

Improving electoral system to ensure prosperity and stability

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When improving the electoral system of a place, one would take into account the historical background, cultural diversity, political thoughts, and inevitably the historical and current state of political development and the actual circumstances there. With all these in mind, appropriate actions could be taken to improve democratic electoral system.

Legal basis

In any state, the political structure is entirely within the purview of the central authorities. China is a unitary state and all powers emanate from the Central Authorities. The National People's Congress (NPC) being the highest state organ of power in China, under Article 62 of the Constitution, "shall exercise the following functions and

powers” including “(2) overseeing the enforcement of the Constitution”, “(14) deciding on the establishment of special administrative regions and the systems to be instituted there”, and “(16) other functions and powers that the highest state organ of power should exercise”.

According to Article 31 of the Constitution, the systems instituted in special administrative regions shall, in light of specific circumstances, be prescribed by laws enacted by the NPC. The electoral system of the Hong Kong Special Administrative Region (HKSAR) is an important part of the political structure of the HKSAR. When there is a need to improve the electoral system of the HKSAR, the NPC has the power and indeed duty to do so. It is beyond a shadow of a doubt that the NPC has the power to make such improvements. The fact that Annexes I and II to the Basic Law may provide for other means to amend the system does not in any way derogate from the constitutional duty and power of the NPC.

The Decision of the National People’s Congress on improving the electoral system of the HKSAR (the

Decision) was passed yesterday. As foreshadowed in the explanations by Vice Chairman of the Standing Committee of the NPC, Mr Wang Chen, on March 5, the overarching approach is that the overall design of the system will be centred around the reformation and greater empowerment of the Election Committee, with adjustments to be made to its size, composition and formation method, and entrusted with a new function of electing a part of the Legislative Council. “Through the Election Committee, the balanced and orderly political participation will be expanded and broader representation ensured in the Hong Kong society... This design is aimed to form a new democratic electoral system suited to Hong Kong’s realities and with Hong Kong characteristics.”

In the Decision, the NPC authorised its Standing Committee to make amendments to Annexes I and II to the Basic Law. After the amendments, the HKSAR has to amend relevant local laws accordingly so as to implement the Decision and the amended Annexes I and II to the Basic

Law. This will then complete the legislative processes for this new democratic electoral system.

Balanced and orderly political participation and broader representation

The adjustments to the size and composition of the Election Committee and the Legislative Council mean that there is an increase of some 25% to 28% of members, and hence a broader representation overall. The additional sector and constituency will also provide a more balanced political participation. Definitely a positive move for the electoral system in the HKSAR.

The increase from 1200 to 1500 members in the Election Committee expands the participation in the process of the selection of the Chief Executive. The representation is expanded by introducing a fifth sector and adjustments to the composition of the Election Committee. This will bring about a more balanced and broader representation of the Hong Kong society in the Election Committee.

The number of Legislative Council members is also increased from 70 to 90, thereby enlarging the number of people participating in the legislative process and bringing about a wider perspective that will be useful in facilitating a more comprehensive debate. The election of some members of the Legislative Council by the Election Committee reflects the important responsibility for representing the overall interests of Hong Kong society vested in the Election Committee in the future electoral system.

The improvement aims to expand the balanced and orderly political participation as well as a broader representation of society, signifying an important move to advance our democratic electoral system.

Election Committee as the ballast

The Election Committee is given two new functions: to elect some of the Legislative Council members, and to take

part in the nomination of candidates for the Legislative Council. These are important aspects of the electoral system. The Election Committee is like the ballast of the new democratic electoral system, ensuring more balanced and orderly political participation and representation of the overall interests of society, so as to fully and faithfully implement the policy of “one country, two systems”.

Patriots administering Hong Kong is the key

Such a statement in other jurisdictions may seem to be a cliché as it is almost a given. Anywhere in the world when people participate in an election, they try and show how much more patriotic they are than their opponents. The need to have “administration of Hong Kong by Hong Kong people with patriots as the main body” expressly reiterated in the Decision is because of the experience that Hong Kong has had where separatists etc participated in the political structure.

Amendments to nomination of candidates for the Chief Executive and participation of the Election Committee in the nomination of candidates for the Legislative Council ensure that a candidate will have a broader support from society.

The candidate qualification review committee of the HKSAR, which shall be established, aims to ensure that the qualifications of every candidate are in conformity with Article 104 of the Basic Law, the Hong Kong National Security Law, NPCSC’s interpretation of Article 104 of the Basic Law (Interpretation of Article 104), the Decision by the NPCSC on the qualification of the HKSAR Legislative Council members (11.11 Decision), and relevant local laws etc to genuinely and sincerely uphold the Basic Law of the HKSAR of the People’s Republic of China (PRC) and swear allegiance to the HKSAR of the PRC. These legal instruments stipulate clear and objective standard of “administration of Hong Kong by Hong Kong people with patriots as the main body”.

Having considered the actual circumstances of Hong Kong, the NPC made the Decision timeously. The NPCSC will make the amendments to Annexes I and II of the Basic Law in accordance with the Constitution, the Basic Law, the Hong Kong National Security Law, the NPC Decision and related legal instruments. The HKSAR will complete the legislative amendments to the local laws with a view to implementing the Decision and Annexes I and II to the Basic Law on improving the HKSAR's electoral system at the earliest possible juncture in order to enhance the governance efficacy of the HKSAR. As such, the "one country, two systems" will continue to be implemented steadfastly, thus safeguarding the sovereignty, security and development interests of the country, and ensuring the prosperity and stability of Hong Kong.

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