

# 香港人權監察

## HONG KONG HUMAN RIGHTS MONITOR

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### Views on the restrictions on Constitution Development imposed by the authorities

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It is a fundamental human rights for Hong Kong people to elect the Chief Executive and all the Members of the Legislative Council.

It is disgraceful for Hong Kong to perpetuate a system in which a small section of its people are entitled to enjoy the right to vote for Chief Executive directly or indirectly. Equally disgraceful is the system of functional constituency which gives roughly the same people an additional vote or votes to return half of the Members of the Legislative Council. Even more disgraceful is the system of corporate voting which restricts most functional constituencies practicing such a system to extremely small sizes. At the same time corporate voting enables big businesses and business tycoons to have control of multiple votes in such extremely small constituencies through registering their companies and subsidiaries.

The authorities attempted to justify the system by claiming that it is for "protection of minorities". The minorities represented in the functional constituencies have their legitimate interests and concerns adequately protected by the rule of law and the right to vote. The special additional privileges they are being given by the functional constituency system are a complete negation of the letter and the spirit of democracy.

Hong Kong is alone in the world in maintaining this kind of functional constituencies. They were used by Mussolini in Fascist Italy, and by the City Council of the International Settlement in Shanghai. The minorities they represent are, with a few exceptions, the privileged minorities. They have nothing in common with constitutional arrangements designed to safeguard minorities who are at risk of oppression or persecution by a majority. They have been rightly abolished elsewhere in the world because they prevent Government from being accountable to the people. In Hong Kong they have been extended and made more pernicious by provisions allowing unregulated voting by limited companies in many functional constituencies, and by restrictive franchises which ensure, for example, that in the "transport functional constituency" only owners of transport businesses can vote, and not those who work in such businesses.

Another myth promoted by Beijing's representatives was that the functional constituencies were in some way equivalent to Britain's unelected House of Lords and therefore legitimate. However they failed to mention that for the last 94 years the British House of Lords has only had power to delay legislation approved by the popularly elected House of Commons and not to block it. If a bill voted down in the Lords is again passed by the

Commons the Lords are required to pass it.

A degree of delay built into a democratic system provides time for reflection and correction of hasty mistakes. This is why most democracies have bicameral legislatures. This is something fundamentally different from setting up a system where the will of those popularly elected is permanently blocked. This system, which Hong Kong has now, is a recipe for confrontation, instability, paralysed government, and polarisation of society.

Hong Kong should have the problems of functional constituencies and electoral system for "electing" the Chief Executive fully fixed by the introduction of universal and equal suffrage in the elections in 2007 for the Chief Executive and in 2008 for the Legislative Council.

Unfortunately, in the wake of the display of people's power in the July 1 procession, with the objective to preclude the Hong Kong public from meaningfully discussing the constitutional development of Hong Kong in the review of constitutional development in Hong Kong, the Standing Committee of the National People's Congress have "interpreted" the Basic Law to foreclose the adoption of universal suffrage in 2007 and 2008 elections. A requirement of equal numbers of Members of Legislative Council has been laid down in the interpretation. They have also laid down a number of factors to act as hurdles to restrict the next steps in Hong Kong's constitutional development.

Such "interpretation" for political convenience to deny the fundamental right of the Hong Kong public to universal and equal suffrage should be condemned and rectified.

Hong Kong Human Rights Monitor demands that the Chinese and Hong Kong authorities to rectify the errors they have committed, to remove the obstacles to the development of democratic cultural and institutions in Hong Kong, and to make the necessary arrangements to enable universal and equal suffrage to be practiced in Hong Kong in 2007 and 2008 (and onwards) if not earlier.

Human Rights Monitor reiterates its belief that without democracy no other rights are guaranteed; that the lack of democracy will inevitably lead to the erosion of free speech and the rule of law; and that instead of being an international city comparable to the most advanced in the world Hong Kong will drift into being an authoritarian, corrupt and second-rate city like many in Mainland China.