

港九工團聯合總會的信頭
Letterhead of Hong Kong & Kowloon Trades Union Council
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19th March 1999

On implementing the Article 159 of the Basic Law and its procedure, we would like to submit the following opinions.

Basic Law entitle the Hong Kong people the right of self-governed and the high degree of autonomy. If Hong Kong is to maintain prosperity and stability, it will rely on two machineries, one is the good common law system, two is the freedom of expression. We have the following response:

1. Who and which organization can open the machinery of amending the Basic Law?

According Article 17 of the Basic Law, The HKSAR shall be vested with legislative power. However, it has not described the the range of its implementation. As the Legislative Council of SAR has the function of enact, amend or repeal laws, therefore, the Legislative Council has the power to enact laws without touching the diplomatic, defense and Central Government affairs. We assume the Legislative Council of SAR can open the machinery of amending the Basic Law.

2. Obtain the consent the the three parts and its procedure, the form of the amendment and is it necessary to consult the public.

We think the public should be consulted on this matter. According to Article 39 of the Basic Law, the three international covenants shall remain in force and the rights of the Hong Kong people shall not be limited. Therefore, any amendments should be consulted.

Secondary, we think the form of the amendment should adopt a simple majority, that is, over 50% is acceptable, not necessarily two third of the votes. It is because the Basic Law is enacted according to the Constitution number 31. It belongs to the kind of common law. It becomes effective if its votes are over 50%.

3. To ensure the amendment will not violate the basic policy of the PRC and its method.

The method is to submit the amendment to the Basic Committee. Secondary, since the Standing Committee of the NPC authorizes the SAR Court to interpret the Basic Law in the range of self governed, therefore, if there is any disputes, the Court of SAR can interpret, to make sure any amendment will not violate the policy before it is enacted and passed.

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4. The machinery to amend the amendment.

We think the Legislative Council has the power to amend. It is because the Basic Law permits them to do so. The Legislative Councillors can submit a private bill to submit the amendment.

5. Is it necessary for the Standing Committee of the NPC and the State Council to consult the Hong Kong people on the amendment?

Yes, we think they should. Since the interpretation of the law is different between China and Hong Kong, and the HKSAR maintains the common law system which is different from China, therefore it is necessary for them to consult the Hong Kong people.