

## Consultation Document on Methods for selecting the Chief Executive in 2017 and for forming the Legislative Council in 2106

### Submission of the Civic Party

The Government Consultation Document on the Methods for Selecting the Chief Executive in 2017 and for Forming the Legislative Council in 2016, published on December 2013, fails to state the fundamental legal basis for universal suffrage and omits key information provided in previous consultation documents on constitutional reform.

The 2007 Green Paper had a section “Concepts and Principles of Universal Suffrage” citing Articles 25 and 39 of the Basic Law as well as UN Human Rights Committee. It acknowledged that the concept of “universal suffrage”, as generally understood internationally, should include the principles of “universal” and “equal” suffrage.

Articles 25, 26 and 39 of the Basic Law, Article 25 of the International Covenant on Civil and Political Rights (ICCPR) and Article 21 of the Hong Kong Bill of Rights (HKBOR) which state that:

- (i) All Hong Kong residents shall be equal before the law (Article 25 of the Basic Law);
- (ii) Every permanent resident shall have the right to vote and the right to stand for election in accordance with law (Article 26 of the Basic Law);
- (iii) Every permanent resident shall have the right without unreasonable restrictions to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage guaranteeing the free expression of the will of electors (Article 25(b) of the ICCPR applied to Hong Kong by Article 39 of the Basic Law and Article 21 of the HKBOR).

Article 45 of the Basic Law provides for the ultimate aim of “the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures”. Universal suffrage, whether for Chief Executive or Legislative Council, must comply with the relevant legal principles, namely it has to be “equal” and “universal” and must not put unreasonable restrictions on the right to vote and be elected.

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## Proposal for Chief Executive Election in 2017

### A) Nomination Procedure

Any person is to be nominated as a candidate through one of the following procedures:

(i) Civil Nomination

A nominee having received the signed endorsement of 1% of the registered voters shall be endorsed by the Nominating Committee.

(ii) Political Party Nomination

Any political party or political group having received 5% or more of the total valid votes in the last Legislative Council direct election can independently or jointly nominate one person. The nominee shall be endorsed by the Nominating Committee. We suggest adopting the Chief Executive Election Ordinance (Cap 569 of the Laws of Hong Kong) and Societies Ordinance (Cap 151 of the Laws of Hong Kong) for the definitions of a political party.

(iii) Nomination by the Nominating Committee

Members of the Nominating Committee shall conduct direct nominations.

The Government Document suggests that the electorate base of the Nominating Committee should follow that of the existing CE Election Committee. However, the current electoral base of the CE Election Committee is equivalent to only 7% of the general electorate and includes a large number of 'corporate' votes controlled by companies, and so exercise a disproportionate influence on the election process.

It is essential that the electorate base be expanded and that all corporate votes are replaced by single, individual votes. And there should be several more sectors (e.g. housewives, retirees, students and non-Chinese minorities) which are not currently included in the Election Committee. The most important point is that the vast majority of members of the Nominating Committee should be elected by broad based and genuinely representative constituencies.

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## B) Voting System

A “two-round, run-off” system. A candidate is elected as the Chief Executive by winning more than 50% of the valid votes. If no candidate wins 50%, a run-off election shall be held between the two highest-placed candidates, in which the one who gets more votes shall be declared elected.

The existing requirement in the Chief Executive Election Ordinance that bans a Chief Executive’s political party membership affiliation should be abolished.

## **Proposal for Legislative Council Election in 2016**

- (i) Universal suffrage for the Legislative Council elections should be implemented as soon as possible; its implementation in 2016 must be considered and should be implemented no later than 2020.
- (ii) Total number of seats in the Legislative Council remains 70, reduce the influence of Functional Constituencies by amending the current 50:50 ratio to provide for directly elected Geographical Constituency seats to be in the majority.
- (iii) The District Council (II) Functional Constituency seats will be abolished in order to reduce the number of Functional Constituency seats.
- (iv) Expanding the electorate base by abolishing corporate votes with individual votes, and combining certain Functional Constituencies. The Functional Constituency must be completely abolished no later than 2020.
- (v) Split Voting in the Legislative Council will be abolished.

We deserve the full universal suffrage and we must insist on real choice in electing the Chief Executive and Legislative Council members. It is part of our civil right to nominate candidates, to vote and to run in elections and take part in public affairs. These rights must comply with the international standards that define genuine universal suffrage. Because this is the promise to us under the Basic Law.

Civic Party

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