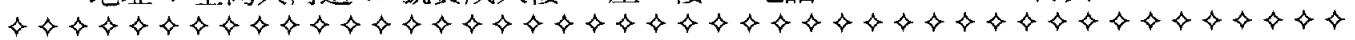




荃灣葵青區婦女會

Tsuen Wan Kwai Ching District Women's Association

地址：荃灣大河道 89 號寶成大樓 12 座二樓 電話：2492 9914 傳真：2416 9375



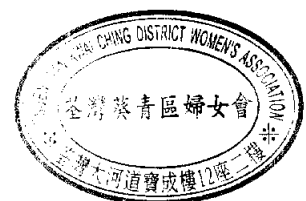
就檢討《基本法》所訂行政長官的產生辦法提出意見

香港立法會政制事務委員會邀請各界提交意見書，就檢討《基本法》所訂行政長官的產生辦法提出意見如下：

- (1) 近日“非典型肺炎”肆虐香港，【萬眾齊心·對抗肺炎】是我們廣大市民首要關注的。此外，“非典型肺炎”事件對本港的經濟及就業情況再度打擊，故【振興經濟·解決財赤·降低失業率】，是香港特區政府急需處理的重要工作，也是特區政府得民心及順民意的重要施政舉措。在這種情況下，立法會政制事務委員會邀請公眾檢討《基本法》所訂行政長官的產生辦法是不合時宜的。
- (2) 就上述因素為大前提，而現在港人正處於水深火熱之中，在“非典型肺炎”事件中，有痛失家人的，亦有失去工作的，令港人大傷原氣，實極需要政府關注並作出相關措施，以便增強氣力，令香港再起飛。因此，本會支持特區政府有關於明年及後年開始政制檢討的施政綱領和時間表。反對任何推動提前進行政制檢討的主張或活動。

本會電話：2492 9914 2493 3628

聯絡人：文姑娘 郭小姐



荃灣葵青區婦女會

理事長：李潔明 謹啓

(郭秀華 (awob) 代行)

2003 年 6 月 9 日

反對立法會政制事務委員會
通過有關政制檢討決議

香港市民亟需要一個穩定祥和的社會，早前受 SARS 的影響下，百業受到牽連，使到香港的經濟沖擊很大，現時特區政府和市民正萬眾一心抗擊 SARS，為搞好經濟出一分力的時候。但立法會政制事務委員會於 5 月 19 日，通過“邀請公眾就檢討基本法”所訂行政長官產生的辦法提出意見，是非常不合時宜，也妨礙香港的繁榮和穩定，所以本人是堅決反對有關政制檢討決議。

此 致

香港特別行政區
政制事務局局長
林瑞麟先生

香港市民：李玉群女士

14-6-2003

反對立法會政制事務委員會
通過有關政制檢討決議

香港市民極需要一個穩定繁榮的社會，早前受 SARS 的影響，百業瀟條，使香港的經濟受到很大的沖擊，目前應該是特區政府和市民萬眾一心抗擊 SARS，搞好經濟出一分力的時候；加上現階段，香港大部份市民對政治冷淡，漠不關心，及不成熟，但立法會政制事務委員會於 5 月 19 日，通過“邀請公眾就檢討基本法”所訂行政長官產生的辦法提出意見，是非常不合時宜，也妨礙香港的繁榮穩定，所以本人是堅決反對有關政制檢討決議。

此 致

香港特別行政區
政制事務局局長
林瑞麟先生

香港市民：黃若蕾小姐

14-6-2003

反對提前進行政制檢討諮詢

5月19日，立法會政制事務委員會通過「邀請公眾就檢討《基本法》所訂行政長官的產生辦法提出意見」，對立法會現時啓動政制討論-----

本會認為：現時決不是政制討論的最佳時間！

- 一. **【對行政長官的產生辦法】**，《基本法》第四十五條第二款規定，“行政長官的產生辦法，根據香港特別行政區的實際情況和循序漸進的原則而規定，最終達至由一個有廣泛代表性的提名委員會按民主程序提名後普選產生的目標。”基本法附件一之七規定“二〇〇七年以後各任行政長官的產生辦法如需修改，須經立法會全體議員三分之二多數通過，行政長官同意，並報全國人民代表大會常務委員會批准。”由此可知，行政長官的產生需按香港的實際情況和循序漸進的原則，現時討論這個問題為時尚早！
- 二. **【對行政長官的產生辦法】**，政制事務局亦早已明確表示：政府會在06年處理相關的政制立法工作。故本會認為：目前，我們應該繼續研究，做好準備，在政府公佈了政制諮詢文件之後，再行發表意見。
- 三. **【萬眾一心、振興經濟】**，受沙士襲港，港人身心俱疲！在後非典時期，當務之急，應是萬眾一心、眾志成城、振興經濟、擺脫經濟轉型困境，緩解結構性通縮，結構性失業，恢復市民大眾及外國投資者、外國遊客對本港經濟發展及消費的信心，**凝聚每顆心，再創新香港！此舉** 才是香港市民之所想！普羅大眾之所急！而並非花大量公帑和心血討論政制改革，浪費資源！浪費時間！
- 四. **《基本法是香港繁榮穩定的基石》**，“提前政制檢討---”徒增不和諧之社會爭議，只會對香港造成新的沖擊和破壞！對香港社會造成負面影響！按《基本法》循序漸進的原則去進行，才可確保香港社會的繁榮穩定；才可保證香港經濟的蓬勃發展；才可讓香港-----這顆東方之珠再放光彩！



2003年6月12日

致香港特別行政區立法會
政制事務委員會：

有關 貴會將在6月16日舉行會議，就“檢討基本法所訂行政長官的產生辦法”進行諮詢。我對此有如下意見：

(一) 在“非典型肺炎”及經濟不景之際，政府應集中精力抗擊“非典”，振興經濟才是。我認為在此期間不適宜進行此種諮詢活動。

(二) 我贊成政府關於在2004年、2005年開始進行政制檢討的時間表，不贊同提前進行的主張或活動。

(三) 第三任行政長官產生辦法，應按照基本法有關精神進行，不應倉促加以決定。

2003年6月12日

李卓人

立法會 CB(2) 2938/02-03(06)號文件

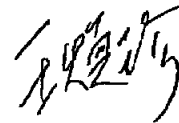
政制事務局林瑞麟局長：

現本人就“檢討<<基本法>>所訂行政長官的產生辦法”提出一些意見：

香港回歸後不久，發生亞洲金融風暴，對香港經濟所造成的衝擊是非常嚴重的，影響是深遠的。香港特區政府沉着應戰，逐步化解了亞洲金融風暴給香港經濟所帶來的衝擊，本港經濟剛剛從谷底回升，又受到非典型肺炎的影響，在特區政府帶領下及全港市民的共同努力，本港疫情已受到控制，世界衛生組織已撤銷對香港的旅遊警告。當前擺在香港面前一是同心協力，消滅“非典”，二是振興經濟，改善民生，增加就業機會，現在一些“民主派”的立法會議員，領的是納稅人的錢，不想方設法去搞好香港經濟，使經濟再起飛，而要求政府加快民主步伐，檢討行政長官的產生辦法，是不合時宜的。

本人認為民主政制步伐要穩妥發展，按香港的實際及民主進步意識水平，要循序漸進，不宜走得太快，超越現實不利香港社會的穩定。

按基本法的安排“二零零七年以後各任行政長官的產生辦法如需修改，須經立法會全體議員三分之二多數通過，行政長官同意，並報全國人民代表大會常務委員會批准”，現在是二零零三年，不適宜太早提出政制檢討，二零零八年的香港現實與政制的關係，不是五年前所能確定，本人認為可在零五或零六年才進行檢討為宜。



二零零三年六月十五日

立法會 CB(2) 2638/02-03(07)號文件

香港城市大學
City University
of Hong Kong香港九龍塘達之路
Tat Chee Avenue,
Kowloon, Hong Kong法律學院
School of Law

June 16, 2003

c/o Mr. Paul Woo (Fax: 2509 9055)
Panel on Constitutional Affairs
The Legislative Council
Hong Kong Special Administrative Region
The People's Republic of China

錢榮澤
Vincent Chin

Dear Sirs,

**Re: Consultation on Review of the Method for
Selecting the Chief Executive under the Basic Law**

I am a Barrister practising in Hong Kong and an Academic Visitor at the School of Law of the City University of Hong Kong. I am responding to the invitation by the Legislative Council to express views on the captioned matter.

General

The Chief Executive is the head of the Hong Kong Special Administrative Region. Under the Basic Law, it is an office endowed with crucial powers and responsibilities vital for the running of the Region. In short, whoever becomes the Chief Executive would become the most important person in Hong Kong. It goes without saying that the method whereby the Chief Executive is selected is a matter of great importance to all sectors of life in Hong Kong.

The guiding principle for selection of the Chief Executive is enshrined in Article 45 of the Basic Law, which stipulates that the method for selecting the Chief Executive shall be specified in the light of the actual situation in Hong Kong and in accordance with the principle of gradual and orderly process. The ultimate aim is selection of the Chief

.../2

– Page 2 –

Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures. The current method for selecting the Chief Executive is prescribed in Annex I of the Basic Law.

Pursuant to the letter and the spirit of Article 45, any changes, if at all, to the method for selecting the Chief Executive should have due regard to the actual situation in Hong Kong in accordance with the principle of gradual and orderly process. The wording of Article 45 clearly evinces realism, caution, and restraint, demanding that consideration be given to the interests of different sectors of our society. Such changes are appropriate only if economic prosperity and social stability can be preserved and protected in a realistic, prudent, and sensible manner which would clearly bring about a better future for the people of Hong Kong. While Article 45 also sets out the ultimate aim of selection of the Chief Executive by universal suffrage, it certainly does not contemplate confrontational, impatient, and radical changes that would destroy, or potentially jeopardize, the very tenets of the economic foundation and social consensus of our society. The vision under Article 45 is a non-confrontational, gradual and orderly process for change, not one calling for revolutionary radicalism threatening to disrupt civic and commercial life, wrecking our peaceful and prosperous existence as we know it. Timing is of essence in the scheme of things under Article 45.

In these rather turbulent times, any change to the present political system that may result in unintended repercussions to the livelihood of all would be a highly sensitive issue. Bearing in mind that at stake is the status of Hong Kong as an international financial centre, proper understanding of the actual situation in Hong Kong demands honest and realistic assessments, not idealism or fanaticism glaringly antithetical to the necessities of commerce. To be totally honest, I do not believe Hong Kong people can stand rioting crowds and blood on the streets. We are far more interested in money in our markets and peaceful and prosperous life for all. Our mentality and degree of tolerance

.../3

– Page 3 –

necessarily entails that we can ill afford to take any substantial political risks in the next several years threatening to unravel the prosperity for which we have striven for generations. Therefore, in the proper context of our actual situation, we are obviously better off with no change than any change at all. Any change, if at all inevitable, would only be tolerated with utmost reluctance whose extent ought to be as minor and undistruptive as is manageable.

The Current Regime

The current method for selecting the Chief Executive is outlined in Annex I of the Basic Law and is spelt out in greater detail in the Chief Executive Election Ordinance (Cap. 569 Laws of Hong Kong). The procedural aspects of selecting the Chief Executive are set out in the Chief Executive Election Ordinance and the Electoral Affairs Commission Ordinance (Cap. 541 Laws of Hong Kong).

Under the current regime, the Chief Executive is elected by a 800-strong Election Committee. Most members of the electoral college are themselves elected from various vocational sectors; a tiny fraction of members (namely members of the Legco and local deputies to the National People's Congress) are ex-officio. Composition of the various vocational sectors (and sub-sectors further classified therein) in the electoral college is painstakingly arrayed so as to ensure that representation is as wide as is conceivable and that no sector (or sub-sector) of interest remains unrepresented. The system is closely modeled on the traditional system of political representation in Hong Kong, comprising elements both appointed and elected from functional sectors, that saw Hong Kong through its greatest years of growth and prosperity. For reasons that I shall explain in the next section, it is highly undesirable that this intricate and delicate system for electing the Chief Executive be tinkered with in any way. In the next few years, it would be especially inappropriate to introduce any augmentation of the electoral college by introducing members from outside the functional sectors.

.../4

-- Page 4 --

Political Considerations

The functional sector election system is a system deeply rooted in our own tradition, if we purport to have any. It reflects the values of the Hong Kong people both individually and collectively: individually in the sense that career or professional excellence is highly regarded; collectively in the sense that meritocracy and economic progress are recognized to be on a higher order than other social ideologies. This is why we have traditionally embraced a system which ensures that the leaders of our functional sectors are also the political leaders of our society. Leadership studies in business schools will agree that this is an awesomely effective system of leadership placing our industrial, commercial, and professional helmsmen directly into high positions of our political order. Whilst this has not been universal suffrage, this has been close to universal suffrage and has in some ways worked even better, ensuring not only that the voice of those well recognized with a track record of success would be heard and but also that their wisdom would benefit all.

Time has changed; information is unprecedentedly open, our citizens are better educated and are gradually preparing to take social matters into their own hands. The democratic reforms of Chris Patten have stirred up a tide of democracy hitherto unknown in a colonial and authoritarian society. Now the common understanding is that democratic political reforms, including election of the Chief Executive by universal suffrage, will be inevitable. The question is when. Are we, at this very juncture, prepared to embark upon a path that will lead us away forever from a system whose familiarity we have known and whose effectiveness has transformed a mere several thousand acres of barren rock into what the world has envied as the Pearl of the Orient? Are we, in the span of the next several years, prepared to devote every resource of our society to educating our citizens on how to analyze the pros and cons of the different views as to how our society can be run? Are we, in this climate of discontent, prepared to

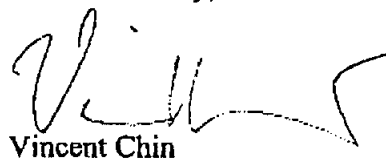
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- Page 5 -

risk our status of world financial centre by making Hong Kong a democratic example to our Mother Country at any cost? Are we prepared for change for the better or the worse? Are we galvanizing our citizens for a leap into the unknown? Who will take responsibility if such changes turn calamitous? We may end up losing everything in our worst nightmare. Or are we prepared to let things take a more natural turn? Just for the time being, are we prepared to give another chance to a system which has always worked?

Hong Kong is at crossroads: while we harbour no doubts as to our capitalist values, our past achievements, and the Rule of Law, the unity of "One Country, Two Systems" has been unwittingly transformed into a paradox of whether Hong Kong should economically integrate further with the Mainland, or whether Hong Kong should be prepared to "go its own way". The option of economic integration inevitably demands that our political system work somewhat in tandem with that of our Mainland counterpart (who also happens to be embarking upon democratic political reforms), or else mistrust and friction would arise to such an extent that any effort becomes a waste of time. The option of "going our own way" demands the guts to become politically and economically independent from the Mainland by virtue of reliance on the democratic powers of the world. The ineluctable logic of the handover of sovereignty was that the second option, in the wake of the awakening of the Dragon, was simply unfeasible. Solution to our present paradox has, in fact, already been laid down at the time when Hong Kong has become one country with Mainland China. Having already made the choice, it is simply unrealistic for us now to go back on our choice unless we are prepared to risk losing everything, absolutely everything. Mind you, the Hong Kong people are not.

Yours faithfully,



Vincent Chin

NO. 1

再請議題

恪守憲制

香港政治經濟文化發展會會長

謝偉武

主席、各位先生、各位女士：

今天(六月十六日)立法會政制事務委員會，就「檢討《基本法》所訂行政長官的產生辦法」這個議題，聽取本港各社團申述意見。

我對這個議題提出兩個問題，并發表一些意見。

第一個問題，檢討《基本法》所訂行政長官的產生辦法，以什麼為準則，是否要遵循憲制所確定的法理原則。

原稿紙

第一頁

《基本法》第一章總則第十一條，規定香港特別行政區的制度和政策，均以《基本法》的規定為依據；香港特別行政區立法機關制定的任何法律，均不得同《基本法》相抵觸。第七十三條關於立法會職權規定之三款，也規定立法會只能「根據本法規定並依照法定程序制定、修改和廢除法律」。所以檢討《基本法》所訂行政長官的產生辦法仍當以《基本法》為準則。

《基本法》第四十四條至第四十七條以及附件一，都是關於行政長官產生的條件、原則和辦法的規定，其中當行政長官的條件、產生的原則在二〇〇七年及之前產生行政長官的辦法，都是必須遵守，不可違背

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的。若以「檢討」為名，加以否定，似有違憲之嫌。

應當指出，公基本法之第七十三條關於香港特別行政

區立法會所行使的十項職權規定，沒有任何一項是許可

立法會可以檢討公基本法之規定適當與否或合理與否。

立法會之可以檢討公基本法之所訂行政長官的產生辦法，

乃因附件一第七項有關於「二〇〇七年以後各任行政長官

的產生辦法如需修改，須經立法會全體議員三分之二多數

通過，行政長官同意，並報全國人民代表大會常務委員會

批准之規定。因此，立法會「檢討」時，若發生抨擊公

基本法之，皆違反基本法之相關規定，對現任行政長官為

首的特區政府施政製造障礙，則令人懷疑如斯急切「檢討

」是否適當，是否為一種不利於香港社會穩定的政治舉措

。今天下午政制事務委員會聽取意見的第一節時間，就有

人在會上公然否定公基本法之，攻擊現任行政長官及其

多首的特區政府。立法會繼續提供如斯的反公基本法之，

反特區政府的「檢討平台」，不有違憲之嫌廣之所以即使

「檢討」也要恪守憲制所確定的法理原則。

第二個問題，對公基本法之附件一關於「二〇〇七年

以後各任行政長官」之理解，如何解釋。對「二〇〇七年以後」的正確解釋只有一種。正確的

原稿紙

第二頁

的解釋，第三任行政長官的產生辦法仍將與第二屆相同。

NO 4
 如常修改，是一種假設，並不一定要修改。第三屆行政
 長官任內只是香港回歸後之十年到十五年，其產生辦法
 的民主性不但遠超過一百五十多年的塔英時代（香港總督
 由英廷委派），也遠超過二三百多年的美國總統產生辦
 法（其總統選舉至今仍由五百三十八張選舉人票決定誰當
 選），以及英國近十年的英國首相產生辦法（由執政黨內
 選舉產生，如工黨；或由議會內執政黨黨員選舉產生，如
 保守黨）。香港特別行政區首長的產生相比之下已經是很
 民主的了，短短的十到十五年内所達到的民主發展速度是
 後快的了。因此，如果有人要將第三屆行政長官產生辦法
 修改，要獲得立法會全體議員三分之二多數通過，行政長
 官同意以及全國人大常委會批准，可能極極微。有人急於
 「檢討」，似乎有引致損害香港社會穩定的政治對抗的不
 良意欲，港人不可不對此密切注視，保持警惕。

原稿紙

第四頁

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3
 解釋只能來自全國人大常委會權威的合理解釋，因為這是
 國家憲法及《基本法》賦予她的職權，而有關香港特區要
 求No 案制度的制定不屬於香港特區法院的管轄範圍，特區法院
 不能行使解釋權。

參考全國人大制定的其他全國性法律的行文習慣和做
 法，「二〇〇七年以後」應當是指二〇〇七年十二月三十
 一日以後。因此，第五任行政長官乃於二〇〇七年七月一
 日宣誓就職，不屬於「檢討」範圍。

理據是全國人大制定的《民法通則》第一百五十五條
 規定：「本法所稱的日以上、日以下、日以内、日
 屆滿」，包括本數，所稱的日不滿足、日以外、不包括本
 數。」《基本法》附件一第七項中的「以後」兩字當指「
 以後」，二〇〇七年以後應不含本數，即指二〇〇七年十
 二月三十一日以後。若然如此，現在就「檢討」九年以後
 的行政長官選舉，豈不是太早？更不應因此妨礙第三任行
 政長官首屆特設政府抓緊抗疫，復興經濟，把握與內地
 達成更緊密經貿關係之契機，使本港金融、物流、旅遊
 以及服務四大支柱产业重新振興，逐步解決失業等問題，財
 政龐大的困難。

且不論全國人大常委會對「二〇〇七年以後」作為樣

20x25=500



香港中華廠商聯合會
對「檢討《基本法》所訂行政長官的產生辦法」之意見
周潤賞副會長發言稿

1. 根據《基本法》附件一《香港特別行政區行政長官的產生辦法》，已明確述明特區行政長官由一個具廣泛代表性的 800 人選舉委員會選出。其中第七條指明特區行政長官之產生辦法於二零零七年以後各任如需修改，須經立法會全體議員三分二多數通過，行政長官同意及報全國人民代表大會常務委員會批准。因此，本會認為第七條之條文並不涉及二零零七年產生的第三任行政長官。
2. 有鑑於二零零七年的第三任行政長官是依據《基本法》附件一現行規定而產生，本會認為，政府於二零零四至零五年的政制檢討無需於現階段為二零零七年以後行政長官的產生辦法進行討論。
3. 香港經過這一次“沙士”疫症的侵襲，經濟受到重創，我們當前首要的工作，是政府和市民共同努力，集中精神恢復和發展我們的經濟，以創香港美好的將來。多謝主席！