for prisoners and their families. We also met with organizations interested in this issue to gather their views. The attendance list is at Annex I.

- 2.06 The Administration organised two forums on 6 March and 11 March 2009 at the Hong Kong Heritage Museum and the Hong Kong Central Library respectively. A summary of the opinions expressed in the two forums is at Annex II. A total of more than 280 district personalities, including members of District Councils, members of Area Committees, representatives of owners' corporations and mutual aid committees, students, professionals, and representatives of organizations, etc. participated in the forums.
- 2.07 An opinion poll was also conducted to further gauge the public's views.

## **Chapter Three: Results of the Public Consultation Exercise**

3.01 During the consultation period, a total of 70 submissions were received<sup>2</sup>. The collection of the submissions (except a few which requested confidentiality) is in the Appendix. The Appendix can be viewed at the Public Enquiry Service Centers of the Home Affairs Development or the Constitutional and Mainland Affairs Bureau website.

### **Policy Option on Relaxing the Restriction on Prisoners' Registration Right**

3.02 A majority of the submissions received from the public consultation exercise supported removing the existing restrictions on prisoners' right to be registered as electors<sup>3</sup>. A majority of the opinions from the public forums and the meetings also supported relaxing the said restriction.

### **Prisoners' Right to Vote**

3.03 A total of 34 out of the 70 submissions received (i.e. 49% of the submissions) supported Option One<sup>4</sup>. One submission (i.e. 1%) supported Option Two and two submissions (i.e. 3%) supported

---

<sup>2</sup> The Constitutional and Mainland Affairs Bureau received three more submissions on the Consultation Document shortly after the public consultation period ended.

<sup>3</sup> A number of submissions indicated support for removing the existing disqualification of prisoners from voting, without giving any views on registration right. However, as they support allowing prisoners to vote, it would only be logical to presume that they also support allowing prisoners to register. For example, the Hong Kong Bar Association, the Society for Community Organization, the Law Society of Hong Kong, the Civic Party, Justice, the Hong Kong Section of the International Commission of Jurists, the Committee on Community Support for Rehabilitated Offenders and some other submissions supported the proposal to remove the disqualification of all prisoners from applying to be registered as a voter. The Society for Community Organization was of the view that the Administration should launch Voter Registration Campaign inside the penal institutions; please refer to Appendix (P045), (P17), (P52), (P04), (P46) and (P10) for details.

<sup>4</sup> For example, the Hong Kong Bar Association, the Society for Community Organization, the Committee on Community Support for Rehabilitated Offenders and some other submissions supported Option One. They were of the view that the right to vote is a fundamental political right that should be enjoyed by all prisoners, regardless of the nature of crimes that they have committed and their length of sentence. The Hong Kong Bar Association and the Society for Community Organization also suggested that section 53(5)(c) of the LCO which disqualifies any person convicted of a corruption or election-related offence from voting is problematic. The Administration should also review the disqualification provisions in section 53(5)(c); please refer to Appendix (P45), (P17) and (P10) for details.

Option Three<sup>5</sup>. There were 17 submissions (i.e. 24%) which supported removing the existing disqualification provisions in section 53(5)(a)-(c) of the LCO<sup>6</sup>.

- 3.04 At the meetings held with the organizations interested in the prisoners' voting issues ("consultation meetings"), the participants generally supported Option One. There were views that the right to vote is a fundamental human right and that all eligible prisoners should be allowed to be registered as electors and to vote. There were also views that to enable eligible prisoners to vote could facilitate their rehabilitation and reintegration into society. There were also proposals that the Administration should review section 53(5)(c) of the LCO which disqualify persons convicted of election-related or bribery offences from voting within three years after such conviction. As those convicted persons were already being penalized for the offences they had committed by, for example, serving their sentences of imprisonment, it would be unfair to impose additional penalty on them by depriving their voting right.
- 3.05 The result of the opinion survey is at Annex III. It indicated that a majority of the respondents (around 57%) supported that all prisoners should have the right to vote regardless of their length of sentence of imprisonment. This included those who supported Option One and those who supported removing the existing disqualification provisions in section 53(5)(a)-(c) of the LCO. Only around 34% of the respondents did not support allowing all prisoners to have the right to vote. This included those who supported Option Two and Option Three.
- 3.06 Opinions expressed in the public forums were more diverse. A considerable portion of the participants were of the view that all prisoners should retain their political rights and should be allowed to vote. On the other hand, quite a few of those who

---

<sup>5</sup> The Liberal Party and another submission supported Option Three. They were of the view that enabling prisoners to vote when they are approaching the end of the term of their imprisonment might enhance their civic-mindedness and facilitate their reintegration into society; please refer to (P05) and (P34) for details.

<sup>6</sup> For example, the Law Society of Hong Kong and the Civic Party supported removing the existing disqualification provisions in section 53(5)(a)-(c) of the LCO. They were of the view that there is no inevitable, obvious and direct relationship between disqualifying such persons from voting for three years after conviction and protecting the integrity of the legislation, and that it is in the society's interests to have all persons express their views and vote in regard to government policies and the persons chosen to participate in the governance of society; please refer to (P52) and (P04) for details.

expressed their views considered that prisoners should not be allowed to vote and suggested that the Government should appeal against the Court's judgment.

### **Practical Voting Arrangements for Prisoners and Remanded Unconvicted Persons**

3.07 According to the submissions received and views gathered in the public forums and consultation meetings, the public generally supported the proposed practical voting arrangements for prisoners and remanded unconvicted persons set out in the Consultation Document as detailed in paragraphs 3.08 – 3.12 below.

#### **(A) Registered Address of Eligible Prisoners as Electors**

3.08 On the registered address of eligible prisoners as electors, a majority of the public supported that prisoners should be registered to the address of their sole or main home if they continue to maintain a sole or main home outside the prison. For prisoners who do not maintain a sole or main home, a majority of the public expressed the view that their last dwelling-place in Hong Kong at which they resided before serving their sentence of imprisonment should be deemed to be their only or principal residence in Hong Kong for the purpose of voter registration<sup>7</sup>.

3.09 There were a few submissions which considered that the prison address should be the registered address for all prisoners<sup>8</sup>, and that for prisoners who do not maintain a sole or main home, either the address of the next-of-kin of the prisoner<sup>9</sup> or the address of prison<sup>10</sup> should be deemed to be the prisoners' only or

---

<sup>7</sup> For those submissions which have expressed their views on the registered address of eligible prisoners as electors, most of them supported the proposals as outlined in the Consultation Document. These include the Hong Kong Bar Association, the Society for Community Organization, the Law Society of Hong Kong, the Civic Party, Justice, the Hong Kong Section of the International Commission of Jurists, the Committee on Community Support for Rehabilitated Offenders and the Liberal Party; please refer to (P45), (P17), (P52), (P04), (P46), (P10) and (P05) for details.

<sup>8</sup> Please refer to (P16) and (P34) for details.

<sup>9</sup> Please refer to (P24), (P36), (P18), (P40) and (P43) for details.

<sup>10</sup> Please refer to (P11), (P18), (P24), (P36), (P55), (P40) and (P56) to (P65) for details.

principal residence in Hong Kong for the purpose of voter registration.

### **(B) Canvassing for Votes**

- 3.10 Amongst the views received on canvassing for votes, most of them supported allowing prisoners to access election-related materials by post and through the mass media<sup>11</sup>. Many of the views received on canvassing for votes had indicated reservation for allowing candidates to canvass in person inside prisons due to security concerns. Some submissions suggested that the Administration should make arrangements to ensure that prisoners could have access to the election advertisements<sup>12</sup>. There were also a few submissions which considered that prisoners should be allowed to interact with candidates and that candidates should be allowed to canvass in person inside the penal institutions<sup>13</sup>.

### **(C) Practical Arrangements for Prisoners to Vote**

- 3.11 On the practical voting arrangements for prisoners, most of the views gathered agreed that prisoners should vote in person either by arranging mobile polling stations to visit prisons with eligible electors<sup>14</sup> or setting up polling stations inside prisons<sup>15</sup> with restrictions on polling hours and the admission of candidates and

---

<sup>11</sup> For those submissions which have expressed their views on the canvassing for votes, most of them supported the proposals as outlined in the Consultation Document. These include the Law Society of Hong Kong, the Committee on Community Support for Rehabilitated Offenders and the Liberal Party; please refer to (P52), (P10) and (P05) for details.

<sup>12</sup> Please refer to (P27), (P21) and (P25) for details.

<sup>13</sup> For example, the Democratic Party was of the view that the Administration has the responsibility to arrange channels for interaction between prisoners and candidates when the prisoners make such request.

<sup>14</sup> For example, the Law Society of Hong Kong, the Committee on Community Support for Rehabilitated Offenders and the Liberal Party agreed that prisoners should vote in person by arranging mobile polling stations to visit prisons with eligible electors; please refer to (P52), (P10) and (P05) for details.

<sup>15</sup> For example, the Law Society of Hong Kong, Justice, the Hong Kong Section of the International Commission of Jurists, the Committee on Community Support for Rehabilitated Offenders and the Liberal Party agreed that prisoners should vote in person by setting up polling stations inside prisons; please refer to (P52), (P46), (P10) and (P05) for details.

their polling agents to enter mobile polling stations or polling stations set up inside prisons<sup>16</sup>.

- 3.12 As regards the counting arrangement, a majority of the public who had expressed their views on the issue opined that the ballot papers cast by prisoners should be mixed with those cast by ordinary electors before the ballot papers are counted.

---

<sup>16</sup> For example, Justice, the Hong Kong Section of the International Commission of Jurists and the Liberal Party agreed that there could be restriction on polling hours and the admission of candidates and their polling agents to enter polling stations or mobile polling stations set up inside prisons; please refer to (P46) and (P05) for details.

## **Chapter Four: Proposals on Relaxing the Restrictions on Prisoners' Right to be Registered as Electors and Voting Right**

### **Prisoners' Right to be Registered as Electors**

- 4.01 Under the existing provisions of the LCO, all prisoners are disqualified from being registered as electors and from voting. In the Court's judgment on the three JR cases on prisoners' voting right, the Court considers that the existing restrictions on registration under the LCO is difficult to justify in the sense that it applies regardless of whether the prisoner is expected to be released from prison by the time of the next election. Given that the existing provisions already disqualify a prisoner from voting, the ban on registration is superfluous.
- 4.02 In the light of the Court's judgment and the public's support, there is a clear case for removing section 31(1)(a)-(b) under the LCO which disqualify prisoners from being registered as electors.

### **Prisoners' Voting Right**

- 4.03 The results of the public consultation exercise have demonstrated that the public largely support the removal of the existing disqualification provisions in section 53(5)(a)-(b) of the LCO, which disqualify all prisoners from voting.
- 4.04 There were views that the right to vote is a fundamental political right that should be enjoyed by prisoners, regardless of the crimes they have committed. As prisoners are already penalized for the offences they have committed by serving their sentences of imprisonment, it is unfair to further penalize them by taking away their voting right. In the development of universal franchise, the goal is to allow all persons to vote, irrespective of their sex, race, social status, criminal record, etc. It is also in society's interest to have all persons express their views and vote in regard to government policies and the persons chosen to participate in the governance of society.



- 4.05 Options Two and Three specified in the Consultation Document suggest disqualifying prisoners based on the length of the sentence of imprisonment. While such restrictions can also be found in overseas jurisdictions, there were views that similar to a blanket disenfranchisement, disqualifying prisoners from voting based on the length of the sentence of imprisonment would result in arbitrariness in the disqualification. Although such arrangement is less restrictive than a blanket exclusion of all prisoners from voting, the reasoning of distinguishing “serious offenders” from “less serious offenders” by way of the sentence of imprisonment is not entirely clear. It may be difficult to provide evidence to prove that prisoners serving a long-term sentence would undermine the integrity of the legislature if they are able to exercise the right to vote. The options of disqualifying prisoners from voting based on the length of the sentence of imprisonment may attract legal challenges in future.
- 4.06 Having regard to the above analysis, there is a clear case for removing the existing disqualification provisions under section 53(5)(a)-(b) of the LCO.

#### **To Remove Existing Disqualification of Persons Convicted of Election-related or Bribery Offences**

- 4.07 In the opinion survey, a vast majority of respondents supported the retention of the existing disqualification of persons convicted of election-related or bribery offences from voting under section 53(5)(c) of the LCO. There were views in the submissions and public forums that such restrictions could help safeguard the integrity of the elections.
- 4.08 However, a considerable number of submissions received and the views gathered at the consultation meetings had requested the removal of section 53(5)(c) of the LCO. The rationale is that the right to vote is a fundamental political right which should be enjoyed by every person. As persons convicted of election-related or bribery offences are already penalized for the

offences they have committed by, for example, serving their sentences of imprisonment, it is unfair to impose additional penalty on them by depriving their voting right. There is also no inevitable, obvious and direct relationship between protecting the integrity of the legislature and disqualifying persons convicted of election-related or bribery offences from voting for three years after conviction. It is considered that a person who commits such offences can still rationally consider and decide on political issues that all citizens face in the voting booth.

- 4.09 As there is a clear case for removing the disqualification of prisoners from voting irrespective of their length of sentences, the retention of the disqualification of persons convicted of election-related or bribery offences may give rise to consistency concerns, in particular given that some in the latter group may not be given imprisonment sentences. It is also noted that in a large number of overseas countries (including Austria, Sweden, Switzerland, Denmark, Ireland, Iceland, Finland, Canada, Japan, South Africa and Israel), there is no restriction on prisoners' voting right.
- 4.10 Having regard to the considerations set out above, there is good justification to remove section 53(5)(c) of the LCO.
- 4.11 Consequentially, there is a clear case for removing section 31(1)(c) of the LCO which disqualify persons convicted of election-related or bribery offences from being registered as electors within three years after such conviction.

### **Practical Voting Arrangements for Prisoners and Remanded Unconvicted Persons**

- 4.12 As the results of the public consultation exercise have also reflected the public's general support of the proposed voting arrangements for prisoners and remanded unconvicted persons set out in paragraphs 3.08 to 3.12 above, we plan to implement those arrangements accordingly.

**List of Organizations Met to Discuss Prisoners' Voting Right**

Hong Kong Christian Kun Sun Association

Hong Kong Human Rights Monitor

Society For Community Organization

The Society of Rehabilitation and Crime Prevention, Hong Kong

Member of Committee on Community Support for Rehabilitated Offenders

## **Summary on the First Forum on Prisoners' Voting Right**

**Date** : 6 March 2009 (Friday)  
**Time** : 6:30 p.m. – 8:30 p.m.  
**Venue** : Theatre, Hong Kong Heritage Museum,  
1 Man Lam Road, Sha Tin, New Territories

### **Prisoners' Right to Vote**

1. Some of the participants were of the view that the right to vote is a fundamental political right that should be enjoyed by all prisoners, regardless of the nature of the crimes they had committed and their length of sentence of imprisonment. Among those who took the view that all prisoners should have the right to vote, some considered that there is no inevitable, obvious and direct relationship between disqualifying persons convicted of election-related or bribery offences from voting for three years and protecting the integrity of the legislation.

2. Some of the participants held the opposite view. They believed that prisoners should not have the right to vote. Since many of the prisoners had infringed the rights of others by committing offences, it would be justifiable not to allow them to vote during their imprisonment. They considered that such disqualification provisions were appropriate in order to protect the integrity of the legislation.

3. There were also some participants who considered that whether the prisoners should be allowed to vote should depend on the nature of the crimes they had committed, or the length of their sentence of imprisonment. For participants who expressed the view that prisoners should be disqualified from voting based on their length of sentence of imprisonment, there were some who suggested that prisoners serving a sentence of imprisonment for three years or more should not be allowed to vote, while there were others who believed that five years or ten years of sentence of imprisonment would be a more appropriate cut-off for disqualifying a prisoner from voting.

## **Practical Voting Arrangements for Prisoners and Remanded Unconvicted Persons**

### **(A) Registered Address of Eligible Prisoners as Electors**

4. All participants who expressed their views on whether the prison address should be used as the registered address for prisoners rejected this option. The participants noted that using the address of the prisons as a registered address might lead to an unduly high proportion of prisoners in the registered electorate of certain constituencies. They were in particular concerned about District Council Elections in which the registered electorate is small.

5. Most of the participants who expressed their views on the registered address of prisoners agreed that prisoners should be registered to the address of their sole or main home if they continue to maintain a sole or main home outside the prison. For prisoners who no longer maintain any sole or main home outside the prison, their last dwelling-place in Hong Kong at which they resided before serving their sentence of imprisonment would be deemed to be their only or principle residence in Hong Kong for the purpose of voter registration.

### **(B) Canvassing for Votes**

6. Most of the participants who expressed their views on this issue indicated reservation over allowing candidates to canvass in person inside prisons. They were worried that certain persons who had more chances to approach prisoners, e.g. lawyers and social workers, might gain an advantage if they stand for election. Participants also indicated concerns about prison security if all candidates for all constituencies were allowed to enter prisons to canvass for votes especially in a District Council General Election.

(C) Polling Arrangements

7. Many participants worried about the resource implication if prisoners were escorted to cast their votes at their designated polling stations. Most of the participants agreed that it would be more appropriate to set up polling stations inside prisons for prisoners to cast their votes.

## **Summary on the Second Forum on Prisoners' Voting Right**

**Date** : 11 March 2009 (Wednesday)  
**Time** : 6:30 p.m. – 8:30 p.m.  
**Venue** : Lecture Theatre, Hong Kong Central Library,  
66 Causeway Road, Causeway Bay

### **Prisoners' Right to Vote**

1. Some of the participants considered that prisoners should not have the right to vote, while others held the opposite view. Among those who supported relaxing the restrictions on prisoners' voting right, there were different opinions as to the extent to which prisoners' voting right should be relaxed. In general, participants were of the view that it would be appropriate to disqualify certain prisoners from voting either according to their length of sentence of imprisonment or based on explicit determination by the sentencing judge.

### **Practical Voting Arrangements for Prisoners and Remanded Unconvicted Persons**

#### **(A) Registered Address of Eligible Prisoners as Electors**

2. Most participants who expressed their views on the registered address of prisoners rejected the proposal to use the prison address as the registered address. They noted that using the address of the prisons as a registered address might lead to an unduly high proportion of prisoners in the registered electorate of certain constituencies. They were in particular concerned about District Council Elections in which the registered electorate is small.

3. Most of the participants who expressed their views on this issue agreed that prisoners should be registered to the address of their sole or main home if they continue to maintain a sole or main home outside the prison. For prisoners who no longer maintain any sole or main home outside the prison, their last dwelling-place in Hong Kong at which they resided before

serving their sentence of imprisonment should be deemed to be their only or principle residence in Hong Kong for the purpose of voter registration.

(B) Canvassing for Votes

4. Participants who expressed their views on canvassing for votes agreed that reasonable restrictions should be imposed on canvassing for votes inside prisons.

(C) Polling Arrangements

5. Participants generally considered that prisoners should not be escorted out to cast their votes at their designated polling stations.



## &lt; 有關在囚人士投票權 &gt; 民意調查

[Q1] 請問你贊唔贊成在囚人士，不論刑期長短，都有投票資格？

		百分比					
		唔贊成	贊成	視乎情況	唔知道/ 無意見	拒絕回答	總計
第 1 輪	12-16/3/2009	33.9	56.6	0.1	9.2	0.2	100.0
第 2 輪	19-23/3/2009	33.6	58.3	--	7.9	0.2	100.0

註： 第 1 輪及第 2 輪回應人數分別為 1 051 及 1 117。

[Q2] （如非贊成不論刑期長短）咁你認為刑期幾耐？人應該？被監禁期間喪失投票資格？係三年或以上呀、五年或以上呀、十年或以上呀，抑或係其他（請註明）呢？

		百分比								
		所有在 囚人士 都無投 票資格	刑期 三年 或以上	刑期 五年 或以上	刑期 十年 或以上	其他 刑期	其他 (非刑期)	唔知道/ 無意見	拒絕 回答	總計
以非贊成在囚人士不論刑期長短都有投票資格的人士為基數										
第 1 輪	12-16/3/2009	33.7	21.8	12.7	9.6	4.2	4.3	13.4	0.2	100.0
第 2 輪	19-23/3/2009	32.1	27.3	11.6	8.5	2.7	5.0	12.5	0.3	100.0
以整體公眾為基數										
第 1 輪	12-16/3/2009	14.6	9.5	5.5	4.2	1.8	1.9	5.8	0.1	43.4
第 2 輪	19-23/3/2009	13.4	11.4	4.8	3.5	1.1	2.1	5.2	0.1	41.7

[Q3] (如非贊成不論刑期長短)請問你贊唔贊成? 佢? 刑期? 最後一年或者幾年, 恢復番佢?? 投票資格?

		百分比				
		唔贊成	贊成	唔知道/ 無意見	拒絕 回答	總計
以非贊成在囚人士不論刑期長短都有投票資格的人士為基數						
第 1 輪	12-16/3/2009	53.1	38.6	8.0	0.2	100.0
第 2 輪	19-23/3/2009	56.6	34.4	9.0	--	100.0
以整體公眾為基數						
第 1 輪	12-16/3/2009	23.1	16.7	3.5	0.1	43.4
第 2 輪	19-23/3/2009	23.6	14.3	3.8	--	41.7

[Q4] (如贊成刑期最後一年或者幾年恢復投票資格) 咁你認為應該? 刑期最後幾多年恢復番佢?? 投票資格呢? 係最後一年呀、最後三年呀、最後五年呀, 抑或係其他(請註明)呢?

		百分比							
		最後 一年	最後 三年	最後 五年	其他 (與刑期 有關)	其他 (與刑期 無關)	唔知道/ 無意見	拒絕 回答	總計
以贊成刑期最後一年或幾年恢復在囚人士投票資格的人士為基數									
第 1 輪	12-16/3/2009	62.0	16.5	3.5	6.2	6.6	5.2	--	100.0
第 2 輪	19-23/3/2009	57.0	18.3	4.2	5.4	11.2	4.0	--	100.0
以整體公眾為基數									
第 1 輪	12-16/3/2009	10.4	2.8	0.6	1.0	1.1	0.9	--	16.7
第 2 輪	19-23/3/2009	8.2	2.6	0.6	0.8	1.6	0.6	--	14.3

[Q5-Q6] 根據現時規定，被裁定干犯〈選舉舞弊或者非法行為〉／《防止賄賂條例》>? 人，會喪失投票資格 3 年。你贊唔贊成保留呢個規定呢？

		百分比					
第 2 輪	19-23/3/2009	唔贊成	贊成	其他	唔知道/ 無意見	拒絕回答	總計
[Q5] 干犯選舉舞弊或者非法行為		7.5	86.8	1.2	4.4	0.1	100.0
[Q6] 干犯《防止賄賂條例》		9.3	85.7	1.0	3.8	0.1	100.0
<u>干犯選舉舞弊或者非法行為</u>							
第 1 輪	12-16/3/2009	7.1	86.6	1.6	4.7	--	100.0
第 2 輪	19-23/3/2009	7.5	86.8	1.2	4.4	0.1	100.0
<u>干犯《防止賄賂條例》</u>							
第 1 輪	12-16/3/2009	9.8	84.2	1.2	4.8	--	100.0
第 2 輪	19-23/3/2009	9.3	85.7	1.0	3.8	0.1	100.0