

**Summary of the views expressed
at the Workshop
for the Committee on Governance and Political Development
of the Commission on Strategic Development
held on 28 February 2006
(Translation)**

The purpose of the workshop was to assist Members to further understand how countries and regions, having regard to their own conditions, adopted different designs of electoral systems for their legislature when implementing universal suffrage to meet the interests of different sectors. To facilitate discussion at the workshop, the Secretariat had prepared an information paper (Ref CSD/GC/W/1/2006) on how different countries and regions, having regard to their own situations, adopted different designs of electoral systems for their legislatures when implementing universal suffrage to meet the interests of different sectors.

2. Five speakers gave presentations on the topics concerned:

Dr SUNG Lap-kung of the City University of Hong Kong	“The reality of Hong Kong and its constitutional development”
Professor MA Ngok of the Hong Kong University of Science and Technology	“‘Balanced participation’ and thoughts on bicameralism”
Dr LI Pang-kwong of Lingnan University	“The way forward on constitutional development: institutional reform and elite orientation”
Dr SING Ming of the City University of Hong Kong	“Bicameralism - its relevance for Hong Kong”
Sir David AKERS-JONES	“The Key to the Dead Lock”

Presentation materials have been uploaded to the webpage of the Commission on Strategic Development.

3. Salient points raised by members and speakers during the discussion session were summarised in the following paragraphs -

(I) How to enhance participation of the business sector in elections

1. Dr SUNG opined that incentives for participation of the business sector in elections could be enhanced through the design of the electoral system. For instance, the proportional representation system would enable different sectors to secure certain number of seats, and this should encourage the business sector to stand for elections. In fact, the existing electoral system and the relevant provisions of the Basic Law had, to a certain extent, preserved the interests of the business sector. Universal suffrage should not undermine the business sector's interest to stand for elections.

2. Regarding Professor MA's remark that some places had adopted "corporatism" to include the business sector in their administrative structure, members were concerned about how this model would ensure that government policies would receive the support of the Legislative Council (LegCo). In response, Professor MA pointed out that generally speaking, under the executive-led system, there was no need for the Government to seek any endorsement from LegCo before most of the policies were implemented, hence there was no question of having the need to gain LegCo support. Under corporatism, sectors included in the decision-making structure could have direct influence on government policies. This mode of participation would likely to be supported by the business sector.

3. In addition, Professor MA held that the proportional representation system would reduce the possibility of individual parties obtaining an overwhelming majority of seats in the LegCo. Moreover, as the Chief Executive and LegCo were returned through different means, the Chief Executive might not be able to take lead in LegCo. However, since the adoption of the proportional representation system was a reality, it would be difficult to adopt a different electoral method. However, so long as the business sector fielded candidates of substantial quality, it would not be too difficult for them to secure a certain amount of seats under the proportional representation system.

4. Dr SING opined that it was very important for the business sector to participate in politics and stand for elections. The example of the United Kingdom showed that the business sector was not only able to have a place in the House of Lords, but also to run for seats in the House of

Commons, i.e. they could participate in elections through different means, without attracting any strong objection from the community.

(II) Future electoral arrangements

1. Dr LI opined that overseas experience in democratic development could not be applied directly to Hong Kong, and particular consideration should be given to the local situation.

2. A member suggested limiting the role of functional constituencies to nominating candidates for LegCo seats, the list of candidates would then be put to vote by all members of the public.

3. A member pointed out that it would be difficult for any discussion on the constitutional development of Hong Kong to bear fruit if there was no involvement of the Central Authorities.

4. In response to a member's question, Dr Li stated that "Mixed Member Proportional System" could be considered as a possible option for the electoral arrangement for universal suffrage.

5. Dr SUNG said that it was desirable to establish a clear communication mechanism between the Central Authorities and Hong Kong, and to improve the liaison channels with the democrats. This was particularly important to the constitutional development of Hong Kong.

6. The Secretary for Constitutional Affairs said that at present the Chief Executive and members of the LegCo were returned by elections, and this was already in compliance with the provisions of the Sino-British Joint Declaration. The Basic Law had set a higher requirement, and that was that the Chief Executive and all the members of the LegCo should ultimately be elected by universal suffrage. In considering the design of the future electoral system, reference could be made to overseas experience but such experience could not be fully adopted. We should consider the future electoral system of Hong Kong under the framework of the Basic Law.

(III) Discussion on a bicameral system

1. Sir David opined that we could examine whether amending the Annexes of the Basic Law could already provide the legal basis for the

implementation of a bicameral system. He considered that it might be sufficient to amend Annex II of the Basic Law.

2. Some Members considered that it was inevitable to amend the principal provisions of the Basic Law if a bicameral system was to be adopted. This was because the principal provisions of the Basic Law had already stipulated clearly the composition and powers and functions of the LegCo. As such, it would be inadequate to only amend the Annexes as it would not provide the necessary legal basis for the implementation of a bicameral system. Also, there were practical difficulties in amending the Basic Law.

3. Professor MA opined that the implementation of a bicameral system was a fundamental issue concerning the constitutional structure, and it was unavoidable that the Basic Law would need to be amended. Those amendments would at least include provisions concerning the relationship between the executive authorities and the legislature, and the powers and functions of LegCo etc.

4. Dr SUNG said that it was apparent that the reason for stipulating the electoral methods in the Annexes to the Basic Law was to provide for rooms for discussion and changes, so as to avoid the need to amend the Basic Law.

5. However, Dr SUNG said that from a principle point of view, the implementation of a bicameral system would undermine the executive-led system, and would be inconsistent with the spirit of the Basic Law. For this reason, the proposal would not be acceptable to the Central Government. From a practical point of view, the implementation of a bicameral system would arouse much controversy. For example, the business sector might not be willing to limit their influence only to the upper chamber. If the business sector stood for elections in the lower chamber and secured a substantial number of seats, the public might have problems with their undue influence.

6. A Member opined that a bicameral system would further undermine the efficiency of the executive authorities, given the lack of ability of the executive authorities to exercise effective checks and balances against the legislature.

7. Dr SING said that in considering the relationship between the executive authorities and the legislature, one should assume that the

selection method of the Chief Executive would evolve towards universal suffrage. Therefore, one should not rule out the possibility of returning the Chief Executive by universal suffrage to gain legitimacy, or electing a LegCo with a prevailing party that shared similar political stance with the Chief Executive. A bicameral system could provide a certain degree of checks and balances under the circumstances.

8. Dr SING opined that as it would be difficult to persuade members returned by functional constituencies to agree to the abolition of their seats in the LegCo, a bicameral system might be a feasible alternative after all. The crux of the matter was whether a consensus could be reached among the business sector, the democrat camp and the general public. Comparatively speaking, the issue of amending the Basic Law was of secondary importance.

9. A Member remarked that an upper chamber constituted by members returned by functional constituencies might be tilted towards sectoral interests, whereas appointed members might have regard to the overall interests of the community under certain circumstances.

10. Dr SING opined that the legitimacy of the upper chamber would certainly be undermined if it was formed solely on the basis of the existing composition of the functional constituencies. If some members of the upper chamber were appointed from amongst capable persons and prominent members of the community, this would help fulfill the upper chamber's role of providing checks and balances against the lower chamber returned by universal suffrage. The crux of the matter was who should be tasked to appoint members to the upper chamber. In this regard, consideration might be given to the establishment of an appointing committee comprising representatives nominated by members from different political parties in the lower chamber. This committee should also set out the criteria for selecting suitable candidates for the upper chamber.

11. With regard to whether implementing a bicameral system was consistent with the ultimate aim of achieving universal suffrage under the Basic Law, a Member put forward the view that the provisions of Article 68 stipulated the basic policies of our country regarding Hong Kong, and that Article 159 stipulated that no amendment shall contravene the relevant basic policies, hence, the Basic Law should not be amended for the implementation of a bicameral system.

12. There were also views that if the upper chamber was not returned by universal suffrage, it would be inconsistent with the provision as stipulated in Article 68 of the Basic Law that “the ultimate aim is the election of all the members of the Legislative Council by universal suffrage”.

13. Sir David considered that the implementation of a bicameral system in 2012 was just the first step. The way forward would depend on the actual circumstances at the time. The aim was to have all the seats in the two chambers returned by universal suffrage.

14. Secretary for Constitutional Affairs remarked that whether the result of the discussion on constitutional development was to go for preserving the unicameral system or implementing a bicameral system, the ultimate aim of selecting the Chief Executive and electing all the members of LegCo by universal suffrage as stipulated in the Basic Law must be maintained.

(IV) Improvement to the functional constituency elections of the LegCo

1. A Member asked whether the proposals on improving the functional constituency elections of the LegCo could be advanced.

2. Dr SING remarked that an early implementation of the reform of functional constituencies to increase its representativeness would help maintain the prosperity and stability of Hong Kong.

3. Secretary for Constitutional Affairs remarked that since the government’s proposal on the 2007/08 electoral arrangements fell short of the two-thirds majority support of all LegCo Members, in the circumstances, the 2007 CE election would be held on the basis of the existing arrangements, i.e. the electorate base would remain unchanged. We might nevertheless explore the long-term arrangements regarding the composition of the LegCo.

Secretariat to the Commission on Strategic Development
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