

## **LegCo election marks new era for HK's democracy**

**(by Secretary for Justice, Ms Teresa Cheng, SC)**

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The Legislative Council General Election has been successfully completed, and elected members are busy preparing themselves for the new term. It was an opportune time for the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region to organise a seminar to recap on the development of our democratic system, especially in light of some ill-informed comments that have been made by foreign countries. At the seminar, candidates who had stood for the election, some elected and some not, gave their firsthand experience of the process. They unequivocally and adamantly expressed their appreciation of an election that was not only open and inclusive, but also fair. They described the election as a milestone to the democratic development in Hong Kong and noted the quality of the democratic system.

As President Xi Jinping said after receiving the report from the Chief Executive, the democratic rights of Hong Kong have been realised. Indeed, the white paper on "Hong Kong Democratic Progress Under the Framework of One Country, Two Systems", published by the State Council Information Office, rightly pointed out that during British colonial rule, we were not able to enjoy the democratic rights that we now do.

Article 25(b) of the International Covenant on Civil and Political Rights guarantees the right to vote and to be elected. In 1976, when

the ICCPR was applied to Hong Kong, the United Kingdom reserved the right not to apply Article 25(b) “in so far as it may require the establishment of an elected Executive or Legislative Council in Hong Kong”. When the Sino-British Joint Declaration was signed, there was no mention of universal suffrage. Conversely, it is in Annex 1 to the Joint Declaration, which is an elaboration by the Government of the People’s Republic of China of its basic policies regarding Hong Kong, that states “the legislature of the HKSAR shall be constituted by elections.” The 59 members of the Drafting Committee for the HKSAR Basic Law came from the Chinese mainland and Hong Kong, signifying that we had become the master of our future. Articles 45 and 68 of the Basic Law provide that the ultimate aim of universal suffrage is to be achieved in light of the actual situation in Hong Kong and in accordance with the principle of gradual and orderly process. When the National People’s Congress adopted the Basic Law in 1990, the democratic process was established and is protected under our Basic Law.

Some countries who think they have hegemonic power shamelessly attempt to impose their values or system on other places. It is trite that there is no one panacea for all. Different forms of democracy exist in different parts of the world and each must reflect and be tailor-made to cater for the historical, political and cultural background of each country. The most important purpose of democracy is to pursue the well-being and happiness for their people. It is the quality of the Legislative Council members that matters. Direct election is not the only way to achieve this. A democratic system for the betterment of the people may well be met by processes such as consultation and compromise. The election this year has realised the very purpose

of democracy and promoted balanced political participation and broad representation. It goes without saying that patriots should be administering Hong Kong, and the system that has been devised achieves just that.

The fact that each place must have its own democratic system is not only a matter of political common sense but is also an internationally recognised principle. The United Nations in its 66th Session of the General Assembly reiterated that there is “no single model of democracy”. The UN Human Rights Committee’s General Comment No. 25 on “The right to participate in public affairs, voting rights and the right of equal access to public service” explicitly acknowledges that “the (ICCPR) does not impose any particular electoral system.”

In European jurisprudence, the European Court of Human Rights has also repeatedly emphasised the latitude given to each state in setting the rules governing eligibility to stand for election and the diversity of possible approaches within the European Union. In the case of *Zdanoka vs Latvia*, the court held that “there are numerous ways of organising and running electoral systems and a wealth of differences, inter alia, in historical development, cultural diversity and political thought within Europe, which it is for each contracting state to mold into its own democratic vision.”

It is therefore not right for any country to comment, let alone criticise or smear, the democratic electoral arrangements of another country. Not only would this violate the international principle of nonintervention based on the core tenet of all states being equal; it also means that such comments are worthless since they are made

with a lack of understanding of what is most suitable for a particular jurisdiction. In the absence of full understanding of the historical, cultural, economic and social situation that is on the ground here in Hong Kong, China, such ill-informed comments, made either out of ignorance or with ulterior motives, can have no weight whatsoever.

Hong Kong's democratic development is a matter entirely within the purview of the central authorities and is pursued in accordance with the constitutional order as set out in our Constitution and the Basic Law, and also the principle of "one country, two systems." The election that was conducted was carried out in a fair and honest manner. As a matter of fact, Hong Kong needs to move forward from a disorderly, nonfunctional and chaotic Legislative Council to one that will serve as a forum for informed, rational and constructive discussions for the betterment of Hong Kong.

We are the master of our own future and must not let those ill-informed and partial comments with ulterior motives divide us. I am confident that with the restoration of order and functionality in the Legislative Council, we will not only move from stability to prosperity, but will also thrive with security.