

**Proposed research outline**

**Nomination and voting procedures governing  
presidential elections in selected places**

**1. Background**

1.1 Article 45 of the *Basic Law* provides that "[t]he method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures".

1.2 On 29 December 2007, the Standing Committee of the National People's Congress ("NPCSC") promulgated its "Decision on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage". As set out in the NPCSC's decision, "in selecting the Chief Executive of the Hong Kong Special Administrative Region by the method of universal suffrage, a broadly representative nominating committee shall be formed. The nominating committee may be formed with reference to the current provisions regarding the Election Committee in Annex I to the Hong Kong Basic Law. The nominating committee shall in accordance with democratic procedures nominate a certain number of candidates for the office of the Chief Executive, who is to be elected through universal suffrage by all registered electors of the Hong Kong Special Administrative Region, and to be appointed by the Central People's Government".

1.3 In response to the issue of whether a pre-selection or screening mechanism might be set up to shortlist candidates for the Chief Executive election in 2017, the Administration has affirmed that it will launch a public consultation on the arrangements for the Chief Executive election at an appropriate time.<sup>1</sup> In particular, it will carry out a comprehensive consultation on the nomination procedures and electoral arrangements for the Chief Executive to be returned by universal suffrage election strictly in accordance with the *Basic Law* and the decision of the NPCSC.<sup>2</sup> But the timetable for public consultation has not been announced yet.

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<sup>1</sup> "Election consultation planned: CE", *newsgov.hk*, 12 March 2013.

<sup>2</sup> "LCQ1: The Chief Executive Election in 2017", *Government Press Release*, 27 March 2013.

1.4 At the meeting of the Panel on Constitutional Affairs on 18 March 2013, the Panel agreed to request the Research Office to undertake a research on overseas places with respect to their pre-selection and screening mechanisms, and arrangements for conducting more than one round of voting to elect the president from a number of competing candidates.

## **2. Procedures involved in a presidential election**

2.1 The Research Office has conducted a preliminary study on presidential elections in overseas places. Presidential election usually involves procedures such as pre-selection, nomination of candidates, and voting for the candidates. Pre-selection is the process by which a candidate is selected by a political party to contest an election for political office. There are various kinds of pre-selection procedures. For example, presidential candidates can be selected by party leaders, party conventions, or primary elections. In addition, primary elections can be closed which only allow party members to vote, semi-closed in which party members and unaffiliated voters can participate, and open which accept all registered voters. Furthermore, a defeated candidate in the pre-selection contest or an unaffiliated candidate may form a new party to contest or simply run as an independent. Yet he or she may be required to collect a requisite number of registered voters to support his or her candidacy.

2.2 The conduct of pre-selection is in general not regulated by law, regardless of the method for selecting the presidential candidates. After winning the pre-selection contest, candidates still have to go through the nomination procedure. Nomination denotes the legal procedure by which election authorities certify a person as a qualified candidate for an election. Normally, a country's constitution and electoral legislation lay down certain requirements regarding age, citizenship and residency for those wishing to run for the presidency. In some countries, there are additional requirements such as no criminal record and the vetting of eligibility by the relevant authorities.

2.3 There are three major voting systems governing presidential elections in overseas places, namely the first-past-the-post system, two-round system and preferential voting system. The most straightforward is the first-past-the-post system, under which the candidate who gets a plurality of the votes cast is elected. In the case of several candidates running for the election, a candidate even with a low number of votes could win. However, it is commonly believed that a president elected with an absolute majority (more than 50% of the votes cast) is likely to enjoy greater legitimacy and be in a stronger position to push through his or her policy agenda. Hence, many democratic countries base their presidential elections on the majority rule and seek to achieve absolute majority through runoff voting such as the two-round system and preferential voting system.

2.4 According to the International Institute for Democracy and Electoral Assistance<sup>3</sup>, among 119 countries that have direct presidential elections, two-thirds are using a two-round system. Two-round system serves to overcome the problem of the first-past-the-post system by allowing the two candidates with the highest votes in the first round to contest in the second round, if no candidate is elected with an absolute majority in the first round. The candidate who wins the most votes in the second round will be elected.

2.5 Preferential voting (also known as "instant runoff voting") achieves in one round of voting of what the two-round system achieves in two. If no candidate obtains an absolute majority under preferential voting, candidates with the least votes are eliminated and their votes are passed on to the remaining candidates according to the next available preference marked on the ballot papers. The process will continue until one candidate emerges with an absolute majority of votes. Compared with the two-round system, preferential voting involves lesser administrative cost and better reflects the will of voters. However, the system is more complex for voters and election results can take longer to work out.

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<sup>3</sup> The International Institute for Democracy and Electoral Assistance is an intergovernmental organization based in Stockholm. The institute aims to provide knowledge to democracy builders, provide policy development and analysis, and support democratic reform.

### **3. Proposed places to be studied**

3.1 As mentioned above, presidential candidates can be selected by party leaders, party conventions, or primary elections. Unlike the nomination and voting procedures, the conduct of candidate pre-selection is in general not regulated by law. In addition, a candidate might choose not to enter into the pre-selection race and instead contests the election as an independent. Against the above, the Research Office proposes to study the presidential election arrangements in selected places with special reference to the nomination and voting procedures. In identifying the places to be studied, the main consideration is to select those places characterized by distinct nomination and voting procedures. Powers of the president is not considered, although they can be different under the parliamentary, semi-presidential<sup>4</sup> and presidential systems.

3.2 Against the above, the Research Office proposes France, Ireland and Singapore to be the places which members can consider for the study of presidential elections in overseas places.<sup>5</sup> These three places elect their presidents directly by universal suffrage and the presidential elections are governed by distinct nomination and voting procedures as highlighted in the paragraphs below.

3.3 France is a semi-presidential democracy and the nomination threshold for the presidential election is relatively low. To run for the presidency, potential candidates are required to receive 500 signed nominations from among some 45 000 regional and local officials, including approximately 36 000 mayors. In the 2012 presidential election, 10 candidates were qualified. Presidential elections in France are conducted in two rounds of voting so as to make sure that the elected president obtains an absolute majority of votes. All candidates take part in the first round of voting. If no candidate obtains an absolute majority, a second round runoff election between the two leading candidates is held two weeks later. The candidate who receives more votes in the second round is elected.

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<sup>4</sup> Semi-presidential system is a system of government that combines elements of presidential system with parliamentary system. Typically under a semi-presidential system, the head of state is the president who is directly elected by the people, whilst the head of government is the prime minister nominated by the president but who can be dismissed by the legislature. The president under a semi-presidential system is more than a purely ceremonial figurehead. In general, an agreement is reached over which of the two heads (state and government) will have the lead in policy areas. France is a notable example of semi-presidential democracy where the president directs foreign policy and the prime minister leads domestic policy.

<sup>5</sup> The United States ("the US") has a presidential system of government and the presidential primaries are one of the most notable examples of primary elections. However, the Research Office does not propose to study the US. The US operates a first-past-the-post system under which the US president is indirectly elected by Electoral College. This system may lead to a situation in which the elected president has fewer popular votes nationwide than his or her opponent. For example, the Republican candidate, George W. Bush, won the 2000 presidential election despite polling some half a million votes fewer than the Democrat candidate, Al Gore.

3.4 Ireland has a parliamentary system of government.<sup>6</sup> Potential candidates for the presidential election must be nominated by at least 20 members of the Irish Parliament or by at least four county or city councils. In the 2011 presidential election, there were seven candidates standing for the election. As in the case of France, a candidate needs an absolute majority of votes to win. However, the Irish presidential elections are conducted in single round. The polling results are reached by means of alternative vote, a preferential voting system under which voters indicate their first and subsequent choices on the ballot paper by putting the numbers 1, 2, 3 and so on for their preferred candidates. Ireland's voting system elects the first candidate to reach a majority on either first preferences or transferred lower preferences of voters whose higher-preferred candidates have been eliminated from the count.<sup>7</sup>

3.5 Singapore operates a parliamentary system of government.<sup>8</sup> Unlike France and Ireland, Singapore operates a first-past-the-post electoral system under which the elected president does not need an absolute majority. Another salient feature is that Singapore has put in place a candidate screening mechanism. In order to be nominated, potential candidates have to obtain the Certificate of Eligibility issued by the Presidential Elections Committee chaired by the Chairman of the Public Service Commission. The Certificate attests that the Committee is satisfied with the candidate's integrity, good character, reputation, and experience and ability to carry out effectively the functions and duties of the President.<sup>9</sup> In the 2011 presidential election, four out of six potential candidates obtained the Certificate of Eligibility.

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<sup>6</sup> The President has certain discretionary powers that make him or her the guardian of the *Constitution*. The President may, after consultation with the Council of State, an advisory body to the President, refer any bill to the Supreme Court for a decision as to whether it contains anything repugnant to the *Constitution*. In addition, if a majority of the Seanad (the upper house) and not less than one-third of the Dáil (the lower house) petition the President to decline to sign a bill, the President may accede to the request after consultation with the Council of State. In these circumstances, the President may sign the bill only when the proposal has been approved by the people in a referendum or by a new Dáil. Apart from acting upon the advice of the Council of State, the President has one power which may be exercised at his or her absolute discretion. The President can refuse to dissolve the Dáil on the advice of a Taoiseach (Prime Minister) who has ceased to retain the support of a majority in the Dáil.

<sup>7</sup> Ireland operates a single transferable vote system which involves multiple reiterative counts in which the candidate with the lowest amount of votes is eliminated each time and his or her votes are transferred according to the next available preferences stated on the ballot papers.

<sup>8</sup> In Singapore, the President performs a largely ceremonial role. Nevertheless, he or she possesses certain executive powers to investigate cases of abuse of power by the government and withhold assent to any bill passed by Parliament that draws upon the national financial reserves. In addition, the President may veto key appointment such as the Chief Justice and Judges, the Attorney General, the chief of the defence force and statutory board members.

<sup>9</sup> For example, the potential candidates need a minimum of three years of work experience in holding certain key government positions or serving as the chairman of the board of directors or the chief executive officer of a large private company.

#### **4. Proposed research outline**

4.1 Subject to the consent of members on the places to be studied, the Research Office proposes the following outline for the research:

Chapter 1 — Introduction

Chapter 2 — France

Chapter 3 — Ireland

Chapter 4 — Singapore

Chapter 5 — Analysis

4.2 Chapter 1 depicts the general background of the research and provides an overview of the common presidential electoral systems in the world. It also introduces some relevant concepts such as pre-selection and primary elections, as well as different types of voting system.

4.3 With reference to the last presidential elections held in France, Ireland and Singapore respectively, Chapters 2 to 4 examine the nomination and voting procedures in these three places in terms of the following aspects:

- (a) Overview, which briefly introduces the political system, powers and terms of office of the president, and the implementation of universal suffrage for presidential election in the places studied;
- (b) Legal framework, such as the relevant electoral legislation, voter registration and other electoral arrangements;
- (c) Nomination procedures, including the eligibility of presidential candidates, candidate selection mechanism and primary elections, if any; and
- (d) Voting procedures, covering the electoral system implemented in the places studied (two-round in France, alternative vote in Ireland and first-past-the-post in Singapore) and the corresponding arrangements for polling and counting of votes.

4.4 Based on the findings in the previous chapters, Chapter 5 compares the salient features of the places studied and highlights the issues of concerns relating to the nomination and voting procedures for the presidential election in these places.

## **5. Proposed completion date**

5.1 The Research Office proposes to complete the research by mid-September 2013.

Research Office  
Legislative Council Secretariat  
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