

Legislative Council Panel on Constitutional Affairs

Discussion regarding the formation of the Legislative Council by universal suffrage

Introduction

This paper provides relevant information for Members' reference on the following discussion items proposed by the Democratic Party:

- (a) method for forming the Legislative Council (LegCo) by universal suffrage and the future of functional constituencies (FCs); and
- (b) delineation of geographical constituencies and the system of voting when all LegCo Members are returned by universal suffrage.

Method for forming LegCo by universal suffrage and the future of FCs

2. Article 68 of the Basic Law provides that “the LegCo of the HKSAR shall be constituted by election. The method for forming the LegCo shall be specified in the light of actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all members of LegCo by universal suffrage.” In accordance with the Decision made by the Standing Committee of the National People's Congress (NPCSC) of April 2004, the ratio between members returned by FCs and members returned by geographical constituencies (GCs) through direct elections, who shall respectively occupy half of the seats, is to remain unchanged.

3. At its meeting in November 2005, the Committee on Governance and Political Development of the Commission on Strategic Development (CSD) explored preliminarily the possible models for forming the LegCo when the ultimate aim of universal suffrage is attained (including the unicameral and bicameral systems) and the issues to be considered. The CSD Secretariat has provided to LegCo the relevant discussion paper

(CB(2)519/05-06(2)). Moreover, the Committee held a workshop in February to further understand how countries and regions adopted different designs of electoral systems for their legislature when implementing universal suffrage to meet the interests of different sectors. The CSD Secretariat has also provided to LegCo a summary of views expressed at the workshop (CB(2)1519/05-06 Annex IV).

4. The Government has not taken a view on the possible models for forming the LegCo when the ultimate aim of universal suffrage is attained and on the future of FCs. Regardless of which model is to be adopted, the ultimate aim of electing all members of LegCo by universal suffrage, as prescribed in the Basic Law, must be attained. The CSD aims at concluding discussions on the possible models of a universal suffrage system for the Chief Executive (CE) and the LegCo by early 2007.

5. Moreover, when consulting the public on the 2007/08 electoral arrangements, the Constitutional Development Task Force (the Task Force) received some views on the models of a universal suffrage system for LegCo. In accordance with the Decision of the NPCSC of April 2004, the elections in 2007/2008 shall not be by means of universal suffrage. Hence, views on the models of a universal suffrage system for LegCo did not fall within the scope for public consultation undertaken by the Task Force. However, to fully reflect the public view received, the Task Force had, with the consent of the concerned individuals/organizations, included the relevant submissions in the appendixes to the Reports. These views are summarized at Annex for Members' reference.

Current arrangements for delineating LegCo geographical constituencies

6. In accordance with the Legislative Council Ordinance, for the third term LegCo, 30 Members are to be returned for all GCs, and there are to be five GCs. The number of Members to be returned for each GC is to be a number not less than 4 nor greater than 8. If there is a need to amend the number of GCs or to adjust the upper and lower limits to the number of Members to be returned for each GC in a general election, the Legislative Council Ordinance has to be amended.

7. The Electoral Affairs Commission (EAC) shall, based on the number of GCs and the number of seats for each GC as stipulated in the Legislative Council Ordinance, submit to the CE recommendations for the delineation of GCs in relation to a LegCo general election in accordance with the provisions in the Electoral Affairs Commission Ordinance. In making such recommendations, the EAC shall have regard to statutory criteria, including the population quota of the concerned area, community identities and the preservation of local ties, physical features of the relevant area, and the existing boundaries of districts and GCs. The CE in Council may, after considering the report of the EAC, declare areas of Hong Kong to be GCs by order published in the Gazette.

Current voting system for LegCo

8. At present, the “list voting system”, which is a form of the “proportional representation system”, is adopted for the LegCo GC elections. The largest remainder formula is used in the counting of votes. As for FC elections, the “first past the post voting system” is adopted in the main, but the “preferential elimination system of voting” is adopted for the elections of the Heung Yee Kuk, the agriculture and fisheries, the insurance and the transport FCs.

The voting system for GC elections

9. For GC elections, under the “list voting system”, nomination of candidates shall be made in the form of lists, and the names of the candidates may not exceed the number of seats in the constituency and shall be ranked in order of priority. Each elector may only vote for a particular list of candidates in his own constituency.

10. According to the largest remainder formula, if the number of votes obtained by a list of candidates exceeds the quota (i.e. the total number of valid votes cast divided by the total number of seats), the first candidate whose name appears on the list will be returned. When the remaining number of votes of a list reaches the quota, another candidate on the list will be returned. Any remaining seats will be allocated to the list with the largest remaining number of votes, and if necessary, the next largest until the specified number of members is returned.

11. Seats will be distributed among the lists in proportion to their vote shares. Seats won by a list will be allocated to candidates on the list according to the ranking shown on the ballot paper. This ranking is predetermined by political parties or the candidates concerned.

Current voting system for FCs

12. At present, the LegCo FC seats are returned by 28 FCs. Except for the labour FC which returns three Members, all FCs return one LegCo Member each.

13. For the Heung Yee Kuk, the agriculture and fisheries, the insurance and the transport FCs, which have relatively smaller electorate size, the “preferential elimination system of voting” is adopted for the elections. An elector shall mark his preference or preferences for the candidates on the ballot paper in descending order. A candidate who obtains an absolute majority of the votes marking him as the first preference will be elected. Otherwise, the candidate with the least number of votes marking him as the first preference will be eliminated, and that candidate’s votes will be transferred to the candidates then remaining in accordance with the next available preferences marked on the ballot papers. If no candidate obtains an absolute majority of the votes, the process will continue until one candidate obtains an absolute majority of the votes.

14. As for the other FCs, the “first past the post” voting system is adopted. An elector may vote for as many candidates as there are vacancies and no more. The candidate who obtains a simple majority of votes will be elected.

Constitutional Affairs Bureau
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**Public views on models of a universal suffrage system for LegCo
received by the Constitutional Development Task Force
during the public consultation period**

<u>Organisations/individuals making the submissions</u>	<u>Summary of views</u>
(1) Eric K C Li	<ul style="list-style-type: none">• First phase: add 30 more geographically elected seats and maintain 30 functional constituency (FC) seats.• Second phase: turn the 30 FC seats into nominating committees. Each nominating committee to select no more than three candidates who must then obtain the mandate from the people of Hong Kong in a universally held direct election.• Final phase: all 90 seats open for universal suffrage.
(2) Hong Kong Civic Association	<ul style="list-style-type: none">• To consider a bicameral legislature consisting of a House of Representatives (i.e. the Lower House) and a Senate (i.e. the Upper House).• The House of Representatives could be elected on a geographical constituency (GC) basis, at a ratio of one representative for every 120,000 to 150,000 residents, for a 4-year term of office.• The Senate could have between 40-50 members, about one-quarter of whom would come from the District Councils. The rest of the Senate seats should be

apportioned among different sectors, such as commerce and industry, labour, education, culture, medical and social welfare etc. The term of office could be between 4 to 6 years, with half of the Senate seats coming up for election every 2-3 years.

- (3) Hong Kong Democratic Foundation and Power for Democracy
- All seats in LegCo should be directly elected. If this ultimate goal is to be delayed, then transitional arrangements should be considered by the Administration, including proposals such as increasing the number of directly-elected seats and reducing the number of FC seats, increasing the number of directly-elected seats only, or increasing the number of both directly-elected and FC seats, or establishing a two-chamber system.
- (4) Synergy Net
- The number of LegCo seats should be increased to 90. All Members should be elected by universal suffrage, and through three different ways to achieve balanced representation:
- (i) 30 members to be directly elected from single-seat GCs, using the “first past the post” principle.
 - (ii) 30 members to be directly elected on a regional single-list system. There will be three regions – namely Hong Kong Island, Kowloon and the New Territories. Depending on the percentage of votes received by each list, the seats for each region (which varies according to population size) will be apportioned accordingly.
 - (iii) 30 members to come from defined

functional sectors (similar to existing FCs), to be elected by universal suffrage. This can be done in two ways:

- (a) Turn all FCs into “occupational constituencies” so that each member of the public will belong to one of these constituencies and can take part in the election of his functional / occupational representative; or
- (b) Nomination of candidates by recognized bodies of the defined functional sectors (such as business and commerce chambers, trade unions and professional societies); election by universal suffrage.

(5) Democratic Party

All LegCo Members should be returned by universal suffrage. Divide the 60 LegCo seats into two groups. The first group (with 30 seats) will be returned by a single-seat-single-vote system. Hong Kong will be divided into 30 constituencies based on population ratio. Another group of seats will be returned by a proportional representation system. Hong Kong will form a single constituency. In other words, each elector will have two votes for electing LegCo Members.

(6) Rita Fan

- The current arrangement where Members are returned by FCs can be replaced by a new arrangement where Members will be nominated by the constituents of the FCs and elected by universal suffrage. This can be done over three phases.
- Candidates who are nominated by FCs to participate in election by universal suffrage

should be nominated by at least one-third of the electors in the respective sector.

- (7) Hong Kong University Graduates Association Political Reform Concern Group
- First phase: every eligible GC elector should have voting right in FC elections. Add a “general FC seat” under which all GC electors, whose occupations or professions are not included in other FCs, can be registered as electors.
 - Second and final phase: reduce the number of FC seats to less than one-fourth, and ultimately change all FC seats to GC directly elected seats.
- (8) Chan Wai-yip
- Abolish LegCo FC seats. Increase the number of seats to 90. Hong Kong to be divided into 45 GCs, with two seats in each GC. Every elector can cast two votes for two candidates. The two candidates receiving the highest number of votes in a constituency will be elected.
- (9) Joint Committee for the Promotion of The Basic Law of Hong Kong
- Elect FC members by one-person-one-vote.
- (10) Dr Simon Young
- All legislators be elected by way of direct elections on the basis of GCs.
 - From amongst the elected legislators, a sub-group will be further elected, on the basis of FCs. The FCs will be based on policy areas. The elected FC legislators could serve as the chairpersons of the LegCo Panels, and would also have a role to play in the executive apparatus of government. For example, the new FC legislators must be given a seat in the Executive Council even if it is only a non-

voting one.

(11) Liberal Party

- In accordance with the Basic Law, the method for forming the LegCo shall be specified in the light of the actual situation in Hong Kong and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the Members of the LegCo by universal suffrage. However, FC Members' contributions to the LegCo and the Hong Kong community should not be ignored.
- At present, the number of Members returned by FCs is equal to that of directly elected members. They serve to complement each other. We need to be very cautious if this balanced situation is to be changed. There is a suggestion in the community that a bicameral system should be introduced. This suggestion merits consideration by the Administration.

(12) The Business and Professionals Federation of Hong Kong

- The first chamber to be constituted by directly-elected members, and the second chamber for the vocational or functional representatives.
- The number of directly elected members in the first chamber to be increased from 30 to 40 or more. The number of functional representatives may also need to be increased.
- The second chamber is a place to allow for second thoughts to be given to bills and motions passed by the first chamber, to give careful scrutiny, to appoint an expert committee, to seek wider consultation, if

necessary to propose amendments to legislation and then to refer the findings of their deliberations back to the first chamber.

Besides, the Frontier, the Article 45 Concern Group, and the Hong Kong Association for Democracy and People's Livelihood considered that when attaining universal suffrage for LegCo, all LegCo Members shall be returned by direct elections. The Democratic Alliance for the Betterment and Progress of Hong Kong suggested that favourable conditions should be created in an active manner so as that the ultimate aim of forming the LegCo by universal suffrage, as prescribed in the Basic Law, may be attained early.

Note: The above information is extracted from the First to Fifth Reports of the Constitutional Development Task Force. The views provided by the relevant organizations or individuals can be referred to in the Appendixes of the Reports.