

LegCo Panel on Constitutional Affairs

**A summary of views received on the
Development of the Hong Kong Special Administrative Region's Political System**

(as at 7 April 2000)

Person/body LC Paper No. CB(2)	System of government (Ministerial system, Executive- Legislature relationship)	Election of CE and LegCo Members	Others
<p>1. Dr Anthony B L CHEUNG, Head and Associate Professor, Department of Public and Social Administration, City University of Hong Kong</p> <p>1076/99-00(01)</p>	<p><u>Short-term measures</u></p> <ul style="list-style-type: none"> • CE should interpret BL restrictions on private Member's bills more flexibly. • Major government policy advisory committees should be opened to legislators. • Chief Secretary to hold regular meetings with leaders of major LegCo parties. • Not practical to have overlapping membership between ExCo and LegCo and to appoint party leaders to ExCo because of the rules of confidence and collective responsibility of ExCo. • ExCo Members should be more visible politically. But unrealistic to have full-time ExCo Members and undesirable for them to be in charge of policy portfolios. • Appointment of principal officials on political contracts may be introduced by the second CE term. They should be appointed as "ministers" rather than ExCo Members. 		<ul style="list-style-type: none"> • Political parties are not highly relevant to the existing political order which is built on an executive-led system.

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	<p><u>Long term solutions</u> -</p> <ul style="list-style-type: none"> • Both CE and LegCo are to be elected by universal suffrage so that each can claim to derive political mandate and legitimacy from the people and there is a genuine balance of power and authority. (There should not be undue worry of keeping an executive-led system within a democratic form of government as both the British Westminster model and the US-style presidential system feature a strong executive government). • Removal of constitutional restrictions on private Member's bills. • Ways to move to a democratically elected LegCo - <ul style="list-style-type: none"> - All 60 LegCo seats directly elected on a GC basis, or - 30 seats directly elected on a GC basis and the remaining 30 seats on a territory-wide single-list system, or - 30 seats directly elected on a GC basis and 30 FC seats on a universal franchise basis (Each voter is eligible to vote in both one GC and one FC). • To allay concerns of the business community about direct election, the number of LegCo seats can be increased to say 100 or 120 to provide greater chance for elite members of the community to be elected to LegCo under the proportional representation voting system. 		

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	<ul style="list-style-type: none"> All ministerial posts (Chief Secretary, Financial Secretary, Secretary for Justice and other secretaries, but not Commissioner of Police and similar functional principal official posts stipulated in the BL) should preferably be turned into political appointments whose term should coincide with that of the CE. These appointees should be politically in alliance with CE and assist him full time in leading and directing the government. While appointees can come from both civil service and private sector, civil servants should leave the civil service and be recruited on contract terms. Role of ExCo needs to be re-examined as it might then become redundant. 		
<p>2. Mr YU Tong 1076/99-00(02)</p>	<ul style="list-style-type: none"> Executive-led system of government is ineffective and should be abolished. 	<ul style="list-style-type: none"> Existing electoral system is outdated and should be changed. 	<p>--</p>
<p>3. Hong Kong Christian Institute 1076/99-00(03)</p>	<ul style="list-style-type: none"> CE and principal officials should be accountable to the Legislature. CE should appear before LegCo 6-8 times a year to answer questions. 	<ul style="list-style-type: none"> A fully representative government should be introduced soonest. A referendum on the matter can be conducted by the Government and supervised by the United Nations. CE should be elected by at least 50% of the citizens who cast a vote. Election by universal suffrage in 2002 or 2007 the latest. 	<p>--</p>

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		<ul style="list-style-type: none"> 60 LegCo Members should be returned by 60 GCs under a "one person, one vote" and simple majority voting system in 2000 or 2004 the latest. 	
<p>*4. Professor Joseph Y S CHENG, Professor of Political Science, City University of Hong Kong</p> <p>1111/99-00(02)</p>	<ul style="list-style-type: none"> A "ministerial system" in the form of a political party or coalition of political parties to control a majority in LegCo is against the principle of "executive-led government" advocated by the Chinese leadership. There is no incentive to reform as the HKSAR government still enjoys a safe majority support in LegCo and there is no danger of constitutional or political crisis. A "ministerial system" of appointing a small number of senior civil servants from the private sector is already an established practice. Another option for managing the civil service which can be introduced at this stage without too much opposition is to offer contracts to top civil servants following the Australian model. This may further justify the gradual implementation of the contract system throughout the civil service. CE can allow pro-government political parties to introduce important bills into LegCo. This is less a challenge to the "executive-led" system of government. Existing ExCo Members are not perceived to be influential. CE can transform ExCo into his cabinet, similar to that of the United States President. 		<ul style="list-style-type: none"> Also gives an analysis of the HKSAR's political development and system.

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	<ul style="list-style-type: none"> • It is entirely feasible for the Government to avoid any major political reform until 2007 and even then, to limit the reforms to a moderate increase in the number of directly-elected seats in LegCo. The "China factor", the difficulties likely to be faced by the executive branch of the government as a result of further democratization, the conservatism of the business community in the territory and the community's lukewarm attitude towards political reform remain to be the obstacles to democratic development. The initial stage of further democratization will probably lead to more problems than solutions to the Government. • A less controversial way to increase the proportion of directly-elected seats in the review in 2007 will be to expand the size of the Legislature to 90 seats, and increase the number of directly elected seats to 60. • Where comes the incentive for political reforms? A community mainly interested in the pursuit of stability and prosperity and which lacks a strong sense of civic-mindedness will never make Hong Kong a world-class city. Active political participation among Hong Kong people must be encouraged. 		
<p>5. Miss Eliza W Y LEE, Associate Professor, Department of Government & Public Administration,</p>	<ul style="list-style-type: none"> • Whether the ministerial system can enhance executive leadership, political accountability and political neutrality depends on the kind of political institutions the ministerial system is operated under. The adoption of a ministerial system is an 	<p>--</p>	<ul style="list-style-type: none"> • Also provides information on the political systems in the UK, USA, France and Germany .

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<p>the Chinese University of Hong Kong</p> <p>1111/99-00(03)</p>	<p>indispensable part of the further development of a democratic system. However, adopting a ministerial system now will not bring about much improvement in the quality of governance immediately. In fact, things may get worse before they get any better.</p> <ul style="list-style-type: none"> • There are three common sources of ministers : political parties, the private sector and the civil service. If a minister system is implemented in HK, the option of appointing civil servants as ministers seems to be the most practicable one. In the long run, the choice of personnel is related to the kind of representative system that will be adopted in Hong Kong. 		
<p>6. Mr K Y SHAW</p> <p>1111/99-00(04)</p>	<ul style="list-style-type: none"> • Non civil servants appointed as principal officials should be on contract terms. 	<ul style="list-style-type: none"> • CE should be elected by universal suffrage in 2012, using a simple majority voting system. • The earliest time for all LegCo Members to be elected on a GC 	<ul style="list-style-type: none"> • As BL does not have provisions on referendum, LegCo should enact legislation in this respect. Only constitutional issues may become the subject for referendum.

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		basis will be 2011. The delineation of GC boundaries is open to discussion, and the number of seats in a GC should be in direct proportion to the population of the GC.	
<p>7. Dr LI Pang-kwong, Assistant Professor of Department of Politics and Sociology, Lingnan University & Director of the Research and Survey Programme of Lingnan University</p> <p>1130/99-00(01) & 1133/99-00(01) (Circulation restricted to Members only)</p>	<ul style="list-style-type: none"> • Means to improve the relationship between the Executive and Legislature - <ul style="list-style-type: none"> - To endorse party politics; - To co-opt elite members of the community in committees of the government and statutory bodies; - To abolish the voting system on motions and bills introduced by Members; - To readjust the proportion of FC and GC seats in LegCo; and - To return CE by "popular election". 		<ul style="list-style-type: none"> • Results of a survey on HKSAR's political reform conducted by the Research and Survey Programme of the Lingnan University in January 2000 indicate that majority of the respondents support : <ul style="list-style-type: none"> - Discussion on political reform in the community should start as soon as possible; - Election of CE and all LegCo Members by universal suffrage should be implemented as soon as possible; - Persons responsible for formulation of policies (CE,

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			<p>ExCo Members, principal officials) should resign if they have committed major policy mistakes;</p> <p>- However, respondents generally do not support political appointment of members of political parties to be principal officials. They generally support appointment of civil servants and persons not affiliated with political parties to be principal officials.</p>
<p>8. Hong Kong Institute of Real Estate Administration 1133/99-00(02)</p>	<p>--</p>	<p>FC system has its merits and should be retained.</p> <p>Democratic development should be introduced progressively in accordance with the timetable of BL.</p>	<p>--</p>
<p>9. A Hong Kong citizen 1133/99-00(03)</p>	<p>--</p>	<p>Both CE and LegCo Members should be appointed.</p>	<p>--</p>

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<p>10. Democratic Party</p> <p>1133/99-00(04)</p>	<p>--</p>	<ul style="list-style-type: none"> • All LegCo Members to be directly elected in 2004. In the absence of direct election, "one person, one vote" system is the most simple and effective voting system. However, the proportional representation system is acceptable if direct election is introduced in 2004. • CE to be elected by universal suffrage in 2002. • Amendments should be made to the Basic Law as soon as possible to allow election of CE and LegCo Members by universal suffrage. 	<ul style="list-style-type: none"> • Reference is also made to surveys conducted by the Democratic Party in 1998 and 1999. The results indicate that - <ul style="list-style-type: none"> - 65% of the respondents support the return of CE by direct election in 2002 (1998 survey); and - 65% of the respondents support LegCo Members to be directly elected in 2000 (1999 survey).
<p>11. Citizens Party</p> <p>1141/99-00(01)</p>	<p>--</p>	<ul style="list-style-type: none"> • HKSAR's political system requires a comprehensive reform rather than changes made on a piece-meal basis. • Election of CE and all LegCo Members by universal suffrage is the ultimate constitutional goal. 	<ul style="list-style-type: none"> • Community-wide discussions on political reform should start now. Constitutional convention is the most effective formal process for the community to achieve a consensus (A paper on "An Open Process for Community Discussion" submitted to the

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		<ul style="list-style-type: none"> • Shares the public's inclination and advocates that CE should be elected by universal suffrage in 2002. 	Panel is attached to the submission).
<p>12. Hong Kong Association of Property Management Companies</p> <p>1141/99-00(02)</p>	--	<ul style="list-style-type: none"> • Not desirable to elect CE and all LegCo Members by universal suffrage in the next term. • Democratic development should be implemented by means of a gradual and orderly process. 	--
<p>*13. Shun Tak Fraternal Association</p> <p>1141/99-00(03)</p>	<ul style="list-style-type: none"> • In support of the blueprint for the future development of the political system in HKSAR as outlined in the BL. The political structure set out in the BL is designed to preserve the long term prosperity and stability of Hong Kong. • Objects to any proposals to change the political system now. 		--
<p>*14. Pun Yue Industrial & Commercial</p>	<ul style="list-style-type: none"> • In support of the blueprint for the future development of the political system in HKSAR as outlined in the BL. Any radical approach would harm the long-term interests of the community. 		--

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Fellowship Association Ltd. 1141/99-00(04)	<ul style="list-style-type: none"> • Objects to any proposals to change the political system now. 		
15. Ms FOK Chui- wan 1141/99-00(05)	<ul style="list-style-type: none"> • Supports democratic development but implementation should be gradual and orderly. 		--
16. 海外雙人 1141/99-00(06)	--	--	<ul style="list-style-type: none"> • Makes comments on various provisions of the BL relating to the CE, the Executive Authorities and the Legislature
*17. Kwun Tong Resident Association 1141/99-00(07)	<ul style="list-style-type: none"> • Implementation of a "ministerial system" or a "party government" would contravene the BL and result in Hong Kong ruled by the mediocre. Not desirable to amend the BL at this stage. • Supports a gradual process of political development and the continuation of an "executive-led" system. 	<ul style="list-style-type: none"> • Second term CE should not be elected by universal suffrage. • Composition of LegCo before 2007 should follow that outlined in the BL. • Not appropriate to decide on when and how should CE and all LegCo Members be elected by universal suffrage at this 	--

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	<ul style="list-style-type: none"> Can improve the Executive-Legislature relationship by enhancing communication between the two branches and by appointing outside persons as senior principal officials on contract basis. 	<p>point in time. A review should be conducted in 2007. Proposals can be made after the community has arrived at a consensus on the matter.</p>	
<p>18. Messrs TANG Kwan-chi and WONG Man-chong</p> <p>1141/99-00(08) (Revised)</p>	<p>--</p>	<ul style="list-style-type: none"> Election of CE and LegCo Members by universal suffrage should only be introduced after implementation of 12-year free education. 	<ul style="list-style-type: none"> Also makes comments on the qualifications; terms of office; and allowances of CE and LegCo Members, village representative elections as well as other related issues (constitutional conventions and regulation of political parties).
<p>*19. Mr Anthony K W LAW Lecturer of School of Law, City University of Hong Kong</p> <p>1155/99-00(02)</p>	<ul style="list-style-type: none"> Implementation of a "ministerial system" should be considered carefully. Appointment of principal officials on contract basis might affect the morale of civil service. LegCo Members should be appointed as ExCo Members in turn. 	<ul style="list-style-type: none"> CE should be elected by universal suffrage in 2008, using a simple majority voting system Reforms to the existing composition of LegCo should be introduced as soon as possible. The FC system should be reformed or abolished. 	<p>--</p>

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<p>*20. Dr J T H TANG Head of Department of Politics and Public Administration, the University of Hong Kong 1155/99-00(03)</p>	<ul style="list-style-type: none"> • HKSAR's principal officials (i.e. Secretaries of policy bureaux) can be regarded as "ministers" who are officers entrusted with the management and administration of a division of governmental activities. The major difference between them and ministers of other democratic systems is that most of Hong Kong's "ministers" are also career civil servants. • The difficulties in the Executive and Legislature relationship should not be exaggerated as the two institutions have managed their differences by engaging in the usual political give-and-take. But the Executive will find it increasingly difficult to maintain an executive-led style of governance without risking its political credibility if it does not have institutionalized political support and higher degree of legitimacy. 	<ul style="list-style-type: none"> • In the long run, it is the best solution for Hong Kong people to be able to elect CE and LegCo Members through universal suffrage. • Political experiences all over the world have demonstrated that direct elections are a necessary step in realizing the vision presented by CE in his first policy address. 	<p>Gives an analysis of the HKSAR's political system and a comparison between the political systems in Germany, France and Switzerland.</p>

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<p>*21. Dr LO Shiuhing Assistant Professor, Department of Politics and Public Administration, the University of Hong Kong</p> <p>1155/99-00(04)</p>	<ul style="list-style-type: none"> • The precondition of public discussion on political reform is urgent education of the public on the current political structure and the content of the BL from now to 2006. • Three-pronged approach to gather public views on political reform - <ul style="list-style-type: none"> - The Government should set up an independent committee in 2001 to receive public views on political reform with a view to producing a report in 2005. The committee should decide whether an opinion survey or a referendum should be conducted in 2006 on two key issues : the election of CE by universal suffrage and the scope of democratic reforms in LegCo; - LegCo should consider holding a series of constitutional conventions from 2001 to 2006 to discuss different topics concerning political reform (seven topics proposed in the submission); and - The Government should also conduct in-depth study on the seven topics and submit a report to the independent committee and LegCo. 		<ul style="list-style-type: none"> • Constitutional conventions are important. It is necessary to consider whether constitutional conventions adopted before the handover should be maintained or even relaxed e.g. should the principle of "collective responsibility" be relaxed to allow more people with different political views to join the ExCo. • More powers and responsibilities should be given to members of the District Councils. Allowing District Council members to be "ministers" in the 18 districts will train their political leadership from now to 2006.
<p>22. Hong Kong Christian Council</p> <p>1211/99-00(01)</p>	<p>--</p>	<ul style="list-style-type: none"> • Supports the election of CE by universal suffrage as early as possible under the parameters of the BL. 	<p>--</p>

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<p>*23. Hong Kong Professional Teachers' Union</p> <p>1284/99-00(01)</p>	<ul style="list-style-type: none"> • Constitutional development is closely related to the pace of democratization which is subject to restrictions under the BL. If there is a general public call to increase the pace of democratization in Hong Kong, the HKSAR Government should have the determination to discuss with the Central Government about amending the BL in this respect. • A pre-requisite for considering the implementation of a ministerial system is the election of CE by universal suffrage. • There will be no true accountability of the Executive to the Legislature without a directly elected CE and democratization of ExCo. • Election of the CE and all Members of LegCo by universal suffrage should be implemented as soon as possible. 		<p>--</p>
<p>*24. Hong Kong Bar Association</p> <p>1284/99-00(02)</p>	<ul style="list-style-type: none"> • There is no support for "executed-led government" in BL, if this means that the Executive shall prevail over LegCo. In fact, the constitutional framework clearly endorses the principle of separation of powers. BL 64 provides that the HKSAR Government is accountable to LegCo and the situations set out in BL 64 should not be exhaustive of the scope of the accountability. • An effective system of accountability 	<p>Election of LegCo Members</p> <ul style="list-style-type: none"> • BL 68 requires a progress in the formation of LegCo towards election of all Members by universal suffrage. To freeze the composition of LegCo as that in its third term after 2008 will be contrary to BL 68. • The ultimate aim of election of all LegCo Members by universal suffrage must be 	<p>--</p>

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	<p>of principal officials will require a system of sanction or removal from office.</p> <ul style="list-style-type: none"> The public should be widely consulted on any system of Executive Government, be it ministerial or otherwise. Any system adopted must comply with the requirement of accountability to both LegCo and the HKSAR as set out in BL. 	<p>achieved well before the end of the 50-year period guaranteed by BL.</p> <ul style="list-style-type: none"> According to the Human Rights Committee, the electoral system for LegCo does not comply with the ICCPR. The concept of FC, which gives undue weight to the views of the business community, discriminates among voters on the basis of property and functions. Given the long history of direct election in Hong Kong, the interim nature of FC election and taking into account the international obligation under the ICCPR which is incorporated in BL 39, the requirement of progress in the political development in the HKSAR and the ultimate aim of direct election, LegCo should be constituted entirely by geographical election by universal suffrage after the third term. 	

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		<ul style="list-style-type: none">• Alternatively, the people of Hong Kong should be given the opportunity to decide on this question, and the most appropriate means to do so is by way of a public referendum. <p>Election of CE</p> <ul style="list-style-type: none">• Given the short history of election of CE, the question of how the CE should be selected after 2007 is an appropriate subject for a public referendum.• The formation of the nomination committee for the selection of the CE should be open, transparent, participative, broadly representative of all walks of society and with a degree of check and balance. Any proposal must be easy to implement.• All members of the Election Committee should be returned by either direct or indirect election, and at least half of the	

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		members should be returned by GC election by universal suffrage.	
25. 1290/99-00(01) (Circulation restricted to Members only)	--	--	--
26. The Frontier 1405/99-00(01)	<ul style="list-style-type: none"> • The executive should be accountable to the legislature. • The legislature should have the power to raise questions on and veto the appointment of secretaries of policy bureaux 	<ul style="list-style-type: none"> • Objects to indirect elections of LegCo Members (such as FC and Election Committee elections) and selection of CE by a Election Committee. • CE and all LegCo Members should be elected by universal suffrage as soon as possible. 	<ul style="list-style-type: none"> • The appointment system of DC members should be abolished. DC members should be elected by universal suffrage. • HKSAR Government should establish a constitutional convention to consult the public on the relationship of the executive and legislature, the appointment of principal officials and the pace of democratization as soon as possible, with the ultimate aim of re-enacting the BL to achieve the principles of "Hong Kong people ruling Hong Kong" and "HKSAR exercises a high degree of autonomy".

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<p>*27. Christian Joint Committee on Concern for Election</p> <p>1422/99-00(01)</p>	<p>--</p>	<ul style="list-style-type: none"> • CE should be elected by universal suffrage in 2002. • All LegCo members should be elected by universal suffrage before or in 2004. • Amendments should be made to Articles 45 and 68, Annexes I and II of the BL. • HKSAR Government should consult the public on the future development of the political system and announce the timetable of consultation in 2000. The matter should eventually be decided by way of a referendum. 	<p>--</p>
<p>*28. Hong Kong Human Rights Monitor</p> <p>1432/99-00(01)</p>	<ul style="list-style-type: none"> • A much wider debate on the form of government to be adopted by HKSAR is required. 	<ul style="list-style-type: none"> • There is no justification for further delay in election of LegCo Members by universal suffrage. • There are strong arguments that a CE who is indirectly elected through leading the majority 	<ul style="list-style-type: none"> • Hong Kong should hold a constitutional convention to work out future constitutional arrangements along the lines of the South African Constitutional Convention or the convention on the future of the monarchy held by Australia in 1998.

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		party in LegCo will be able to form a more stable and effective Government than one who is directly elected.	
*29. Mr Gordon Y S WU 1473/99-00(01)	<ul style="list-style-type: none"> In Hong Kong, one-third of the population paid taxes and subsidized the tax exempt majority. With implementation of a "one-person, one-vote" system, taxpayers would not have their representation in LegCo guaranteed. This situation of "taxation without representation" would jeopardize taxpayers' confidence and threaten Hong Kong's success achieved in the past. Development of democracy should take an evolutionary rather than a revolutionary process, as evidenced by experiences in other countries. Hong Kong should implement the "one-person, one-vote" system step by step in order to achieve both democracy and economy prosperity. 		--
30. Mr Denis Edwards, Assistant Professor, School of Law (oral presentation at meeting on 21 February 2000)	<ul style="list-style-type: none"> Constitutional conventions are important in the context of political accountability. Conventions and customs must be developed under the BL. To comply with the requirement of accountability to the HKSAR under BL 43, CE should appear before LegCo to answer questions on a more regular basis. 	--	<ul style="list-style-type: none"> Makes reference to different political systems.

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<p>31. New Territories People's Association</p> <p>1610/99-00(01)</p>	<p>--</p>	<ul style="list-style-type: none"> • Election of all Members of LegCo by universal suffrage should be implemented in accordance with the principle of gradual and orderly progress as laid down in BL 68. Radical changes without regard to the actual situation in Hong Kong will cause instability to the community and hamper economic growth. • The present electoral system provides channels for different interests to be represented in the LegCo, hence contributing to stability and the promotion of public participation in political affairs. • The ultimate aim of universal suffrage can only be satisfactorily achieved through a systematic approach to enhance political awareness and build up experience in election matters. It is pre-mature to introduce universal suffrage at 	<p>--</p>

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		this stage.	

Note : BL - Basic Law

CE - Chief Executive

ExCo - Executive Council

FC - functional constituency

GC -geographical constituency

HKSAR - Hong Kong Special Administrative Region

ICCPR - International Covenant on Civil and Political Rights

LegCo - Legislative Council

* Also give oral presentation to the Panel