

Interpretation conducive to HK stability, prosperity



HONG KONG FORUM

By David Lan

secretariat@ncforum.org.hk

The interpretation of the Basic Law by the Standing Committee of the National People's Congress (NPCSC) on April 6 has stirred heated debate in Hong Kong. Immediately after the top legislature's move, Qiao Xiaoyang, deputy secretary-general of the NPCSC, visited Hong Kong for three days and met a wide spectrum of the community to explain why the interpretation was necessary.

His visit helped Hong Kong people better understand the relevant issues surrounding the interpretation.

Despite strong opposition from certain groups, Hong Kong people's overall reaction on the issue can be described as relatively mild. They seem to have accepted that the interpretation is a necessary step in Hong Kong's constitutional development.

The following points are worth mentioning:

a) The interpretation this time is different from that in 1999, which was initiated by the HKSAR government on the right of abode issue, a matter within the "two systems".

This time, the contentious issue touches on universal suffrage in the election of the chief executive (CE) and the entire legislature, which falls within "one country" in light of the Basic Law.

b) This time, the interpretation touches only on procedures, which still allows Hong Kong to have significant input.

c) The central government has been supportive in helping Hong Kong maintain

its long-term stability and prosperity. Its stance as expressed by Qiao and his team is widely considered sensible and necessary to safeguard Hong Kong's stability and prosperity.

The main objections to, and concerns about, the interpretation are based on the following:

a) It undermines "One Country, Two Systems" and the high degree of autonomy Hong Kong enjoys;

b) It adds more barriers to Hong Kong's constitutional development.

Let us examine the four points of the NPCSC interpretation.

The first, which declares that "subsequent to the year 2007" shall include the year 2007 has been welcomed. There are also no strong objections against the other two points - "If there is a need to amend" means the methods for selecting the CE and the LegCo may or may not be amended; and if no amendments are to be made, the existing election methods shall continue to be applicable.

The real controversy is on the requirement that, to kickstart the political reform process, the CE must first submit a report to NPCSC, which will then decide whether there is a need for electoral changes.

Some see it as an additional barrier to reform, besides what has been laid down in the Basic Law: endorsement of two-thirds of all LegCo members, CE's consent and (in the case of CE's appointment) approval by the NPCSC.

But most people do not share this concern. They see the interpretation as merely stating the obvious, in clarifying two necessary procedural steps to be taken before any electoral changes are initiated.

As the Basic Law prevents any individual LegCo member from initiating constitutional changes, is there any other person more qualified than the CE to represent Hong Kong in this?

One cannot imagine, before the handover, that Hong Kong would be given the privilege enabling a former governor to suggest changes (reflecting Hong Kong people's wishes) in the Letters Patent on the appointment of a new governor.

Furthermore, the requirements of the

CE's report and the NPCSC's approval would help build greater harmony between the HKSAR and the central government. As one academic pointed out on a TV programme, Hong Kong must try to avoid the situation that the central government turns down a resolution on political reform passed by a two-thirds majority of LegCo members and with the consent of the CE.

Common Law lawyers who have little or no understanding of the Basic Law may have difficulty accepting that anybody other than a court of law can interpret the Basic Law. However, the Basic Law clearly

stipulates that the power of interpretation shall be vested with the NPCSC.

On the other hand, is the NPCSC keen to do the interpretation?

Whilst in Hong Kong, Deputy Secretary-General Qiao kept repeating that NPCSC did the interpretation only when there was an absolute necessity - to safeguard Hong Kong's stability and prosperity.

As for the CE's recent report on the need for electoral changes, criticisms

focused mainly on the following:

a) Why did he submit the report so quickly without public consultation?

b) The nine factors he outlines in the report are seen as additional hurdles to constitutional development.

But the government's Constitutional Development Task Force had conducted a three-month consultation with all parties and groups in Hong Kong before it submitted its report on April 15.

And the nine factors merely spell out more clearly what is already there in the Basic Law, according to Secretary for Constitutional Affairs Stephen Lam.

On Wednesday and Thursday, NPCSC Deputy Secretary-General Qiao and his team met again in Shenzhen with representatives of different sectors of the Hong Kong community. The purpose was to listen to Hong Kong people's views on the CE's report before the NPCSC makes a final decision.

There was basically no disagreement whatsoever between the central government and Hong Kong that universal suffrage is the ultimate aim, as clearly spelt out in the Basic Law. The question now is on the timeframe and necessary steps/procedures towards achieving this goal.

In my opinion, harmonious discussions in a positive and co-operative atmosphere are likely to encourage the central government to help Hong Kong achieve the goal earlier. A confrontational approach will take Hong Kong nowhere.

“ Harmonious discussions in a positive and co-operative atmosphere are likely to encourage the central government to help Hong Kong achieve the (political reform) goal earlier. A confrontational approach will take Hong Kong nowhere. ”

The author is deputy convenor of New Century Forum; ex-secretary for home affairs of the Hong Kong government; and delegate to the Chinese People's Political Consultative Conference.

26/4/2004

China

Daily