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HONG KONG HUMAN RIGHTS MONITOR

Submission to the Bills Committee on Legislative Council (Amendment) Bill 2003
29 May 2003

The Hong Kong Human Rights Monitor wants to highlight to the Bills Committee that the current composition of Legislative Council is in breach of the International Covenant on Civil and Political Rights (hereafter "the Covenant" or "ICCPR"). Necessary amendments should be introduced to bring our election laws into line with the ICCPR.

The UN Human Rights Committee reiterated in its Concluding Observations on Hong Kong in 1999 (CCPR/C/79/Add.117, 15 November 1999) that "the electoral system for the Legislative Council does not comply with articles 2, paragraphs 1, 25 and 26 of the Covenant." Article 2 of the International Covenant on Civil and Political Rights is on the general principle of non-discrimination (on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status). Article 3 is on gender equality. Article 25 is on the rights to participate in public life, including the right to universal and equal suffrage. Article 26 is on the right to equal protection of the law. The Committee is a body established by the ICCPR to monitor implementation of state parties to the Covenant.

Regarding the reservation made to the ICCPR that article 25 does not require establishment of an elected Executive or Legislative Council, the Committee "takes the view that once an elected Legislative Council is established, its election must conform to article 25 of the Covenant. The Committee considers that the electoral system in Hong Kong does not meet the requirements of article 25, as well as articles 2, 3 and 26 of the Covenant. It underscores in particular that ... the concept of functional constituencies, which gives undue weight to the views of the business community, discriminates among voters on the basis of property and functions. This clearly constitutes a violation of articles 2, paragraph 1, 25 (b) and 26." (CCPR/C/79/Add.57, 9 November 1995).

The UN Human Rights Committee recommends that immediate steps be taken to ensure that the electoral system be put in conformity with articles 21, 22 and 25 of the Covenant.

The Hong Kong Human Rights Monitor understands that without proper amendments to the Basic Law at this moment, it is impossible to get rid of Functional Constituencies specified in the Basic Law in the Legislative Council elections 2004.

We therefore ask the Bills Committee to ensure the compliance of Article 39 of the Basic Law and the ICCPR by taking the following measures in amending the Legislative Council Ordinance:

- Abolish corporate voting system;
- Extend the Functional Constituencies to cover all persons who are eligible to participate in elections in Geographical Constituencies – we believe that all persons have functions whether they are in gainful employment or not; and
- Delineate the functional constituencies to ensure roughly equal voting power to all voters.