

(Summary Translation)

Submission of the Frontier on the
Legislative Council (Amendment) Bill 1999

Background

1. The Legislative Council (Amendment) Bill 1999 introduced by the Government proposes that of the 60 seats in the Legislative Council (LegCo), 24 will be returned by five geographical constituencies (GCs) though direct election under the proportional representation system, 30 will be returned by functional constituencies (FCs) and the remaining six by the Election Committee (EC).
2. the delineation of FCs is broadly in line with that for FCs in the 1998 LegCo election, with the objective of protecting the interests of the industrial and commercial sector as well as other professional sectors which the Government considers to be important. While giving undue weight to the interests of the industrial and commercial sector, the Government also seeks to pave the way for its proposal to scrap the two Municipal Councils by replacing the Urban Council FC and the Regional Council FC with the District Council FC and the catering FC.

Functional constituency election

3. According to Article 25 of the International Covenant on Civil and Political Rights (ICCPR), every citizen shall have the right “to take part in the conduct of public affairs, directly or through freely chosen representatives” and to vote and to be elected at elections which shall be by universal and equal suffrage. However, in the report of the Hong Kong Special Administrative Region (HKSAR) in the light of ICCPR, it is mentioned that “..... our electoral system is appropriate to Hong Kong’s circumstances and gives rise to no incompatibility with any of the provisions of the Covenant as it applies to Hong Kong” and that “functional constituencies provide a representative voice for the territory’s economic, financial and professional sectors, reflecting their importance in the community.”
4. In fact, Hong Kong’s electoral system was criticized by the United Nations Human Rights Committee as early as in 1995. In its concluding comments, the Committee pointed out in particular that the FC election showed a bias in favour of the interests of the commercial sector and constituted a violation of the principle of universal and equal suffrage as

well as the spirit of equality for all before the law. It also gave rise to discrimination on the ground of sex, wealth and social status. The Committee even recommended that immediate improvement measures should be taken.

5. In 1996, the then Chairman of the United Nations Human Rights Committee, Mr AGUILAR URBINA, commented that the FC election was a shameless violation of Article 2 of the Covenant which stipulates that the State Party undertakes “..... to ensure to all individuals the rights recognized in the Covenant, without distinction of any kind, such as race, colour.....social origin, property, birth or other status.” Notwithstanding the Chairman’s comments, the HKSAR Government had no intention to fulfill its obligations in respect of universal and equal suffrage and continued with the unfair electoral system.
6. Worse still, in the 1998 FC election, the HKSAR Government re-introduced corporate voting. The Frontier strongly condemns the resumption of an electoral system which was discarded even under the British colonial rule. It is revealed in the report of a study that in the 1998 FC election, some companies were registered under the same address. Theoretically, these companies are entitled to just one vote each in their own FC, but the case is that a person who has stakes in 10 companies may be in control of 10 votes. Under such a system, the wealthier you are, the more votes you can obtain. In the 1998 election, there was a case so astonishing and ridiculous that a person could control 41 votes through the shares the person held in the companies concerned.
7. Given the great difference among FCs in the size of the electorate, the weight that each vote carries varied. In the 1998 LegCo election, the largest FC, being the Education FC, had 61 290 registered voters, whereas the Provisional Urban Council FC and the Provisional Regional Council FC, which were the smallest, consisted of 50 electors each. In most cases, the electorate of FCs was made up by less than 1 500 electors, and the electors of the FCs were mostly corporate bodies, resulting in an even more unfair electoral system which business moguls and large consortiums can control easily.
8. Compared with the GC election, it is obvious that the number of votes required to return a seat in FC election is far from proportional. For instance, in the 1998 election, the five small FCs, namely the Heung Yee Kuk FC, agriculture and fisheries FC, insurance FC, transport FC and finance FC, which had a mere 837 electors in total, returned the same number of seats as a quarter, or 698 843, of GC electors returned in GC election. This was a serious violation of the principle of “universal and equal suffrage” as stipulated in ICCPR.

Election Committee election

9. The EC is composed of 800 members returned by four sectors, and six seats in the LegCo will be returned by EC in the 2000 election. Similar to the FC election, the EC election is not broadly-based. It also violated the principle of universal and equal suffrage and should be abolished.

Conclusion

10. Although the electoral arrangements for the 2000 LegCo election are neither impartial nor democratic, the HKSAR Government will still be using Article 68 and Appendix II of the Basic Law to fend off requests for discussion on speeding up the pace of democracy. In the 1998 LegCo election, while the democrats gained the support of 60% of electors in the GC election, they only obtained less than one-third of the LegCo seats. Under this undemocratic electoral system, it is predicted that in the next decade, political powers will be in the hands of the industrial and commercial sector as well as the pro-Communists. Representatives of the general public will only be the minority in the LegCo, in which case public interests will not be protected adequately.
11. The Frontier firmly believes that it is the basic right of the citizens of all nations to enjoy democracy in the political system. The Government should endeavour to set up a democratic system whereby the people can participate in the formulation of public policies and play a part in monitoring the work of the Government. The Basic Law, the ICCPR and the Bill of Rights all confer on the people the right to take part in public affairs, directly or through freely chosen representatives. They also guarantee the free expression of the will of the electors by universal and equal suffrage, with a view to ensuring that the people can, either in person or through their representatives, participate in the work of the Government or different tiers of Councils and play a monitoring role in order to prevent manipulation by a handful of people. However, the proposals put forward by the Government are indeed violations of the Basic Law, the ICCPR and the Bill of Rights. They hinder the development of democracy in Hong Kong and seriously deprive the people of their basic rights.
12. For the above reasons, the Frontier strongly opposes such undemocratic electoral system. We strongly urge for a frilly directly-elected LegCo in order to ensure that the basic rights of Hong Kong people are properly safeguarded.