

The Special Administrative Region System Enhances the Distinctive Features of Socialism with Chinese Characteristics

LENG Tiexun*

The Special Administrative Region (SAR) system is an important system developed by China in accordance with relevant provisions of the *Constitution of the People's Republic of China* (hereinafter as “the Constitution”), for the two SARs established upon its resumption of exercise of sovereignty over the two SARs and for the practice of the “One Country, Two Systems” policy in their governance. Under this system, the Central Government grants the SARs a high degree of autonomy and local self-administration in accordance with law, while retaining the essential powers reflecting national sovereignty, unity and territorial integrity. As an innovative system for state governance, the SAR system embodies the “One Country, Two Systems” principle, has been developed and put into practice in China, has distinctive Chinese characteristics and is an important component of socialism with Chinese characteristics. As Deng Xiaoping pointed out, “We are building socialism suited to Chinese conditions, which is why we were able to formulate the policy of ‘One Country, Two Systems’ and why we can allow the two different systems to coexist.”¹ “Our socialist system is a system with Chinese characteristics. One important characteristic is our way of handling the Questions of Hong Kong, Macao and Taiwan, or the ‘One Country, Two Systems’ policy. This is something new. It was created not by the United States, Japan, or the Soviet Union, but by China; that is why we call it a Chinese characteristic.”² As an important component of socialism with Chinese characteristics, the SAR system plays an irreplaceable and positive role in promoting peaceful national reunification, safeguarding state sovereignty, security and development interests, and maintaining long-term prosperity and stability of the Hong Kong SAR and the Macao SAR.

I. “One China” and the Practice of Socialism in the Main Part of the State as Preconditions for the SAR System

The structural components of the SAR system include a) the system concerning the relationship between the Central Government and the SARs and b) the system for a high degree of autonomy within the SARs. The latter is derived from authorization by the Central Government rather than inherent in the SAR system itself. Specifically, it is derived from authorization by the National People's Congress (NPC) that grants the SARs a high degree of autonomy and allows them to keep the existing capitalist system unchanged through enactment of the *Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* (hereinafter as “the Hong Kong Basic Law”) and the *Basic Law of the Macao Special Administrative Region of the People's Republic of China* (hereinafter as “the Macao Basic Law”). The maintenance of the

* Research Fellow of Associate Professor Grade, One Country Two Systems Research Center, Macao Polytechnic Institute

existing capitalist system within the SARs is based on the condition of “one China” and the practice of socialist system in the main part of the state. Therefore, we cannot deny the SAR system is an important component of socialism with Chinese characteristics simply because the SARs maintain their preexisting capitalist system. The key is that the practice of the capitalist system and policies within the SAR is a special arrangement within the constitutional framework of China and is under the condition of “one China” and the practice of socialism in the main part of the state. With this precondition, the practice of capitalism in specific regions of the state will not affect, let alone change, the socialist system practiced in the main part of the state. As for the political nature of the state, it is of course determined by the social system practiced in the main, unaffected and unchanged by societal systems in its specific regions. “Two systems” can coexist under the condition of practicing the “One Country, Two Systems” policy, but are not equal, with one being primary and the other secondary.

Therefore, in the context of the SAR system, the practice of socialism in the main part of the state is an important prerequisite for the “One Country, Two Systems” policy, apart from the one-China principle. In this regard, Wu Bangguo, Chairman of the Standing Committee of the NPC stated categorically, at the forums respectively commemorating the 10th anniversaries of the entry of the Hong Kong Basic Law and the Macao Basic Law into effect, that the practice of the capitalist system and policies within the SARs is under the condition of adhering to “one China” principle and the practice of socialist system in the main part of the state. This is a prerequisite for the “One Country, Two Systems” policy and the two Basic Laws. Socialist system is the foundation for the principle and policy of “One Country, Two Systems”, without which there would not have been the “One Country, Two Systems” policy. We should not give up or even attempt to change the socialist system of the country, because capitalist system is being practiced in its special regions. If we were to do that, we would commit the fallacy of faulty generalization and fail to grasp the objective and core of the “One Country, Two Systems” principle and policy.

Precisely because the “Two Systems” are tiered, the practice of capitalist system in certain regions of the country neither will nor can determine or alter the fundamental nature of the state. On the one hand, the tiered levels were designated with respect for history and reality, and institutionalized in law. On the other, the practice of existing capitalist system in the Hong Kong SAR and the Macao SAR, as mentioned above, is under the condition of socialism being practiced in the main part of the state, without which any talk of maintaining the previously existing capitalist system and coexistence of the two systems would have no solid basis. Therefore, a firm grip of the dialectical relationship between “One Country” and “Two Systems” is imperative for correct implementation of the “One Country, Two Systems” policy and the SAR system defined by the Basic Laws. We can then match adherence to the “One Country” principle with respect for differences in the “Two Systems”, without neglecting either or putting them in isolation or pitching them against each other. To achieve this, the key is a proper handling of the relationship between the main part of the state where socialism is practiced and the SARs where capitalism is practiced. A normal, stable and harmonious relationship should be maintained between the socialist main part and the capitalist SARs. The state grants the SARs a high degree of autonomy within the scope of its state sovereignty, which forms the basis for proper handling of the relationship between the Central Government and the SARs. Based on the “One Country” principle, the Central Government exercises full sovereign authority over the two SARs. In accordance with the principle of a high degree of autonomy, the Central Government, while retaining its requisite sovereign powers, grants the two SARs a high degree of autonomy and refrains from interfering in their affairs that are within the scope of autonomy. At the same time, the SARs must respect and submit to the Central Government’s constitutional powers over them, and should not seek to become relatively independent “political entity” in disguise, much less a bastion of antagonistic forces of both domestic and international extraction bent on subverting the socialist system on the Mainland. The

mutual respect between the two systems, with "One Country" as a great common ground and preservation of major differences of the "Two Systems", is the path to long-term harmony between the Mainland and the SARs.³

"One China" and the practice of socialism in the main part of the state being a prerequisite for the SAR system shows that the system was intended not only to achieve peaceful unification but also to create unique, favorable conditions for the common prosperity of the Mainland and Hong Kong and Macao. This is possible because this innovative system can accommodate both the reality of China and the two SARs, and the legitimate interests of related countries. Such an arrangement conforms to the trend of peaceful development in the world. It is through the SAR system, the "One Country, Two Systems" idea transitioned from a policy to law. It hence allowed a valuable period of strategic opportunities for the cause of building and developing socialism with Chinese characteristics. In this sense, the SAR system has been most conducive to China's socialist modernization and realizing its strategic goal for economic development. It is rightly an important component of socialism with Chinese characteristics.

II. Safeguarding State Sovereignty, Security and Development Interests and Maintaining Long-Term Prosperity and Stability of Hong Kong and Macao as a Fundamental Objective

The SAR system is the conduit of the "One Country, Two Systems" policy. Its fundamental objective is safeguarding state sovereignty, security and development interests and maintaining long-term prosperity and stability of Hong Kong and Macao, which is determined by the core requirement and objective of the policy of "One Country, Two Systems".

The "One Country, Two Systems" theory is an integral part of Deng Xiaoping Theory and therefore an important component of the system of theories of socialism with Chinese characteristics. As such, the "One Country, Two Systems" policy was certainly not an ad hoc idea in response to matters of urgency concocted by one national leader, or a measure of expediency for immediate gains. It was a basic national policy intended for the long term and proposed by Deng Xiaoping after careful consideration drawing upon collective wisdom of the Communist Party of China (CPC). Its fundamental objective is to achieve peaceful reunification of the country and the great revival of the Chinese nation. Today, for the Hong Kong SAR and the Macao SAR, the "One Country, Two Systems" principle is no longer a mere concept, but the basis for the new SAR system established in the two SARs. Its practice in the two SARs has already been a living reality.

The "One Country, Two Systems" principle is a trailblazing cause for the common development and prosperity of Hong Kong and Macao, and the Mainland, and is integral to the great cause of national revival. Its core requirement and basic objective is to safeguard state sovereignty, security and development interests and maintain long-term prosperity and stability of Hong Kong and Macao. The report to the 18th National Congress of the CPC captured the essence of all this. It stated, "The underlying goal of the principles and policies adopted by the Central Government concerning Hong Kong and Macao is to uphold China's sovereignty, security and development interests and maintain long-term prosperity and stability of the two regions." In his address at the Meeting Celebrating the 15th Anniversary of Hong Kong's Return to the Motherland and the Inauguration of the Fourth-term Government of the Hong Kong SAR on 1st July 2012, President Hu Jintao stated "to safeguard state sovereignty, security and development interests and to ensure long-term prosperity and stability in Hong Kong" is the core requirement and basic objective of practicing the "One Country, Two Systems" policy. The evolution of the "One Country, Two Systems" policy from an initial concept to being the direction for tackling the Questions of Hong Kong and Macao demonstrates a consistency in Chinese Government's principled stance on

Hong Kong and Macao, i.e. safeguarding state sovereignty, security and development interests and maintaining long-term prosperity and stability of the two SARs. Upon return of Hong Kong and Macao, the historic mission to resume exercise of sovereignty over Hong Kong and Macao was completed. However, safeguarding state sovereignty, security and development interests and maintaining their prosperity and stability is a perpetual theme and long-term task.

The SAR system as the conduit of the “One Country, Two Systems” policy is indispensable in such a task. While safeguarding state sovereignty, security and development interests and the socialist system practiced in the main part of the country, to govern, build and develop successfully the two SARs that practice capitalist system is a new objective of governance under new conditions for both the Central Government and the SAR Governments. Therefore, they and all compatriots on the Mainland and in the two SARs should seek to explore and experiment in their practice of the “One Country, Two Systems” policy, put into practice procedures and policies designed for the SARs in accordance with provisions of the Basic Laws, and continuously enrich the scientific content of the “One Country, Two Systems” policy. Specifically, in the practice of the SAR system, we must remain committed to keeping a balance between adhering to the “One Country” principle and respecting differences of the “Two Systems”, between upholding the authority of the Central Government and ensuring a high degree of regional autonomy, between seeking strong support of the Mainland and enhancing intrinsic local competitiveness. For the Mainland, it should accord sufficient respect and tolerance for the capitalist system practiced in the SARs and its attending phenomena, should not judge and make demands based on the Mainland’s notions and standard, and be open-minded in learning from the advanced management systems and experience of the SARs. For the SARs, they should respect the socialist system in main part of the country, respect in particular the political system practiced by the state, and respect the judicial system of the Mainland. The SARs’ residents should thoroughly understand national conditions of China, the leadership position of the CPC, and the practice of socialism with Chinese characteristics as a historical choice of the nation.⁴

The SAR system is the conduit and legal expression of the “One Country, Two Systems” policy. Its fundamental objective of safeguarding state sovereignty, security and development interests and maintaining prosperity and stability of Hong Kong and Macao conforms to the actual conditions of the Mainland and the two regions, the laws of development in the world, the fundamental interest of all people of China, including those in Hong Kong and Macao. It is a destiny of China’s historical development and its great cause for peaceful reunification and national revival. It is undisputedly an important component of socialism with Chinese characteristics.

III. The SAR System as an Important Component of the State’s Political System

The contemporary political system of China is a socialist system with Chinese characteristics. The SAR system, with its distinctive Chinese characteristics and systematic innovation, is an important, irreplaceable component of this political system.

3.1 The “One Country, Two Systems” theory – the theoretical basis of the SAR system – is an important component of socialism with Chinese characteristics

The SAR system is an outcome of the theoretical development of the “One Country, Two Systems” principle. The “One Country, Two Systems” theory is both an important component of Deng Xiaoping Theory and, by extension, a component of the theory of socialism with Chinese characteristics. It arose in the context of Chinese socialism and has served a positive role in enriching the theory of socialism with Chinese characteristics. On the one hand, the “One Country, Two Systems” policy was proposed with full consideration for China’s real conditions. It was first

conceived in relation to solving the Taiwan Question, with due respect for the strong desire of the people in Taiwan region for governing their own affairs and for fully safeguarding the immediate and long-term interests of Taiwan compatriots in the process of national reunification. Based on such considerations, Deng Xiaoping categorically proposed that Taiwan could retain its existing capitalist system and way of life upon reunification with the motherland. This concept could also be applied to solving the Hong Kong and Macao problems. On the other hand, the "One Country, Two Systems" policy is also conducive to building socialism with Chinese characteristics. For the Chinese Mainland, the gradual implementation of this policy ensured a peaceful and stable environment for its reform, opening up and modernization. It is also conducive to multifaceted cooperation and exchange among the Mainland, Hong Kong and Macao and to its learning from the latter's advanced management experience. Not only that, achieving peaceful reunification using the "One Country, Two Systems" approach also accorded Hong Kong and Macao tremendous political and economic benefits, which has been amply demonstrated in their smooth return and subsequent development. If Taiwan authorities can also accept and adopt the "One Country, Two Systems" concept, the ultimate reunification and national peace can thus be fully achieved. The overall strength of the Chinese nation will be greatly enhanced and the Chinese nation will then stand as a truly unified nation among nations of the world with a brand new image.

3.2 The "One Country, Two Systems" policy – the policy foundation of the SAR system – is a basic national policy

The principle of "One Country, Two Systems" provides the basis for the Hong Kong Basic Law and the Macao Basic Law. The SAR system established according to the two Basic Laws is thus also based on this principle. As a policy for achieving peaceful reunification, the "One Country, Two Systems" policy is a basic national policy rather than a measure of expediency to address the state's immediate concerns. By basic national policy is meant the basic policy of the state. It is by definition a stable and long-term policy vs. policies of general nature. In the hierarchy of national policies, a basic policy is at the highest level and no other general policies can contravene the basic policy. It also serves as a guiding policy, when other related state policies are formulated, and provides a frame of reference for aligning policies for related areas. In short, a basic policy of the state is of such a fundamental stature that it shall remain in effect for the long-term and play a continuous role over an extended period.⁵ In fact, the "One Country, Two Systems" policy as China's basic national policy is instituted for long-term implementation. China is currently at the primary stage of socialist development whereby the gap between the growing material and cultural needs of the people and the lagging social production is a main contradiction that will remain throughout this primary stage and in all spheres of the society. Solving this problem will be a long-term process requiring relentless efforts. The reality of the primary stage of socialism determines our choice of the "One Country, Two Systems" policy as a peaceful path to national reunification and a solution to legacy problems of Taiwan, Hong Kong and Macao. By so doing, we can ensure a relatively stable environment for the country's economic, social and cultural development, and continued prosperity and stability of Taiwan, Hong Kong and Macao upon their reunification with the motherland. To achieve this objective, the "One Country, Two Systems" policy has to remain in place as a long-term policy.

3.3 The SAR system falls within the scope of NPC legislative mandate

According to Article 31 of the Constitution, the systems to be instituted in the SARs shall be prescribed by law enacted by the NPC. This means that the SAR system falls within the scope of the powers of the national legislature and can only be instituted by the NPC – the highest organ of the state power. As Article 8 of *Legislation Law of the People's Republic of China* (hereinafter as "the Legislation Law") clearly states, the SAR system shall only be defined and governed by law.

Such provisions by the Constitution and the Legislation Law demonstrate the importance of the SAR system in the development of country's political system. The Hong Kong Basic Law and the Macao Basic Law – the normative legal forms of the SAR system – also fully demonstrate such importance. The two Basic Laws were enacted by the NPC with their levels of importance higher than other laws. This is evident in their respective provisions for and processes of formulation and amendment. Furthermore, the procedure for amendment to the Hong Kong Basic Law and the Macao Basic Law are stricter than for other basic laws. According to provisions of the Legislation Law, the NPC Standing Committee has the power to amend laws enacted by the NPC when the latter is in recess. The right to amend the Hong Kong Basic Law and the Macao Basic Law however is reserved for the NPC only. There are also strict provisions for motioning amendment, i.e. by the NPC Standing Committee, the State Council and the SARs only. The only reasonable explanation for the Hong Kong Basic Law and the Macao Basic Law being enacted by the NPC with strict restrictions concerning their amendment is the important position of the SAR system, defined by the two Basic Laws, in the national political system.

3.4 The Basic Laws – as legal expression of the SAR system – are constitutional laws in the legal system with Chinese characteristics

In a socialist legal system with Chinese characteristics, laws under the Constitution are grouped into seven categories in accordance with the subject and manner of their jurisdiction. Among them, constitutional laws are ranked at the top because of their relative importance. This body of laws supplements the Constitution, and ensures its implementation and the functioning of the state. Constitutional laws mostly fall within the legislative scope of the NPC and its Standing Committee. They cover four areas: a) laws concerning the formation, organization, functions and basic procedures of state organs; b) laws concerning the systems of regional autonomy for minority nationalities, the SARs and grass roots self-government; c) laws safeguarding sovereignty, territorial integrity and national security; d) laws protecting citizens' basic rights. Of these, laws concerning the SAR system can only be legally enacted by the NPC. The Hong Kong Basic Law and the Macao Basic Law are formulated by the NPC in accordance with the Constitution for the implementation of its Article 31. They are typical constitutional laws that are formed on the basis of the Constitution with the objective for ensuring its implementation. In the socialist legal system with Chinese characteristics, they rightly belong to the category of constitutional laws. As they were formulated by the state legislature as constitutional laws defining the SAR system, they are not *general* constitutional laws in Chinese legal system. In fact, the format of the Hong Kong Basic Law and the Macao Basic Law conforms to that of the Constitution. In addition to the preambles, other provisions in the two Basic Laws are all principles and norms that are of the same nature as those in the Constitution, rather than rules and norms concerning conduct and legal consequences. Furthermore, while general constitutional laws usually do not serve as legal standard for other laws, the Hong Kong Basic Law and the Macao Basic Law have such a function, specifying no laws in the SARs shall contravene the Basic Laws. The status of the Hong Kong Basic Law and the Macao Basic Law as constitutional laws in the socialist legal system with Chinese characteristics has determined the extremely important role of the SAR system in safeguarding national unity and territorial integrity and achieving the goal of great reunification of the motherland as defined by the Constitution.

3.5 The constitutional status of the SAR system illustrates self-improvement of the socialist Constitution with Chinese characteristics

The socialist legal system with Chinese characteristics is the legal foundation for the China's socialist system and its perpetuation. It institutionalizes the state's political system and functions in codified forms of the Constitution and relevant laws. The Constitution is of the supreme order and

at the core of China's legal system. According to Article 31 of the Constitution, the state may establish SARs when necessary. The systems to be instituted in these regions are prescribed by laws enacted by the NPC in the light of the specific conditions. This provision states that the new SAR system is enshrined in the state Constitution. The new system is of a design unprecedented in human history and embodies a new development model for political progress in the world.⁶ It is branded with distinctive national features in keeping up with the times. It is a system defined by a constitutional law and affirmed in the state's fundamental law, which allows special regions to keep their existing capitalist system unchanged while the main part of the country continues to practice its socialist system. It is a breakthrough in political science concerning traditional models of the state, allowing peaceful coexistence of two different social systems within a single country. It has also created a new form of relationship between central and local governments, enriching the theory for state structures. The SARs within the unitary state structure are local administrative regions directly under the Central Government, enjoying a high degree of autonomy in accordance with the basic laws. Such a high degree of autonomy exceeds not only what is enjoyed by other administrative regions in China, such as autonomous regions of ethnic minorities, but also in certain aspects and to a certain extent the scope of powers exercised by member states in a federal structure, e.g. the independent judicial powers, the power of final adjudication, and the authority to issue SARs' own currencies. All this fully demonstrates that the SAR system is an innovative design in the context of socialism with Chinese characteristics and self-improvement of the Constitution with Chinese characteristics.

In short, the SAR system, with its holistic concept and innovative design, has become an effective conduit of the basic national policy of "One Country, Two Systems", an embodiment of all the unique features and strength of socialism with Chinese characteristics, and an important component of such socialist political system. Given successful practice of the SAR system in Hong Kong and Macao, many scholars have appealed for promptly raising its status in the state's political system and giving it the formal designation of a basic political system of the state,⁷ in the interest of better implementing the "One Country, Two Systems" policy, and enriching and developing its practice. Such appeals were based on the premise of the SAR system being an important part of the socialist system with Chinese characteristics and reflected a more profound understanding of the laws governing the development of the SAR system. Some have argued that given the innovative nature of the SAR system and its being an unprecedented design whose effectiveness and achievements as conduit for "One Country, Two Systems" still require proper observation and verification, it is reasonable that the SAR system is yet to be quickly affirmed as the country's basic political system. If such is the case, it is high time now to significantly raise its status in the nation's political system, now that it has been in successful implementation for more than a decade in Hong Kong and Macao. As the report of the 18th National Congress of the CPC states, "Since their return to the motherland, Hong Kong and Macao have embarked on a broad road along which they and the mainland draw on each other's strengths and pursue common development, and the success of the 'One Country, Two Systems' principle has won global recognition." In order to broaden the road for the dynamic cause of "One Country, Two Systems", we should further enrich its practice and the practice of the SAR system, and enhance its stature in the state's political system. We should move forward unwaveringly on the socialist path, constantly enriching socialism with Chinese characteristics in both practice and theory and enhancing its national features in keeping up with the times. This is required for continuous self-improvement of socialism with Chinese characteristics, self-improvement and innovation of the SAR system, and fully leveraging the strength of the socialist political system with Chinese characteristics.

IV. The SAR System as an Important Part of the State Governance System

China has a unitary state structure with centralized national government. To meet the needs of governance, the central government sets up governments for local regions, prescribes the systems to be instituted in the local regions and grants relevant powers to local governments, which constitute the important aspects of the relationship between central and local governments. Therefore, state governance encompasses local administration, and the state governance system includes the systems instituted in local regions as its integral parts.

The SARs as local administrative regions directly under the Central Government are inalienable parts of China. Such legal status determines that the SAR system prescribed by the state for administration of these regions is not a simply a system for a local region. It is closely linked with China's state governance system and is its important, indispensable component. It defines the relationship between the central government and the SARs and the system for exercising a high degree of autonomy within the SARs. This implies that the effective practice of the SAR system, as a part of the state governance system, is dependent on well-coordinated relations with the central government. This, for example, is illustrated by the following legal provisions:

- a) The Chief Executive and other key officials of the SAR are appointed by the Central Government;
- b) The Chief Executive is accountable to the Central Government;
- c) Laws enacted by the SAR legislature must be reported to the Standing Committee of the NPC for the record;
- d) The Standing committee of the NPC may return any law enacted by the SAR legislatures under certain conditions and any law returned shall immediately be invalidated;
- e) If the courts of the SARs, in adjudicating cases, need to interpret the provisions of the basic laws concerning affairs which are the responsibility of the Central Government, or concerning the relationship between the Central Government and the SAR, and if such interpretation will affect judgments in the cases, the courts of the SARs shall, before making their final judgments which are not appealable, seek an interpretation of the relevant provisions from the Standing Committee of the NPC.

These provisions constitute important aspects of the SAR system, the implementation of which is dependent on the provisions in the Constitution concerning the powers of, and their exercise by, the NPC Standing Committee and the Central Government. Precisely because China's state governance system is defined by the Constitution and the SAR system is defined by the Basic Laws enacted by the NPC, the ultimate legal basis of the SAR system is the Constitution. The SAR system should thus be seen in the context of state governance prescribed by the Constitution. For example, prescribing the SAR system, and granting a high degree of autonomy through enacting the basic laws are the powers of the NPC as the highest organ of state power, with constitutional powers defined by the Constitution. The power of interpretation of the Basic Laws being vested in the Standing Committee of the NPC, as stipulated in the Basic Laws, is also based on provisions of the Constitution. Such provisions define the power of the NPC Standing Committee for interpretation the Constitution and other laws. It can be said that every aspect of the SAR system is inherently linked with the Constitution. Therefore, as the SAR system is within the constitutional framework of China's administration of SARs, it is an important component of the state governance system. All this forms the legal basis for the SAR system.⁸

The establishment of the SARs has enriched and expanded China's unitary state form. Prior to the establishment of the Hong Kong SAR and the Macao SAR, the relationship between central and local governments in China as a unitary state took two legal forms. The first is that between the Central Government and ordinary administrative regions, i.e. various provinces and municipalities directly under the Central Government. The second is that between the Central Government and

autonomous regions, i.e. those of minority nationalities. With the establishment of the Hong Kong SAR and the Macao SAR, an additional relationship came into existence i.e. that between the Central Government and the SARs, which is different from the other two forms of relationship. The new form of relationship in China's unitary political structure underscores the principle of integrating the universal and the special in state governance. The universal principal in state governance implies that local regions within the unitary structure have no inherent powers and that division of administrative areas is determined by the central government in keeping with needs of state governance. The scope and levels of their powers are precisely defined and granted by the central authorities in accordance with law. There is no so-called "residual power" problem. The SARs as local administrative regions were established by decisions of the NPC in accordance with the Constitution, and the systems instituted there were prescribed by the Basic Laws enacted by the NPC. These facts demonstrate the universal requirement of state governance. Meanwhile, the basic laws enacted by the NPC in accordance with the Constitution specifically prescribe the systems to be instituted in the SARs, allow them to keep the existing capitalist system and grant them a high degree of autonomy that includes administrative, legislative and independent judicial powers including the power of final adjudication. These are special provisions in China's system of state governance. The Basic Laws coherently integrate the universal and special requirements of state governance on the basis of safeguarding the unitary political structure through instituting the SAR system. In the SAR system itself, the universal requirements of state governance are covered by the Central Government's constitutional powers over the SARs, while special requirements of governance of the SARs are covered by their high degree of autonomy. The powers of the Central Government and autonomy of the SARs represent the universal and special. They together constitute the SAR system.

The SAR system is also closely linked with the state's legal and economic systems. For example, the SAR legal system as an important part of the SAR system is a subsystem within the nation's legal system. The legal system of the Mainland encompasses all laws in effect on the Mainland, including national laws and laws of local regions of the mainland. The legal systems of the SARs comprise Basic Laws and laws enacted by the SARs for autonomous rule. The "One Country" principle of the unitary state determines the singularity of the national legal system, while legal systems in different regions serve as subsystems of the national system. The supremacy of the Constitution in all legal jurisdictions underscores the singularity of national legal system, which reflects the universal requirement of state governance. The SARs are local administrative regions of the country where in a general sense the Constitution also applies. The applicability of the Constitution in the SARs is also subject to special conditions. As the SARs maintain their preexisting capitalist system and do not practice socialism of the Mainland, the provisions concerning socialist system and policies in the Constitution do not apply in the SARs.⁹ The systems instituted in the SARs are prescribed by the Basic Laws; applicability of the Constitution in the SARs is realized through the SAR system, which is also defined by the basic laws. Such arrangements, despite certain seeming contradictions, are an outcome of accommodating both the universal and special requirements of state governance.

V. Conclusion

The SAR system as a brand new system instituted by China upon its resumption of sovereignty over Hong Kong and Macao has the most distinctive Chinese characteristics. It is different from the system on the Mainland and those practiced in Hong Kong and Macao before their return to China. Although the Hong Kong Basic Law and the Macao Basic Law provide for keeping the previous capitalist system and way of life unchanged for 50 years, this does not mean

the systems in practice there after the establishment of the SARs are simply a continuation of the previous system. On the contrary, resumption of sovereignty over Hong Kong and Macao by the Chinese Government brought about substantive changes. The most pronounced change is that the systems practiced Hong Kong and Macao after their return are prescribed by the Hong Kong Basic Law and the Macao Basic Law. In fact, keeping the previous capitalist system and way of life in Hong Kong and Macao unchanged for 50 years is in itself a provision of the two Basic Laws. Many previous systems, procedures and way of life were kept upon return of Hong Kong and Macao, but were also infused with new meanings to form an integral part of the new SAR system. In short, the SAR system as an important component of state governance system has become an important part of the socialist system with Chinese characteristics. While the main part of the country continues to practice socialism, to successfully govern, build and develop the two SARs that practice capitalist system, and to maintain their prosperity and stability over the long term in accordance with the “One Country, Two System” policy, is an entirely new objective and task of governance for both the Central Government and the governments of the SARs.

Notes:

- ¹ Deng Xiaoping (1993). *The Selected Works of Deng Xiaoping (Volume 3)*. Beijing: People’s Publishing House. 217.
- ² *Ibid.*, 218.
- ³ Editorial Group (2012). *A Guide to the Report to the 18th National Congress of the CPC*. Beijing: People’s Publishing House. 342.
- ⁴ *Ibid.*, 341-342.
- ⁵ Li Yanping (2011). On “One Country, Two Systems” as Basic National Policy. *Academic Journal of One Country Two Systems (Chinese Version)*. Volume 8. 29.
- ⁶ Jeong Wan Chong (2011). *My Outlook on “One Country, Two Systems”*. Macao: One Country Two Systems Research Centre, Macao Polytechnic Institute. 65.
- ⁷ Scholars in Macao (e.g. Jeong Wan Chong) and on the Mainland (e.g. Li Lin, Zhou Yezhong, You Junyi, Dong Zhiwei et al) advocated designating the SAR system as the nation’s basic political system.
- ⁸ Li Fei (2012). Study the Special Administrative Region System in-depth, Enhance the Implementation of the “One Country, Two Systems” Policy: Speech on the “One Country, Two Systems” Advanced Forum on 6th December 2011. *Academic Journal of One Country Two Systems (Chinese Version)*. Volume 11. 2.
- ⁹ Li Lin (2012) Status and Function of the Special Administrative Region System in the Socialist Legal System with Chinese Characteristics. *Academic Journal of One Country Two Systems (Chinese Version)*. Volume 11. 18.