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Navigating between empires: the discourses on self-determination in and about Hong Kong

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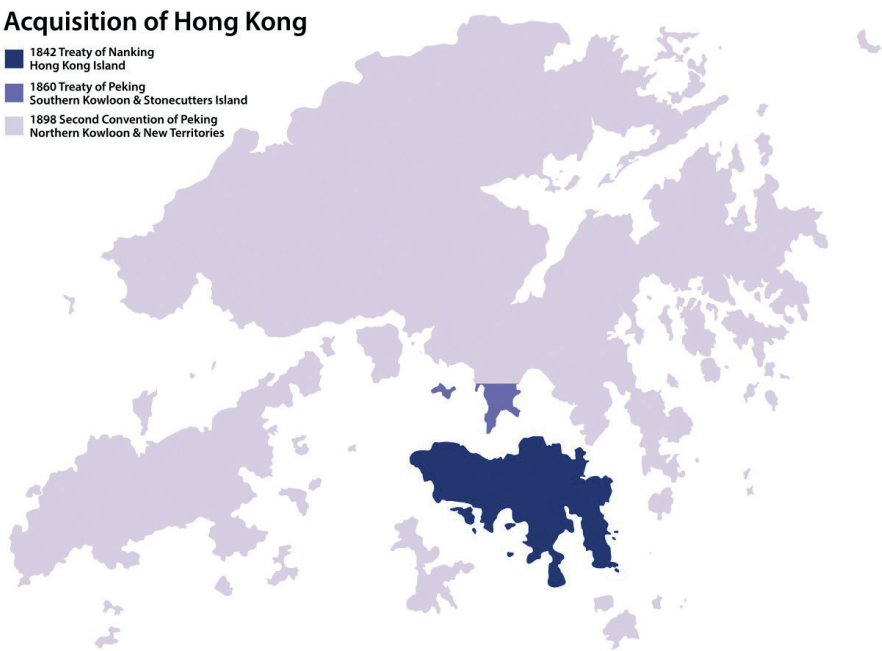
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Map 1: Acquisition of Hong Kong by the British²⁴⁸⁸



²⁴⁸⁸ 'Acquisition of Hong_Kong' <https://upload.wikimedia.org/wikipedia/commons/thumb/5/52/Acquisition_of_Hong_Kong.svg/640px-Acquisition_of_Hong_Kong.svg.png?1635692241432>.

Table 1: Improvements to Key Articles endorsed by the Basic Law Drafting Committee at its Eighth Plenum (9 – 15 January 1989)²⁴⁸⁹

Criticism on Consultation Draft	Improvement in latest draft
<i>Central/SAR Relationship</i>	
1. JD provision (JD 28) that the maintenance of public order in the SAR is the responsibility of the SAR is <u>not</u> reflected.	JD 28 is now reflected in Article 14(2)
2. Legislative power of the SAR legislature would be undermined by NPC Standing Committee's power to revoke or return <u>any</u> SAR law inconsistent with the BL (Art. 16).	NPC Standing Committee can only <u>return</u> (but <u>not</u> revoke) an SAR law inconsistent with those BL provisions falling within the CPG's responsibility (Art. 17).
3. The scope of the nationwide law, which could be applied to the SAR is too wide (Art. 17).	Nation-wide laws applicable to the SAR are confined to those outside the limits of the SAR's autonomy <u>and</u> are listed in an annex (Art. 18 and Annex III).
4. Restrictions on the jurisdiction of the SAR courts (eg over executive acts) go beyond the present practice (Art. 18).	SAR courts will have jurisdiction over all cases "except those constituted by acts of state". The wording seeks to follow the present practice (Art. 19); but remain unclear. Text was <u>not</u> agreed by the necessary 2/3 majority of the BLDC and will need further consideration.
5. [NPCSC]'s power of interpretation is too wide. Before passing final judgments, SAR courts are required to seek interpretation from the SC whenever a case <u>involves</u> an interpretation of a provision outside the SAR's autonomy (Art. 169).	NPCSC delegates power to interpret the "autonomy" provisions to SAR courts on their own. Courts of the SAR will only refer to the [NPCSC] when in their view an interpretation from the [NPCSC] on a provision of the SAR's autonomy is <u>required</u> for the judgment to be made (Art. 157).
6. The scope of acts "designed to undermine national unity or subvert the CPG" in Art. 22 is capable of being interpreted very widely.	A more precise and familiar formulation ("act of treason, splitting the state, sedition, and the theft of official secrets") is adopted (Art. 23).
7. Composition of the Basic Law Committee unclear.	Basic Law Committee to consist of 6 HK members and 6 mainland members. HK members to be nominated jointly by the Chief Executive, Chief Justice and President of LegCo (BLDC recommendations).
<i>Human Rights</i>	
8. Inadequate protection of human rights, as the SAR legislature can enact laws to restrict human rights beyond the limits permissible under the two Covenants (Art. 38-39).	Restrictions on rights and freedom must <u>not</u> contravene the Covenants (Art. 39).
9. Drafting defects on some articles (eg prohibition against "unlawful" arrest or search of body/ premises accords no real protection) (Art. 27-28).	"Arbitrary arrest" on search is also prohibited (Art. 28-29).
<i>Others</i>	
10. A break of LegCo membership is envisaged (Annex III)	Members of the last HK LegCo will become members of the first SAR legislature subject to certain conditions, is adopted (draft NPC Resolution).

²⁴⁸⁹ Annex II to Peirce to Powell, 17 February 1989, in 'PREM 19/2727, Hong Kong (Future of Hong Kong) (Part 20)' (n 1918) f41.

Criticism on Consultation Draft	Improvement in latest draft
11. Unclear about what role the officials will play in the SAR legislature	There will be no officials in LegCo, but they may attend meetings to transact government business without the right to vote (Art. 62); President of LegCo will be elected amongst its members (Art. 70); government business to be given priority (Art. 71).
Others	
12. Chinese nationality requirement extended to cover some officials who are <u>not</u> Principal Officials (Art. 100).	A reduced list covering Principal Officials only (Art. 100).
13. The status of the English language is unclear (Art. 9)	Express provision that English will also be an official language in the SAR (Art. 9).
14. Not clear whether there will be an authentic text of the Basic Law	Clear indication that the [NPCSC] will promulgate an authentic English text

Figure 1: The composition of the LegCo after the 1985 electoral reform

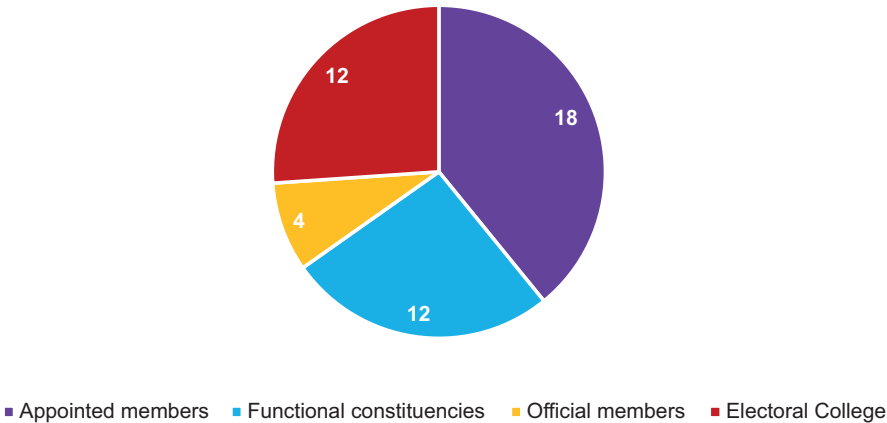


Figure 2: The composition of the LegCo after the 1988 electoral reform

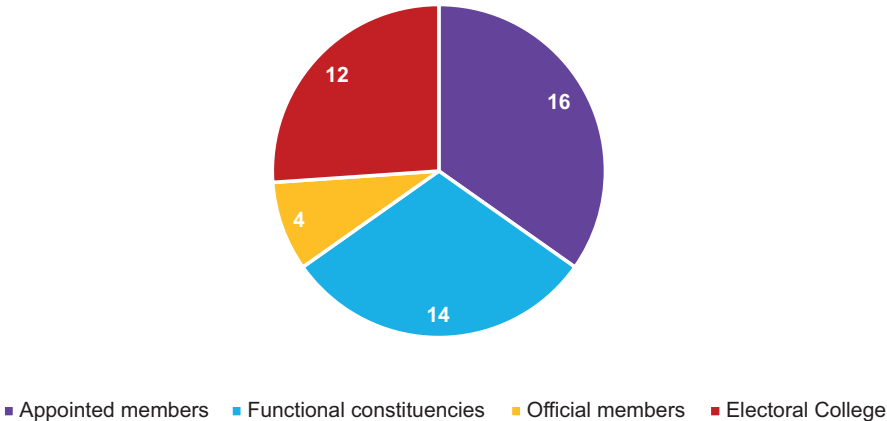


Figure 3: The composition of the LegCo after the 1990 electoral reform

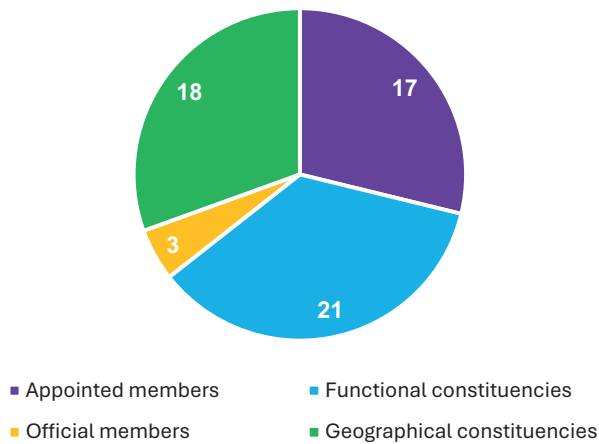


Figure 4: The composition of the LegCo after the 1994 electoral reform

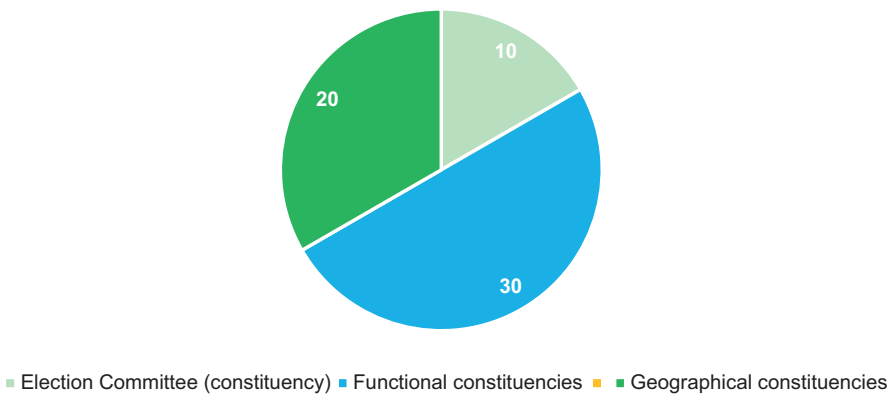


Figure 5: Alternative 1 of Annex II, Basic Law April 1988 Draft

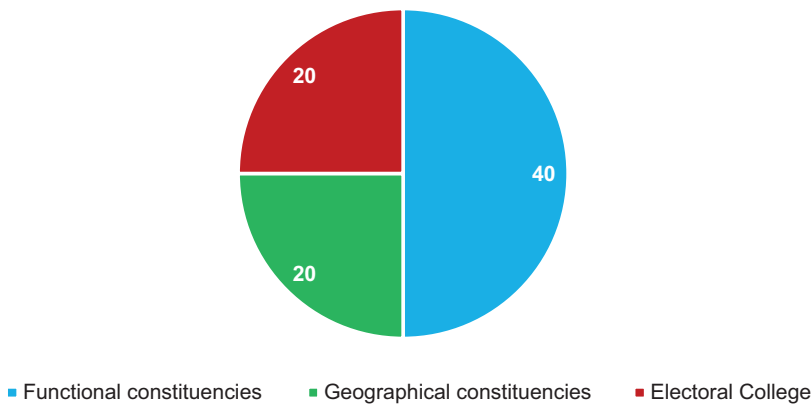


Figure 6: Alternative 2 of Annex II, Basic Law April 1988 Draft

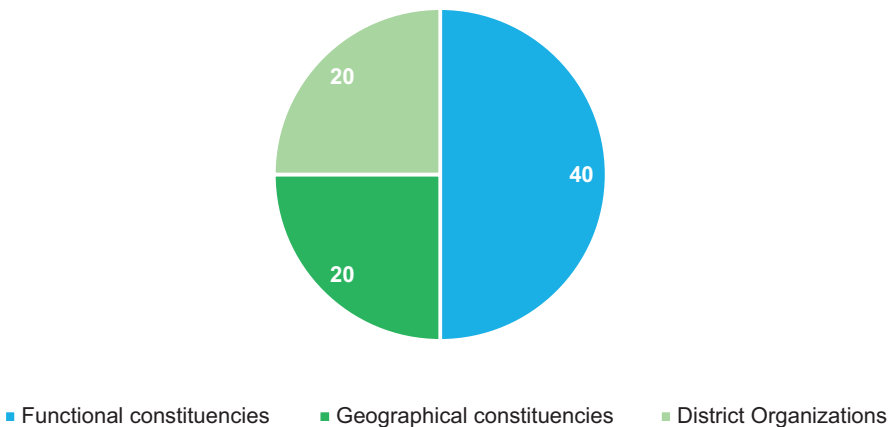


Figure 7: Alternative 3 of Annex II, Basic Law April 1988 Draft

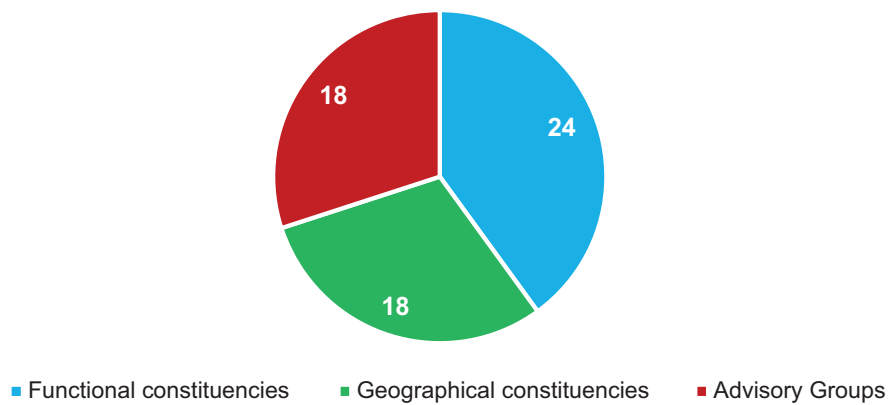


Figure 8: Alternative 4 of Annex II, Basic Law April 1988 Draft

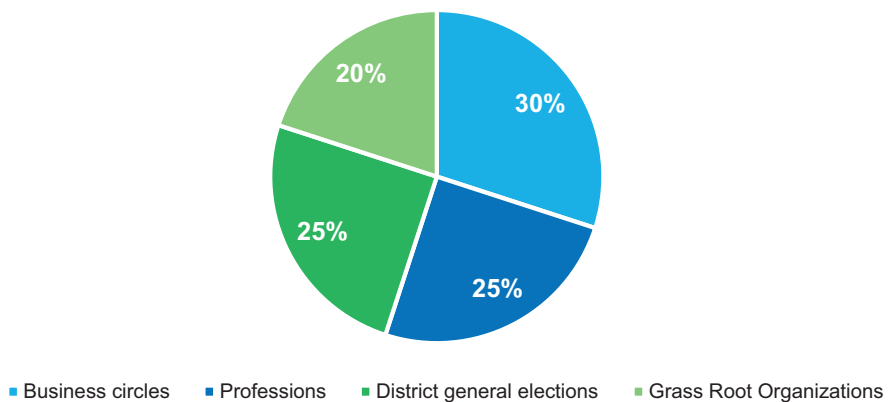


Figure 9: First Term of the LegCo (1997-2001), Basic Law February 1989 Draft

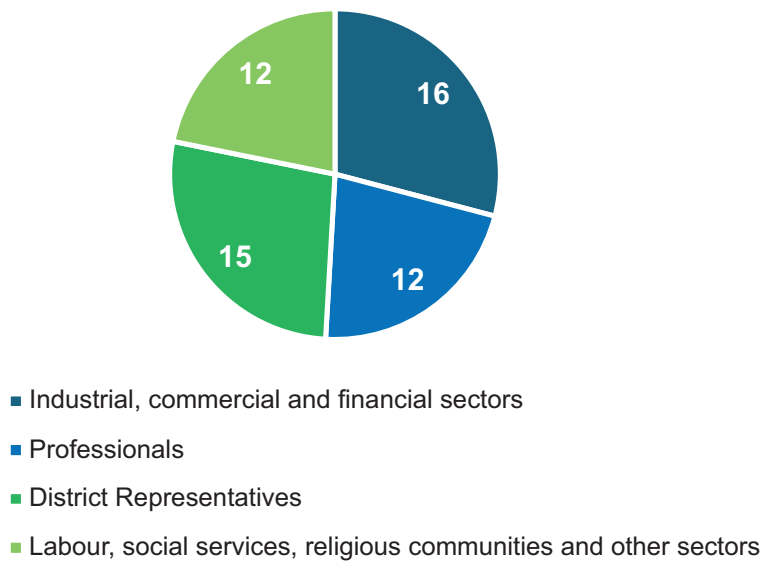


Figure 10: Second Term of the LegCo (2000-2004), Basic Law February 1989 Draft

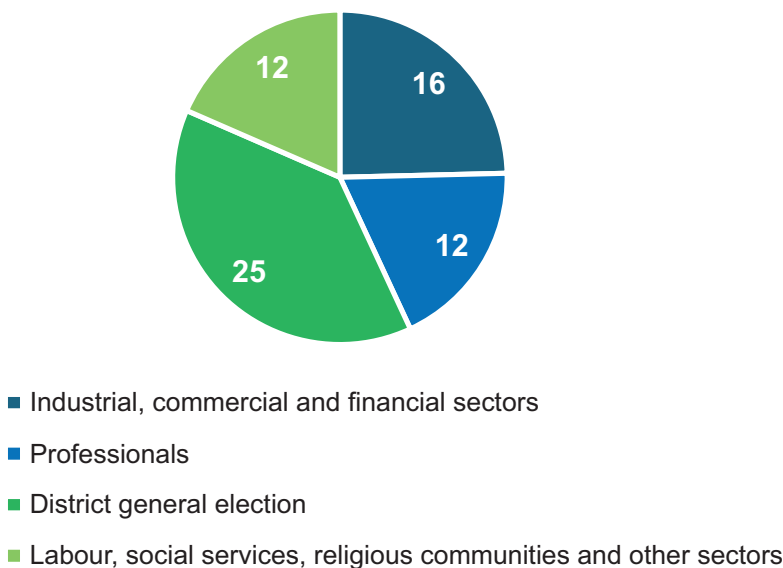


Figure 11: Third Term of the LegCo (2000-2004), Basic Law February 1989 Draft

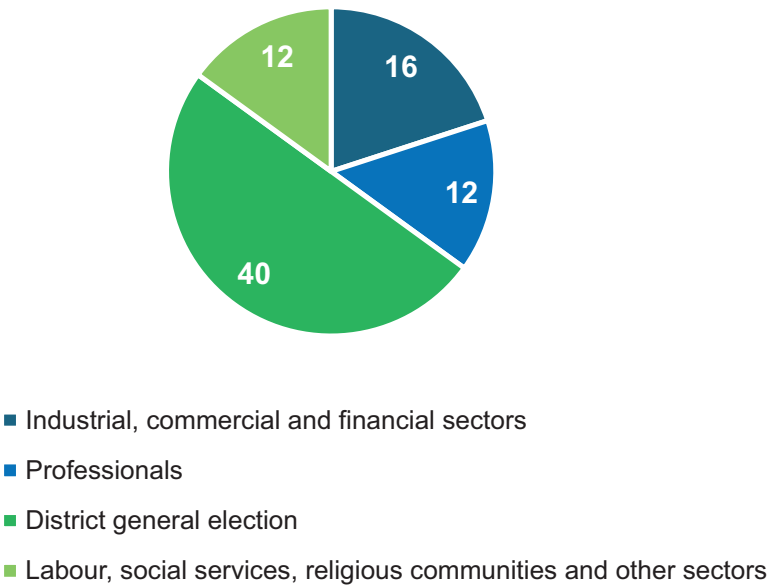


Figure 12: First term of the LegCo (1997-1999) as per the NPCSC

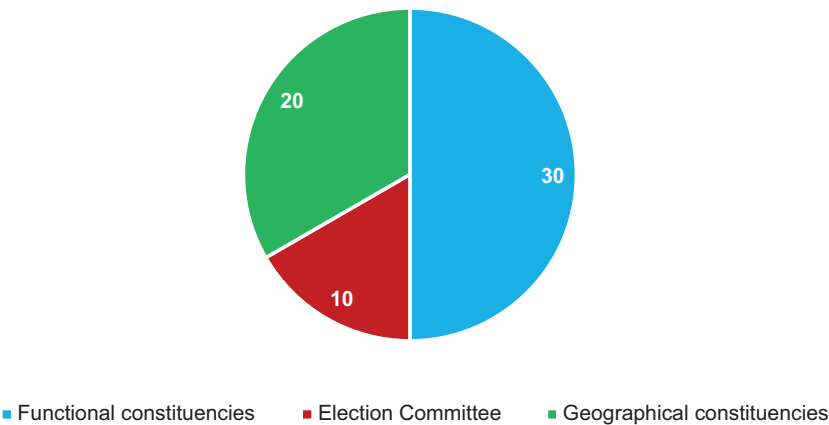


Figure 13: Second term of the LegCo (1999-2003) as per Annex II of the Basic Law

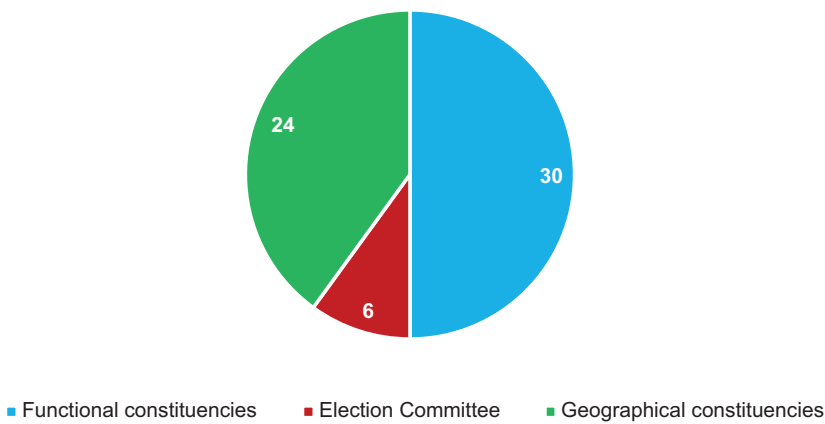


Figure 14: Third term of the LegCo (2003-2008) as per Annex II of the Basic Law

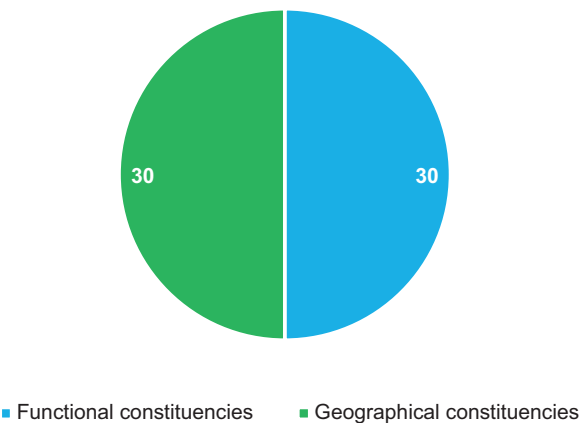


Figure 15: LegCo after the 2010 electoral reform

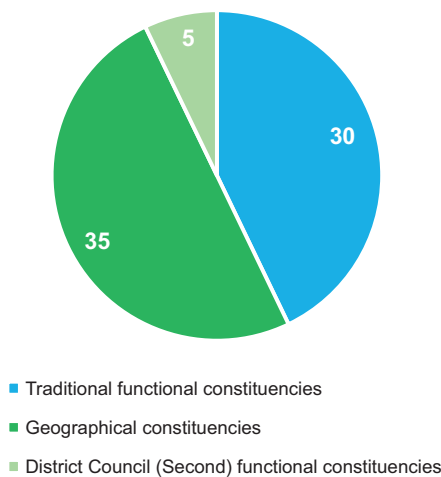
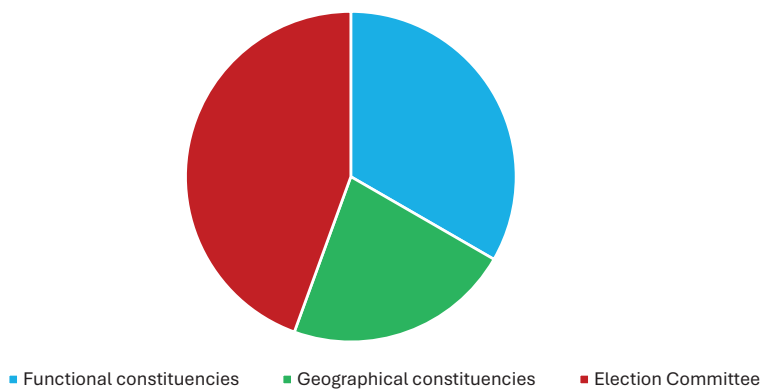


Figure 16: LegCo after the 2021 electoral reform



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