



The Development and Perfection of China’s Election Theory

YANG Chunlei^{[a],*}; YANG Hua^[a]

^[a]School of Law, Yangtze University, Jingzhou, China.
*Corresponding author.

Supported by Jingzhou Science and Technology Development Project (2015AD52); Legislative Research Project of Jingzhou People’s Congress Standing Committee (15JZLF02); Youth Foundation of Yangtze University(2015cqn01); Society Science Foundation of Yangtze University(2015esy003); Innovation Foundation of Social Assistance Research Center of Yangtze University(15JZ03).

Received 26 September 2015; accepted 21 November 2015
Published online 31 December 2015

Abstract

Election theory refers to a set of values, methodologies and rule principles which direct the exercise of power and operation of electoral system in science of constitutional law. Election theory is an important part of constitutional theory system. The characteristics of reform and opening-up and emancipating the mind are elaborated in the election theory in China, the historic trend and core value in democratic world are also expounded in the election theory in China. The basic questions, such as, the nature of election rights and the components of election system, must be deeply understood and perfected to deepen the reform in a better way, thus, election theory will be a system with the unity of purpose and regularity, logic self-consistency, and sound function.

Key words: Election theory; Election rights; Electoral system; Development; Perfection

Yang, C. L., & Yang, H. (2015). The Development and Perfection of China’s Election Theory. *International Business and Management*, 11(3), 45-49. Available from: <http://www.cscanada.net/index.php/ibm/article/view/7881>
DOI: <http://dx.doi.org/10.3968/7881>

INTRODUCTION

In science of constitutional law, the election theory, which

is an important part of the constitutional theory system, is a set of values, methodology, and rules of principle to guide the exercise of the voting rights and the operation of the electoral system. The exercise of voting rights and the operation of electoral system are the starting link and the primary content of representative democracy and the full display of the citizens’ political rights and the country’s political system in the process of implementing the Constitution (Yang 2015). Western society’s election theory has evolved with its election practices and the development of democratic politics as a political theory mainly, including basic theory, electoral process theory and electoral behavior theory; It produces a profound impact on other countries’ relevant theoretical research, system design and political practice relying on its strong political expansion and dissemination of ideas.

1. THE DEVELOPMENT OF CHINA’S ELECTION THEORY

On the basis of criticizing and discarding the Western election theory, China’s election theory contains not only the profound grasp of the characteristics of the times of the reform and opening-up and the emancipation of the mind but also the full embodiment of the historical trend and the core value of the democratic world. China’s socialist political and legal practice takes the pursuit of “human liberation” as the goal and the constitution spirit “all power belongs to the people” as the guiding ideology. It has realized the freely exercise of the citizen’s right to vote in the periodic campaign, thereby laying the foundation of the public opinion and functional utility of the people’s Congress system; It implements the basic principles of the constitution “the people are the masters of the constitution” through the appointment of national staff, the creation of laws and regulations and the review and supervision of policy. Under the guidance of election theory, the current constitution is more advanced than the first three constitutions and more able to adapt to

the comprehensive transformation of social life with the humanistic care and the democratic value return. One of the biggest advantages of it is that it is clear and definite to put the principle of people's sovereignty into practice in the form of concrete norms such as the civil right to vote, the national electoral system and the people's Congress system, so as to form a positive interaction between the constitutional norms and social life.

The accumulation of solid material foundation since the reform and opening-up and the stable constitutional order which has formed during the past 30 year have provided a good research platform, rich practical experience and a large number of empirical materials for the Chinese election theory research, making the innovation of the election theory possess the realistic possibility. However, how to organically merge the general standards of democratic politics and the special requirements of Chinese society and Chinese law together creatively is particularly necessary in order to solve the difficult problems of development when economic system reform is faced with the bottleneck and the reform of political system is indecisive. Today, with the rapid development of the international situation and the differentiation and sharp collisions of the interests of various social strata in domestic, we have to soberly realize that the stability character of the constitution itself unnaturally shows the hysteresis nature, and it lacks an immediate solution to the above real challenges.

Specifically, when issues are emerging, for example, the economic development potential lacks, the income distribution system is unfair, sharp contradiction between labor and capital is still, labor shortage and high unemployment rate coexist, GDP growth and the deterioration of environment and resources appear at the same time, the system function of the people's congresses at all levels arising from the constitutional right to vote and the operation of the electoral system is more and more weak while it is supposed to integrate the appeals for the interests of all orders of society and bridge the cracks in the internal community due to the excessive fight on limited natural resources and social resources. Closely connected with this is that the normalization of "non system existence" such as the long-term petitioners and the presence of frequent group events makes it difficult for the election theory to make constructive interpretation and guidance for the confusion and helplessness after the reform entered the "deepwater area". At the beginning of the reform and opening-up, although the election process like "wear-hat candidate", arrange-type elections and mass mobilization of the election once to have won the support and caper in the context of the high unity of community interests and will (Cui & Hu, 2014). But this rigidity in long-term political manipulation level is far apart from the ideal state regulated in the constitution and the constitutional law, which easily cause the virtual set of the voting rights and the formalization of the election

process. And it dilutes the interest tie between voters and representatives, resulting in an inescapable estrangement between them.

Therefore, under the impact of economic wave, with the consistent pattern of community interest broken, diversified demands of the right lead the former silent majority begin to question the political obstacle that they are unable to share the achievements of the reform. Public enthusiasm and motivation for political participation continue to subside after some of the prophets who attempted to fill in the large gap of specific operation left by election legislation through their own efforts in politics have suffered repeated setbacks. A series of imbalance of the distribution of right and the unstable factors caused by the hollowness of the election right continue to interfere with the stability of constitutional order. These are the social contradictions and constitutional problems that cannot be avoided in the election theory.

2. THE PLIGHTS OF CHINA'S ELECTION THEORY

There is still a large dislocation and gap between the meet of the existing election theory and Chinese traditional culture and the demands of social comprehensive transformation. From the overall situation of the reform development and social change, the comprehensive reform measures during Just 30 years have bred many chronic illnesses which are difficult to digest while they solved the urgent problem of survival and development. In addition, lots of historical baggage have not been unloaded, causing the whole community to present a gap between the ideal and the reality which includes the gap between urban and rural areas, the development gap between the east and the west, and the wealth distribution gap in the difficult process of the rapid transition from traditional agricultural society to the post-industrial society. Above problems lead to complication of social problems, intensification of social contradictions and diversification of development ideas, thereby making it difficult for the majority of people including academics to accurately grasp the direction and the path of the follow-up reform; they also cause that the existing election theory tend to abstractly answer its own question in the "vacuum", with Chinese cultural background and specific space-time condition in the transition period disaffiliated; It is difficult for election theory to accurately capture the rare opportunity to promote the transition of constitution at key nodes of deepening the reform of economic system and political system, let alone undertake the historical mission to perfect the election legislation and standardize the election practice so as to help continue to deepen the follow-up reform under the premise of consolidating the existing reform achievements.

In particular, the plights of the current election theory are mainly reflected in the following five aspects:

Existing researches focus on the rule design at specific technical level and they are insufficient to pay attention to the social philosophy theory of the constitution which guides the election theory. They even directly copy the western political and legal theory without hesitation. The view that the electoral system of China and the People's Congress system are analogous to the foreign political marketing and political market doesn't distinguish the innate difference between the Chinese and the West in the political principle and the structure of organization (Jin & Lu, 2013). For example, making "Professional Representation" equivalent to "Identity-Commissary System", making the diversity and the representativeness of the representative identity in opposition, making the affinity to the people and the negotiability of People's Congress System in opposition and making political representative theory of the ruling party and electoral system in opposition, lead to bizarre conclusions that representatives are contrary to the people, the representative government is contrary to the interests of people and the representative democracy is contrary to popular sovereignty.

Before they have thoroughly understood the profound background and reasons of the production, operation and development and change of the western election theory and system, some scholars are eager to introduce a variety of specific electoral patterns, especially regard the electoral system as counting method; thus they form priori thoughts that the majority contents of the electoral system have been reached a consensus and been implemented in countries, that there is no sense to carry on a macro comparative political research and the emphasis of those researches should be locked in "ways of ballot statistics". They are typical "don't see the forest for the trees" and they have the order reversed in the problem of "the sense of proportion". Actually, the reason why modes of election and ways of counting are complex, diverse and distinctive but not monotonous or uniform, is that they exist difference in the tradition of politics and laws, the level of economic development, the socio-cultural background and researches on election theory, etc.

The enthusiasm of "Adversarial" election which often appears in existing researches, the expectation of neutral electoral organizations that are sharply demarcated from parties, the People's Congress and the government, the deliberate rendering of the hostile state between the candidates nominated by political parties and people's organizations and the candidates nominated by voters and representatives all reflect some scholars' staleness in methodology. Because, in modern welfare states, people have recognized that the least managing government is not necessarily the best government and controlling power is no longer the only constitutional operation mechanism of the public power. Modern constitutional view has been replaced by the new constitutionalism view which seeks for the unity of power-protection and power-controlling.

And it develops towards a more universal constitutional view that transcending the limitations of national perspectives and seeking for holistic care of community.

Existing empirical researches on the grass-roots election reflect the restless and aggressive mentality of many researchers. As a result, conclusions of their studies present non-rational subjective assumptions. For example, from farmers' pulling together to protect the election rights, they conclude priori thought that anybody is not lack of political consciousness or the ability of political participation without considering the close relationship between education level and the willingness and ability of political participation; they further put the essence of politics simply into economic interests, holding that the individual's pursuit of their own interests will spontaneously form a good political system and eliminate social crisis. On the other hand, they lack of an adequate analysis and cognition of contradictory phenomena widely existed in countryside such as fatuity, haggling and political apathy, etc.

Existing researches on innovation of the basic-level election are overly optimistic about pilot reform of the electoral system. They put undue emphasis on pursuit of innovation and change, with ignoring the constitution quality and the close connection between election practices and the People's Congress system. The direct election of mayor with putting aside the People's Congress, the electoral process that the people's Congress of town confirm the election after determining the formal candidates according to public opinion in preliminary election and the antagonistic conflicts between individual independent candidate and election organizers, don't turn their attention to the system of people's Congress which is the fundamental political system established by our Constitution. They lack of vigilance as it should for the unconstitutional and illegal phenomena in election innovation and positive response to the old problems which have been heavily criticized such as the illusive establishment of the right for representatives to nominate and the "rubber-stamp" of the function of National People's Congress, etc.

3. THE PERFECTION OF CHINA'S ELECTION THEORY

Our empirical researches on domestic and foreign elections have been quite rich. However, many studies are "to take a part for the whole" rather than "from a part to a whole" due to our insufficient recognition on the systematic relationships of the social community. The most urgent affair is integrating and optimizing the scattered research results we have. The understanding of the construction and perfection of the electoral system should base on the view that taking the full realization of the right to vote as an important part of humans' overall demand. The standard of perfecting the electoral

system should be that the individual achieves harmonious coexistence with others and the community in the political participation of community resource allocation. Only in this way, can the election theory become a system with the unity of purpose and regularity, logic self-consistency and sound function.

In particular, the perfection of the electoral theory should involve the following seven aspects:

We should correctly understand the nature of the right to vote. The essence of the right to vote is the qualification of people to participate political life of the community, the right to intervene the allocation of resources based on the right to vote and the possibility of survival and development given by the right to vote; It should not be vulgarly understood as a tool to calculate benefits nakedly and to fight for resource. But it should emphasize on social total benefits and the ultimate goal of the exercise of the right to vote with focusing on the benign interaction between individual and community.

We should achieve the reasonable position of the state, the society and the citizen in political life. As the limited rational beings, the individual and the group and the government can't always make the absolutely correct judgments and decisions. The constitution must make scientific arrangements for the authority, functions, roles, objectives, obligations and supervision mechanism, the error correction procedure and the remedy way of the state, the society and citizens in democratic politics. And it must restrict the non-rational and greedy sides in humanity to ensure the perspectiveness and correctness of various decisions and to prevent the transformation of political participation becoming into endless bargaining, so as to ensure the stable and healthy development of political life and eliminate the negative factors hindering the realization of the ultimate goal of community (Dong, 2015).

We should correct the election motivation, cultivate the elite consciousness and construct the overlapping consensus. The correction of the election motivation should be the forerunner for the construction and the operation of the electoral system. And the cultivation of elite consciousness is urgently to be introduced to realize the fundamental transformation. Here the so-called "elite consciousness" is not usually referred to as a cultural label that artificially dividing the members of the society into various grades and ranks but a sense of historical responsibility and the responsible spirit of the times including the honesty and credibility, the collective care, the whole consciousness, the modesty the reason. Through the long-term cultivation of the elite consciousness, it is able to culture the ability of people to listen to and communicate with each other, to form a democratic negotiation with multi-angle and full-orientation, to resolve the contradiction between the strata, to build a overlapping consensus among the members of the community, and ultimately to bridge the rift produced by the differentiation of interests within the community.

We should improve the nomination system of

candidates for deputies and further optimize the structure of NPC member. First of all, although our country's "election law" sixth defines the quantity guarantee of basic-level representatives, especially representatives of workers, farmers and intellectuals, measures of implementation are not stipulated in subsequent legal provisions such as "the proposition of candidates for deputies" and "electoral procedure", etc. That leads to the result that the proportion of leading cadres is much higher than the basic-level representatives in the composition of the people's Congress. Therefore, the proportion of candidates jointly recommended by voter and representatives should be increased, and the lowest proportion of these candidates in all the candidates shall be clearly defined. Their voting rights should be guaranteed in the electoral process. Secondly, the superimposition of the identity of regional representatives and industry representatives can not reflect the trend of refinement of social division of labor and differentiation of social stratum and diversity of social interests that it brings. It also cannot implement the special requirements of regional development.

Therefore, in the nominating process of candidates for deputies, local electoral institutions should prescribe the proportion of regional representatives and industry representatives in each constituency according to the local actual situation. Finally, the current nomination procedure failed to give a legal activity space for potential candidates for deputies who deliberately run in election, resulting in a state that there are only a nominating party's recommendation lacking of the consent of the parties in the nominating process, which is not conducive to the effective realization of citizen's right to vote. Therefore, we should establish the candidate registration system, let the prospective candidates express their political willingness to participate in the administration in advance and be initiative to fight for the recommendation of voters, representatives or political parties and groups, which can make the nomination procedure more efficient and transparent, avoid the embarrassing situation of "arrangement" or "represented" and effectively optimize the structure of representatives.

We should ensure the basic role of the competition mechanism in the electoral process. First of all, we should determine the formal candidates for deputies through the preliminary election system; cancel current manners of discussion, consultation and deliberation. That is to use the mechanism which is transparent and easy to handle to replace the procedures which is ambiguous, lack of operability and easily affected by improper intervention. Secondly, we should guarantee the realization of information symmetry among candidates, voters and election authorities, whether before the preliminary election or the formal vote; In addition to the existing introduction method of candidates and communication method between candidates and voters, the election law should define the channels, methods and limits of

campaign propaganda for candidates. And the election authorities are asked to provide the same propagating platform and the opportunity to debate through all kinds of multimedia channel for official candidates, insure they are treated equally, and avoid the factual insufficient competition and election inequality result from the imbalance of physical capital and financial capital between candidates. Finally, in order to prevent the election from becoming “money politics” while maintain the legitimacy, authority and seriousness of election, election law must regulate the campaign teams set up by candidates, restrict the source and uses of campaign funds, prevent battles and conflicts between the candidates and make the election campaign carry on orderly and peaceful in the framework of the rule of law.

We should expand the scope of direct election and seize the opportunity to popularize. Excessive levels of indirect elections make it very difficult for the expression of public opinions and make people’s supervision and restriction on representatives increasingly weak. Direct election has irreplaceable advantages in the expression of voter appeal and supervision of representatives’ resumption, etc. In today’s developed information society, the rapid development of information technology has greatly narrowed the space-time distance between people and people, and it has greatly saved the cost of organizing election. And the grass-roots election practice at all levels has been a vivid training of citizen political quality and ability to participate in politics. The equipment of favorable factors in subjective and objective aspects make it get realistic material foundation and mental preparation to push the scope of direct elections from the basic level into the middle and even the upper level. Of course, the grasp of the timing to popularize the direct election is also worth our careful consideration. Because the political horse sense tells us that the level of political participation in the rule of law is proportional to the degree of political stability. In the place where the level of political participation in the rule of law is low, the more political participation, the more detrimental to political stability. So, it is logical that the reform of political system asymptotic expands on the basis of the perfection of the election theory and the normalization of the electoral system. Blind pursuit of direct election accomplishing at one stroke, will only exacerbate social instability and accelerate the disintegration of the community.

We should establish and improve the election dispute settlement mechanism. With the expansion of the scope of election and the normalization of the competitive election, election disputes will present growing complicated tendency inevitably. The expediency, which defining the election lawsuit in special procedure of civil litigation should develop towards independent constitutional litigation. At the same time, In addition to the only voter eligibility controversy, the scope of accepting cases of election lawsuit should add other types including the controversy over the illegal act of election authorities, the

controversy over the recommendation and nomination of candidates, the controversy over the legitimacy of the candidate’s campaign and the controversy over the validity of the election results, so as to provide comprehensive judicial relief for the whole process of election work. Moreover, given the legality and political nature of election campaign and the leading role and supervisory power of the people’s congress toward election, China’s election dispute settlement mechanism should adopt the mode that combining the judicial organ with the representative organ; it means that the election dispute first be heard by the people’s court, and the handling of the dispute is ultimately confirmed by the people’s Congress at all levels to guarantee the final decision on the election belongs to the people’s Congress. (Ren, 2014)

CONCLUSION

The construction of China’s election theory is a historical process of adapting to cultural traditions and development situation of society. Its perfection and future trend must expand in specific space-time context of China with coinciding with local social and historical conditions at that time. It is the epoch mission of Chinese science of constitutional law to catch the further development trend of reform and opening-up to guide and promote the development and perfection of Chinese constitution. The key of the path to construct and perfect the election theory we assumed lies not in the speed of reform and the length of time, but lies in scientific value, world outlook and methodology built by the understanding of the nature of the right to vote. Based on this premise, it is able to contribute to the reasonable design and stable operation of the electoral system, and then to strengthen the constitutional function of the system of people’s congress of expressing of public opinions, gathering people wisdom, democratic decision-making and improving of livelihood.

REFERENCES

- Cui, W., & Hu, Y. X. (2014). The perfection of villagers’ supervision right. *Studies in Sociology of Science*, 2, 107-113.
- Dong, Y. (2015). On the strategic dimension and practical enlightenment of Deng Xiaoping’s thought of democratic and legal educational. *Canadian Social Science*, 1, 183-187.
- Jin, P. S., & Lu, F. F. (2013). A contrastive study of political speeches in presidential election of interpersonal meaning. *Studies in Literature and Language*, 3, 79-83.
- Ren, Y. M. (2014). Educating for democratic citizenship in a globalizing world: Some Recent developments in England and China. *Higher Education of Social Science*, 3, 127-138.
- Yang, C. L. (2015). Constitutional attempt and enlightenment of China democratic league (1941-1948). *Higher Education of Social Science*, 2, 18-22.