

**THE PROMISE OF
DEMOCRATIZATION IN HONG KONG**

**THE 2008 LEGISLATIVE COUNCIL ELECTIONS
SEPTEMBER 7, 2008**

NDI Hong Kong Report #13

October 15, 2008



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The September 12, 2004 Legislative Council Elections – A Pre-Election Report, NDI Hong Kong Report No. 9, August 31, 2004.

The 2005 Chief Executive Election, NDI Hong Kong Report No. 10, June 21, 2005.

The 2007 Chief Executive Election, NDI Hong Kong Report No. 11, April 20, 2007.

The 2007 District Council Elections, Legislative Council Elections, and Prospects for Constitutional Reforms, NDI Hong Kong Report No. 12, December 27, 2007.

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International cooperation is key to promoting democracy effectively and efficiently. It also conveys a deeper message to new and emerging democracies that while autocracies are inherently isolated and fearful of the outside world, democracies can count on international allies and an active support system. Headquartered in Washington, D.C., with field offices in every region of the world, NDI complements the skills of its staff by enlisting volunteer experts from around the world, many of whom are veterans of democratic struggles in their own countries and share valuable perspectives on democratic development.

The Promise of Democratization in Hong Kong:

The 2008 Legislative Council Elections

From August 13 to 17, 2008, the National Democratic Institute (NDI) held meetings in Hong Kong to assess the political environment leading up to and around the September 7 Legislative Council (LegCo) elections, and to gauge the environment following the announcement of the timetable for implementing universal suffrage. NDI's team included: Christopher Pyne, Member of Parliament for Sturt, Australia and Shadow Minister for Justice; Thomas Barry, NDI Deputy Regional Director for Asia programs; Anne Tsai Bennett, NDI Program Manager for Asia; Belinda Winterbourne, NDI Program Manager for Hong Kong; and Stephen Tong, NDI Program Officer for Hong Kong. The team met with: current and former government officials; political party leaders; Legislative Council members and candidates; District Councilors; nongovernmental organization representatives; academics; journalists; diplomats; and others. NDI also collaborated with the Hong Kong Transition Project, with the assistance of university student volunteers, to shadow six LegCo candidates from July 31 through election day on September 7 to informally observe the campaigns and the polls.

This report is the thirteenth in a series prepared by NDI addressing the promise of democratization in the Hong Kong Special Administrative Region (HKSAR). Since early 1997, NDI has monitored the HKSAR's autonomy and its prospects for further democratization in light of international standards and benchmarks outlined in Hong Kong's Basic Law. NDI has also organized study missions and issued periodic reports on political developments in the region. These reports have assessed the development of Hong Kong's post reversion election framework; the political environment on the eve of reversion to Chinese sovereignty; the status of autonomy, rule of law and civil liberties under Chinese sovereignty; the various elections in the HKSAR under Chinese sovereignty; the Principal Officials Accountability Systems; and the prospects for democratization beyond the 10 year period set forth in the Basic Law. The Institute hopes that its efforts will contribute to a better understanding of Hong Kong's ongoing transition process.

Kenneth Wollack
President

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TABLE OF CONTENTS

INTRODUCTION.....	1
MOVING AHEAD – THE LONG AWAITED TIMETABLE.....	2
THE SEPTEMBER 7, 2008 LEGISLATIVE COUNCIL ELECTIONS	3
The Setup.....	3
Background.....	3
THE ELECTION GAMES	5
The Defining Election Issues.....	8
The Campaigns	10
<i>Coordinating the Uncoordinated</i>	12
<i>The “No-Go” Zone</i>	13
<i>Campaigning in the Internet Age</i>	13
<i>The Anson Effect</i>	14
<i>Getting Out the Message</i>	15
Questioning Polls and the Electoral Affairs Commission.....	16
CONCLUSION	17
APPENDIX I.....	20
APPENDIX II.....	21
APPENDIX III	32

INTRODUCTION

NDI has observed Hong Kong's political developments since before the region's return to Chinese sovereignty in 1997, and has produced a series of reports assessing the political situation since that time. This report is the thirteenth in the series. NDI's prognosis at the time of the July 1, 1997 handover had been cautiously optimistic. The Institute recognized early on that if the Hong Kong Special Administrative Region (HKSAR) is to live up to the promise of democratization -- as outlined in its mini-constitution, the Basic Law -- it must allow the people of Hong Kong to directly choose their entire legislature as well as their Chief Executive (CE).¹

NDI previously noted that the HKSAR's political evolution should continue to command international attention, not only because it provides a unique example of a polity in transition but also because it gauges China's tolerance for political experimentation in the only part of the country that has a constitution permitting gradual political reform.² The Basic Law created an expectation that there would be a 10 year transition to universal suffrage. However, there never was an explicit promise that this would be the case. Ultimately, the people of Hong Kong and the Central Government in Beijing will decide the appropriate pace and endpoint of the HKSAR's political development.³ In 2004, the Standing Committee of the National People's Congress (SCNPC) ruled out universal suffrage for electing the CE and entire Legislative Council (LegCo) in 2007 and 2008, respectively. At that time, NDI acknowledged that the Basic Law does not explicitly provide a timetable for achieving universal suffrage, but in view of growing impatience among Hong Kong citizens, urged the setting of specific timetables.⁴

Hong Kong has been awash in elections over the last two years. In 2007, The HKSAR witnessed its first contested CE election in March, held District Council elections in November where the pro-Beijing camp made a significant comeback after its 2003 losses, followed by a closely fought LegCo by-election in December between two of Hong Kong's most high-profile female political leaders. Last year's trifecta of elections was followed by this year's September 7 Legislative Council elections, where attention focused on whether the pan-democrats could maintain their veto power and whether a new generation of politicians would take the helm in Hong Kong. This report will focus on the issues and events leading up to and around the LegCo elections,

¹ "NDI Post- Election Statement on the First Legislative Council Elections in the Hong Kong SAR," May 25, 1998.

² *Accountability without Democracy? The Principal Officials Accountability System in Hong Kong*, NDI and Civic Exchange, October 16, 2002.

³ *The September 12, 2004 Legislative Council Elections – A Pre-Election Report*, NDI Hong Kong Report No. 9, August 31, 2004.

⁴ *The September 12, 2004 Legislative Council Elections – A Pre-Election Report*, NDI Hong Kong Report No. 9, August 31, 2004.

particularly in light of the SCNPC's December 2007 ruling that universal suffrage for the CE and entire LegCo could not happen before 2017 and 2020, respectively.⁵

MOVING AHEAD – THE LONG AWAITED TIMETABLE

While the SCNPC ruled out universal suffrage in 2012, Chief Executive Donald Tsang maintains that achieving universal suffrage is the most important step for Hong Kong's constitutional development, and points to 2017 and 2020 as clear dates set by the SCNPC by which the CE and all LegCo members can be returned by universal suffrage, respectively.⁶ This was said to be in line with the Basic Law's requirement for "gradual and orderly progress."⁷ According to the SCNPC's decision, regarding the 2012 CE and LegCo elections, "The half and half ratio between members returned by functional constituencies and members returned by geographical constituencies through direct elections shall remain unchanged."⁸

However, some observers are not so sure that the ink has dried and the dates actually set. If the new LegCo does not pass reforms for the 2012 elections, as the transitional step to pave the way for directly electing the CE in 2017, then universal suffrage could be further delayed.⁹ In 2005, when the pan-democrats rejected the Chief Executive's proposed constitutional reform package, they were largely blamed for the proposal's failure, which in turn led to a fall in the pro-democracy parties' public approval ratings.¹⁰ Since then, a number of ideas have been proposed again, including expanding the LegCo to include all District Council seats and expanding the functional constituencies to include other sectors such as women, small and medium enterprises, among others.¹¹

It is unclear whether the 2005 proposals will be repackaged for the 2012 reforms; however, it is clear that the newly-elected Legislative Council will have a key role in determining what reforms will be implemented.

⁵ "...the election of the fifth Chief Executive of the Hong Kong Special Administrative Region in the year 2017 may be implemented by the method of universal suffrage; that after the Chief Executive is selected by universal suffrage, the election of the Legislative Council of the Hong Kong Special Administrative Region may be implemented by the method of electing all members by universal suffrage Source: http://english.gov.cn/2007-12/29/content_847120.htm (August 28, 2008).

⁶ "Tsang's 2020 Vision," *South China Morning Post*, December 30, 2007.

⁷ Ibid.

⁸ http://english.gov.cn/2007-12/29/content_847120.htm (as at 1 September 2008).

⁹ "...appropriate amendments may be made to the specific method for selecting the fourth Chief Executive and the specific method for forming the fifth term Legislative Council of the Hong Kong Special Administrative Region in the year 2012; that the election of the fifth Chief Executive of the Hong Kong Special Administrative Region in the year 2017 may be implemented by the method of universal suffrage; that after the Chief Executive is selected by universal suffrage, the election of the Legislative Council of the Hong Kong Special Administrative Region may be implemented by the method of electing all the members by universal suffrage http://english.gov.cn/2007-12/29/content_847120.htm (as at 1 September 2008).

¹⁰ Carine Lai and Christine Loh, "From Nowhere to Nowhere," Civic Exchange, 2007, pg.88.

¹¹ Chris Yeung, "Democracy timetable offers little solace," *South China Morning Post*, March 30, 2008.

THE SEPTEMBER 7, 2008 LEGISLATIVE COUNCIL¹² ELECTIONS

The Setup

Before the handover in 1997, the Legislative Council was able to initiate motion debates, ask questions about policies, and raise private members' bills and amendments to legislation.¹³ After 1997 however, the LegCo's powers became narrowly defined under Article 73 of the Basic Law, while Article 74 sets out that private members' bills could only be introduced in relation to those that do not relate to public expenditure, political structure, or the operation of the government. It has been far more difficult to introduce private members' bills which could easily be defeated by citing that the bill involves public expenditure. LegCo members can introduce a bill relating to government policies with the written consent of the Chief Executive, although this has not yet been done.¹⁴

The voting rules are such that for any bill proposed by a legislator, the LegCo is essentially split into two chambers for voting since the bill has to pass the geographical constituencies (GCs) and functional constituencies (FCs).¹⁵ For bills introduced by the government, however, a simple overall majority suffices; and with the dominance of the government-leaning functional constituencies, a government bill is much harder to defeat.¹⁶ This also explains the heavy reliance by the executive branch on the functional constituencies, which needs to "court" the FCs to ensure the safe passage of government bills. However, this has not always been a smooth courtship, since the traditional allies or pro-government parties and their supporters' ideals are sometimes at odds with the government's policies, and it has been much harder to force through unpopular policies.

Background

The September 7, 2008 LegCo elections were hotly contested, with a total of 201 valid candidates -- the most candidates ever to run for the legislature. One-hundred and forty-two candidates, belonging to 53 lists, ran for 30 seats in the five geographical constituencies. In the functional constituencies, there were 59 valid candidates,¹⁷ of which a record 14 were returned in uncontested elections.¹⁸ The largest pro-Beijing pro-

¹² Hong Kong's legislature, the Legislative Council, has its powers defined by the territory's mini-constitution – the Basic Law. It has in total 60 members for the third term since the handover, with 30 members returned by geographical constituencies through direct elections and 30 members by functional constituencies. Source: www.legco.gov.hk.

¹³ Christine Loh and Civic Exchange, "Building Democracy," 2003.

¹⁴ See *The September 12, 2004 Legislative Council Elections – A Pre-Election Report*, NDI Hong Kong Report, No. 9, August 31, 2004.

¹⁵ Geographical Constituencies (GCs) are the five geographically divided areas in Hong Kong where Legislative Councilors are directly elected by all eligible voters in that area. Functional Constituencies (FCs) represent professional, corporate, or social interest groups where only certain stakeholders (such as employees and corporate entities) are eligible to vote.

¹⁶ Carine Lai and Christine Loh, *From Nowhere to Nowhere*, Civic Exchange, 2007, pg.26.

¹⁷ "200 validly nominated candidates for Legislative Council election," IS Department, Hong Kong SAR Department (English).

¹⁸ Fanny W.Y. Fung, "Record 14 legislators to return unopposed," *South China Morning Post*, August 13, 2008.

government party, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), and the largest party in the pan-democratic camp, the Democratic Party (DP), each fielded 32 candidates. The pan-democratic Civic Party, which battled it out in the Legislative Council elections for the first time, had 15 candidates running on five lists in the geographical constituencies and four candidates in functional seats.¹⁹ Meanwhile, the pro-business pro-Beijing Liberal Party had 10 candidates running in the GCs and eight in the FCs, three of whom were returned uncontested.²⁰

There were over 3.37 million registered geographical constituency voters, an increase from the 3.2 million registered voters in 2004.²¹ The Legislative Council's 30 directly elected GC seats are divided into five constituencies, with six seats representing Hong Kong Island, five seats for Kowloon West, four seats for Kowloon East, eight seats for New Territories West, and seven seats for New Territories East. Since 1998, the proportional representation system with multi-member districts has been used to choose the directly elected GC seats.²² A party can win a LegCo seat with just 10 or 15 percent of the vote;²³ with that in mind, a number of political parties fielded multiple lists in particular constituencies to maximize their chances of gaining more seats. Many analysts and individuals with whom the NDI assessment team met asserted that this system was designed to benefit the pro-Beijing and pro-government parties; defenders of the system claim that it helps minorities win seats in the legislature.

While the SCNPC's December 2007 decision on the timetable for universal suffrage removed the issue from becoming a primary focus of the LegCo elections, one of the key questions that remains is what steps will be taken to prepare the HKSAR for universal suffrage in 2017 and 2020. In particular, many individuals with whom the NDI assessment team met raised the issue of how the functional constituencies -- which represent specific industries, business interests, and social sectors in Hong Kong -- should be reformed as part of the transition towards direct elections for the CE and entire LegCo. This debate has become more pronounced in the post-election period, as the government will launch its public consultation on constitutional reform early next year. The entire franchise of the 30 FC seats consisting of just under 230,000 voters is less than the nominal average of GC voters per seat at 232,503.²⁴ The majority of FC voters -- approximately 150,000 out of 230,000 -- are concentrated in just three seats, further distorting voter power and accountability.²⁵

During a focus group study conducted by the Hong Kong Transition Project (HKTP) for a report commissioned by NDI and released in August 2008, a majority of participants agreed that the functional constituencies should be discontinued. Some study

¹⁹ Ambrose Leung, "Record candidates for Legco poll," *South China Morning Post*, August 2, 2008.

²⁰ Ibid.

²¹ <http://www.voterregistration.gov.hk/eng/statistic20081.html#1>, (as at 1 September 2008).

²² In 1995 however, the first-past-the-post system was used to elect representatives from single member constituencies.

²³ Carrie Chan, "Select Set," *South China Morning Post*, April 13, 2006.

²⁴ "Timetables & Destinations – Hong Kong perceptions and politics after 2017-2020 time frame ruling," Report written by the Hong Kong Transition Project, commissioned by NDI, (August 2008).

²⁵ Ibid.

participants also admitted however that they could not think of ways to reform the FCs, and thus it would be far easier to simply do away with them. However in 2007, an HKTP survey found that there is particular support for reforming the functional constituency elections, with 56 percent support to end corporate voting by extending the vote to all company directors and senior management.²⁶ The debate on what will become of the functional constituencies is likely to feature prominently in the upcoming public consultation on the Chief Executive's proposals for constitutional reform, and will also be a major issue for the new LegCo to examine as legislators help determine the next steps towards universal suffrage in the HKSAR.

In previous reports, NDI asserted that “the continued use of functional constituencies and corporate voting...clearly diminishes the democratic character of the election process and the resulting legislative voting” and that “it is of deep concern that the Hong Kong government takes the position that certain citizens, by virtue of their membership in a privileged class, should be constitutionally guaranteed a greater political voice than others.”²⁷ In 2006, the United Nations' Concluding Observations of the Human Rights Committee on the International Covenant on Civil and Political Rights (ICCPR) stated that once an elected Legislative Council was established, its election must conform to Article 25 of the ICCPR, but that the electoral system as it stood did not conform to the covenant. It added that the Hong Kong government should take “all necessary measures to ensure the Legislative Council is elected by universal and equal suffrage.”²⁸ As the Hong Kong government and public begin to review the options for concrete steps towards constitutional reform -- in transition to universal suffrage in 2017 for the CE and 2020 for the entire LegCo -- any continuation of functional constituencies and corporate voting would only maintain the disproportionate political power held by of a few of Hong Kong's elites.

THE ELECTION GAMES

The 2008 Legislative Council elections ushered a number of new and younger faces into the LegCo, after many of the candidate lists campaigned on a message of “change.” Additionally, some high-profile long-time legislators and public figures, such as Martin Lee and Anson Chan, stepped down to make room for a new generation of lawmakers in the HKSAR. Overall, 2008 has been an exciting year of elections, with people in Hong Kong closely observing Taiwan's presidential election earlier in the year -- which the Kuomintang's Ma Ying-jeou won -- and the “change” oriented U.S. presidential election. Both the Taiwan and U.S. presidential elections resonated deeply with Hong Kong politicians and citizens in the lead-up to the September 7 LegCo elections. Many of the pan-democratic LegCo candidates traveled to Taiwan to observe the presidential election campaigns and experience Taiwan's vibrant democratic process for themselves; some elements from the Taiwanese campaigns seemed to influence a

²⁶ “Hong Kong, SAR The first 10 years under China's rule,” Report written by the Hong Kong Transition Project, commissioned by NDI (June 2007).

²⁷ The Promise of Democratization in Hong Kong, NDI Pre-Election Statement 2000.

²⁸ <http://www.hkhrm.org.hk/ConclObsHK2006UNHRC.doc>.

number of the pan-democrats' LegCo campaigns.²⁹ Meanwhile, the DAB traveled to the U.S. in February to observe the presidential election primary process.

In the run-up to the elections on September 7, all calculators were out to predict whether the pan-democrats would obtain the 21 seats (out of the combined 60 GC and FC seats) needed to maintain veto power to ensure some influence when the government introduced proposals to the legislature. This was of particular concern given that the new LegCo would make crucial decisions on the issue of constitutional reform.³⁰ Many pan-democratic candidates had expressed to the assessment team their uncertainty over their ability to maintain this critical number; and even if they did hold on to 21 LegCo seats, some were concerned that there would be a few legislators within the group who could be "easily swayed." They also worried that the parading of China's Olympic medalists in Hong Kong, just a week before the elections, could boost nationalism and affect the results of the elections to the detriment of the pan-democrats. However the pan-democrats out-performed all predictions, winning 23 of the 60 LegCo seats. While they dropped from 25 to 23 seats, the results were better than most expected.

For the major parties, the DAB remained the largest party represented in LegCo, securing 10 seats.³¹ Next in line came the Democratic Party securing eight seats, the Liberal Party with seven seats,³² followed by the Civic Party making its debut winning five seats, the pro-Beijing Federation of Trade Unions garnering four seats, and the pan-democratic League of Social Democrats winning three seats. In spite of a lower turnout compared to 2004, the pan-democrats were still able to garner solid support in directly elected seats,³³ winning 19 of the 30 GC seats.³⁴

At 45 percent, the voter turnout this year was 10 percent lower than the last LegCo elections in 2004. Many observers often assert that lower turnout hurts the pan-democratic camp in the directly-elected GC seats. However, the September election results still had the pan-democratic camp winning a clear majority of the votes over their pro-Beijing, pro-government colleagues. In fact, the business-affiliated pro-government Liberal Party suffered particularly heavy losses; party Chairman James Tien, his brother Michael Tien (who stood in the Kowloon West constituency), and Vice Chair Selina Chow all lost their geographical constituency seats.³⁵ They blamed their losses on the middle class failing to turn out to cast their votes. However, it was notable that the parties

²⁹ "Political Animal: Taiwan suffrage trip for Hong Kongers," *South China Morning Post*, March 25, 2008; "Ballot Bonanza," *South China Morning Post*, March 28, 2008.

³⁰ Robert Keatley, "A sense of malaise sets in," *Hong Kong Journal*, July 2008.

³¹ An additional three DAB members won seats in the GCs, but are also part of the Federation of Trade Unions (FTU) and counted in the FTU's tally.

³² However, immediately following the elections, Liberal Party legislator Lau Wong Fat quit the party, and on October 8, 2008, three more of the Liberal Party's elected LegCo members announced their resignations from the party, leaving the party with only three seats in the legislature. See: Ambrose Leung, Fanny Fung, Albert Wong and Eva Wu, "And then there were three: LegCo Liberals quit over leadership fight," *South China Morning Post*, October 9, 2008.

³³ Chris Yeung, "A victory in name only for the government and its allies," *South China Morning Post*, September 9, 2008.

³⁴ Please see Appendix I for the breakdown of LegCo election results, as listed by party.

³⁵ James Tien resigned as Party Chairman and Selina Chow resigned as member of the Executive Council.

with more extensive and well-established district networks and bases, such as the DAB and the Democratic Party, fared quite well, while the Liberal Party did not make a concerted effort in this area. It seems that the expansion of political parties in Hong Kong is becoming more reliant on their willingness and capacity to reach out to constituents in different districts.

The Hong Kong public voted many new faces into the LegCo. First-timers who were elected into the Legislative Council included: Civic Party's Tanya Chan; the DAB's Starry Lee and Gary Chan Hak Kan; the Democratic Party's Kam Nai Wai; and independents such as Dr. Priscilla Leung and former Secretary for Security Regina Ip (who attracted a fair share of attention during her losing run in the high-profile December 2007 by-election against Anson Chan). The new LegCo members along with maverick legislators such as former radio host Raymond Wong Yuk Man and "Long Hair" -- both representing the radical League of Social Democrats -- will certainly stir up the politicking in the Legislative Council.

In 2004, when the LegCo elections were held in the wake of the July 1, 2003 protest march, many thought that the pan-democrats would gain a significant upper-hand. However this prediction did not come to fruition and the balance of power did not shift significantly in favor for the pan-democrats. The traditional belief in Hong Kong that higher voter turnout would benefit the pan-democrats while lower turnout would harm them was debunked in the September 2008 elections. Despite the 10 percent lower turnout in 2008, the pan-democratic camp still won 23 seats overall compared to 25 in 2004.³⁶ On Hong Kong Island specifically, the traditional 60:40 split of pan-democratic seats to pro-Beijing, pro-government seats prevailed in this most recent election.

While the 2004 elections saw significant campaign coordination amongst candidates within the same political camps, the 2008 campaigns were a different story. This time around, there was no coordination within either camp, despite the fact that a record number of candidates contested the election. Over 200 validly nominated candidates fought it out for the LegCo's 60 seats, with 142 of them belonging to 53 lists running for 30 seats in the five geographical constituencies (compared to only 35 lists in 2004).³⁷ Fourteen legislators were returned uncontested from the functional constituencies.³⁸ Meanwhile, 45 candidates ran for the remaining 16 FC seats.

In-fighting and fierce competition within camps and in some cases within the same parties gave these LegCo elections the appearance of being a "free-for-all." While the pan-democratic camp has often been characterized in the past as being less coordinated than their pro-Beijing, pro-government counterparts, the apparent lack of coordination of the pro-establishment camp in this election was particularly unusual, and

³⁶ Chris Yeung, "Pressure Points," *South China Morning Post*, July 23, 2008.

³⁷ "200 validly nominated candidates for Legislative Council elections," Information Services Department, Government of the Hong Kong SAR, August 11, 2008.

³⁸ At the time of printing, Leung Wo Ping was disqualified for having not given up his British passport in time. Source: Fanny W.Y. Fung, "Record 14 legislators to return unopposed," *South China Morning Post*, August 13, 2008.

ultimately most damaging for the Liberal Party. The traditional alliance between the Heung Yee Kuk (representing indigenous villagers of the New Territories) and the DAB was weak this time around. In the Kowloon West district -- where the number of LegCo seats increased from four to five -- the entrance into the high-profile race of independent Dr. Priscilla Leung, labeled by some as a hidden pro-Beijing candidate,³⁹ against the Liberal Party's Michael Tien, signaled to many analysts that the previously tight knit coordination within the pro-Beijing, pro-government camp was not readily present this time around.

The assessment team heard from a number of candidates -- as it had also been reported in news articles -- that top HKSAR officials and Central Government Liaison Office figures lobbied behind the scenes to prevent infighting within the pro-Beijing, pro-government camp.⁴⁰ However, when questioned at an election forum, Dr. Priscilla Leung said, "Whether or not the Central Liaison office played any role in coordination has absolutely nothing to do with me."⁴¹ There were accusations in the functional constituency races that the Central Liaison Office put pressure on companies, citing that contracts may not be awarded depending on how they voted, or that mainland-invested companies were placing pressure on their employees to support government-friendly candidates. In the accountancy sector for example, some accountancy firms allegedly told their employees not to support the Civic Party's Mandy Tam, or they would risk getting fired.⁴² The Liberal Party's shocking losses spurred reports that James Tien asked the Liaison Office for help when it appeared that he was going to lose the election, however, given that it was late in the game, nothing could be done.⁴³

The Defining Election Issues

The LegCo elections were dominated by "livelihood" issues such as unemployment and the economy, the public's main concerns in the lead up to September 7, as well as growing dissatisfaction with CE Donald Tsang and his administration.⁴⁴ A rise in patriotism leading up to and during the Olympics in August, combined with the SCNPC's December 2007 issuance of a timetable for universal suffrage -- pushing direct elections to no earlier than 2017 for the CE and 2020 for the entire LegCo -- seemed to remove the call for universal suffrage from being a focus for candidates and the public.⁴⁵ Surveys prior to the election showed that bread and butter "livelihood" issues were foremost on voters' minds. Meanwhile, only 6.5 percent of voters surveyed by the Chinese University said they would focus on universal suffrage.⁴⁶ Concerns over

³⁹ "Candidate tight-lipped about Beijing backing," *South China Morning Post*, August 10, 2008.

⁴⁰ Ibid.

⁴¹ Eva Wu, "Candidate tight-lipped about Beijing backing," *South China Morning Post*, August 10, 2008.

⁴² "Central Liaison Office working behind the scenes of the functional constituency elections," *Apple Daily*, August 26, 2008.

⁴³ "Liberal Party's James Tien empties his pockets," *Eastweek Magazine*, September 10, 2008.

⁴⁴ "Racing for the Gold," September 2008 Report commissioned by the Civic Exchange by the Hong Kong Transition Project.

⁴⁵ Ibid.

⁴⁶ Eva Wu, "Suffrage a low priority for voters," *South China Morning Post*, August 15, 2008.

inflation, employment, the environment, and town development dominated the political debate.⁴⁷

The election environment was also heavily influenced by the public's dissatisfaction with the HKSAR government, reflected in Chief Executive Donald Tsang's precipitous decline in approval ratings in the months leading up to September 7. Tsang's approval ratings had even dropped to CE Tung Chee Hwa's dismal July 2003 levels, when grievances against the government peaked.⁴⁸ The Central government seemed to concur with fading public opinion, with Chinese Vice President Xi Jinping calling on Donald Tsang to govern Hong Kong "sensibly and reasonably" and to implement "stable and efficient policies."⁴⁹ Tsang's popularity was affected by a number of reported missteps, including: his controversial political appointments of a new tier of undersecretaries and political assistants; the government's 11 billion Hong Kong dollar inflation-relief package, which some criticized as a "rush job;" and the suspension of the domestic helpers' levy, which drew criticism for not being well thought out.⁵⁰ Public trust in the Hong Kong government had plunged to the lowest level since 2006.

In 2002, then-CE Tung Chee Hwa sought to address the problem of accountability by implementing the Principal Officials Accountability System. Tung thought that by surrounding himself with his own "cabinet," the ministers he appointed could be responsible for communicating government policies to the Legislative Council and the public. However, the main flaw soon became clear -- the ministers were only accountable to the Chief Executive.

Six years later, in the name of grooming future political talent through the political appointment system, CE Donald Tsang was initially criticized because the term of the political appointees ended with the term of the Chief Executive, appearing to effectively concentrate more power in the hands of a non-elected government.⁵¹ The issue quickly escalated with questions being raised about the exorbitant salaries these ministers and political assistants were being given, and whether these deputy ministers could hold dual nationality. Ultimately, the crux of the problem was the lack of transparency in the selection process for these deputy ministers and the political.

The embattled CE's administration also suffered significantly from the fall-out of the controversy surrounding former housing director Leung Chin Man being hired for a top job at New World Development, one of Hong Kong's major property developers. This sparked cries of collusion from the public, media, and political parties.⁵² Officials of Leung's seniority require prior government approval to take a job within three years of retiring, and may not take on any jobs in the first 12 months after retirement; Leung retired in January 2007.⁵³ On the outset, it seemed that he had complied with the

⁴⁷ "Legco election pivotal for HK's political future," *South China Morning Post*, August 2, 2008.

⁴⁸ Ambrose Leung, "Tsang's support hits all time low," *South China Morning Post*, July 9, 2008.

⁴⁹ *Ibid.*

⁵⁰ "Winds of Change," *South China Morning Post*, August 27, 2008.

⁵¹ Albert Wong, "Approach to talent wrong, says Anson Chan," *South China Morning Post*, June 9, 2008.

⁵² "Ex-housing chief's new job does not look good," *South China Morning Post*, August 4, 2008.

⁵³ "Developer defends hiring former housing boss," *South China Morning Post*, August 3, 2008.

regulation by gaining prior approval and waiting at least a year after retiring before entering the private sector. However, the controversy arose from him taking employment with one of the two companies he dealt with while directing the government's housing and planning policies. The problem was compounded by the fact that during Leung's tenure as the government's housing director, the government made two major questionable deals with developers. Leung was cleared of any wrongdoing over the Henderson Land Grand Promenade development, in which he allegedly gave the company bonus land, boosting its earnings by 3.2 billion Hong Kong dollars. In addition, he was not implicated in the government's selling of the Hung Hom Peninsula housing estate to New World for half the asking price.⁵⁴ Amidst the allegations of collusion and conflict of interest, New World attempted to defend itself by saying Leung's portfolio would be confined to its mainland China business operations.⁵⁵

The political parties were quick to jump on the Leung controversy bandwagon criticizing the government, with Democratic Party members helping to launch an inquiry into how the Advisory Committee on Post-service Employment could approve Leung's new job in spite of previous concerns over collusion. Additionally, the Civic Party and the DAB called for a review of the system assessing the post service employment of officials.⁵⁶

CE Tsang tried to stem the snowball effect of the controversy when he made a public statement requiring the Civil Service Bureau to submit a report on the way the case had been handled.⁵⁷ Secretary for the Civil Service, Denise Yue, and the Transport and Housing Bureau issued apologies over the incident. Soon after, Leung resigned from his new position at New World. The controversy was a substantial blow to the public's confidence in the Tsang administration, as it highlighted concerns regarding transparency in governance in the HKSAR, and whether there are adequate checks and balances in the system. Many analysts and observers, as well as LegCo candidates, felt that these concerns would possibly impact voters' attitude towards the traditionally pro-Beijing, pro-government parties.

The Campaigns

NDI conducted a study with the assistance of the Hong Kong Transition Project, in which six university students in Hong Kong shadowed the campaigns of six Legislative Council candidates.⁵⁸ The study afforded the opportunity to verify -- on the ground -- campaign techniques employed by candidates, as well as the use of resources, and other factors. Please see Appendix II for summaries of the students' observations of the campaigns.

⁵⁴ Ibid.

⁵⁵ Chris Yeung, "Another headache for beleaguered Tsang," *South China Morning Post*, August 6, 2008.

⁵⁶ Albert Wong, "Judicial review sought over new job for former buildings boss," *South China Morning Post*, August 4, 2008.

⁵⁷ Joyce Man, "Tsang calls for report into job row," *South China Morning Post*, August 5, 2008.

⁵⁸ Students' reports in Appendix II.

A major theme of the 2008 Legislative Council elections was that of a “changing of the guard” in Hong Kong politics. New faces and new parties -- such as the Civic Party and the League of Social Democrats -- entered the fray for the first time. Hong Kong’s “Father of Democracy,” Martin Lee, stepped down from his long-held LegCo seat to make way for the younger generation of party members to join the Legislative Council. Former Chief Secretary Anson Chan -- elected into LegCo in the December 2007 by-election -- and long time veteran legislator Rita Fan also decided not to defend their seats in the September elections. With a number of veteran lawmakers stepping down and the average age of legislators around age 57, many of the major political parties focused on grooming the younger generation in their parties for the LegCo.⁵⁹ Some of the most high-profile younger candidates were the DAB’s Starry Lee and Gary Chan, the Civic Party’s Tanya Chan, and the Democratic Party’s Kam Nai Wai. Meanwhile, as “change” swept through the electorate, a number of incumbents and veteran lawmakers lost their seats, including: the DAB’s Choy So Yuk; the Liberal Party’s James Tien and Selina Chow; the Democratic Party’s Yeung Sum; Federation of Trade Union’s Chan Yuen Han; Civic Party’s Fernando Cheung and Mandy Tam; and independent Lau Chin Shek.

The 2008 LegCo elections marked the Civic Party’s formal debut into Hong Kong politics as a political party (having begun as a political group, the Article 45 Concern Group). However, the party lost one seat overall in the elections, when considering its membership in LegCo in its previous incarnation as a political group. Some commentators asserted that the Civic Party needed to be prepared to wage a long battle to make its mark in politics, especially since its candidates in Kowloon East and New Territories West had no solid base, and as a young party they have no long-term track record of service within the districts. However, the Civic Party appeared to strike a chord with the public with its emphasis on “Fairness” in all of its campaign materials, given the overall sentiment of injustice within the community.

The other new party, the League of Social Democrats, gained an edge with an extra seat in the LegCo, for a total of three legislators. Given the party’s radical stance on universal suffrage, the government could face some difficulty in reaching a compromise within the pan-democratic camp when it comes to constitutional reform matters. The increased number of newly-elected LegCo members who are aligned on workers rights and “livelihood” issues is a telling contrast to the setbacks suffered by the pro-business Liberal Party. The Liberal Party’s losses are believed by some to reflect the public’s dissatisfaction towards the business sector in light of rising inflation and the anti-business sentiment generated by the Leung Chin Man controversy. The party’s stunning defeat in the elections with Chairman James Tien, Vice Chair Selina Chow, and James Tien’s brother Michael Tien all losing in their geographical constituencies have left a leadership vacuum in the party. James Tien and Selina Chow both stepped down from their positions in the party immediately following the elections. Party member Lau Wong Fat, who won a seat in the LegCo, also quit the party immediately following the elections. In addition, Jeffrey Lam, Sophie Leung, and Andrew Leung -- who had all been elected into

⁵⁹ Chris Yeung, “Age a factor in changing of guard,” *South China Morning Post*, February 17, 2008.

LegCo on September 7 -- all announced their resignations from the party in October.⁶⁰ With only three legislators left representing the party in the LegCo, the Liberal Party's future remains unclear as it searches to redefine itself. Furthermore, given the party's previous stance on eventually abolishing the functional constituencies, questions have arisen about whether their defeat in the elections might change their views on constitutional reform and the future of FCs.

Coordinating the Uncoordinated

The traditional clash of the pro-establishment versus pro-democracy camps, which characterized the 2004 elections, was not as applicable to the 2008 elections as the two sides did not coordinate their efforts within their own camps.

From the beginning, the Hong Kong Island GC race was a tight one. For the DAB, it was clear that they would be in more of a fight against independent Regina Ip and the second candidate on her list, Louis Shih,⁶¹ likely splitting the middle-class pro-Beijing, pro-government votes. Meanwhile, the Civic Party was predicted to win most of the pan-democratic votes in the constituency.

Whereas in previous years there had been some attempt to coordinate campaign strategies amongst the parties and candidates within each camp, it did not appear that any organized coordination attempts were made for the 2008 LegCo elections. The Civic Party was not interested in any form of cooperation, which it made obvious by calling for 100,000 votes for its own party. Although polls showed that Louis Shih and the DAB's Choy So Yuk were head to head in terms of winning a seat, as both were second on their respective candidate lists, the polls did not reflect that the DAB are often much better at organizing and mobilizing voters on election day. Although some independents claimed they were not coordinating their efforts with the DAB in terms of campaigning, there were reports of instances such as campaigners for independent Scarlett Pong also handing out campaign materials for the DAB's Starry Lee.⁶²

Some in the pan-democratic camp also said that the four seats they won on Hong Kong Island could have been subverted if there had been better coordination between Regina Ip and the DAB ticket. However, as the votes were equally split between the two - - with the DAB winning 60,417 votes and Regina Ip winning 61,073 votes -- given the proportional representation system, some of the "wasted" votes could have gone to either of the candidates' lists if they had coordinated their efforts.⁶³

⁶⁰ Ambrose Leung, Fanny Fung, Albert Wong and Eva Wu, "And then there were three: LegCo Liberals quit over leadership fight," *South China Morning Post*, October 9, 2008

⁶¹ Former Chairman of SynergyNet and former Vice President of the Hong Kong Medical Association

⁶² "The leftists coordinate votes to snatch democrats' seats," *Apple Daily*, September 8, 2008.

⁶³ "DAB increases number of seats, but party stalwart loses out," *South China Morning Post*, September 9, 2008.

The “No-Go” Zone

According to the Electoral Guidelines issued by the Electoral Affairs Commission, the “No Canvassing Zone Scheme” is employed for the purpose of prohibiting canvassing activities directly outside polling stations on the polling day in order to maintain free and safe passage for electors, and to ensure that electors are not unduly harassed on their way to the polling station.⁶⁴ However, given the notable inconsistencies in each area, and the complaints brought to NDI’s attention, perhaps the Registration and Electoral Office should set clearer guidelines and publicize more widely how these “no canvassing zones” are designated to enhance transparency of the process.

A number of candidates complained that the “No Canvassing” zones were set too wide in certain constituencies, hampering their campaigning activities. There were also allegations that in some constituencies, the “no canvassing” zones were set in allegedly DAB strongholds within housing estates, whereas these zones were not set in areas where other candidates had district offices. Assessment team members noticed that the boundaries of “no canvassing” zones were inconsistent from area to area. In some places they were very wide, whereas in one particular polling station,⁶⁵ DAB flags could be seen through the polling station windows, and canvassing was happening immediately outside the polling station.⁶⁶

Given the number of elections that were held within one year of the 2008 LegCo elections, such as the November 2007 District Council elections and the December 2007 LegCo by-election, some voters complained about being sent to a different polling station than the one they went to for the District Council elections. Additionally, others complained that there were an unnecessarily large number of polling stations within one area. The combination of the short distances between the polling stations and the need for “no canvassing zones” outside each station may have appeared to widen the zones, hampering campaigning on Election Day.

Campaigning in the Internet Age

With aging leadership and veteran politicians resigning, some of Hong Kong’s political parties have become more serious about grooming and targeting a younger generation. The DAB in particular has focused on training its next generation, including sending its young leaders to a leadership training program designed specifically for the party and taught by universities in Hong Kong, Beijing, and London. The DAB is aiming to raise its membership to 30,000 in the foreseeable future -- up from over 10,000 members currently -- across 18 district branches in the HKSAR.⁶⁷ The party has promoted Starry Lee in the Kowloon West constituency as an example of its next generation of leaders; in the September LegCo elections her campaign was marked by the

⁶⁴ Guidelines on Election related Activities in respect of the Legislative Council, Chapter 14.2. <http://www.elections.gov.hk/legco2008/eng/guidelines.html>

⁶⁵ See Appendix III.

⁶⁶ Polling Station Code: R1901, Mei Lam Sports Centre in New Territories East.

⁶⁷ Tsang Yok Sing, “A Party with a Future,” *Hong Kong Journal*, January 7, 2008.

slogan, “Let’s work together, Hong Kong deserves better.” The Civic Party has also been promoting its younger members such as Tanya Chan, Tsang Kwok Fung, and Thomas Yu, and placed their younger members at the forefront of the party’s September LegCo campaigns.

Along with pushing younger, fresher faces, the political parties and individual candidates also waged robust cyber campaigns, using the internet in a more significant way than in previous elections. Party websites, individual blogs, and campaign videos made their rounds on the internet, sparking a greener and cheaper campaign for some.⁶⁸ The social-networking website Facebook was heavily utilized by many of the “veteran” candidates, including Emily Lau, Jasper Tsang, and Regina Ip. Every major party also attempted to appeal to younger voters with music videos which they circulated online. Parties and candidates that produced and distributed their own online music videos included the Civic Party, the Democratic Party, the DAB, and Regina Ip (whose rap video was titled “Regina Baby”). The DAB’s election website had photos of its candidates, information and downloads for the media, weblogs, and games. The Civic Party had its own election campaign video focused on “Justice or Fairness,” which was widely distributed on YouTube. The Civic Party also made available on its website downloadable MSN icons of young Tanya Chan, in a bid to appeal to younger voters.⁶⁹

While the onslaught of the various forms of online campaigning did not replace meeting voters face to face, it did signal the parties’ attempts to adjust themselves to keep pace with trends in communication and outreach, particularly to reach out to newer and younger voters. It is interesting to note that the Liberal Party, which suffered some of the heaviest losses in the September LegCo elections, did not have a significant internet presence, with neither Facebook profiles nor YouTube campaign videos. Some candidates also pointed to their intensified use of the internet to highlight their efforts to run a “green” campaign.⁷⁰

The Anson Effect

Dubbed the “Conscience of Hong Kong,” former Chief Secretary Anson Chan may not have been running again for her LegCo seat, but she was as active as any candidate when it came to campaigning. She had said earlier that she would help “young candidates aged between 25 and 45,”⁷¹ and would focus on helping to develop the next generation of democrats. Chan quieted speculation that she had abandoned the Democratic Party when she turned up to support DP candidate James To Kun-sun in his bid for re-election in the Kowloon West geographical constituency.⁷² She was also seen supporting and campaigning for young Civic Party candidates such as Tanya Chan and Tsang Kwok Fung, as well as other young candidates including Albert Lai and Fernando

⁶⁸ “Some may blast into cyberspace but ‘nothing beats face to face contact’,” *South China Morning Post*, July 26, 2008.

⁶⁹ Ibid.

⁷⁰ See Appendix II.

⁷¹ Diana Lee, “Anson stumps pundits by backing Democrats,” *The Standard*, July 24, 2008.

⁷² Ibid.

Cheung. NDI's student observers, who shadowed some of the candidates, found that Anson Chan's presence was a key attraction for the public in a candidate's campaign. Her "superstar" effect left a positive impact on the campaigns of candidates whom she publicly supported. While the pan-democrats did not have a coordinated campaign strategy, Anson Chan's decision to campaign on behalf of certain young pan-democratic candidates proved to be a positive de-facto strategy for many of the young candidates who she supported.

Getting Out the Message

In the course of the assessment team's meetings, a number of individuals raised the question of use of resources outside the official campaign period to garner voter support. There were accusations of some parties and candidates offering free tours or meals to voters in the run-up to the elections, falling outside the campaign period in which election expenses were counted. Although the government offered all candidates a campaign subsidy of 11 Hong Kong dollars per registered voter in his or her constituency, an increase of 1 Hong Kong dollar from the last election, it was still of minimal assistance to the candidates.⁷³ When the prospect of introducing a party law was suggested as a way to regulate party expenditures in general and bring more transparency to the allocation of resources, many were reluctant about such a prospect. Some of the political party leaders were concerned that such a law could then be used by governments to restrict parties. Suggestions for key reform issues that need to be addressed have included: formal recognition and registration of political parties; legal status of parties; election advertising; general electioneering; fund raising; public funding of political parties; and funding transparency.⁷⁴ Concerns regarding many of these issues were raised in the assessment team's meetings.

A number of pan-democratic candidates complained about political censorship. According to news reports, Democratic Party candidate Wu Chi Wai said his advertisement -- which was meant to be run on buses -- had failed to obtain "internal approval" from Roadshow, the advertising agent for bus companies and minibuses. While the party's first advertisement clip had been approved by the company, there was no clear explanation as to why Wu's particular clip was rejected.⁷⁵ The party also accused the Star Ferry and the Mass Transit Railway (MTR) for rejecting its election advertisements. The MTR Corporation defended the rejection, stating that the advertisement contained unconfirmed information. Emily Lau of the Frontier also complained about taxi drivers refusing to carry advertisements on their vehicles, asserting that approximately 11 of them had torn down ads from their cabs.⁷⁶ On a NOW TV forum, the Democratic Party's

⁷³ Peggy Chan, "EAC calls for proper electioneering conduct," *China Daily Hong Kong Edition*, July 11, 2008.

⁷⁴ Richard Cullen, "Regulating Political Parties in Hong Kong," in *The Role of Political Parties in Hong Kong: The Next Ten Years*, Faculty of Law University of Hong Kong (December 2006).

⁷⁵ "Political censorship feared in rejection of Democrat's bus ads," *South China Morning Post*, August 9, 2008.

⁷⁶ "Emily hits at cab censorship," *South China Morning Post*, August 26, 2008.

James To said that political censorship was taken to the extreme when one taxi carrying a political advertisement was not allowed to enter a housing estate.⁷⁷

Questioning Polls and the Electoral Affairs Commission

Concerns were raised during the District Council elections in November 2007 regarding the over 13 institutions and individuals that were given approval to conduct exit polls. An investigation conducted by a newspaper found that of the 13, five of them had links to pro-Beijing groups, and reports of the exit polls were not made to the public. In key constituencies, knowledge of exit poll results could be crucial when it comes to shifting manpower and resources on Election Day. As is practiced elsewhere, these results could play a key role for political parties in directing supporters to vote for certain targeted lists.⁷⁸ However, the issue that arose is that while certain parties benefit from these polls in Hong Kong, they were not counted as part of their election campaign expenses.

In spite of repeated public calls for the Electoral Affairs Commission (EAC) to regulate the conduct of exit polls, the commission -- after consulting the public -- said that it would not limit the number of organizations or people carrying out exit polls during the September 7 LegCo elections. The commission also stated that the public has the right not to participate in polls, pointing out that there must be a balance between freedom of speech, academic freedom, and free flow of information.⁷⁹

The pan-democratic camp reminded people that they could refuse to talk to exit pollsters. It is not certain whether these reminders had any effect on the voters.⁸⁰ The call by the pan-democrats asking voters to not talk to exit pollsters combined with online campaigns that encouraged voters to give the “wrong answer” to confuse polling results may well have undermined the accuracy of any polling efforts.⁸¹

In the days leading up to the September 7 LegCo elections, the Chinese University’s Institute of Asia Pacific Studies cited a drop in polling responses by 10 percent.⁸² Local rights group Hong Kong Human Rights Monitor (HKHRM) criticized the Registration and Electoral Office for not publishing information about the organizations approved to conduct exit polls three days before the elections. HKHRM said the public had a right to know the background of organizations conducting such polls.⁸³

The Electoral Affairs Commission Chairman was eventually forced to address the exit polling issue after the ongoing attention in the media. The Chairman urged media organizations not to release details of exit polls before voting closed on the night of the

⁷⁷ NOW TV Legco Elections Forum, August 19, 2008.

⁷⁸ Chris Yeung, “Exit strategy for dubious election pollsters,” *South China Morning Post*, March 12, 2008.

⁷⁹ “Free for all Legco exit polls,” *The Standard*, July 11, 2008.

⁸⁰ *Ibid.*

⁸¹ Mary Ma, “It’s all a matter of opinion,” *The Standard*, September 4, 2008.

⁸² “Trust in surveys undermined, pollsters warn,” *South China Morning Post*, September 5, 2008.

⁸³ *Ibid.*

elections, and added that pollsters who made data available before the elections closed would have their permits to conduct exit polls revoked. In addition, Legislative Council candidates were warned that those who used exit poll data to influence the outcome of an election would have the total costs of the poll included in their election expenses.⁸⁴ Despite these attempts to ultimately address some of the concerns regarding exit polling, the EAC was criticized for reviewing only seven applications to conduct polls just days before the elections, and drew further criticism from parties for not developing more comprehensive rules for pollsters.⁸⁵

The Electoral Affairs Commission sees its role as promoting fairness and honesty in the electoral process while protecting the privacy of voters.⁸⁶ It acts as an independent body overseeing the elections, and has a far less proactive role than would normally be expected of an election commission. Candidates from both political camps expressed their frustration to the assessment team over their view that the EAC was “toothless,” as the penalty for non-compliance of any of the electoral guidelines is effectively a slap on the wrist, with a reprimand or censure in a public statement. Furthermore, candidates from both camps complained that the EAC rarely provides them with a timely response to their filed complaints, though the Commission assured the assessment team that they respond to all complaints “as soon as possible.” Pan-democrats felt that complaints against them were acted on more quickly by the EAC than complaints lodged against their pro-Beijing, pro-government colleagues.

On Election Day, the EAC received approximately 2,046 complaints, with most relating to election advertising and noise pollution, while 50 were related to exit polling.

CONCLUSION

The September 7, 2008 LegCo election results countered the conventional wisdom in Hong Kong that lower voter turnout is detrimental to pan-democrats. Despite the 45 percent turnout (which was significantly lower than in the 2004 elections), pan-democrats still won 23 of the 60 LegCo seats, only two fewer than the 2004 elections when turnout was much higher and the tide heavily favored the pro-democracy camp. The pan-democrats managed to maintain their legislative veto power by holding on to over one-third of the seats in the legislature. Even more telling, in the directly elected geographical constituencies, the pan-democratic camp still won a solid majority of those seats, securing 19 of the 30 GC spots. Though expectations were low for the pan-democrats and universal suffrage was no longer a major focal point for these elections, when the people of Hong Kong were allowed to vote directly for their LegCo members, they still clearly sought to have pan-democratic lawmakers represent them.

⁸⁴ Bonnie Chen, “Red line drawn across data from exit polls,” *The Standard*, September 4, 2008.

⁸⁵ *Ibid.*

⁸⁶ Approximately 2000 election complaints had been filed mainly on canvassing in no canvassing zones or no staying zones as well as about adverts used to promote candidates. Source: Denise Hung, “2000 election complaints filed,” *South China Morning Post*, November 19, 2007.

With the 2008 elections over, all parties and individuals are now shifting gears to focus on the government's upcoming public consultation on constitutional reform, which will pave the way for universal suffrage in 2017 and 2020. Many people are curious to see whether the same package that was proposed by the Chief Executive in 2005, but rejected by the LegCo, or elements of it, will re-emerge. The new LegCo will play an important role in deciding on the government's final constitutional reform proposals.⁸⁷ With this in mind, it will become vital for the pan-democrats to coordinate and cooperate on the issues, especially considering the increased number of parties comprising the pan-democratic camp in the new LegCo.

In terms of party development, the new Civic Party emerged as the most interesting party to watch during the pre-election period. Some believe that it could have the potential to eventually take the helm of the pan-democratic camp and/or the professional sector. However, as the election results showed, the party still has a long way to go. The next four years will also be a critical time for the Liberal Party to regain its footing and rebuild itself after its losses in the September elections and the subsequent resignations from the party.⁸⁸ In the HKTP August 2008 report commissioned by NDI, which surveyed public attitudes towards political parties and the functional constituencies, it was possibly prescient that professionals in the FCs aligned themselves more with the Civic Party than the pro-business Liberal Party. In light of the Civic Party's momentum and popular support, how the Liberal Party chooses to adapt to the new reality of Hong Kong politics may determine its long-term survival.

In addition, while the differences in resources between the pro-Beijing, pro-government camp and pan-democratic parties are clear, most political parties are reluctant to discuss the introduction of a party law. However, it has been suggested that perhaps the formal recognition and registration of parties, their legal status, and their financial and funding aspects should be reformed by making amendments to existing laws.⁸⁹

Many people with whom the NDI assessment team met suggested that the current Electoral Affairs Commission has adopted a "hands off" attitude to complaints. This may in part be due to the fact that many of the EAC's staff on Election Day and during the lead up to the elections are civil servants who return to their regular positions after the elections. The Electoral Affairs Commission could be more effective and proactive if it had a more permanent presence. Otherwise, the commission is effectively stripped down to the bare minimum to address complaints until the next round of major elections in 2012 (except for by-elections).

In early 2009, the HKSAR government is expected to introduce for public consultation a package on constitutional reform proposals to determine what changes

⁸⁷ Ambrose Leung, "Legco poll key to political reform," *South China Morning Post*, April 26, 2008.

⁸⁸ Ambrose Leung, Fanny Fung, Albert Wong and Eva Wu, "And then there were three: LegCo Liberals quit over leadership fight," *South China Morning Post*, October 9, 2008.

⁸⁹ Richard Cullen, "Regulating Political Parties in Hong Kong," in *The Role of Political Parties in Hong Kong: The Next Ten Years*, Faculty of Law University of Hong Kong (December 2006).

could be implemented for the 2012 CE and LegCo elections to set the stage for direct elections for the CE in 2017 and entire LegCo in 2020. The package is expected to include options for how to reform the CE election process in 2012, and whether the Election Committee for 2012 should be turned into the nominating committee for the 2017 CE election. Other items that are likely to be put on the table for consideration include whether the number of seats in LegCo should be increased, and redefinition of the electorate of the functional constituencies (new FCs, replacing corporate votes, reorganizing the FCs, etc). In the course of the most recent elections, there was much criticism of the proportional representation system as being difficult for the ordinary voter to understand, that it does not guarantee that whoever gets the most votes wins, and that it is seen as favoring the pro-establishment camp. However, it is not clear whether there will be room in the constitutional reform discussions to include a review of the actual voting system itself.

It remains to be seen how the debates on constitutional reform will progress, given the new Legislative Council. However, the Hong Kong government should ensure that all views consolidated during the public consultation be properly taken into consideration, and that it should work with the LegCo to make progress in crafting arrangements for the elections in 2012. With the SCNPC's December 2007 decision on the timetable, it is now up to the HKSAR government, the new LegCo, and Beijing to fulfill expectations of reaching the "ultimate goal" of universal suffrage for electing the Chief Executive in 2017 and the entire Legislative Council in 2020. The steps taken for the 2012 elections will be crucial in ensuring that the promise of democratization will be fulfilled in 2017 and 2020.

APPENDIX I

September 7, 2008 LegCo Election Results

Parties/Political Groups	Total Seats Won
<i>Pan-Democratic Camp</i>	
Democratic Party	8
Civic Party	5
League of Social Democrats	3
Hong Kong Association for Democracy and People's Livelihood (ADPL)	1
The Frontier	1
Civic Act-up	1
Hong Kong Confederation of Trade Unions (CTU)	1
Neighbourhood and Workers Service Centre (NWSC)	1
Independents	2
<i>Total</i>	<i>23</i>
<i>Pro-Beijing/Pro-government/Pro-establishment Camp</i>	
Democratic Alliance for the Betterment and Progress of Hong Kong (DAB)	10
Liberal Party ⁹⁰	7
Hong Kong Federation of Trade Unions (FTU)	4
The Alliance	3
Independents	6
<i>Total</i>	<i>30</i>
<i>Non-Partisan Individuals</i>	<i>7</i>

⁹⁰ However, immediately following the elections, Liberal Party legislator Lau Wong Fat quit the party, and on October 8, 2008, three more of the Liberal Party's elected LegCo members announced their resignations from the party, leaving the party with only three seats in the legislature. The four former Liberal Party legislators remain in the pro-Beijing camp. See: Ambrose Leung, Fanny Fung, Albert Wong and Eva Wu, "And then there were three: LegCo Liberals quit over leadership fight," *South China Morning Post*, October 9, 2008.

APPENDIX II

2008 Legislative Council Elections Case Studies: Student Observations

NDI would like to thank the Hong Kong Transition Project Director Prof. Michael DeGolyer, Cheung Puiki Research Assistant and the six student volunteers and the individual candidates and their campaign teams for their assistance on this project. The students included: Jacky Chiu Sung Kit (Selina Chow and Ken Chow); Henry Chu Kaihim (Regina Ip); Crystal Fu Yan Yuen (Alan Leong & Thomas Yu); Tse Ka Lok⁹¹ (Roy Tam); Kathleen Wong Kwan Ting (Tanya Chan & Audrey Eu) and Timothy Wong Shing Yip (Fred Li Wah Ming)

NDI, in collaboration with the Hong Kong Transition Project and with the assistance of six student volunteers, conducted an observation of the campaigns of six Legislative Council candidates, focused on qualitative aspects of their campaigns. The study was conducted to help better understand the role of Hong Kong's political parties in supporting candidates during election time, including campaign strategies as well as general campaigning techniques. Prior to observations, the students were briefed on their role as observers and the need to refrain from participating in any electioneering activities to ensure their neutrality.

The observations took place between July 31, 2008 and September 7, 2008. Students were asked to observe activities of the candidate and their aides, including types of campaign literature distributed, the reaction of passers-by, what other campaigning techniques were employed, and the tactics employed by the opponents. A de-briefing session was held with interested candidates on September 11, 2008.

The student volunteers observed the following six candidates:

<u>Name</u>	<u>Party</u>	<u>New/Incumbent</u>	<u>Constituency</u>
Tanya Chan Audrey Eu	Civic Party “	New Incumbent	HK Island “
Regina Ip	Independent	New	HK Island
Alan Leong Thomas Yu Kwun Wai	Civic Party “	Incumbent New	Kowloon East “
Fred Li Wah Ming	Democratic Party	Incumbent	Kowloon East
Roy Tam	Independent	New	Kowloon West

⁹¹ The student Tse Ka Lok was only able to complete half of the observations, the rest were conducted by the NDI Hong Kong field staff who were part of the election assessment team.

The following is a synopsis of the observations by the students. The students' full reports are available upon request.

Tanya Chan & Audrey Eu, Civic Party, HK Island (New and Incumbent Candidates)

Tanya Chan, a 36 year old barrister and Central and Western District Council member, ran with Civic Party leader Audrey Eu in the Hong Kong Island constituency.

The student observed that when both candidates were out campaigning, Audrey Eu was a natural crowd attraction, with quite a number of people requesting the opportunity to take a photo with her. Since the Civic Party had been focusing on the issue of public space, they often picked Times Square to conduct election campaigning. Security guards would sometimes show them the rules or approach them, but did not ask them to leave. Given that a lot of the passersby would talk to Audrey, she would ask them to pay attention to Amy Yung as well, who was third on the list. During some of the campaigns, it was evident that some of the voters were not too sure about the voting system, even asking Audrey to explain to them how the list system worked.



In an attempt to appeal to the youth, the Young Civics also organized a campaign, by paving a “Missing Person” advertisement asking people to “look for Tanya”. This attracted a lot of attention, and other Young Civics were holding placards with her picture on it. This seemed quite an innovative way to attract the voters’ attention.

At a book fair, although it was not an official election campaigning activity since some of the Civic Party members had their books published, it was a good opportunity to get in touch with potential voters.

The campaign focused on several areas, including education policy. At one of the events, the party organized a debate with Civic Party candidates (from different constituencies) dressed up as primary school students, and with Claudia Mo and Audrey Eu acting as “teachers” to raise awareness of the issues. This was a lively presentation and quite a few people stayed throughout the whole period to watch the event. Other issues discussed included cultural development, urban planning, and inflation issues.



Audrey Eu, as the leader of the party, also went to other constituencies to assist other newer candidates to campaign, such as Tsang Kwok Fung or Fernando Cheung, who ran in the geographical constituency for the first time.



Anson Chan also endorsed both Tanya Chan and Audrey Eu, and quite often assisted in their campaign efforts. Some candidates closer to election day apparently started saying that the Tanya-Audrey list had enough votes, and other candidates in the pan-democratic camp should be assisted. According to the student, the Tanya-Audrey team panicked and launched a “Get Audrey Back into LegCo” campaign asking for

100,000 votes to ensure 2 seats for the Civic Party. On election day, Audrey and the whole team were seen mobilizing some other candidates from other constituencies such as Alan Leong from Kowloon East to assist in the campaign.

Other candidates’ campaigns were observed on election day. There were calls from the Democratic Party in their flyers to consolidate all votes to their

party. The DAB also started declaring a “state of emergency” at approximately 2 p.m., calling for voters to support Choy So Yuk who was “in danger.” Some of the pamphlets were even district specific, with particular District Councilors appealing to voters in a particular district to “save” Choy So Yuk.

Both Tanya Chan and Audrey Eu were elected with a total of 82,600 votes.

Votes obtained by winning seats:

- List 2 – Cyd Ho, Independent, 30,887 votes
- List 3 – Kam Nai Wai, Democratic Party, 39,808 votes
- List 5 – Jasper Tsang, DAB, 60,417 votes
- List 8 - Tanya Chan & Audrey Eu, Civic Party, 82,600 votes
- List 9 – Regina Ip, Independent, 61,073 votes

**Ken Chow Wing Kan, Liberal Party, New Territories West
(New Candidate)**

Ken Chow, a Liberal Party member, has been the District Councilor in Yuen Long, Tin Shui Wai constituency since 1994. This time he ran second on a list with incumbent Selina Chow leading the list. During the District Council elections back in November, Ken Chow was also a subject of our student observations and won a District Council seat with 2,096 votes.



The student observed that Ken Chow adopted a division of labor with Selina Chow, with him concentrating in his strongholds of Tuen Mun and Yuen Long while Selina would concentrate on Tsuen Wan and Kwai Ching. At the start of the campaign, the student was told that there was an overall confidence that the votes from the rural villages or the Heung Yee Kuk could be seized as the relationship between the “Kuk” and the DAB was not close, and as the former assistant to the Chair of the Heung Yee Kuk, Lau Wong Fat, Ken Chow may have a certain advantage.



The student observed that the mobilization power of the candidate was very strong, with at least 100 supporters (mainly Ken Chow’s supporters from the districts, boy scouts, and representatives of residents’ associations) to assist in door canvassing and street campaigns. Ken also used microphones to broadcast his messages. However, he was concerned that many residents in the area may find this annoying, so he decided to use his own voice without the microphone, waved at residents, and stayed in one spot to deliver his message instead of walking around.



It was also observed that approximately 80 people were mobilized at Ken’s office to phone residents to persuade the voters to vote for Ken’s ticket. Generally, if the person called was receptive, then Ken’s team would try to persuade him or her to join the supporting team; if they were unsuccessful, then Ken would personally

make the call to try to persuade them.



The Liberal Party itself also provided support by using its network to send SMS messages and emails to Liberal Party member's retail shops such as G2000 or U2. And for particular industries, including the food and beverage industries or retail shops, functional constituency members of the Liberal Party were also asked to assist by putting up posters. Advertisements were also utilized with one particularly large one in Hong Kong at the entrance of the Route 3 Tunnel.

The student also was told that the party had adopted a strategy of not campaigning on Saturdays and Sundays until closer to the elections. It was discussed later that perhaps if the party had used the opportunity to campaign in support of, for example, a "five day work week" that may have brought home the message through their action. However, Ken Chow did not heed the party's strategy of no campaigning on the weekends, and went out and campaigned on the weekends, but with less assistance from helpers. The student observed that closer to the elections, other political parties started to print campaign flyers attacking both the DAB and the Liberal Party, but the volunteers were trained to not hand out that particular flyer when in the presence of an opponent candidate. In response, Selina Chow of the Liberal Party had a one page written response explaining her stance on the minimum wage, and also stood at a crossing to explain their stance. However, each crossing took approximately two minutes to change lights, and Selina's message took on average five minutes to deliver, which meant that potential voters never had a chance to hear her full message.

Prior to election day, it was decided that the call for a "state of emergency" would not be used until much later, in case it lost its efficacy. However it was not effective on election day, even when it was clear that the Liberal Party was not doing that well. The student also observed that the recording by Mrs. Chow was too long and her voice was too "soft" and there is no sense of urgency in her voice from the public's perspective. On the other hand, other candidates such as Fernando Cheung of the Civic Party and his supporters could be seen handing out flyers with Anson Chan and Fernando on the flyer appealing for support. The DAB's Tam Yiu Chung also put out an urgent appeal saying that the opposition was adopting smear tactics, and that it was important for the voters to come out and support them. Wong Kwok Hing of the FTU was also putting out urgent appeals.

Support from village leaders was also important, as Ken had earlier approached a private shop owner who had agreed to put up his banner or poster. However, this was removed

later, when a village leader with close connections with the DAB had forced the owner to remove it.

Upon analyzing the no canvassing zone in Tin Shui Wai, the area was too big for a densely populated district and the polling stations too close to each other. Several no-canvassing zones were linked together, leaving only a small path or one LRT station which allowed campaigning. The housing estates covered by the no canvassing zones were also the strongholds of the DAB, and the prohibition of other candidates to canvass in those areas further consolidated the support of the DAB in those districts. On the other hand, in Ken's stronghold, the whole estate of Tin Wah and half of Tin Shui Estate were opened for "free competition." The student was not sure whether there were any standards in relation to the drafting up of the no-canvassing zone.

Selina Chow and Ken Chow did not win seats, obtaining only a total of 21,570 votes.

Votes obtained by winning seats:

List 2 - Lee Cheuk Yan, Confederation of Trade Unions, 42,366 votes

List 3 - Tam Yiu Chung & Cheung Hok Ming, DAB, 92,037 votes

List 4 - Albert Ho Democratic Party, 36,764 votes

List 7- Albert Chan, League of Social Democrats, 32,182 votes

List 9 - Wong Kwok Hing, Federation of Trade Unions, 35,991 votes

List 13 - Leung Yiu Chung, NWSC, 42,441 votes

List 14 - Lee Wing Tat, Democratic Party, 45,767 votes

Regina Ip, Independent, HK Island (New Candidate)



Regina Ip's campaign team consisted of approximately 210 fresh graduates or undergraduates from local and foreign universities. The student felt that this reinforced her professional image. At one of the bus parades, although prominent candidates on the list took their turns to shout out campaign slogans and broadcast their messages, the students also had their turn to share the limelight when they took

the mike and rapped a song "Regina baby," which grabbed the attention of passersby and made it onto YouTube. The song was also burned to CDs and handed out to potential

voters. Regina, a self-professed Facebook fan, used the medium aggressively to send out her campaign messages.

Out of the student's observations, one notable feature of Regina's campaign was the heavy presence of the media, which made it hard for the candidate to get closer to the

voters. He also noted that the candidate went to certain tourist spots such as Lan Kwai Fong accompanied by the Chair of Lan Kwai Fong Allan Zeman, however some of the people she spoke to were in fact tourists who did not have the right to vote. In terms of general campaigning, wherever Regina went, the venue always had a few campaigners who had set everything up. In Happy Valley for example, a District Councilor



was there campaigning for her before she arrived. He also noted that while all the other candidates were declaring “states of emergencies” in their campaign, In the days leading up to election day and on the polling day itself, Regina was still handing out similar flyers to what she handed out earlier in her campaign. The student observer thought that perhaps if she had also declared a “state of emergency,” more votes may have gone to her list and perhaps Louis Shih could have made it into the legislature as well.

Regina Ip was elected with 61,073 votes.

Votes obtained by winning seats:

- List 2 – Cyd Ho, Independent, 30,887 votes
- List 3 – Kam Nai Wai, Democratic Party, 39,808 votes
- List 5 – Jasper Tsang, DAB, 60,417 votes
- List 8 - Tanya Chan & Audrey Eu, Civic Party, 82,600 votes
- List 9 – Regina Ip, Independent, 61,073 votes

**Alan Leong, Civic Party, Kowloon East
(Incumbent candidate)**

Alan Leong is a full time senior counsel and has been a Legislative Councilor since 2004. Backed by the Civic Party, he ran against Donald Tsang in the Chief Executive Election in 2007.



The words “Fairness” and “Justice” dominated the campaign, with the word “Fairness” written in traditional calligraphy on campaign flyers. The party also transformed a theme song related to fairness



and uploaded it on to their website for the public to download. The party’s efforts to reach out to the youth was evidenced by the release of a rap music video featuring all the Civic Party’s Legislative Councilors urging people to vote. The party also mobilized young volunteers to distribute flyers in the run-up to the elections and on election day.

The student observed that most of the time, the third candidate on the list, Wong Hok Ming, was not really featured or present when she was observing the candidates.

Anson Chan endorsed Thomas Yu on the party’s campaign flyers and also campaigned with both Alan Leong and Thomas Yu, second on Alan’s list and only 25 years old. On election day, as it was clear that Audrey Eu, party leader, needed assistance. Alan Leong had to go across to HK Island to assist in campaigning for her before returning to his own constituency to canvas for votes.

On election day, the Democratic Party’s Wu Chi Wai could be seen handing out flyers stating that Alan Leong had enough votes. Alan Leong had to counter this with his own flyer appealing to voters not to believe the rumors.

Alan Leong was elected with 39,274 votes.

Votes obtained by winning seats:

- List 3 - Chan Kam Lam, DAB, 53,472 votes
- List 4 - Alan Leong, Civic Party, 39,274 votes
- List 5 - Fred Li, Democratic Party, 48,124 votes
- List 6 - Wong Kwok Kin, Federation of Trade Unions, 50,320 votes

**Fred Li, Democratic Party, Kowloon East
(Incumbent candidate)**



Fred Li has been a Democratic Party Legislative Council member since 1991 and a District Council member for Kwun Tong since 1985. He ran in the Kowloon East Geographic Constituency. He was endorsed by Szeto Wah, Sin Chung Kai, and



Anson Chan at his campaign rally. In the midst of the Beijing Olympic games, Li organized a ping-pong match between his team and a local team in a bid to get the media's attention. Fred Li used cartoons in

some of his campaign advertisements in order to make his team appear younger, and to appeal to younger voters. He also used a clever play on words in his campaign flyers with his name translated into "Ming helps you!" In his newspaper campaign ad, he emphasized "let me take the responsibility to" monitor the government, fight for universal suffrage for the next generation, ensure the safety of our food, and serve the public with his 30 years of community experience. With the Mid-Autumn Festival just around the corner, Li also designed a cartoon flyer with mooncakes with faces of the candidates and added "double Wongs," which when translated into Cantonese could also mean "double egg yolks," symbolizing mooncakes.

The student observed that on election day, the DAB and the Federation of Trade Unions were out in full force, and had their banners and flags set up early. Wu Chi Wai, a Democratic Party candidate running on a separate ticket, had attempted to siphon off some of the Civic Party's Alan Leong's votes by handing out flyers saying he had enough votes, but Alan countered by handing out a flyer stating that voters should not believe rumors that he had enough votes. Wu also had a flyer listing out the seven "sins" of the DAB, which DAB candidate Chan Kam Lam's countered with a flyer.

Overall, the student felt that as a candidate, Fred Li stuck to the traditional meet and greet campaign tactics at restaurants, handing out of flyers, and placed advertisements. Like many other candidates, his campaign team also handed out fans, although his fan was slightly different as it was shaped like a hand signifying his ticket number "5." His fan was made of plastic, which was more resilient than the usual paper ones handed out by

other candidates. However, given that he also had two other District Councilors on his list, the district base could be mobilized in support of the campaign.

Another Democratic Party candidate, Wu Chi Wai, had been asking people to split their votes to ensure more Democrats would get into the legislature. However it is interesting to note that Fred Li, though from the same party, did not call for such a split.

Fred Li was elected with his 48,124 votes.

Votes obtained by winning seats:

List 3 - Chan Kam Lam, DAB, 53,472 votes

List 4 - Alan Leong, Civic Party, 39,274 votes

List 5 - Fred Li, Democratic Party, 48,124 votes

List 6 - Wong Kwok Kin, Federation of Trade Unions, 50,320 votes

Roy Tam, Independent, Kowloon West (New Candidate)



Roy Tam was a 28 year old independent candidate in Kowloon West, who is a secondary school teacher and also the president of Green Sense, an environmental group. Tam was not backed by any political party and had to rely on his own limited resources.

He relied on his team of young volunteers, consisting of his students and neighbors, to distribute leaflets. He also set up collection boxes beside the garbage bins down the road so when people throw away his leaflets, he could reuse them. However, it may have had the opposite effect of encouraging people not to keep the flyers.

Tam picked areas that are heavily polluted, such as Mongkok and footbridges at the entrance of tunnels. Those areas helped him demonstrate that pollution is a serious problem and that he would help solve it if voted into office. He also demonstrated to the locals how to limit the use of plastic bags in the wet markets. In live debates between candidates, Tam's expertise on green issues often left him unchallenged by other candidates on the topic. The student felt that he lacked the resources and experience to bring attention to his campaign.

On election day, four young members of Tam's campaign team were seen holding a big banner highlighting the issue of the "walled building effect." On top of the



banner was a picture of the candidate. The candidate himself was seen at another location with three other campaign team members assisting him with campaigning.

Roy Tam did not win a seat, obtaining only a total of 1,603 votes.

Votes obtained by winning seats:

List 2 - Starry Lee, DAB, 39,013 votes

List 4 - James To, Democratic Party, 29,690 votes

List 7 - Priscilla Leung, Independent, 19,914 votes

List 8 - Wong Yuk Man, League of Social Democrats, 37,553 votes

List 10 - Frederick Fung Kin Kee, ADPL, 35,440 votes

APPENDIX III

