

CE's speech in delivering "The Chief Executive's 2020 Policy Address" to LegCo (2)

III. Upholding "One Country, Two Systems"

Staying True to Our Original Aspiration

9. This year marks the 30th anniversary of the promulgation of the Basic Law. Looking back at the development journey of the HKSAR in the past 23 years, we should deeply appreciate the great concept of "One Country, Two Systems" put forth by Mr Deng Xiaoping, which has not only successfully resolved the issues left over by history, making it possible for Hong Kong to return to the embrace of our motherland, but also ensured the prosperity and stability of Hong Kong. Last year, the fourth plenary session of the 19th Central Committee of the Communist Party of China (CCCPC) adopted the decision on "upholding the principle of 'One Country, Two Systems', maintaining lasting prosperity and stability of Hong Kong and Macao, and promoting the peaceful reunification of China" as one of the notable strengths of the state and governance systems of our country. This clearly illustrates the Central Government's unwavering determination in upholding the "One Country, Two Systems" principle.

10. To ensure that the "One Country, Two Systems" principle is fully and accurately implemented, we must adhere to the Constitution and the Basic Law. According to Article 31 of the Constitution, "The State may establish special administrative regions when necessary. The systems to be instituted in special administrative regions shall be prescribed by law enacted by the National People's Congress in the light of specific conditions." The National People's Congress (NPC) is the highest organ of state power, and its decisions have the highest legal effect. The Standing Committee of the NPC (NPCSC) has the power to interpret the Basic Law. The NPC and its Standing Committee have the power to supervise the implementation of the Basic Law. These provisions, in essence, constitute the constitutional order of the HKSAR.

Improving the Implementation of "One Country, Two Systems"

The Chief Executive's Mission

11. Shortly after my assumption of office, I made it clear that to ensure the robustness of "One Country, Two Systems", the HKSAR must uphold the "One Country" principle and handle the relationship between the Central Government and the HKSAR correctly. The Chief Executive is responsible to both the HKSAR and the Central People's Government (CPG). Under the constitutional function of "dual responsibility", the Chief Executive is required to comprehensively, accurately and firmly implement the "One Country, Two Systems" principle and uphold the Basic Law.

12. Under the Basic Law, the Chief Executive is vested with the dual role as head of the executive authorities of the HKSAR, that is, the HKSAR Government, and that of the HKSAR representing the whole Region. One can see the extensive powers conferred upon the Chief Executive by referring to Chapter IV of the Basic Law, which sets out the provisions relating to the political structure of the HKSAR. In addition to leading the executive authorities, the Chief Executive has specific roles and functions to play in respect of the exercise of powers and functions by the legislature and the judiciary of Hong Kong. This demonstrates the HKSAR's adherence to the executive-led structure under the core leadership of the Chief Executive, who is directly accountable to the CPG. Under this framework, the powers of the executive authorities, the legislature and the judiciary are "individually positioned" with a division of work. There is no conflict between an executive-led system and an independent Judiciary, since one of the Chief Executive's duties is to uphold judicial independence which is protected under the Basic Law.

13. While the HKSAR has been established for over 23 years, from time to time there are still divergent views on the basic issues pertaining to the political system, and some issues are politically manipulated due to the society's inadequate understanding of the Constitution and the Basic Law and the fact that some people's awareness of the "One Country" principle has yet to be enhanced. In addition, ill-intentioned people influenced by external forces have made use of the relatively complicated social and political situation in Hong Kong to deliberately mislead the public about the relationship between the Central Government and the HKSAR. In the past year or so, Hong Kong has experienced the most severe political challenges since its return to the motherland. One of our urgent priorities is to restore HKSAR's constitutional order and political system from chaos.

Hong Kong National Security Law

14. It is the constitutional responsibility of the HKSAR to safeguard our country's sovereignty, security and development interests. Article 23 of the Basic Law stipulates that Hong Kong shall enact laws on its own to prohibit specified acts and activities which endanger national security. Notwithstanding Hong Kong's reunification with the motherland 23 years ago, and after five terms of Government, this legislative exercise is still not yet completed. Hong Kong has become an obvious gaping hole in national security and presented significant risks to the country. Since the onset of the disturbances arising from the opposition to the proposed legislative amendments to the Fugitive Offenders Ordinance in June last year, we have seen escalating violence and damages as well as opposition forces and organisations advocating "Hong Kong independence" and "self-determination". These opposition forces and organisations blatantly challenged the authority of the Central Government and the HKSAR Government, pleaded for interference in Hong Kong's affairs by external forces and even begged for sanctions against Hong Kong. Meanwhile, foreign governments and legislatures have intensified their interference in Hong Kong's affairs which are squarely China's internal affairs, severely jeopardising our nation's security.

15. The situation of Hong Kong has evolved to such a state that the Central

Government has no alternative but to step in and take action. On 30 June this year, the NPCSC passed the National Security Law and included it in Annex III to the Basic Law in accordance with Article 18 of the Basic Law. The law took effect in Hong Kong on the same day. Over the past four months or so, the National Security Law has been remarkably effective in restoring stability in Hong Kong: advocacies of "Hong Kong independence" and collusions with external forces have progressively subsided; some of the prominent figures have kept a low profile; radical organisations have ceased operation or dissolved; those who are suspected of violating the law have absconded; and street violence is significantly on the decline. After a year of social unrest with fear for personal safety, Hong Kong people can once again enjoy their basic rights and freedoms according to the law. I must emphasise that, as expressly provided in Article 4 of the National Security Law, the principle of respecting and protecting human rights will be upheld and the legitimate rights of Hong Kong people to exercise their freedom of speech, press, assembly, demonstration and procession, etc. will not be compromised in safeguarding national security.

16. According to Article 12 of the National Security Law, the Committee for Safeguarding National Security of the HKSAR chaired by me shall assume primary responsibility for safeguarding national security in the HKSAR and is supervised by and accountable to the CPG. I and all committee members will do our utmost to fully co-operate with the National Security Adviser appointed by the Central Government as well as the Office for Safeguarding National Security and other offices set up by the Central Government in the HKSAR, and to make the best use of the powers conferred by the National Security Law upon the HKSAR Government. We will also spare no effort in fulfilling our responsibility in exercising jurisdiction over criminal cases under the National Security Law to effectively prevent, suppress and punish acts and activities that endanger national security.

17. To safeguard national security comprehensively, it is incumbent upon the HKSAR Government to strengthen publicity and education to enhance Hong Kong people's understanding of national security and law-abiding awareness. We are drawing up relevant plans in accordance with Articles 9 and 10 of the National Security Law, and will make good use of the annual Constitution Day and National Security Education Day to conduct public education on a larger scale.

National Flag, National Emblem and National Anthem

18. National flag, national emblem and national anthem are the symbols and signs of a nation and must be protected by law and respected by people. According to Article 18 of the Basic Law, it is the constitutional responsibility of the HKSAR to implement in Hong Kong national laws listed in Annex III to the Basic Law. Upon completion of the local legislative procedures, the National Anthem Ordinance formally came into effect in the HKSAR on 12 June 2020. On 17 October 2020, the NPCSC endorsed the amendments to the Law of the People's Republic of China on the National Flag and the Law of the People's Republic of China on the National Emblem. The HKSAR Government will introduce suitable amendments to the National Flag and

National Emblem Ordinance, with a view to implementing provisions that are applicable to the HKSAR and fulfilling the constitutional responsibility of the HKSAR.

Oath-taking by Public Officers

19. Article 104 of the Basic Law provides that when assuming office, the Chief Executive, principal officials, members of the Executive Council and of the LegCo, judges of the courts at all levels and other members of the Judiciary in the HKSAR must, in accordance with law, swear to uphold the Basic Law and swear allegiance to the HKSAR. The NPCSC endorsed the Interpretation of Article 104 (the Interpretation) on 7 November 2016, which explains that the provisions of the Article are not only the legal content which must be included in the oath, but also the legal requirements and preconditions for standing for election or taking up the public offices specified in the Article. The taking of the oath is a legal pledge made by public officers to the People's Republic of China and the HKSAR, and is legally binding. The Interpretation also makes it clear that an oath taker who makes a false oath, or, who, after taking the oath, engages in conduct in breach of the oath, shall bear legal responsibility in accordance with the law. Article 35 of the National Security Law clearly stipulates that a person who is convicted of an offence endangering national security shall immediately be disqualified from standing as a candidate in elections or holding any public office. The NPCSC endorsed the decision on the qualification of LegCo members on 11 November, expressly stating that a LegCo member does not fulfil the legal requirements and conditions on upholding the Basic Law and pledging allegiance to the HKSAR of the People's Republic of China if the member advocates or supports "Hong Kong independence", refuses to recognise the People's Republic of China's sovereignty over Hong Kong and the exercise of the sovereignty, solicits intervention by foreign or external forces in the HKSAR's affairs, or carries out other acts that endanger national security. When the member is so decided in accordance with law, he or she is immediately disqualified from being a LegCo member. To implement the Basic Law, the requirements of the National Security Law, as well as the NPCSC's Interpretation and decision on the qualification of LegCo members, the HKSAR Government will introduce a bill with reference to relevant local court judgments within this year to amend such local laws as the Oaths and Declarations Ordinance and the Legislative Council Ordinance in order to enhance the oath-taking arrangements and to deal with those who have engaged in conduct that breaches the oath after swearing-in as well as the legal consequences and the relevant statutory procedures involved.

20. Pursuant to Article 99 of the Basic Law, civil servants must dedicate themselves to their duties and be responsible to the HKSAR Government. The HKSAR Government has made it clear that all civil servants joining the Government on or after 1 July 2020 must sign a declaration to uphold the Basic Law, swear allegiance to the HKSAR of the People's Republic of China and be responsible to the HKSAR Government. As for serving civil servants, the Secretary for the Civil Service will announce the implementation details in due course.

(To be continued.)