

Re: Consultation Paper on Constitutional Development 2009

Statement of Hong Kong Bar Association

1. The Hong Kong Bar Association welcomes the publication by the HKSAR Government of the Consultation Paper on Constitutional Development today (18th November 2009).
2. As with the Green Paper on Constitutional Development (July 2007), the Bar Association will consider the content of the Consultation Paper with interest and will comment on the areas and matters that are appropriately within its competence.
3. Though there has been insufficient time so far within which to consider in detail the content of the Consultation Paper, the Bar Association notes the following matters which are apparent from the statement made by the Chief Secretary to the Legislative Council (LegCo) this morning:
 - (1) the HKSAR Government states itself to be fully understanding of the aspirations for democracy and promises every endeavour, to be made with utmost sincerity, to forward constitutional development towards universal suffrage;
 - (2) there is a stated recognition that further steps to be taken in the process must be legal (as well as reasonable and practicable);
 - (3) there is a stated recognition of the position (consistently pointed out by the Bar Association) that the existing functional constituency (FC) elections fail to comply with the legal principles of universality and equality;
 - (4) nevertheless, there is then suggested the creation of five additional FC seats which, even if they might be thought to enhance the democratic

elements of Legco, obviously must also fail to comply with the principles of universality and equality;

- (5) it will therefore be necessary to consider carefully the balance between the full effect of the suggested new FC seats and the benefits to be gained from the suggested creation of the same number of new seats in geographical constituencies (GCs).
4. The Bar Association urges all concerned with constitutional development to study the Consultation Paper with a view to achieving a method for the selection of the Chief Executive of the HKSAR by election and a method for the formation of the Legislative Council of the HKSAR that should guarantee to every resident of the HKSAR the right and opportunity, without any discriminatory distinctions and without unreasonable hurdles or 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.

Hong Kong Bar Association

Dated 18th November 2009.