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**Submission to the Legislative Council on the Voting by Imprisoned Persons Bill**

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1. The Hong Kong Human Rights Monitor is of the opinion that the right to vote is a fundamental political right that should be enjoyed by all without distinction, including prisoners.
2. We therefore support the Government's decision to allow all the prisoners to register as voters and to vote disregarding the types of crimes or the length of sentence. Details of our views on this can be found in our written submission to the Government.<sup>1</sup>
3. In general the Monitor agrees with the policy underlining the Voting by Imprisoned Persons Bill (the Bill). The Monitor especially welcomes the Government's decision to allow the prisoners who are convicted of election-related or bribery offences to vote. The Monitor is of the opinion that imprisonment already serves the purpose to penalize convicted persons, persons who are convicted of election-related offences or bribery should be able to exercise their right to vote without hindrance.
4. Regarding the registered address of the prisoners, generally speaking the Bill requires the prisoners' sole or main home, or last dwelling-place to be the registration address. The Monitor opines that this arrangement would be a better choice in terms of administration. However, if we allow the prisoners to use the prisons as their registered address, it may well help them participate more meaningfully in the local community and choose a real representative with their vote. Since both of the options have their own advantages and problems, the Monitor recommends the Administration to conduct an in-depth study into overseas experiences and review this after the next LegCo and DC elections, to see which options would be more beneficial to the prisoners and the society as a whole.

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<sup>1</sup> See [http://www.hkhrm.org.hk/resource/Submission\\_from\\_HKHRM\\_on\\_Right\\_to\\_Vote\\_of\\_Prisoners.doc](http://www.hkhrm.org.hk/resource/Submission_from_HKHRM_on_Right_to_Vote_of_Prisoners.doc)

5. We are also concerned that the Bill does not provide for a special round of voter registration for prisoners or ex-prisoners who have not been able to register as an elector. This means they are in effect denied the right to vote in all elections or by-elections until the current final registers of the various constituencies are opened for registration and finalised again. This is particularly unfair to those who have been denied registration by the unconstitutional disqualification provisions in election laws. We therefore call for amendments to enable a special round of voter registration for these prisoners, ex-prisoners and the general public to register.
6. Besides addressing the right of prisoners, the Monitor recommends the LegCo to examine any need to amend the disqualifications provision under section 53(5)(e) of the Legislative Council Ordinance to see whether it is too broad.<sup>2</sup> Under this provision, it is possible that retired military personnel with lifelong titles in the army of Kuomintang or the Communist Party are not allowed to vote in spite of the fact that they have gained the status of permanent resident in Hong Kong. If so, this disqualification provision probably contravenes the right to vote, the non-discrimination and equality before the law provisions of the International Covenant on Civil and Political Rights and the Basic Law.
7. For practical arrangements for prisoners and remanded unconvicted persons to exercise their voting right, reviews should be conducted after every election so as to improve the voting arrangements.
8. Patients who are not able to leave the hospital, homeless people who do not have a registration address and employees who need to work on the polling day have no means to cast their votes since no special arrangements are provided. Their right to vote cannot be exercised unless special arrangements are made for them. The Monitor urges the Administration to study the hindrance to their casting of votes and design and implement special arrangements for them to vote as soon as possible.

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<sup>2</sup> Section 53(5)(e) of the LCO provides that an elector is disqualified from voting at an elect if the elector is a member of the armed forces of the Central People's Government or any other country or territory.