

立法會
Legislative Council

LC Paper No. CB(2)59/01-02

Ref : CB2/BC/13/00

**Legislative Council
Bills Committee on Chief Executive Election Bill**

**Minutes of the fifth meeting
held on Saturday, 5 May 2001 at 9:00 am
in Conference Room A of the Legislative Council Building**

Members Present : Hon IP Kwok-him, JP (Chairman)
Hon Andrew WONG Wang-fat, JP (Deputy Chairman)
Hon James TIEN Pei-chun, JP
Hon Cyd HO Sau-lan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Hon NG Leung-sing
Hon HUI Cheung-ching
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon Ambrose LAU Hon-chuen, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon SZETO Wah
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon LEUNG Fu-wah, MH, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members Absent : Hon David CHU Yu-lin
Prof Hon NG Ching-fai
Hon Margaret NG
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han
Dr Hon Philip WONG Yu-hong

Hon Timothy FOK Tsun-ting, SBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Dr Hon LO Wing-lok

Public Officers : Mr Robin IP
Attending Deputy Secretary for Constitutional Affairs

Ms Doris HO
Principal Assistant Secretary for Constitutional Affairs

Mr Bassanio SO
Principal Assistant Secretary for Constitutional Affairs

By Invitation : 9:00 am

Social Democratic Forum
Mr Gary FAN Kwok-wai
Mr TO Kwan-hang

Hong Kong Federation of Education Workers
Mr HO King-on

The Association of Hong Kong Health Care Professionals
Mr CHOY Shek-chung

Kowloon Federation of Associations
Mr LEUNG Ying-piu

Kowloon Women's Organisations Federation
Ms KO Po-ling

Fukien Chamber of Commerce
Mr LAM King-wai

Hong Kong Federation of Fujian Associations
Mr Richard CHAN

Sai Kung Cultural Centre
Mr LEE King-chung

Federation of New Territories Youth

Ms WONG Pik-kiu
Mr LAW King-shing

Joint Committee of Hong Kong Fisherman's Organizations

Mr PANG wah-kan
Mr WAN Lam

The Hong Kong Polytechnic University Students' Union

Ms Wu Sui-shan
Ms LI Shuk-yin

Individuals

Mr Colin HONG

Ms Janet HUI Po-chun

11:00pm

Federation of Hong Kong Guangdong Community
Organisations Ltd

Miss WONG Yuk

The Hong Kong Southern District Community Association Ltd

Mr CHAN Sze-chung

Cultural and Recreational Services Centre

Mr CHAO Shing-kie

Hong Kong Chinese Reform Association Ltd

Mr CHUNG Shu-wing

The Hong Kong Executive,

Administrative & Clerical Staff Association

Mr FOK Ting-hung

The Foochow Association Ltd

Ms Anna TANG King-yung

Wah Fu Services Centre

Mr CHENG Shing-lam

Hong Kong Women Development Association

Ms WONG Mo-tai

Harbour Transportation Workers General Union
Mr LEUNG Wing-kai

Hong Kong Youths Unified Association
Mr Vincent MAK

Individuals

Mr MAK Tsing-hang, John

Mr TUNG Wai-ming

Mr NG Man-kwong

Mr TSANG Kin-shing

Mr KWAN Hong-chun

Miss Grace YEUNG

Miss Kitty CHU

Clerk in : Mrs Percy MA
Attendance Chief Assistant Secretary (2)3

Staff in : Mr Stephen LAM
Attendance Assistant Legal Adviser 4

Mr Paul WOO
Senior Assistant Secretary (2)3

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I. Meeting with deputations
(LC Paper Nos. CB(2)1419/00-01; 1445/00-01 and 1453/00-01)

The Chairman welcomed the representatives of the various organizations and individual persons to the meeting. He said that the written submissions received by the Bills Committee had been circulated to members before the meeting. He invited each of the deputations to make a brief oral presentation on the submissions.

2. A summary of the views of the deputations was attached in the Appendix.

3. The Chairman invited questions from members of the Bills Committee. The major issues discussed were summarized in the following paragraphs.

Issues raised by members

Election of the Chief Executive by universal suffrage

4. Ms Emily LAU expressed the view that the undemocratic way of election of the Chief Executive (CE) by an Election Committee (EC) comprising 800 members had deprived the vast majority of Hong Kong people the right to select CE. She said that EC members, the majority of whom were elected by only a fraction of the total population, i.e. those in the relevant subsectors, could in no way represent all the people in Hong Kong in the selection of CE. She sought the deputations' views on whether the "small circle" type of election of CE could serve the best interests of Hong Kong.

5. Ms Emily LAU further said that there was wide discontent in the community about ineffectual governance and leadership in Hong Kong. This arose from the fact that the incumbent CE was not popularly elected, and that the public demand had been neglected. Government policies were perceived to be only benefiting certain classes of the community such as the business sector and the rich people, rather than protecting the interests of the general public. She pointed out that according to the results of a substantive number of opinion polls, more than 70% of the respondents favoured election of CE by universal suffrage.

6. Mr LAW King-shing and Mr HO King-on said that the Basic Law had already prescribed a method for the selection of CE, i.e. selection of CE by universal suffrage should proceed in the light of the actual situation of Hong Kong and in accordance with the principle of gradual and orderly progress. They said that they did not object to selection of CE by universal suffrage, but that it should be achieved in accordance with the requirement stated in the Basic Law.

7. Mr LAW King-shing added that the constitutional development in Hong Kong progressed well since the reunification, in the direction as prescribed under the Basic Law. He said that at present, matters which bogged the minds of most Hong Kong people were economical issues affecting the livelihood of the general public, rather than political or constitutional issues. To step up the process of political development could add to the instability of Hong Kong. He further said that according to the experience of some Asian countries, universal suffrage for the election of the political leader could be a contributing factor to political instability. He saw no pressing need to proceed to universal suffrage for the election of CE at this moment in time.

8. Mr WAN Lam said that there was no guarantee that direct election of CE could give Hong Kong people a better life.

9. Mr CHOY Shek-chung said that it was not fair to attribute the problems which Hong Kong now faced to the personal responsibility of CE. He considered that Hong Kong had been given more democracy after the reunification than in the colonial days. He said that to advance the pace of democratization ahead of that laid down in the Basic Law might lead to consequences undesirable to the stability of Hong Kong.

10. Referring to the issue of opinion polls, Ms Janet HUI Po-chun said that the results of the polls might not have fully reflected the opinion of the respondents. While most people would favour the ultimate goal of election of CE by universal suffrage, there could be different views as to when it should come about. The polls might not have taken the time element into consideration.

11. Mr NG Leung-sing pointed out that under the Basic Law, all Members of the Legislative Council (LegCo) were ex-officio members of EC. At present, 24 LegCo Members were returned by direct elections in the geographical constituencies. Hence, it was not a matter of whether or not there was direct representation in the EC membership, but a matter of degree of direct representation.

12. Mr LEUNG Fu-wah said that EC members returned by subsector elections represented different interests of the community, including that of the grass-root level and labour groups.

13. Mr KWAN Hong-chun said that because the overwhelming majority of EC members were not returned by direct election, he failed to see how the 800 EC members could be representative of the people of Hong Kong.

14. Miss Grace YUEN said that the people in Hong Kong should have the inalienable right to select their own CE. She added that both she and Miss Kitty CHU had not yet reached the voting age of 18 by 2002 and hence not eligible to vote as such. However, they felt compelled to come out and state their views.

Winning candidate to declare not a member of political party

15. Mr Martin LEE said that he could not see the rationale for the requirement in clause 32 of the Bill that a successful candidate who was a member of a political party had to resign from his political party and undertake that he would not become a member of any political party or be bound by the discipline of any political party during his term of office. In his view, the presumption that a CE with political party background would not be able to

perform his functions and duties to protect the best interests of Hong Kong was biased and illogical. He said that in the end, the people would be able to judge for themselves whether their best interests were served. Ms Cyd HO and Dr YEUNG Sum expressed similar views.

16. Ms Emily LAU said that a CE with no political party background did not necessarily mean that the CE would be free from being influenced by sectoral interests. She said that the crucial issue was how to ensure that CE would not be acting in such a way as to be yielding to undue influences, including pressures from the big business corporations and the like. To single out the issue of political party alone might cause misunderstanding to the people.

17. Mr LAW King-shing said that he did not think that the requirement in clause 32 was necessary.

18. Mr TSANG Kin-shing said that provided that CE was elected under a truly democratic system, a CE with political party background could be accepted.

19. Mr CHAN Sze-chung said that CE must be impartial and should take into account the overall interests of Hong Kong when discharging his duties. A CE who was perceived to be influenced by partisan interests would not be beneficial to the overall interests of Hong Kong.

20. Ms WONG Mo-tai said that at present, there was no single political party which could command the majority support of the community. She was in favour of the requirement specified in clause 32 of the Bill.

Withdrawal of candidature

Polling date

21. Mr Andrew WONG said that he supported the views stated in the submission from the Foochow Association Ltd, namely -

- (a) Reference should be made to the existing Legislative Council Ordinance, i.e. candidates were not allowed to withdraw from the election after the close of nominations; and
- (b) Polling date should fall on a day within a period of not less than one month and not more than three months before a vacancy in the office of CE arose.

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22. Mr CHAN Sze-chung opined that the polling date should be fixed on a day at least six months before a vacancy arose in order to allow sufficient time for transitional arrangements.

Appointment and removal of CE

23. Mr KWAN Hong-chun opined that a CE who was democratically elected by the people should not be subject to the ultimate appointment or removal by a separate authority.

II. Date of next meeting

24. The Chairman reminded members that another meeting would be held on 8 May 2001 at 8:30 am to receive deputations on the Bill.

Adm 25. Deputy Secretary for Constitutional Affairs said that the Administration would consider the deputations' views and give a written response in due course.

26. The meeting ended at 12:20 pm.

Legislative Council Secretariat
15 October 2001

Bills Committee on Chief Executive Election Bill

Summary of submissions on the Bill (presented at the meeting on 5 May 2001)

LC Paper No.	Organization/ Person			Regulation of election- related activities and others
		<p>Election of Chief Executive (CE);</p> <p>Clause 4(c) - Power of Central People's Government (CPG) to revoke appointment of CE;</p> <p>Clause 8 - Constitution of Election Committee (EC)</p>	<p>Clause 10 - Polling date;</p> <p>Clause 16(2)(a) - Nomination by at least 100 EC members;</p> <p>Clause 16(7) - Declaration to uphold Basic Law (BL) and pledge allegiance to HKSAR;</p> <p>Clause 18 - Publication of nomination;</p> <p>Clause 19 - Withdrawal of candidature;</p> <p>Clause 31 - LegCo Members to resign if elected;</p> <p>Clause 32 - Winning candidate to declare not a member of political party</p>	
1.	Social Democratic Forum CB(2)1419/00-01(01)	<ul style="list-style-type: none"> The "small-circle" election of CE by EC violates Article 25 of the International Covenant on Civil and Political Rights and Article 39 of the BL. The second term CE should be elected by universal suffrage under "one-man, one-vote" system. 		
2.	Hong Kong Federation of Education Workers CB(2)1419/00-01(02)	<ul style="list-style-type: none"> The Bill complies with BL. 	<ul style="list-style-type: none"> Supports clauses 16, 19, 31 and 32. Polling date to be appointed not less than one and a half months before the date on which the office of CE becomes vacant. At least one and a quarter months between the termination of the nomination period and the polling date. 	<ul style="list-style-type: none"> Clauses 46 and 50 on free postage should be further relaxed.

Organization/ Person LC Paper No.	Election of Chief Executive (CE); Clause 4(c) - Power of Central People's Government (CPG) to revoke appointment of CE; Clause 8 - Constitution of Election Committee (EC)	Clause 10 - Polling date; Clause 16(2)(a) - Nomination by at least 100 EC members; Clause 16(7) - Declaration to uphold Basic Law (BL) and pledge allegiance to HKSAR; Clause 18 - Publication of nomination; Clause 19 - Withdrawal of candidature; Clause 31 - LegCo Members to resign if elected; Clause 32 - Winning candidate to declare not a member of political party	Regulation of election-related activities and others	
			<ul style="list-style-type: none"> • A reasonable limit of election expenses should be set. 	
3.	The Association of Hong Kong Health Care Professionals CB(2)1419/00-01(03)		<ul style="list-style-type: none"> • Sufficient measures to deal with protracted election petitions or judicial review. • To allow political party members to stand as candidates may undesirably add political sentiment to the election. 	
4.	Kowloon Federation of Associations CB(2)1419/00-01(04)	<ul style="list-style-type: none"> • Should add provisions to deal with filling of vacancies in EC and overlapping membership of EC members. 	<ul style="list-style-type: none"> • Supports clauses 18 and 32. 	<ul style="list-style-type: none"> • A deposit system similar to LegCo and District Council elections should be introduced.
5.	Fukien Chamber of Commerce CB(2)1419/00-01(05)	<ul style="list-style-type: none"> • Supports clause 8. 	<ul style="list-style-type: none"> • Supports clauses 18 and 32. 	
6.	Hong Kong Federation of Fujian Associations CB(2)1419/00-01(06)	<ul style="list-style-type: none"> • Supports clause 8. 	<ul style="list-style-type: none"> • Supports clauses 18 and 32. 	

Organization/ Person LC Paper No.	Election of Chief Executive (CE); Clause 4(c) - Power of Central People's Government (CPG) to revoke appointment of CE; Clause 8 - Constitution of Election Committee (EC)	Clause 10 - Polling date; Clause 16(2)(a) - Nomination by at least 100 EC members; Clause 16(7) - Declaration to uphold Basic Law (BL) and pledge allegiance to HKSAR; Clause 18 - Publication of nomination; Clause 19 - Withdrawal of candidature; Clause 31 - LegCo Members to resign if elected; Clause 32 - Winning candidate to declare not a member of political party	Regulation of election-related activities and others
7. Joint Committee of Hong Kong Fisherman's Organizations CB(2)1419/00-01(07)	<ul style="list-style-type: none"> The Bill is in accordance with the principle of BL 45. 	<ul style="list-style-type: none"> Supports clauses 18 and 32. 	
8. Mr Colin HONG CB(2)1419/00-01(08)		<ul style="list-style-type: none"> Supports clauses 18 and 32. The last round of voting in EC should be published to enhance transparency. 	
9. Ms Janet HUI Po-chun CB(2)1419/00-01(09)		<ul style="list-style-type: none"> Supports clauses 18 and 31. 	
10. The Hong Kong Polytechnic University Students Union (No written submission provided)	<ul style="list-style-type: none"> The 800-member EC neglects the majority interests of the lower classes. BL should be amended to provide for election of CE by universal suffrage before 2007. 		
11. Sai Kung Cultural Centre CB(2)1453/00-01(01)		<ul style="list-style-type: none"> Supports clauses 31 and 32. 	

Organization/ Person LC Paper No.	Election of Chief Executive (CE); Clause 4(c) - Power of Central People's Government (CPG) to revoke appointment of CE; Clause 8 - Constitution of Election Committee (EC)	Clause 10 - Polling date; Clause 16(2)(a) - Nomination by at least 100 EC members; Clause 16(7) - Declaration to uphold Basic Law (BL) and pledge allegiance to HKSAR; Clause 18 - Publication of nomination; Clause 19 - Withdrawal of candidature; Clause 31 - LegCo Members to resign if elected; Clause 32 - Winning candidate to declare not a member of political party	Regulation of election-related activities and others
12. Federation of New Territories Youth CB(2)1453/00-01(02)	<ul style="list-style-type: none"> Supports clause 8. CE election by universal suffrage should comply with BL. 	<ul style="list-style-type: none"> Supports clauses 18 and 26. 	
13. Kowloon Women's Organisations Federation CB(2)1489/00-01(01)	<ul style="list-style-type: none"> Supports clause 8. A member holding two seats in EC should relinquish the seat which is not ex-officio. 	<ul style="list-style-type: none"> Supports clauses 16(7), 18 and 32. Polling day should be a Sunday. Election expenses limit should be set. 	
14. The Hong Kong Southern District Community Association Ltd CB(2)1419/00-01(10)	<ul style="list-style-type: none"> Supports clause 8. 	<ul style="list-style-type: none"> Supports clauses 10(2), 16(2)(a) and 32. Each EC member can only nominate one candidate. Proposes election expenses limit of \$2.5 million. 	
15. Cultural and Recreational Services Centre CB(2)1419/00-01(11)	<ul style="list-style-type: none"> Supports clause 8. 	<ul style="list-style-type: none"> Supports clause 32. 	

Organization/ Person LC Paper No.	Election of Chief Executive (CE); Clause 4(c) - Power of Central People's Government (CPG) to revoke appointment of CE; Clause 8 - Constitution of Election Committee (EC)	Clause 10 - Polling date; Clause 16(2)(a) - Nomination by at least 100 EC members; Clause 16(7) - Declaration to uphold Basic Law (BL) and pledge allegiance to HKSAR; Clause 18 - Publication of nomination; Clause 19 - Withdrawal of candidature; Clause 31 - LegCo Members to resign if elected; Clause 32 - Winning candidate to declare not a member of political party	Regulation of election-related activities and others
16. Hong Kong Chinese Reform Association Ltd CB(2)1419/00-01(12)	<ul style="list-style-type: none"> • Supports clause 8. 	<ul style="list-style-type: none"> • Does not support clause 32. 	
17. The Hong Kong Executive, Administrative & Clerical Staff Association CB(2)1419/00-01(13)	<ul style="list-style-type: none"> • Supports clause 8. 	<ul style="list-style-type: none"> • Supports clause 32. 	
18. Wah Fu Services Centre CB(2)1419/00-01(14)	<ul style="list-style-type: none"> • Supports clause 8. 	<ul style="list-style-type: none"> • Supports clauses 10(2), 16(2)(a) and 24. • A candidate should resign from political party before standing for election. • Election expenses should be about \$5 million. 	<ul style="list-style-type: none"> • Electoral Affairs Commission (EAC) and ICAC to form a committee to monitor election.

<p style="text-align: center;">Organization/ Person</p> <p>LC Paper No.</p>	<p>Election of Chief Executive (CE);</p> <p>Clause 4(c) - Power of Central People's Government (CPG) to revoke appointment of CE;</p> <p>Clause 8 - Constitution of Election Committee (EC)</p>	<p>Clause 10 - Polling date;</p> <p>Clause 16(2)(a) - Nomination by at least 100 EC members;</p> <p>Clause 16(7) - Declaration to uphold Basic Law (BL) and pledge allegiance to HKSAR;</p> <p>Clause 18 - Publication of nomination;</p> <p>Clause 19 - Withdrawal of candidature;</p> <p>Clause 31 - LegCo Members to resign if elected;</p> <p>Clause 32 - Winning candidate to declare not a member of political party</p>	<p>Regulation of election-related activities and others</p>	
			<ul style="list-style-type: none"> • A fine for withdrawal of candidature without reason. 	<ul style="list-style-type: none"> • Senior government officials should maintain a neutral stand when incumbent CE stands for election.
19.	<p>Hong Kong Women Development Association CB(2)1419/00-01(15)</p>	<ul style="list-style-type: none"> • Supports clause 8. 	<ul style="list-style-type: none"> • Supports clauses 16(2) and 32. • A limit on election expenses should be set. 	
20.	<p>Hong Kong Youths Unified Association CB(2)1419/00-01(16)</p>	<ul style="list-style-type: none"> • Supports the general provisions of the Bill. 		

Organization/ Person LC Paper No.	Election of Chief Executive (CE); Clause 4(c) - Power of Central People's Government (CPG) to revoke appointment of CE; Clause 8 - Constitution of Election Committee (EC)	Clause 10 - Polling date; Clause 16(2)(a) - Nomination by at least 100 EC members; Clause 16(7) - Declaration to uphold Basic Law (BL) and pledge allegiance to HKSAR; Clause 18 - Publication of nomination; Clause 19 - Withdrawal of candidature; Clause 31 - LegCo Members to resign if elected; Clause 32 - Winning candidate to declare not a member of political party	Regulation of election-related activities and others	
21.	Mr MAK Tsing-hang, John CB(2)1419/00-01(17)		<ul style="list-style-type: none"> • Supports clause 18. • Postponement of a poll should be approved by EC, and the conditions and the procedures should be clearly stated. • A winning candidate should promptly declare, rather than within 7 days after being declared as elected, he is not a member of political party. 	
22.	Mr TUNG Wai-ming CB(2)1419/00-01(18)		<ul style="list-style-type: none"> • Supports clauses 19 and 32. 	
23.	Mr NG Man-kwong CB(2)1419/00-01(19)		<ul style="list-style-type: none"> • Supports clauses 18 and 32. 	
24.	Mr TSANG Kin-shing CB(2)1419/00-01(20)	<ul style="list-style-type: none"> • Election of CE by an 800-member EC is ridiculous. EC cannot be representative of the widest interests of the community. 		

Organization/ Person LC Paper No.	Election of Chief Executive (CE); Clause 4(c) - Power of Central People's Government (CPG) to revoke appointment of CE; Clause 8 - Constitution of Election Committee (EC)	Clause 10 - Polling date; Clause 16(2)(a) - Nomination by at least 100 EC members; Clause 16(7) - Declaration to uphold Basic Law (BL) and pledge allegiance to HKSAR; Clause 18 - Publication of nomination; Clause 19 - Withdrawal of candidature; Clause 31 - LegCo Members to resign if elected; Clause 32 - Winning candidate to declare not a member of political party	Regulation of election-related activities and others
25. Miss Grace YEUNG and Miss Kitty CHU CB(2)1419/00-01(21)	<ul style="list-style-type: none"> CE should be elected by universal suffrage. Membership of EC members should not be overlapped. 	<ul style="list-style-type: none"> Withdrawal of candidature can lead to unfair or corrupt practices at election and should be allowed only in very exceptional circumstances. 	
26. Federation of Hong Kong Guangdong Community Organisations Ltd CB(2)1445/00-01(01)	<ul style="list-style-type: none"> Supports clause 8. The Bill complies with BL. 	<ul style="list-style-type: none"> Supports clauses 10(2), 16(2)(a), 16(7) and 32. 	
27. The Foochow Association Ltd CB(2)1445/00-01(02)	<ul style="list-style-type: none"> CE election before 2007 has to comply with the specific provisions in BL. 	<ul style="list-style-type: none"> Polling date should fall on a day within a period of not less than one month and not more than three months before the vacancy arises. Supports provisions on nomination, eligibility for nomination, system of voting and election petitions. 	

Organization/ Person LC Paper No.	Election of Chief Executive (CE); Clause 4(c) - Power of Central People's Government (CPG) to revoke appointment of CE; Clause 8 - Constitution of Election Committee (EC)	Clause 10 - Polling date; Clause 16(2)(a) - Nomination by at least 100 EC members; Clause 16(7) - Declaration to uphold Basic Law (BL) and pledge allegiance to HKSAR; Clause 18 - Publication of nomination; Clause 19 - Withdrawal of candidature; Clause 31 - LegCo Members to resign if elected; Clause 32 - Winning candidate to declare not a member of political party	Regulation of election-related activities and others	
			<ul style="list-style-type: none"> • Withdrawal of candidature should follow the requirements of LegCo Ordinance. • Proposes election expenses limit of \$160,000. 	
28.	Harbour Transportation Workers General Union CB(2)1453/00-01(03)	<ul style="list-style-type: none"> • Supports clause 8. EC represents the wide interests of the community. 	<ul style="list-style-type: none"> • Supports clause 32. 	
29.	Mr KWAN Hong-chun CB(2)1506/00-01(01)	<ul style="list-style-type: none"> • Election of CE by EC will not have the support of the public. Election should be by universal suffrage. • Clause 4(c) is a breach of "one country, two systems" and "Hong Kong people ruling Hong Kong". 	<ul style="list-style-type: none"> • To allow withdrawal of candidature will lead to unfair or corrupt practice at election. 	