

**Commission on Strategic Development  
Committee on Governance and Political Development**

**General Understanding on the Concept of “Universal Suffrage”**

**Introduction**

This paper gives a brief account on how the concept of “universal suffrage” is generally understood internationally.

**International Covenant on Civil and Political Rights**

2. Article 39 of the Basic Law provides that the provisions of the International Covenant on Civil and Political Rights (“the Covenant”) as applied to Hong Kong shall remain in force and shall be implemented through the laws of the HKSAR.

3. Article 25 of the Covenant stipulates that:

“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2<sup>Note 1</sup> and without unreasonable restrictions:

- (a) to take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;”

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Note 1 Article 2(1) states that each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

4. Upon ratification of the Covenant in 1976, the British Government made a reservation, reserving the right not to apply subparagraph (b) of Article 25 in so far as it might require the establishment of an elected Executive or Legislative Council in Hong Kong. After the reunification, in accordance with the Central People's Government's notification to the United Nations Secretary-General in June 1996 and Article 39 of the Basic Law, this reservation continues to apply to the HKSAR.

5. Under the Hong Kong Bill of Rights Ordinance (Chapter 383), Article 21 of the Hong Kong Bill of Rights provides that every permanent resident of Hong Kong shall have the right to participate in elections. At the same time, Section 13 of the Ordinance, a saving clause, provides that Article 21 does not require the establishment of an elected Executive or Legislative Council in Hong Kong.

### **Views Stated in Relevant UN Publication**

6. In a 1994 UN publication entitled “Human Rights and Elections, A Handbook on the Legal, Technical and Human Rights Aspects of Elections”, it is stated that,

“United Nations human rights standards relating to elections are broad in nature and thus may be achieved through a variety of political systems. United Nations electoral assistance **does not seek to impose any given political model.** Rather, it is based upon **a realisation that there is no single political system or electoral methodology which is appropriate for all peoples and states.** While comparative examples provide useful guidance for the construction of democratic institutions that both respond to domestic concerns and conform to international human rights norms, **the best formulation for each jurisdiction will ultimately be shaped by the particular needs, aspirations and historical realities of the people involved, taken within the framework of international standards.**”<sup>Note 2</sup>

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Note 2 Office of the High Commissioner for Human Rights, United Nations, *Human Rights and Elections: A Handbook on the Legal, Technical and Human Rights Aspects of Election*, paragraph 17.

7. To further elaborate on the implementation of Article 25 of the Covenant, the UN Human Rights Committee has endorsed General Comments No. 25 in 1996. Although the document has not clearly defined “universal and equal” suffrage, it states that “no distinctions are permitted between citizens in the enjoyment of these rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (paragraph 3). The General Comments also point out that it is unreasonable to restrict “the right to vote on the ground of physical disability or to impose literacy, educational or property requirements” (paragraph 10).

### **Different Systems Permitted under the Principle of Universal Suffrage**

8. As pointed out by the UN Human Rights Committee in its General Comments on Article 25, the Covenant does not seek to impose any specific electoral system. The Handbook of the UN has also stated that the system for each jurisdiction should be shaped by the particular needs, aspirations and historical realities of the people involved.

9. The Covenant does not prescribe which model should be adopted in returning a legislature. We note that, among the countries which practise a bicameral system, either the whole or part of the membership of the upper houses in Canada and the United Kingdom are returned by appointment. In the Irish Senate, members are returned from universities and panels representing specified vocational interests. According to information available to us, although the upper houses in Canada, the United Kingdom and Ireland are not returned by universal suffrage, the UN Human Rights Committee has not made any criticism recently on these methods. We also note that there are scholars who hold the view that in a bicameral parliamentary system, at least the chamber with the main legislative authority should be returned by universal suffrage<sup>Note 3</sup>.

10. In addition, there are also scholars who consider that the Covenant has not specified whether universal suffrage should take the form of direct or indirect election. For example, the presidential election in the United States is a form of indirect election, and this is also compatible with Article 25 of the Covenant<sup>Note 4</sup>.

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Note 3 Manfred Nowak. *U.N. Covenant on Civil and Political Rights: CCPR Commentary*, 1993, P.443

Note 4 Ditto, p.444

## Conclusion

11. On the basis of the above background information, we may make the following summary :

1. The concept of “universal suffrage” includes the principles of “universal” and “equal”. However, the right to vote can be subject to restrictions, but any such restrictions should be “reasonable” restrictions established under the law. For example, most places, including Hong Kong, require their citizens to have reached a certain age or to have satisfied a specific period of residency before they can register as electors. These age and residency requirements can be viewed as reasonable restrictions on “universal suffrage”.
2. “Universal suffrage” is about who has the right to vote. It is generally recognized that all citizens have the right to take part in elections conducted in their own community and be represented by the elected legislators of the constituencies to which they belong. In regard to the Hong Kong Special Administrative Region (“HKSAR”), the Basic Law provides that permanent residents of the HKSAR shall have the right to vote and the right to stand for election in accordance with the law.
3. “Equal suffrage” does not require that each vote should have the same effect on the outcome of the election. For example, in geographical constituency elections, there can be reasonable variations amongst the constituencies in respect of the ratio between the number of seats and the size of registered voters.
4. The international community recognizes that there is no single electoral system that suits all places, and would not seek to impose any single political model or electoral system on any place. Different jurisdictions have adopted, respectively, direct or indirect elections and different models of unicameral or bicameral legislature. As far as an individual jurisdiction is concerned, while conforming to the general understanding of universal suffrage held internationally, it may also develop its electoral system having regard to the particular needs and aspirations of its people, and its historical realities.