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政府總部東翼 12 樓
香港特別行政區政府
政制及內地事務局
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敬啟者:

解決行政長官普選辦法爭議的方法

香港特區政府於 2015 年 1 月 7 日，發表《行政長官普選辦法諮詢文件》，並要求市民於 2015 年 3 月 7 日或之前，就行政長官普選辦法發表意見。本人今日以普通市民身分，向政府提交意見，並同步向傳媒公開本意見書，務求集思廣益。

本人認為，香港去年發生「佔領運動」，是源自香港社會三個深層矛盾，包括共產中國與自由香港之間、民族主義與普世價值之間、以及年長市民與本土青年之間的矛盾，而導火線就是特區政府管治失衡，和中央政府缺乏信心。

「佔領運動」之後，社會撕裂，政改陷入僵局，主要因為超過三分一立法會議員，聲明會否決政府按照「人大八三一框架」提出的政改方案。本人於是藉此發表意見處理以下兩個問題：

- (一) 如何拆解當前的困局，縮窄敵對陣營的鴻溝？
- (二) 如何在「一國兩制」下開發民智，建構民主？

本人不會在此就任何政改方案發表意見，亦不會觸及「人大框架」、「公民提名」、「入閘門檻」、「白票尾門」等理念討論。

《基本法》規定普選行政長官的方案必須得到立法會全體議員三分之二多數通過。這個設計，是從憲法上保障小眾利益，在重大問題上不被大眾剝奪。任何議員若果認為自己是代表全體或部分選民行駛上述權利而否決政改方案，我們應予尊重。不過，如果議員自稱代表全體市民，而全體市民之中又超過三分之二贊成某些方案，其堅持否決該等方案的理由便會變得牽強，充

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其量只可以說是代表小眾市民行使小眾權利。

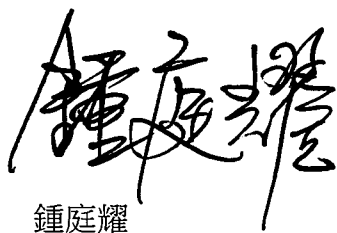
相反，如果聲稱代表大眾市民的議員，能夠預先參考市民大眾透過其可接受的民主機制，表決是否支持某些方案（例如考慮支持程度是否超過三分之二），然後再作支持或否決有關方案的決定，則不乏是推動理性民主的良好方法。

本人因此建議，在政府正式推出一個至多個政改方案後，在立法會正式表決前，預留充裕時間讓市民深入討論方案，然後由民間社會組織民間全民投票，對相關方案作出表決。民間全民投票對政府以及不認同民間投票的議員當然沒有約束力，但對部分願意參考民間全民投票結果的議員，結果可能會左右大局。

本人建議，願意參考投票結果的議員，應該預先向公眾說明會如何參考結果，甚至接受約束。例如是否須要設立投票人數門檻、或支持方案比率（例如是二分一、或三分二、或四分三）、又或是支持方案的人數等。倘若投票人士可以同時對多個方案（不論是政府或是民間方案）獨立表決的話，該等議員也應預先說明會如何看待結果。

在進行民間全民投票前，各方人士可以主動進行游說，政府可以聘用獨立學術機構進行一般民意調查，和舉辦旨在推動理性討論的慎思民調。資源有限的話，一次過的慎思民調可以分拆成為三數次的慎思論壇，讓市民代表充份討論箇中理據，然後和平理性地擇日進行民間全民投票。

關於慎思民調和民間投票的理念和實踐，本人多年來已有論述，在此不贅。本人希望慎思民調結合民間投票，加上部分議員的認同，可以解除捆綁投票，在開發民智和建構民主之餘，為當前的政改困局找到一條出路。



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（以個人名義簽署）

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Resolving the Deadlock of Chief Executive Election

The Hong Kong SAR Government on 7 January 2015 released a consultation document entitled “Consultation Document on the Method for Selecting the Chief Executive by Universal Suffrage”, to consult the public on issues relating to the method for selecting the Chief Executive by universal suffrage. Members of the public were invited to send their views to the government on or before 7 March. The undersigned hereby submits his views to the government, with a copy sent to the media for public consumption and for gathering collective wisdom.

To the undersigned, the “Occupy Movement” which happened in Hong Kong last year has stemmed from three deep-rooted contradictions in the Hong Kong society. These include the contradiction between Communism China and Freedom Hong Kong, between patriotism and global values, and between senior citizens and local youths. The eruption was triggered by the failure of governance of the local government, and the lack of confidence of the central government.

Our society was torn after the “Occupy Movement”, and constitutional reform came to a standstill, as more than one-third of the Legislative Councillors vowed to veto all government proposals based on the “31 August 2014 Decision” of the Standing Committee of the National People’s Congress (NPC). The undersigned therefore would like to address these two problems:

- (1) How to untie the deadlock and pull the two opposing sides closer together?
- (2) How to develop democracy and public wisdom under “one country, two systems”?

The undersigned would not address any specific proposal, nor discuss concepts like “NPC framework”, “civic nomination”, “nomination threshold”, “blank vote gatekeeping”, and so on.

According to the Basic Law, the method for selecting the Chief Executive has to be passed by a two-thirds majority of all Legislative Councillors. This is a constitutional design to protect the interest of the minority, from being exploited by the majority where important matters are concerned. Any Councillor claiming to represent all or some members of the public in vetoing government proposals in order to protect minority interest should be respected. However, if any Councillor claims to represent the general public, and if more than two-thirds of the public have clearly indicated their support of certain proposals, then the vetoing of these proposals would not be

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reasonable. The Councillor can at most claim that he/she is only representing the minority to protect minority interest.

On the contrary, if a Councillor claiming to represent the general public can make reference to the degree of public support for certain proposals (like whether the degree of support has reached two-thirds) gauged by some mechanisms one accepts, before deciding whether or not to veto a proposal, it would help to promote rational democracy.

The undersigned therefore proposes that when the government makes one or more official proposals on constitutional reform, it should allow ample time for the people to discuss the proposals and then make a vote via a civil referendum to be organized by the civil society, before asking the Legislative Council to cast its final vote. The result of the civil referendum would obviously not bind the government, nor those who deny the referendum, but for those Councillors who are willing to follow the result of the referendum, the balance may be tipped.

The undersigned proposes that Councillors who are willing to follow the result of the referendum should announce to the public before the referendum how they would make use of the result, and on what conditions it would become binding. Examples being thresholds of voter turnout, support rate (like one-half, two-thirds, three-quarters), and number of support votes. If there are independent parallel votings on more than one proposal (whether on government or non-government proposals), those Councillors should also explain before the referendum how they would treat the result.

Before the civil referendum is held, there can be lobbying campaigns. The government can commission independent academic bodies to run general opinion surveys, as well as deliberative surveys aimed at promoting rational discussions. If resource is limited, one single deliberative survey can be split into three or more deliberative forums. After these rational discussions, another date is set for a civil referendum which promotes rational and peaceful expression of the public wish.

Over the years, the undersigned has already written a lot on the concept and practice of deliberative surveys and civil referendums. They are not repeated here. With the combination of rational deliberation and civil voting, plus endorsement by some Legislative Councillors, the undersigned wishes to untie the deadlock of block voting and to find a way out of the current standoff, while developing democracy and public wisdom at the same time.



Robert Chung
Director of Public Opinion Programme, The University of Hong Kong
(signed in personal capacity)