

## Hong Kong 2020 Preliminary Proposals on 'Methods for Selecting the Chief Executive in 2017 and for Forming the Legislative Council in 2016'

### Background

Since its launch in April 2013, Hong Kong 2020 has undertaken widespread and intensive consultations with groups and individuals including senior government officials, major political parties, members of LegCo functional constituencies (FCs), representatives of chambers of commerce, the diplomatic corps and academia, as well as more informal business and professional groupings. We have monitored closely the proposals for constitutional reform put forward by other groups and individuals, as well as views and commentary expressed in the press and in the broadcast and on-line media. We have commented extensively on current events related to our work and used social media and our website to engage with young people, including posting daily news clips on political reform and providing answers to frequently asked questions on constitutional issues.

Building on what we have learned and on our own principles and careful internal deliberations, we published our initial Position Paper in November 2013 and, in conjunction with the Civic Party, an Alternative Consultation Document on 6 January 2014 entitled: "Finding the Right Path to Universal Suffrage".

We now wish to share with the public our preliminary proposals on forming the Legislative Council (LegCo) in 2016 and methods for selecting the Chief Executive (CE) by universal suffrage in 2017. In framing these proposals we have adhered closely to the provisions in the relevant articles of the Basic Law (including Articles 26, 44, 45 and 68) and to the principle contained in Article 25 of the International Covenant on Civil and Political Rights (applied to the Hong Kong SAR by Article 39 of the Basic Law) that:

*"Every citizen shall have the right and the opportunity ..... without unreasonable restrictions ....to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.."*

### Formation of LegCo in 2016

#### Background

At present there are 70 members of LegCo, of whom half are directly elected by some 3.4 million voters in geographical constituencies (GCs) and half elected mainly by small groups of voters in functional constituencies (FCs) which are supposed to represent business, professional and other vested interests. Discounting the five so-called 'super seats' in the District Council (Second) FC, the total number of FC voters in 2013 was only some 238,000, of which roughly 7% are companies (corporate voters) rather than individuals. Thus although there is a 50:50 ratio between the number of GC and FC LegCo seats, there is a huge difference between the overall size of FC electorates and that of the GCs.

Moreover, under the split voting system, bills and motions sponsored by LegCo members must be approved by a simple majority of votes in each group. As a result, FC LegCo members can and do persistently block the passage of bills and motions supported by the majority of GC LegCo members who have a far larger political mandate.

### Our Proposals

The long term retention of FCs, which enables the votes of these privileged sectors of the community to carry more weight than the votes of the general electorate, is not compatible with either the Basic Law, or internationally accepted definitions of universal suffrage. Changes to the composition of LegCo in 2016 are essential, to pave the way for achievement of full universal suffrage in 2020. Standing still in 2016 is not an option.

We propose that in 2016:

- corporate voting should be abolished and replaced by voting by individuals, who may vote in only one FC; this interim measure will make existing FCs more representative and accountable to their electorates and help pave the way for their complete abolition in 2020;
- the five so-called ‘super seats’ in the District Council (Second) FC should be converted into directly elected Geographical Constituency (GC) seats and one additional seat added to each of the five existing GCs;
- to improve the quality of representation and reduce the size of very large GCs, the Hong Kong Island, NT East and NT West GCs should be split into two: with the Hong Kong East and West GCs each having four seats and the NT East and West GCs each having five seats as follows:

Directly Elected Seats in 2012	Direct Elected Seats in 2016
35	<b>40</b>
<b>Redistribution of 40 seats among 8 constituencies</b>	
Hong Kong Island (1)	<b>4</b>
Hong Kong Island (2)	<b>4</b>
Kowloon East	<b>6</b>
Kowloon West	<b>6</b>
NT East (1)	<b>5</b>
NT East (2)	<b>5</b>
NT West (1)	<b>5</b>
NT West (2)	<b>5</b>
Total	<b>40</b>

- the size of LegCo should be maintained at 70, with 40 GC and 30 FC seats;
- the ‘split voting’ system should be abolished so that FC LegCo members, elected by small groups of vested interests, cannot block the passage of bills and motions supported by the majority of directly elected GC LegCo members.

## **Size and composition of the CE Nominating Committee (NC)**

### Background

Article 45 of the Basic Law states that the NC should be 'broadly representative'. It has been suggested that the size and composition of the future NC should be modelled on the current CE Election Committee (EC). However, there is a wide consensus in the community - which we share - that the electorate base of the current EC must be very substantially expanded before it can be deemed, in any sense, to be broadly representative.

The electoral base of the EC is equivalent to only 7% of the general electorate and thus excludes some 93% of registered voters from playing any role in the CE nomination process. Further, the number of seats allocated to some sub-sectors enables the sections of the population they represent to exercise a disproportionate influence on the outcome of voting.

To address these shortcomings we have explored a wide range of options for adjusting the number of seats allocated to sub-sectors in the First, Second and Third Sectors of the EC. These are shown at Annex I. It is clear to us that, in principle, the number of seats allocated to each sub-sector should be broadly proportional to the size of that sub-sector's electorate. This is the only way to ensure the elimination of inherent anomalies, such as the fact that the Agriculture and Fisheries sub-sector with only 158 corporate voters qualified for 60 seats in the 2012 EC, while the Education sub-sector with 82,849 individual voters qualified for only 30 seats.

Unfortunately, despite our best efforts, we have been unable to come up with an alternative formula for re-allocating seats that we consider meets the necessary standards of fairness, transparency and simplicity. The fundamental problem is that the EC has been designed on the basis of expediency, to ensure a certain voting outcome. The structure, composition and relative size of the sub-sector electorates in the First, Second and Third Sectors are so completely illogical that nothing, short of a complete overhaul, can remedy the imbalances in representation.

### **Our Proposals**

The changes we propose to the size and composition of the future NC are intended to enhance its overall representation and, in particular, the participation of those not represented in the first three sectors. Without a redistribution of seats amongst the various sub-sectors these changes are not ideal but, in the interests of seeking to build consensus, we are prepared to commend them to Hong Kong people as a basis for the structure and operating procedures of the NC.

We propose that:

- a. in line with our proposals for changes to the LegCo FC system in 2016, all corporate votes in the First, Second and Third Sectors be abolished and replaced by voting by individuals, who may each vote in only one sub-sector;
- b. the composition of the Fourth Sector be amended to include representatives of all other registered voters who are not entitled to elect representatives in the First, Second or Third Sectors.

Specifically, we propose that the (currently 117) District Councillor seats in the Fourth Sector of the EC, which are elected from amongst elected District Councillors rather than the general electorate,

be replaced by seats directly elected by all registered voters who are not entitled to vote in any other sector. The rationale for this change is as follows:

- individual District Councillors represent small numbers of voters (sometimes fewer than 1,000); they are elected to represent the interests of residents in local district affairs; they are not elected to exercise judgement as to who may be best fitted to lead the HKSAR Government;
- the process of internal election, among District Councillors, is open to manipulation and has not ensured that the profile of the Councillors elected to the EC fairly represents overall voting patterns among the general electorate;
- most importantly, all Hong Kong citizens should have an equal opportunity to participate in the process of electing members of the NC; this is the only way of ensuring that the Committee is genuinely broadly representative and not dominated by the interests of relatively small sectors of the population.

In practice, we propose that open elections be held in each of the eighteen District Council districts for the specific purpose of selecting Fourth Sector NC members and that the number of NC seats elected by each district be determined in proportion to the size of that district's population. One possible formula is illustrated at Annex II.

In accordance with this formula the size of the NC would be increased to 1,400 seats with the First, Second and Third Sectors retaining 300 seats each and the Fourth Sector expanded to 500 seats as follows:

Members of the Legislative Council	<b>70</b>
Directly Elected District Representatives	<b>317</b>
Representatives of the Heung Yee Kuk	<b>26</b>
Hong Kong deputies to the National People's Congress (NPC)	<b>36</b>
Representatives of members of the Chinese People's Political Consultative Conference (CPPCC)	<b>51</b>
<b>Total</b>	<b>500</b>

## **Nomination Procedures**

### Background

Article 45 of the Basic Law provides that the NC will undertake the task of nominating candidates for election of the CE by universal suffrage 'in accordance with democratic procedures.'

Despite repeated requests, the Government has failed to clarify what is meant by the concept of 'organisational' or 'collective' nomination which is referred to in its Consultation Document, but has no basis in the Basic Law. In the absence of clarification, and in the light of recent comments by leading pro-establishment figures, we can only conclude that what is envisaged is something similar to the current system used for electing 'en bloc' Hong Kong deputies to the NPC.

Such a system is objectionable, in principle, because it can be manipulated by any group of nominators that control 50% or more of the votes in the NC. In such a situation, potential candidates who are not supported by the dominant group stand no chance of being nominated.

In practice, this system of voting has resulted in not a single democratically affiliated candidate being elected to the NPC in any of the four rounds of election held since the return of sovereignty in 1997; this is despite the fact that 55%-61% of the general electorate has consistently voted for democratic candidates in LegCo elections during the same period.

In short, such a system cannot be supported. It does not conform to the Basic Law requirement that the NC nominate candidates in accordance with democratic procedures and, in all likelihood, will lead to the exclusion of potentially worthy candidates purely because of their political affiliation.

It is essential that voters in the 2017 CE election have a genuine choice of candidates, not a list that has been pre-selected on the basis of political correctness.

### Our Proposals

We propose that:

- any person who meets the criteria in Article 44 of the Basic Law, and who obtains nominations from at least one-tenth of the total number of NC members in the Four Sectors, that is 140 nominations, will be nominated by the NC;
- each member of the NC should be able to cast only one vote;
- there should be a cap on the number of votes that any individual candidate can secure, to ensure that competing candidates are not squeezed out of the running from the outset; we suggest an appropriate limit would be 25% of the total number of NC members;
- there should be no limit on the number of CE candidates; the number of candidates should be a product of the nomination system, not an artificially imposed constraint on the choice available to voters;
- the current prohibition, in local legislation, on the incoming CE having any political party affiliation should be abolished; this will strengthen the role of political parties and promote greater cohesion between the workings of the executive and the legislature.

### **Conclusion**

Hong Kong 2020 is conscious that the proposals we are putting forward are not ideal. They are the product of many hours of careful deliberation and are put forward in a sincere effort to bridge the current divide in public opinion.

We all wish to see substantive progress made to reform the methods of forming LegCo in 2016, as well as a system of universal suffrage for the election of the CE in 2017 that is credible in the eyes both of Hong Kong people and the international community. It is on this basis that we commend these proposals to Hong Kong people for careful consideration and support.

**Annex I                      The Breakdown of Seats in the First Three Sectors of the EC**

<b>Sector 1</b>	<b>Subsector</b>	<b>Number of seats</b>
1	Cathering	17
2	Wholesale and Retail	18
3	Textiles and Garment	18
4	Commerical (Second)	18
5	Import and Export	18
6	Tourism	18
7	Commerical (First)	16
8	Industrial (Second)	18
9	Real Estate and Construction	18
10	Industrial (First)	18
11	Financial Services	18
12	Employers' Federation of HK	16
13	Transport	18
14	Insurance	18
15	HK Chinese Enterprises Association	16
16	Finance	18
17	Hotel	17
<b>Sub-total</b>		<b>300</b>

<b>Sector 2</b>		
1	Education	30
2	Health Services	30
3	Accountancy	30
4	Medical	30
5	Engineering	30
6	Higher Education	30
7	Architectural, Surveying and Planning	30
8	Legal	30
9	Information Technology	30
10	Chinese Medicine	30
<b>Sub-total</b>		<b>300</b>

<b>Sector 3</b>		
1	Social Welfare	60
2	Sports, Performing Arts, Culture and Publication	60
3	Labour	60
4	Agriculture and Fisheries	60
5	Religious	60
<b>Sub-total</b>		<b>300</b>

**Annex II - Illustrative Allocation of Direct Elected NC Seats**

Districts	Population	Proportion of the total population	Seats
<b>HKI</b>			
Central and Western District	251,519	3.56%	11
Wan Chai	152,608	2.16%	7
Eastern	588,094	8.32%	26
Southern	278,655	3.94%	12
<b>KLN</b>			
Yau Tsim Mong	307,878	4.35%	14
Sham Shui Po	380,855	5.39%	17
Kowloon City	377,351	5.34%	17
Wong Tai Sin	420,183	5.94%	19
Kwun Tong	622,152	8.80%	28
<b>N.T.</b>			
Kwai Tsing	511,167	7.23%	23
Tsuen Wan	304,637	4.31%	14
Tuen Mun	487,546	6.90%	22
Yuen Long	578,529	8.18%	26
North	304,134	4.30%	14
Tai Po	296,853	4.20%	13
Sha Tin	630,273	8.91%	28
Sai Kung	436,627	6.18%	20
Islands	141,327	2.00%	6
<b>Total</b>	<b>7,070,388</b>	<b>100.00%</b>	<b>317</b>