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Unitarian Universalists Hong Kong

**Submission to the Panel on Constitutional Affairs on
Consultation Document on Methods for Selecting the Chief Executive and for Forming
the Legislative Council in 2012**

Introduction

The people of Hong Kong have already expressed their will to have their rights recognized in electing the Chief Executive (CE) of Hong Kong and all the members of the Legislative Council (LegCo) through direct election. Although the government's proposal could not recognize this basic human rights of Hong Kong people, the people still expect that the proposal could at least have a clear direction toward this goal.

Rights to universal suffrage for Hong Kong people

ICCPR Article 25

The rights of universal suffrage for Hong Kong people is guaranteed in Article 25 of the ICCPR that states,

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;*
- (b) 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;*
- (c) To have access, on general terms of equality, to public service in his country.*

The term "universal suffrage" simply means one person one vote. An equal, wide-spread election system is necessary to recognize this right. China is a signatory to the International Covenant on Civil and Political Rights (ICCPR) since 5 Oct 1998 and China has notified the Secretary-General that, upon resuming the exercise of sovereignty over Hong Kong, the Covenant will also apply to the Hong Kong Special Administrative Region (SAR).

The Hong Kong SAR government has the obligation to implement ICCPR, including the recognition of the rights in Article 25. In the Concluding Observation of the Human Rights Committee on 21 April 2006 (CCPR/C/HKG/CO/2), "the Committee is concerned that the implementation of the procedure for interpretation of the Basic Law, such as on Election and public affairs issues, does not include adequate arrangements to ensure that such interpretations are in compliance with the Covenant (articles 2, 25, 26)." The Committee recommended that "all necessary measures should be taken whereby the Legislative Council is



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elected by universal and equal suffrage. It should be ensured that all interpretations of the Basic Law, including on Election and public affairs issues, are in compliance with the Covenant."

Basic Law protection

Under the Basic Law articles 25, 26, 45 and 46 that state:

Article 25

"All Hong Kong residents shall be equal before the law."

Article 26

"Permanent residents of the Hong Kong Special Administrative Region shall have the right to vote and the right to stand for election in accordance with law."

Article 45

"The Chief Executive of the Hong Kong Special Administrative Region shall be selected by election or through consultations held locally and be appointed by the Central People's Government.

The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.

The specific method for selecting the Chief Executive is prescribed in Annex I: "Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region".

Article 46

The term of office of the Chief Executive of the Hong Kong Special Administrative Region shall be five years. He or she may serve for not more than two consecutive terms.

Hong Kong should step toward an electoral system that recognizes the rights of Hong Kong people genuine periodic elections by universal and equal suffrage.

Major faults of the present proposal



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Election for CE

Election Committee

In order to recognize the right of universal suffrage of Hong Kong people in direct election for the CE of Hong Kong, all Hong Kong voters should be automatically qualified as Election Committee members. In this way, all people could vote for the CE of Hong Kong.

Any proposal going in that direction would be welcome by the Hong Kong people, but the current proposal failed in this regard. According to the present proposal, the number of members of the Election Committee is increased by only 50%.

With the increment of 50% every 5 years, simple mathematics shows that it would take 100 years¹ in order to have the Election Committee reaching 4 million voters. At zero growth in voters' number, we would have direct election of CE of Hong Kong in **2112**, by then most of us should be long dead and gone.

Therefore, we strongly urge the Hong Kong SAR government to give all voters of Hong Kong the right to be automatically qualified as Election Committee members.

According to the decision of the Standing Committee of the National People's Congress on issues relating to the methods for selecting the CE of the Hong Kong SAR, it is decided that we will not have universal suffrage in 2012.

A way of interpreting the decision is that universal suffrage can be allowed in 2017. For gradual and progressive transition, it is logical to have half of all voters be selected as Election Committee members by 2012. The Hong Kong government could propose to have all voters automatically qualified in a lottery to choose half of them for the Election Committee. So, by 2017, we would have all voters voting for our own CE, and fulfilling the universal suffrage obligation.

¹ Simple math illustration:

$$800 \times 1.5 = 1\,200 \text{ (year 2012)}$$

$$1\,200 \times 1.5 = 1\,800 \text{ (year 2017)}$$

$$1\,800 \times 1.5 = 2\,700 \text{ (year 2022)}$$

...

$$100 \text{ years after year 2012}$$

$$2\,660\,205 \times 1.5 = 3\,990\,308 \text{ (year 2112)}$$



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As we object to the principle of small circle predictable election, we object to adding the District Council members to the Election Committee.

Nominating process

According to Article 26 of the Basic Law, anyone should have the right to stand for election. The nominating procedure should be easy to understand for voters. If a person could get approximately 5% of support from the Election Committee members, the person should be qualified to run for the CE office.

On political affiliation of CE (para. 4.23)

We would also recommend removing the requirement of CE not affiliated with any political party, as it would be encouraging for responsible persons who are already involved in political parties to run for CE. The government has not presented any reasoning for maintaining such restriction.

Functional Constituency

The concept of a group of voters having more than one vote is in direct violation to the principle of equal and universal suffrage, under both the ICCPR and the Basic Law. The seats of Functional Constituency (FC) should be reduced and be ultimately eliminated from our electoral system. We cannot accept the unfairness in our election system. Therefore, we would like to see progressive steps in eliminating all the seats generated by FC.

The proposal of more seats for FC is a lack of appreciation and respect for the basic voting rights of Hong Kong people.

According to Annex V of the consultation document, there are only 226 591 voters for FC in 2009. That is only 6.7%² of registered voters of Hong Kong. It is unfair to have 6.7% voters return with the seats from FC, while 100% of voters could only return with equal number of seats from Geographic Constituencies (GC).

According to the decision of the Standing Committee of the National People's Congress on issues relating the formation of the Legislative Council, the ratio of members by Functional Constituencies and by Geographic Constituencies is half and half. To bring this decision more

² Based on Legislative Council members election voters number in 2008, with 1,515,479 numbers of voters at 45%, the total number of voters should be 3.37 million. Using this number as the base, the total voters of FC seats based on Annex V, the percentage is around 6.7%.



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in-line with the requirement of universal suffrage by ICCRP Article 25 and the Basic Law Article 25, we suggest the following method:

We propose to have all voters be automatically qualified to have FC votes, being randomly placed into different sectors by 2012. This can make the number of voters of FC and of GC more even in the 2012 election for Legislative Council members. By 2016, all FC seats would be cancelled and the number of seats created by the absentee of FC be returned by Geographic Constituencies.

Recommendations summary

We recognize that Hong Kong people have fundamental human rights for equal and universal suffrage under the ICCPR and the Basic Law, and we recognize the importance of the decision of the Standing Committee of the National People's Congress on electing CE and the Legislative Council members in 2012, therefore,

We recommend:

To have the Hong Kong government to show the will to implement equal and universal suffrage in Hong Kong according to the principle of Article 25 of ICCPR and Articles 25, 26, 45 and 46 of the Basic Law.

To increase the members of Election Committee to be equal to half of the population of voters of Hong Kong; by having all voters be automatically qualified to a lottery that would select half of the voters to be members of the Election Committee by 2012 and have all voters voting for CE by 2017.

To have the increment of members of the Election Committee to be set at 200 000% or 2 000 times by 2012 to have the voters base increased to 1.6 million, that ultimately will lead to full and equal suffrage by 2017.

To cancel the requirement for CE to have no political affiliation by 2012.

To put in place a progressive election system that would reduce the impact of unfairness in electing Functional Constituency members by 2012, by increasing the voters' base extended to all voters of Hong Kong.

To cancel all seats returned by FC by 2016, and have the numbers of seats returned by direct election of Geographic Constituencies.



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We object:

To have the Election Committee be increased by the increment of only 50% by 2012, as the pace projects taking close to a hundred years to have universal suffrage in Hong Kong. A bigger increment is needed.

To add District Council members to the Election Committee in 2012 as a way to increase the number by 50% only.

To increase the seats for Functional Constituency as it is in direct violation to the principle of one-person-one-vote.

We strongly urge legislators:

To reject this insincere proposal and recommend the government to come up with a better proposal that gives concrete planning for universal suffrage.

Submitted by

Executive Committee members of Unitarian Universalists Hong Kong

3 Dec 2009