

On the Improvement of the Indirect Election System for the Legislative Assembly of the Macao SAR

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After the Standing Committee of the National People's Congress (NPC) made *Decision on the Method for the Formation of the Legislative Assembly of the Macao Special Administrative Region 2013 and the Method for the Selection of the Chief Executive of the Macao Special Administrative Region 2014* (hereinafter as "the Decision"), the Government of the Macao Special Administrative Region (SAR) started to solicit opinions, from the public, upon the amendment to the two methods. Among all the issues, adjustments made to the number of seats for indirectly-elected members and to regulations concerning indirect election drew extensive public attention and were heatedly discussed. The present article holds that the indirect election system for the Legislative Assembly of the Macao SAR is somewhat defective in practice. However, the original ideas behind its layout which have shored it up are rational and relevant. The authors intend to, with the theoretical foundations for the indirect election system, historical reasons for its existence and functions, major legal provisions and problems related to the system as the starting point, give tentative opinions upon the improvement of the indirect election system for the Legislative Assembly through discussion and analysis.

I. Theoretical foundations for the indirect election system

1.1 Development of democratic election system will not occur without any condition or at one stroke

Democracy, normally speaking, represents a system in which people are the masters and in control of the country's and their own destiny.¹ Democracy has two forms: direct democracy and representative democracy. In the former, political decisions are made by all the citizens while in the latter; the elected representatives make such decisions and are accountable to the general public.²

The electoral system is an important part of democracy. It enables the public representatives and "rebels" to change authorities and transfer powers through peaceful means instead of armed conflicts or revolutions. Such a system also lays an institutional foundation for the principle that the government bases its work on the public opinion and is accountable to the people. It is an important embodiment of the principle of popular sovereignty which states that the people, through the right to vote and to stand for election, participate in the handling of national affairs.

Globally, only when the democratic electoral system is consistent with the actual situations of

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correspondent countries and in line with the political, economic and cultural status of the society can it promote stability and development of the country or region. Therefore, development of democratic electoral system must be promoted step by step but not at one stroke.

Democratic systems in different countries have been improved progressively over a long period. In the Great Britain, the electoral system came into existence since the constitutional monarchy was established after the Glorious Revolution in 1688. However, by the year 1831, the number of voter was only 250,000 and people enjoying the right to vote accounted for only 1/35 of the total population. Besides, qualification of voters was restricted by property size and the number of years of residence. The one-man-one-vote election with the principle of gender equality was not put into practice until 1948.³ In the United States, though the principle of equality established when the *Constitution of the United States* came into effect in 1787, restrictions upon voters' qualification such as poll tax, literacy test, grandfather clause, the white primary and personal property still existed for a long period, and suffrage of women, the Indian and the African-American was not secured. The one-man-one-vote election with the principle of gender equality was not practiced in the United States until the second half of the 20th century.⁴

In the meantime, democratic election will not occur without any condition. Improvement of voters' quality has a significant impact over it. George Mason, One of the representatives at the Constitutional Convention of the United States, said that allowing the people to select a man to be their chief executive was as abnormal as entrusting a test of colors to a blind man.⁵ Such an opinion, a bit radical as it was, reflected, to some extent, the impact of voters' quality on the democratic electoral system. Therefore, measures must be taken to improve people's livelihood, lift their economic status, reinforce civic education, boost citizens' passion for getting involved in political affairs and enhance their capacity to take part in the administration and discussion of state affairs so as to ensure that voters are fully able to tell right from wrong and make judicious decisions beneficial to the long-term interests of individuals and the society as a whole. Of course, the improvement of voters' quality is inextricably linked to that of a country or region. That being the case, establishing a good social order, forging the mainstream values system, fulfill the public interests are also indispensable and fundamental for the democratic electoral system to bring out the best in itself.

1.2 The indirect election system is conducive to balanced participation and can make up for defects of the direct election system

Direct and indirect elections are the two forms of democratic election. The former means that voters cast ballots to select public officials or representative organs, while the latter is a process in which voters, instead of casting ballots, elect an electoral group to make decisions for them.

Direct election ensures every voter a chance to select a representative that he trusts the most. Such a form of election strengthens the ties between voters and candidates, keeps the representative under the supervision of the voters and holds the latter accountable for the former. Therefore, it can reflect the popular will more directly and goes some way towards the realization of voters' interests and appeals. However, the direct election system is deficient in one way or another. For instance, its procedure is quite complicated, organization is not easy and it consumes lots of social resources; voters are prone to be affected by biased opinions in the society and this might give political strongmen and careerists chances to stir irrational passion among the masses and practice autocracy in the name of democracy; the principle followed by direct election that "the minority is

subordinate to the majority” may lead to “tyranny of the majority”, thus resulting in neglect or infringement upon legitimate rights of the minority.

The indirect election system can exactly make up for the above shortcomings of the direct election. It simplifies the procedure, saves time and social resources; it creates a buffer zone between the voters and the government, mitigating direct conflicts between the two and preventing social confrontation and ethnic separation; while paying respect to the interests of the majority, it prevents the highly influential class from “possessing dominant power” or practicing “winner takes it all”; it accommodates and protects the interests of the minority, ensures balanced participation in national affairs of different social strata, especially the minority one, guarantees that the minority is represented in government departments or representative organs and gives expression to the interest and appeals of the minority.

As a matter of fact, though democratic value is an important part of social governance and social life, it is not the only part. The most commendable quality of democracy lies in its respect to and tolerance of different opinions and democratic value never run counter to other social values. In a democratic society, democratic value must be married with the rule of law. Meanwhile, the principle that the minority is subordinate to the majority should be dovetailed to the principle concerning the protection of basic human rights. Take the United States as an example. President of the United States is indirectly elected by the Electoral College made up of representatives from different states. Such an electoral method makes the “minority ticket president” possible, even if it goes against the principle that the minority is subordinate to the majority. This is because framers of the Constitution held that the value of federate stability, equality among different states and avoidance of “tyranny of the majority” as a whole was by no means inferior to democratic values. Therefore, restrictions needed to be placed on democratic election to maintain social stability and secure public interests.⁶

II. Historical reasons for the adoption of indirect election system by the legislative assembly and its functions

In 1974, the Portuguese Republic overthrew the autocracy in the Carnation Revolution, establishing a representative democracy and implementing decolonization policies. The *Constitution of the Portuguese Republic* came into effect on 25th April 1974, acknowledging that Macao was not a territory of Portugal and explicitly stating that general rules shall be formulated in accordance with the special situation of Macao so as to exercise administration over it. *Estatuto Orgânico de Macau* (Organic Statute of Macao) promulgated in February 1976 stipulated that the governor of Macao and the Legislative Assembly, as two parallel administrative organs of Macao, both had legislative power.⁷ When the first Legislative Assembly was established in 1976, it was composed of directly-elected, indirectly-elected and appointed members. Such a structure was maintained until the last Legislative Assembly before Macao’s return to the People’s Republic of China (PRC).

The establishment of the indirect election system for the Legislative Assembly is closely related to the characters of Portuguese rule of Macao and the unique role played by associations in the society of Macao in which the Chinese were the majority. The Portuguese, in order to cement its governance of Macao, resolve disputes among the Chinese and appease their grievance, needed

associations composed of Chinese to settle conflicts of interests and maintain social order. After the Carnation Revolution, Portugal inaugurated the new constitution, comprehensively integrating itself with European democracies. In 1976, the governor of Macao issued Decree No. 3/76/M, giving explicit stipulations pertaining to Macao residents' freedom of association. Against such a backdrop, the Chinese association developed soundly. Its self-organizing and self-managing capacities were improved. Associations in different social sectors started to play an increasingly crucial role in the social life. These associations not only united people from different classes in their own fields and upheld social stability, but also participated more and more in the management of social affairs, thus becoming a bridge connecting the citizens and the government and starting to express, on behalf of the citizens, interests and appeals to the government. Moreover, a wide range of service was provided by associations and quite a few grave social issues were handled through coordination between them and the government.

Development of associations in Macao has laid the foundation for the establishment of the indirect election system for the Legislative Assembly. In particular, the emergence and growth of Chinese associations have created conditions for the Chinese, among the Macao residents, to get promoted through the indirect election system. Besides, after *Estatuto Orgânico de Macau* vested Macao with limited autonomy in 1976, the Portuguese rulers objectively needed the influence of the Chinese in Macao to reinforce its governance and contain the power of the Macanese, especially their power in the Legislative Assembly. The above two factors have facilitated the establishment and maintenance of the association-based indirect election system for the Legislative Assembly.

Though the indirect election system was set up partly due to the intention of the Portuguese to maintain its governance of Macao, it is indeed an effective way for social governance. Its establishment reflects the legislative spirit of balanced participation. Article 21 of *Estatuto Orgânico de Macau* stipulated that the indirect election system was established to guarantee that the ethical, cultural, relief and economic interests were represented. When amendment was made to *Estatuto Orgânico de Macau* in 1990, this article was removed, but the retainment of the indirect election system still embodied the legislative spirit of giving equal consideration to the interests of different social strata and sectors and facilitating balanced participation.

2.2 After Macao's return to the PRC, the indirect election system is still conducive to the expression of plural interests and balanced participation

Generally, the modern election system consists of both direct and indirect election so as to ease the tension between majority and rationality.⁸ Balanced participation is a principle must be adhered to during the political development of Macao. In particular, as the culture and interests of the Macao society get more and more diverse, composition of the Legislative Assembly should, all the more, reflect the principle of balanced participation of different classes, sectors and interest groups. The Decision made by the Standing Committee of the NPC explicitly provides that any revision made to the method for the formation of the Legislative Assembly of the Macao SAR shall be in line with the principle of giving equal consideration to the interests of different social classes and sectors. Qiao Xiaoyang, Deputy Secretary-General of the Standing Committee of the NPC, when talking about principles followed by the Decision at the symposium involving people from different social sectors of Macao, pointed out that the Decision abided by the principle of inclusiveness, thus emphasizing the importance of giving equal consideration to the interests of

different social classes and sectors. The reasons for this are three-fold: first, as one of the Special Administrative Regions of China, Macao is actually a city. The governance of a city is intrinsically different from that of a country. The former lays heavier stress on extensive and balanced participation of citizens. Second, the Decision is in line with Macao's social conditions. A diverse society needs an inclusive spirit to ensure that different social classes and sectors are represented in the Legislative Assembly and have access to formal channels to express their interests and appeals. Third, the Decision sits well with Macao's political and cultural features. Macao is a small city, associations and groups should coexist harmoniously and confrontational election is definitely not feasible. The Legislative Assembly, composed of directly-elected, indirectly-elected and appointed members, can reflect the interests and appeals of different classes and social sectors and can bring about harmony. While the directly-elected members can represent the popular will in a direct way, the indirectly-elected members guarantee balanced participation and in the meantime, they play a positive role in the effective functioning of the executive-led system, enable representatives of plural interests to seek balance in the Legislative Assembly, facilitate stability of the political system and strike a balance between interests of different social classes and sectors.

2.3 The indirect election system is beneficial to the cultivation of political talents

Associational politics, as a unique feature of Macao's political landscape, provides a vast stage for the development of political talents. In Macao, political talents accumulate related experience, expand political visions and improve integrated quality of their own through their work in associations. Associational life, as a significant part of residents' political life, serves as a critical conduit for most of the residents to get information and air opinions. The policies of "One Country, Two Systems", "Macao People Ruling Macao" and "a high degree of autonomy" have been implemented in Macao. While the first creates an enabling social environment for the cultivation of political talents, the third policy expands the foundation for the seeking and cultivation of such talents and associations is the basic organizational form for political participation implicated by the second policy. Because of the absence of political associations in Macao, it is necessary for residents who want to edge into the Legislative Assembly to project their political image through routine or professional non-political associations that they belong or closely related to. Associations, always serving as the front for the propaganda of their campaigning program and related promotions, are actually the pivotal organizations for residents' political participation. Macao residents, on the basis of associations, nurture, hone and perfect their capacity for social management and political participation by way of democratic participation, offering service and self-management. In the meantime, it is also possible for them to become the members of the Legislative Assembly, as representatives of associations or social sectors, through the indirect election system. In so doing, they can get involved in Macao's social affairs, public finance, discussions over major issues as well as deliberations on and formulation of laws and may seek interests for their own social sectors. Many outstanding political figures of Macao, e.g. the current Chief Executive and his predecessor, have been tempered by longtime associational life. Quite a few members of the Legislative Assembly, originally indirectly elected, have won greater recognition from residents with their efforts and ability and become directly-elected members. Therefore, the indirect election system for the Legislative Assembly has provided a platform for democratic participation and created favorable conditions for the cultivation of political talents.

III. Major legal provisions regarding the indirect election system for the Legislative Assembly

The indirect election system for the Legislative Assembly is regulated by stipulations in the *Basic Law of the Macao Special Administrative Region of the People's Republic of China* (hereinafter as "the Macao Basic Law"), the Decision made by the NPC, *Lei do Recenseamento Eleitoral* (Voter Registration Law, Law No. 12/2000) and *Regime Eleitoral da Assembleia Legislativa da Região Administrativa Especial de Macau* (Election System for the Legislative Assembly of the Macao Special Administrative Region, Law No. 3/2001).

3.1 Stipulations in the Macao Basic Law

Paragraph 2, Article 68 of the Macao Basic Law provides that the majority of members of the Legislative Assembly shall be elected. Annex II of the Macao Basic Law provides that the Legislative Assembly in the second term shall be composed of 27 members, being 10 members from direct elections, 10 members from indirect elections, and 7 members as nominated by the Chief Executive. The Legislative Assembly in the third and following terms shall be composed of 29 members, being 12 members from direct elections, 10 members from indirect elections, and 7 members as nominated by the Chief Executive. Specific method for the election of members shall be brought up by the Macao SAR Government and regulated by the electoral law passed by the Legislative Assembly. If there is a need to change the method for forming the Legislative Assembly of the Macao SAR after year 2009, such amendment must be made with the endorsement of a two-thirds majority of all the members of the Legislative Assembly and the consent of the Chief Executive, and shall be reported to the Standing Committee of the NPC for record.

3.2 Stipulations in the Decision made by the NPC

The Decision stipulates: I...the provision made by Section 1, Annex II of the Macao Basic Law stating that the Legislative Assembly in the third and following terms shall be composed of Members directly returned, members indirectly returned and appointed members shall remain unchanged. II. Method for the Formation of the Legislative Assembly of the Macao Special Administrative Region 2013 and the Method for the Selection of the Chief Executive of the Macao Special Administrative Region 2014 could be amended in accordance with Article 47, 68, section 7 of Annex I and Section 3 of Annex II on the condition that such amendments are in line with Article 1 of the *Decision*. According to the above provisions, the stipulation concerning the composition of the Legislative Assembly in 2013 shall be kept unchanged and the government of the region is not authorized to make any change inconsistent with this stipulation. Besides, the Decision also provides that amendment made to the Method for the Formation of the Legislative Assembly of the Macao Special Administrative Region shall be in line with the actual situation of the Macao SAR and be conducive to the maintenance of Macao's basic political stability, the effective functioning of the executive-led system, well-balanced interests among different classes and social sector, as well as the long-term prosperity, stability and development of Macao.

3.3 *Lei do Recenseamento Eleitoral* (Law No. 12/2000)

This law provides that associations and organizations satisfying the following conditions can get voter registration as legal persons: (1) have been registered in the Identification Services Bureau;

(2) have been affirmed belonging to relevant social sectors for at least 4 years; (3) have been in possession of legal personality for at least 7 years (Article 26). Social sectors are categorized as follows: (1) industrial, commercial and financial sectors; (2) the labor sector; (3) professional sectors; (4) the social services sector; (5) the cultural sector; (6) the educational sector; (7) the sports sector (Article 27). Every legal person who has been in possession of legal personality for more than three years can apply for affirmation of belonging to only one of the above categories. The “affirmation” is made by the Chief Executive after hearing opinions of the Standing Committee for the Coordination of Social Affairs, Social Services Committee, Cultural Consultative Committee, Education Committee and Sports Committee upon specific cases (Article 29). The period of validity for affirmation is 5 years. Legal persons affirmed belonging to certain social sectors shall submit the annual report to related entities mentioned above on the last working day of September each year at the latest (Article 30, 31).

3.4 Regime Eleitoral da Assembleia Legislativa da Região Administrativa Especial de Macau (Law No. 3/2001)

Legal documents define the indirect election system in the Macao SAR as the selection of 10 members of the Legislative Assembly representing the following constituencies through indirect, secret and regular election. In such a system, legal persons who have registered in the Identification Services Bureau, been affirmed belonging to specific sectors for at least 4 years and been in possession of legal personality for at least 7 years are eligible voters while legal persons set up by public entities on their own initiative are not, except for specialized public associations (Article 7). Each legal person who is an eligible voter has an 11-ballot voting power, exercised by at most 11 eligible voters selected from incumbent members of the leading body or administrative department of the legal person (Article 22). Seats for indirectly-elected members of the Legislative Assembly is composed of four constituencies: (1) 4 members selected from industrial, commercial and financial sectors; (2) 2 from the labor sector; (3) 2 from the professional sectors; (4) 2 from the social services, cultural, educational and sports sectors (Article 22). Each voter should exercise the voting power on behalf of only one legal person (Article 22). The number of candidates on the waiting list for indirect election shall be consistent with the number of seats distributed to specific constituencies (Article 23). As regards the distribution of seats, Article 17 stipulates that the number of votes won by each waiting list should be counted at first and then all the numbers, according to the order of the waiting list, are divided by 1, 2, 4, 8 and the following powers of 2 to decide the number of seats to be distributed. Then all the quotients are arranged in a descending order and each one of the quotients represents the number of seats distributed to the waiting list it corresponds to. If finally there is one seat left to be distributed and there are equal quotients corresponding to different waiting lists, the seat should go to the waiting list that hasn't obtained any seat; if all waiting lists have been distributed seats, then the last seat goes to the list that has won more votes; if two or more than two waiting lists have won the same number of votes, the last seat should be distributed by lot. If the number of candidates who have been affirmed belonging to a certain constituency equals to or less than the number of seats distributed to this constituency, these candidates are automatically elected to be the members of the Legislative Assembly and there is no need for this constituency to vote. Article 18 provides that for each waiting list, seats are distributed according to the rankings of candidates. If a certain candidate failed to be sworn in to office in accordance with law, other candidates on the same list should fill the vacancy according to their

rankings. Article 19 stipulates that if vacancy occurs, a by-election must be held within 180 days. If the term of office of the Legislative Assembly will expire within this period, then there is no need to fill the vacancy. As regards the nomination committee and the waiting lists, Article 43 states that within a specific constituency, only representatives selected appropriately by a legal person through its leading body can sign, on behalf of the legal person, related documents of the nomination committee or of designated trustees of the nomination committee. The nomination committee should be composed of at least 25% of the total number of legal persons listed in the last publicized Voter Registration Book before the announcement of the election date.

IV. Suggestions on the improvement of the indirect election system for the Legislative Assembly

From the perspective of discussions over the indirect election system for the Legislative Assembly, though the Macao society agrees that the indirect election system is valuable and necessary, people are also aware of the fact that there are problems in the current indirect election system which cannot be overlooked. These problems, mainly related to the underrepresentation and lack of competitiveness of the system, are discussed by the below and suggestions on improvement are thus made.

4.1 The threshold for nomination should be lowered to enhance the competitiveness of indirect election

According to an opinion poll conducted by the One Country Two Systems Research Center of Macao Polytechnic Institute, 42.01% of the respondents held that the indirect election system for the Legislative Assembly should be democratic.⁹ This shows that the degree of democracy of the system is still relatively low. As for the nomination of candidates, it has been commonly seen in previous indirect elections that candidates who had been selected on the basis of prior consultations always won the support of no less than 75% of associations or organizations which had been registered as eligible voters, thus leading to single-candidate election.¹⁰ That being the case, the nomination of candidates, under many circumstances, is monopolized by large associations.

The reason for such a situation, except that large associations do have broad social foundation, lies in the high threshold for the nomination of candidates. Article 43 of the *Regime Eleitoral da Assembleia Legislativa da Região Administrativa Especial de Macau* stipulates that for different constituencies, legal persons registered as voters can form nomination committees separately and present their waiting lists in the indirect election. Each nomination committee should be composed of at least 25% of the total number of legal persons registered as voters within the specific constituency listed in the last publicized Voter Registration Book before the announcement of the election date. Authors of the present study believe that 25% is too high a threshold and large associations may cover more than 75% of the nomination votes, thus hampering the nomination of potential candidates who might get the other 25% of the votes and leading to the phenomenon of single-candidate election. If the threshold can be lowered or maximum and minimum can be set for the number of members of the nomination committee, then it would be difficult for large associations to monopolize the majority of the nomination votes and representatives from small associations may get more opportunities to compete with others in the election.

Article 24 of the *Regime Eleitoral da Assembleia Legislativa da Região Administrativa Especial de Macau* provides that if the total number of candidates selected by a certain constituency is equal to or less than the number of seats distributed to the constituency, then these candidates are automatically elected to be the members of the Legislative Assembly and there is no need for this constituency to vote. This is commonly known as the mechanism of “uncontested seats”, which is established to divert more resources to the direct election.¹¹ The authors hold that such a mechanism is supposed to be canceled. Even if the total number of candidates is equal to or less than the number of seats distributed to the constituency, ballots still need to be cast. For one thing, this helps uphold the procedural justice and embodies the procedural integrity of indirect election; for another, this encourages indirectly-elected members to publicize political programs and voice their political views, thus building up their popularity and acceptability.

4.2 Representativeness of the indirect election should be enhanced

4.2.1 Demarcation of social sectors should be more scientific

An association must be affirmed, by administrative authorities, belonging to a certain social sector before becoming a legal person voter. The precondition is that it must have been registered in the Identification Services Bureau and be in possession of legal personality for at least 7 years. The Chief Executive, after hearing opinions of the Standing Committee for the Coordination of Social Affairs, Social Services Committee, Cultural Consultative Committee, Education Committee and Sports Committee upon specific cases, makes the decision to grant the affirmation or not to. However, the public notice regarding associations issued by the Bureau of Notaries Public of the Macao SAR states that social sectors are, according to the statutes of the associations, categorized as follows: labor; foundation; religion; profession; industry, commerce and services; education and youth; entertainment; association of business owners; law; environmental protection; social services; science and technology; art and literature; health; sport and so on. This differs from the categorization of the sectors legal person voters belong to. The question is, how to classify the associations which do not belong to any of the sectors stipulated for legal person voters if they apply for such a qualification? If standards for affirmation are only based on the principles of the association and activities it has actually launched and in the meantime, there is no standard – such as whether the association should be of representativeness and acceptability in a certain sector – expressly provided by law, then such standards are seemingly quite subjective.¹² Therefore, when it comes to the affirmation of social sectors associations belong to, the statute of the association, its statement about which sector it belongs to made upon its establishment and the nature of activities having been launched since its establishment should all be taken into consideration. Besides, if some wealthy and influential people from certain associations anticipate that they may not win enough votes in a certain sector, they will probably switch to another association or sector so as to get elected. This should be guarded against.

Additionally, controversy also exists over whether candidates of certain sectors are fully representative. The family background of the candidate and the association he belongs to will not guarantee an objective answer. More importance should be attached to the political programs brought up by him and his performance, e.g. his capacity and activeness of political participation or his attendance at the Legislative Assembly, the number of inquiries addressed by him and the number of speeches made by him. It is suggested that provisions be written into law that the candidate shall present political programs to fully expound his political views and policies he will

implement if elected. This helps build closer ties between the voters and candidates.

4.2.2 The qualification of legal person voters should undergo stringent scrutiny

It is not stipulated in current laws and regulations concerning indirect election that the legal person voter must include a certain number of eligible voters. Besides, members of the associations are not required to be permanent residents of Macao, nor are they asked to be qualified to exercise political rights. That being the case, because there is no stipulation in current laws stating that one person can be the member of only one association, if non-permanent residents outnumber the permanent ones among the leaders of the association and members of different associations overlap¹³, then problems may emerge in the selection of eligible voters from the leading body of the association. The authors suggest that provisions can be made stipulating that a legal person association can be registered as a legal person voter only if it includes a certain number of permanent residents. Meanwhile, a member who has already been registered as a legal person voter of one association shall not be registered again as that of another. In so doing, in the indirect election, the situation in which a small number of people of an association control the steering wheel of the vote can be avoided¹⁴.

4.2.3 Method for the selection of legal person voters should be revised

To enhance the representativeness of the indirect election and further represent the principle of democratic participation, it has been suggested that the number of legal person voters be increased to 22 – twice as much as it is. The authors hold that though such a means may help enhance the representativeness of the indirect election to some extent, the effect will not be evident enough because the voting power is still wielded by members of the leading body or administrative department of the legal person. Actually, these people, only in charge of the daily operation or management of the association, cannot exercise the voting power on behalf of the entire association. Such an arrangement may evolve into a breeding ground for corruption. The Commission against Corruption of Macao SAR once received a tip-off, reporting that some people gave vast sums of money to the association or its leading body, thus pulling wires to get involved in the nomination committee or vote for specific candidates in the indirect election¹⁵. Though such kind of case is relatively rare, to embody the equity, competitiveness and representativeness of the indirect election, a general meeting mechanism should be considered. At the meeting, voters can be elected from all the members of the association who are qualified to vote so as to build up the representativeness and acceptability of the vote.

4.2.4 Distribution of seats in the indirect election should keep up with the tide of times

As a supplement to the direct election, indirect election system is set up mainly to adjust and balance the formation of the Legislative Assembly so as to realize balanced participation. It is suggested that the distribution of seats keep up with the tide of the times and the number of seats for different sectors be adjusted in accordance with social development. Statistics concerning the registration of legal person voters in 2009 published by the Bureau of Public Services and Administration showed that the number of legal person voters representing industrial, commercial and financial sectors was 108; the labor sector, 68; professional sectors, 63; while social services, cultural, educational and sports sectors, up to 743¹⁶, among which 316 went to the sports sector alone, accounting for almost 50% of the total number of the entire constituency. To form the nomination committee, the minimum number of legal persons for the above four constituencies is 27, 17, 15 and 183 respectively. Obviously, the competition within the constituency of social services, cultural, educational and sports sectors is the most heated. The candidate who has won

even the minimum number of nomination votes of the sports sectors can be successfully elected. However, whether he can fully represent the social services, cultural and educational sectors is in question. Unless he holds membership in or has been recognized by all the four sectors, it is very difficult for him to secure the threshold nomination. Therefore, the authors suggest that this constituency be split to make candidates from different sectors more representative. Moreover, currently, with the socio-economic development of Macao and the advancement of civic education, political values of the residents have changed accordingly. In recent years, the middle class, young people and women have constantly made appeals for greater participation in the policy-making process, thus giving birth to interest groups representing these new political pursuits. In the future, more attention needs to be attached to the appeals of the middle class, young people and women when seats of the Legislative Assembly are distributed in the indirect election.

4.2.5 The voting power of legal person voters should not be equally distributed

According to the current law, associations, large or small, possess the voting power. This, apart from striking people as unfair, may also lead to the establishment of a great many of small associations prior to the election year.¹⁷ Because every association, irrespective of its size and whether it functions regularly and constantly, possesses at most 11 votes, many large associations may be encouraged to set up smaller associations which actually serve as the “shadow associations” in the election to secure more votes, thus ensuring that candidates nominated by these large associations get the majority vote. Therefore, besides increasing the number of legal person voters, it may also be desirable to distribute the voting power among legal person voters in accordance with the number of permanent residents within specific associations.

4.3 Assessment of the exercise of powers by indirectly-elected members should be stepped up

Indirectly-elected members of the Legislative Assembly are selected by associations in correspondent social sectors through indirect election, representing the interests of the sectors they belong to. Therefore, members of a certain social sector have the right to supervise and appraise the performance of indirectly-elected members. It is thus suggested that a mechanism be established to require the indirectly-elected member of the Legislative Assembly to deliver report of work to members of the social sector he belongs to on a regular basis. In so doing, he can have a chance to fully display endeavors made by him in the past period of time for the interests of the sector. In the meantime, members of the sector can, thorough voting procedures, evaluate the report of work. If a certain proportion of members hold negative opinions towards the report, then such a situation needs to be recorded. Members of the sector, through the intra-sector consultation mechanism, may decide not to nominate him as the candidate for the indirectly-elected members of the Legislative Assembly within a certain period in the future. Such a method helps to enhance supervision of members of a certain social sector over the daily work of the indirectly-elected members of the Legislative Assembly and step up the assessment of their exercise of power. Meanwhile, it may encourage the indirectly-elected members to make more effective use of their functions and powers to complete their mission of exercising powers on behalf of the entire sector.

V. Conclusions

As the legislative organ, the Legislative Assembly is an important part of public authorities in the Macao SAR. Amending the method for the formation of the Legislative Assembly has a bearing on the relationship between the Central People's Government and the Macao SAR, on the implementation of the policies of "One Country, Two Systems", "Macao People Ruling Macao" and "a high degree of autonomy"; on the implementation of the *Macao Basic Law*; on the relations between the executive and legislative branches in Macao; on the immediate interests of the residents and on the long-term stability and prosperity of the Macao society. The indirect election system for the Legislative Assembly can make up for the defects of the direct election and create enabling conditions for different classes and social sectors to have their interests and appeals equally accommodated. It has played a crucial role in the history of Macao and meanwhile is highly valuable for the administration of Macao society in modern times. We should carry forward its advantages, redress its defects and make efforts to enhance its competitiveness and representativeness, thus making the indirect election system truly represent the interests and appeals of different classes and social sectors and bringing about balanced participation of different social classes.

Notes:

- ¹ Wang Zhenmin (2009). A Reflection on Democracy and Constitutionalism. *China Legal Science*. Volume 5. 107.
- ² Walker, D. M. (1980). *The Oxford Companion to Law*. Oxford: Clarendon Press; New York: Oxford University Press. 17-318.
- ³ Lok Wai Kin (2009). "One Country, Two Systems" and the Implementation of the Basic Law of the Macao Special Administrative Region. Guangzhou: Guangdong People's Publishing House. 216.
- ⁴ *Ibid.*
- ⁵ Zhang Dinghe (1998). *The Origin and Evolution of the American Political System*. Beijing: China Social Sciences Press. 219.
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