

## **Legislative Council Panel on Constitutional Affairs**

### **Political Party Law**

#### **Introduction**

This paper sets out the Administration's views on the introduction of a political party law.

#### **Background**

2. When the Panel discussed the case for a political party law in January 2003, the Administration advised Members then that it was not the time to introduce a political party law to regulate the operation of political parties. When the Panel considered in June 2004 the research report on "the Regulatory Framework of Political Parties in Germany, the United Kingdom, New Zealand and Singapore" prepared by the Research and Library Services Division of the Legislative Council (LegCo) Secretariat, we reiterated that we considered it unnecessary to introduce a political party law at this stage of Hong Kong's constitutional development. At the Panel meeting on 18 October 2004, some Members suggested that the Panel re-examine the issue.

#### **Development of Political Parties<sup>1</sup>**

3. In Hong Kong, there is no statutory requirement for political parties to be registered as such; nor is there any legislation to regulate specifically the operation of political parties. Political parties are generally registered as companies under the Companies Ordinance (Cap. 32) or as societies under the Societies Ordinance (Cap. 151).

<sup>1</sup> Some of the political bodies choose to call themselves 'political parties' while others call themselves 'political groups'. In this paper, references to 'political parties' are meant to cover both political parties and political groups.

4. We recognize that constitutional development and political party development are closely related. Political parties can help to reflect and advance the interests of different sectors of the community on the range of social, economic and livelihood issues. Political parties also help to groom political talent. In considering the pace of constitutional development, the maturity of political parties and the experience and calibre of political talent are important factors that need to be taken into account.

5. The Government is committed to providing an environment which facilitates the growth and development of political parties, and to make new room for publicly spirited individuals to participate in public affairs. The introduction of the accountability system, under which individuals with political party background could be appointed principal officials, and the appointment of members of political parties as Non-official Members of the Executive Council, are important steps taken over the past few years to this end.

6. Recently, we have introduced further measures to facilitate the development of political parties. Starting from the 2004 LegCo election, we have introduced a financial assistance scheme for candidates. We also allow candidates to have the names and emblems of their political parties printed on ballot papers.

### ***Financial Assistance Scheme***

7. Under the Financial Assistance Scheme, candidates or lists of candidates who get elected or who have received 5% of valid votes or more will be given financial assistance to offset part of their election expenses. The scheme relieves to some extent the financial burden that political parties have to bear in supporting their members to participate in elections. Political parties could release their resources for other purposes such as conducting policy researches and other activities. By reducing the financial cost of election campaigning, the scheme also facilitates the entry of talents into the political arena, which is important for the development of political parties.

8. The Registration and Electoral Office (REO) has received 46 applications under the scheme from candidates of the 2004 LegCo election. The total amount claimed is over \$13.8 million. The highest amount claimed by a single list is about \$960,000, and the lowest about \$4,000. The REO is now vetting the applications. It is expected that payment of the final approved amount to applicants will be completed by late January 2005.

### ***Printing of Particulars Relating to Candidates on Ballot Papers***

9. Starting from the 2004 LegCo election, candidates are allowed to have specified particulars printed on ballot papers. The specified particulars include the registered names and emblems of prescribed bodies<sup>2</sup>, registered emblems of prescribed persons<sup>3</sup>, words indicating that a candidate is an independent candidate or a non-affiliated candidate, and personal photographs of candidates. As far as political parties are concerned, this new scheme facilitates the introduction of their candidates to the electorate, and helps reinforce political parties' image and identity. It also helps electors identify candidates from political parties and enhances electors' awareness of political parties.

10. Political parties wishing to make use of the arrangement have to register their names and emblems with the Electoral Affairs Commission (EAC) beforehand, in accordance with the Particulars Relating to Candidates on Ballot Papers (Legislative Council) Regulation (Cap. 541M). In 2004, a total of 36 prescribed bodies have had their names and/or emblems registered with the EAC. Although this registration requirement only relates to the printing of names and emblems on ballot papers, it is a start towards developing a register of organizations which are interested in participating in elections.

<sup>2</sup> A prescribed body means a prescribed political body or a prescribed non-political body.

<sup>3</sup> A prescribed person means a person who is registered in a final register of electors for geographical constituencies as compiled and published in accordance with the Legislative Council Ordinance (Cap. 542) and who is not disqualified from being so registered or from voting at an election.

## **Political Party Law**

11. There have been suggestions that the introduction of a political party law will bring about positive developments such as giving statutory recognition to political parties, enhancing transparency in the operation and finances of political parties, and providing a legal basis for the provision of government funding to them.

12. Although there is no political party law in Hong Kong, measures currently in place can already cover the aspects which a political party law may entail as described in paragraph 11 above. In accordance with our electoral legislation, all candidates are required to declare their election expenses and donations received. The registration and publication of party names and emblems under the newly introduced scheme as elaborated in paragraphs 9 and 10 above foster recognition of political parties. The new financial assistance scheme outlined in paragraphs 7 and 8 above contributes to funding election activities of political parties. In considering any further proposals to promote the development of political parties, due consideration should also be given to the fact that many candidates standing for public elections in Hong Kong are independent and do not belong to any political parties.

13. At the same time, it must also be noted that, from overseas experience, a political party law will include certain regulatory provisions. In a number of overseas jurisdictions, there are specific laws governing the registration, funding and operation of political parties. Such laws serve a regulatory purpose and impose control on political parties in different areas. For example, political parties in the United States, Canada and Germany are required to submit public statements of their accounts, indicating the origins and uses of funds received during the year. In Germany, the United Kingdom and New Zealand, political parties are required to register with designated electoral authorities in order to be eligible for certain elections. Further, legislation in Germany and New Zealand regulate the procedures for the selection of candidates of political parties for elections.

14. Political parties in Hong Kong are still at a developmental stage. Sufficient room should be allowed for political parties to grow. Imposing statutory control on the operation of political parties at this stage may hinder, rather than encourage, political party development. In fact, similar views have been expressed by some LegCo Members and academics. For instance, at the Panel meeting in June 2004, Members pointed out that laws were introduced for regulatory purposes and that the introduction of a political party law would impose restrictions on the operation of political parties and restrain political party development.

### **Conclusion**

15. Enacting a political party law at this stage may not be the best means of encouraging political party development. The Government will continue to provide an environment conducive to the growth of political parties. We hope that through constitutional development, we can create more room for publicly spirited people to participate in public affairs. We also hope that political parties will capitalize on the opportunities presented to them and compete for public support through Hong Kong's open and fair electoral system.

Constitutional Affairs Bureau  
December 2004