 Read Message

  Back to: [Inbox](#)

From:  
Date:2004/09/26 Sun PM 03:59:47 CST  
To:views@cab-review.gov.hk  
Subject:Democratic Development

    Move To: (Choose Folder) 

Dear Sir/Madam,


I am enclosing some suggestions on the subject of Hong Kong's constitutional development. I hope you find them helpful

Yours faithfully,

Roger Phillips

Download Attachment: [Democratic Development.doc](#)

    Move To: (Choose Folder) 

   Back to: [Inbox](#)

[Help](#)

# Hong Kong's Constitutional Development

## Introduction

Having been in Hong Kong since 1992 and seen the progress towards democracy before 1997 and its temporary pushing back since, I am pleased to see that there is a consultation on the subject of the HKSAR's constitutional development. Ideally, the best way forward would be to introduce universal suffrage for the next Legco and Chief Executive elections. However, the NPC has ruled that out, and so I have considered what can be done in order to both extend democracy and remain within the boundaries set by higher authority.

## The Election Committee

### Nominations

In order to democratise the election process for the Chief Executive there must be an expansion in its representation and in the number of those who elect it. In addition, the nomination procedure for the Chief Executive should be changed.

The nomination procedure is the least complex issue to deal with. The last CE election showed that with the requirement to obtain 1/8 of the committee members' signatures in order to stand, it was difficult to get more than one candidate able to stand with the result that there was no competition for the position, which was a shame. This is no reflection, whether positive or negative on the performance or political values of the person who won (Mr. Tung).

I therefore suggest that the power of nomination be removed from the EC and a nomination committee should be set up in accordance with Annex 1. The Basic Law's requirement for such a nomination committee is that it should be broadly representative in accordance with democratic procedures. I therefore suggest that such a nomination committee (NC) should be democratically (i.e. directly) elected. The best way to do this would be a territory wide single list system or a German style system as it would ensure a proportionate number of people of different views sit on the committee.

The NC should also be quite large, say around 1000 people to ensure that it is broadly representative.

In order to be considered by the NC, a prospective candidate for CE should first obtain support from the community at large by collecting signatures of support. The number of nominations required for a directly elected Legco candidate is 300 and there are five constituencies, which makes a total of 1500. However, the post of Chief Executive is somewhat more powerful and responsible than that of a Legco member, so I would propose a figure somewhere around 5000 signatures for a CE candidate. This would ensure that the prospective candidate has at least a measure of public support, rather than just the support of EC members, who under the present system seem not to reflect the preferences of the main population of Hong Kong.

Having been presented with candidates of this amount of support in the community, the NC should then approve them unless there is a good reason not to. In any case, non-approval should require at least two thirds of the NC members voting against the candidate.

### **Number of EC Members**

At present the number of EC members is 800. This is a very small number compared to the actual population of Hong Kong, representing slightly more than 1 in 100,000 of the people on average, and in a very skewed manner. My proposal is to increase this number by ten times to 8000, which will bring the average ratio down to just over 1 in 10,000, making the EC far more representative than it is now. However, if it is decided to keep the nomination process within the EC then the number should remain at 100 nominations to allow for more competition.

### **Election of EC Members**

I believe that the best way of choosing EC members is to directly elect them using the system used in Germany. Under my expansion proposal, this would result in 4000 people being elected in geographic constituencies under the first past the post system and the other 4000 by list on a territory wide basis. This would produce a membership reflecting the position of the Hong Kong population as a whole and would most likely result in the election of a CE who could legitimately claim a popular mandate as he or

she would have a large number of nominees from the general public and would have been elected by an EC chosen by the general public and which represents them democratically. It also means that every voter has been able to have a say in who becomes CE. There may be questions as to whether that many people could be persuaded to stand for the EC seats. I remain optimistic on that subject, however.

If this should prove unpalatable to the government for certain reasons, then at least half of the EC members should be elected as previously suggested so that we all have our say. If the present subsector system is to be used in any form, then radical reform is necessary.

The first thing that needs to be rooted out is the system of corporate voting. This is a potential source of corruption and cronyism and allows the economically powerful greater political influence than the rest of the population. The fact that these people already have the right to vote for subsectors and/or functional constituencies should be enough without giving them even more. Therefore, if we are going to keep subsectors, then the way these are elected must be changed to one where only individuals can vote and where each individual can only have one vote in the subsector elections. These are my proposals for how subsector voting should be reformed. The numbers refer to those in the Consultation Document:

#### 1<sup>st</sup> Sector

##### Catering

1. As is, plus their employees
- 2-6. All individual members plus the directors, managers and employees of the bodies which are members of these organisations
7. Employees of the above organisations

##### Commercial 1<sup>st</sup> and 2<sup>nd</sup>

Directors, managers and employees of the bodies which are members of the relevant organisations, plus individual members thereof

##### EFHK

Directors and senior managers of the bodies which are members

##### Finance

All directors, managers and employees of banks, restricted licence banks and deposit taking companies

#### Financial Services

Any individual employed or self employed in this sector  
Directors and senior managers of bodies involved in the sector

#### HKCEA

Directors and senior managers of bodies involved in the sector

#### Hotels

Directors and senior managers of bodies presently allowed to vote corporately  
All those employed by hotels or guest houses  
All individual hotel or guest house owners

#### Import & Export

1-4. All employees of such companies  
5. Directors and senior managers of the member bodies concerned

#### Industrial 1<sup>st</sup> & 2<sup>nd</sup>

Directors, senior managers and employees of the member bodies concerned

#### Real estate and construction

1-3. Directors and managers of the relevant member bodies  
4. All those employed in the sector  
5. All licensed estate agents

#### Textile and garment

1-5. Directors, senior managers and owners of such bodies  
6. All those employed in the sector

#### Tourism

1-3. Directors and senior managers of the bodies concerned  
4. All those employed by travel agencies, airlines, cruise ships and other tourist related trades except hotels and catering

## Transport

- 1-191 All Directors, managers and employees of these bodies
- 192 All licensed taxi drivers
- 193 All licensed minibus drivers (PLB & private)
- 194 All licensed lorry drivers
- 195 All HK seafarers

## Wholesale & Retail

- 1-88 All directors, managers and employees of these bodies
- 89 All individual shopkeepers and their employees
- 90 All individual market stall holders and their employees

## 2<sup>nd</sup> Sector

Where corporate bodies have had the vote, the individual members or the directors, managers and employees of corporate members should vote as individuals

## 3<sup>rd</sup> Sector

### Agricultural & Fisheries

- 1-81 Directors & employees of corporate members and individual members of these bodies
- All those working in the sector

## Labour

Members and officers of bodies that are trade unions...

## Social Welfare

- 1 As is
- 2 Directors, managers and employees of these bodies
- 3 Directors, managers and employees of these bodies
- 4 Directors, managers and employees of these bodies

## Sports etc

- 1-2 Directors and employees of these bodies plus sports personalities governed by them
- 3 Individual members of the associations
- 4 Members or employees of such bodies
- 5 Members or employees of such bodies

- 6 Individual members of the associations
- 7 Individual members, directors or employees of the bodies concerned
- 8 Directors and employees of the bodies
- 9 Directors and employees of the bodies
- 10-66 Directors, employees and individual members of the bodies

#### Religions

- 1-6 Individual members of the bodies which belong to these associations
- 7 Members of churches and other religious bodies which do not belong to the above bodies

#### 4<sup>th</sup> Sector

No suggestions here

Additional suggestions for subsectors (and FCs) are:

Translators and interpreters

University and other tertiary students

Voluntary, charity, religious and NGO workers

Journalists and media workers (separated from sports etc)

All Indigenous Villagers (to replace Heung Yee Kuk)

### Functional Constituencies

These were odious creations of those who are afraid of the people getting their way and the sooner they are done away with the better. Their electorates are hugely unequal in size and reflect the Rotten Boroughs of 19<sup>th</sup> Century Britain rather than a modern democratic society. The system of corporate voting revived in 1997 after Chris Patten had done away with it in his political reforms is particularly odious and could easily lead to cronyism,

or corruption, especially in some of the smaller FCs. One could easily suspect those FC's which never see any competition at election time, such as the Commercial and Industrial 1<sup>st</sup> and 2<sup>nd</sup> FCs. If this is not the case, then why are these seats never contested?

However, the NPC has decreed that FCs must be kept in equal proportion to the Geographical Constituencies and we have to work within that, disagreeable though it is, so here are my ideas:

The voter qualifications for FCs should be decided on the basis that I have already outlined for the EC subsectors. I.e. significant widening of the electorate coupled with the abolition of corporate voting. This will widen the democratic mandate of these seats and give them a bit more legitimacy in the eyes of the people.

Another possibility is to completely revamp the whole structure of the FC's and divide them into approximately equal sized groups according to the structure of the HK economy and the number of FCs in Legco.

In the GC section I propose doubling the number of seats. According to the NPC's ruling, the number of FCs must be equal to the number of GCs. Apart from the suggestion in the previous paragraph, which would require a great deal of independent research to find out exactly how to divide the seats up, one could also add in those EC subsector seats which do not have FCs, especially those with large electorates. Some suggestions have also been outlined at the end of the EC section.

## **Nationality Provisions**

The present nationality restriction provisions are based on allowing foreigners (including Chinese with foreign ROA) to stand in certain FCs only. This is somewhat unfair on those of us who don't belong to these sectors. So I would like to propose a fairer, although slightly more cumbersome system. I believe though that it would be worth spending the extra money and time if it ever proves necessary. This is my proposal:

When it is Legco election time, anyone eligible may stand for any seat at that election. However, candidates must declare their status (A. Chinese



citizen with no foreign ROA or B. Foreign citizen or Chinese citizen with ROA in a foreign country [we'll call B "foreigners" for the sake of brevity]) at the time of nomination.

In the event that foreigners win more than 20% of the Legco seats, then there are 2 ways in which the number could be reduced.

- 1 All the foreigners compete in a second territory wide run-off vote. Those with the least votes are eliminated and lose their seats. In the event that all the foreigners are in FCs, then the run-off should be restricted to the FCs, otherwise the whole of HK votes. OR
- 2 A "lottery" is held. Those drawing the "shortest sticks" lose their seats

By-elections are then held to fill the seats vacated by the excess foreigners. Candidacy in these by-elections would then be restricted to Chinese citizens with no foreign ROA only.

## **Geographical Constituencies**

I believe that it would be good to expand the number of seats in Legco to allow more people to take part in the political process. If we were to double Legco's size, then we could have a better electoral system for the GCs. The MMR system used in Germany would work well because HK could be divided up into 30 small constituencies to allow greater rapport between the voters and their elected constituency members. Under this system these 30 members would be elected under the first past the post system. Another 30 members would be elected under the list system presently used. However this should either be done territory wide or with three large constituencies to allow the proportionality of votes to have the greatest representative effect.

I hope that you find the suggestions I have offered constructive and useful and that they can contribute meaningfully to Hong Kong's political development.

Yours faithfully,

Roger Phillips