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Mr Stephen Lam
Secretary for the Constitutional Affairs
Constitutional Affairs Bureau
Government Secretariat
3rd Floor, Main Wing
Central Government Offices
Lower Albert Road
Hong Kong

October 15, 2004

Dear Stephen,

I was grateful for the opportunity to moderate one of the focus groups on constitutional development, as it gave me the impetus to read all the government documents and also the documents produced by the Centre for Comparative and Public Law on functional constituencies, which I found very useful.

The first point I would like to make is that I believe that much of the debate on Hong Kong has been led astray by a terminology problem. I believe that Hong Kong already has universal suffrage for the Legislative Council, in that nearly all permanent residents in Hong Kong have a vote, and indeed we are more inclusive than most territories in that we do not restrict eligibility to citizens.

What is really at stake is another important principle, namely, equal suffrage (i.e. that votes count equally). Clearly, it is not true in Hong Kong that permanent residents' votes have equal effect. If we agree on this second principle, then it becomes clear what changes may or may not be required for our future electoral system. We need to have a process of either gradually removing functional constituencies or of gradually ensuring that everyone has an equal vote as regards the functional constituencies. For the geographical constituencies, equal suffrage is arguably more compatible with the current system than first-past-the-post, although transferable votes are arguably even better in that they maximize the possibility that voters have a representative of their choice. For the electoral committee, having district board members join would address universal suffrage, although clearly not equal suffrage.

I would argue that the choice between "improving" or eliminating functional constituencies requires reference to other principles. It is non-trivial to have functional constituencies that approach equal suffrage, but arguably not impossible, and they do offer some of the benefits of a balancing act akin to a second house in other places, which usually have a different method of electing representatives. Equal suffrage suggests that corporate representatives should be replaced as the first priority and that the groupings be rethought so that the constituency sizes per representative are eventually equalized. It also suggests that, in principle, even those not currently covered by the constituencies should eventually have a constituency, including housewives and the retired.

Lastly, I believe that it is important to try and remove choices about constituency boundaries from the political arena by laying down clear guidance principles and then removing the specific choices from the arena of the legislature, whether we are considering geographical boundaries or functional boundaries. This is one key area where we can all learn from the bad experiences of the USA where gerrymandering is a continuing problem.

I would be happy to elaborate on any of these points, if it would be of assistance.

Yours truly,

John Bacon-Shone

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Dr. John Bacon-Shone, Director, Social Sciences Research Centre

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