

PART II

6TH LEGISLATIVE ASSEMBLY ELECTIONS



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On 17th September 2017, the 6th Legislative Assembly Elections ran smoothly and 14 directly-elected and 12 indirectly-elected seats were filled. In the process of the Legislative Assembly Elections which took nearly half a year, the CCAC not only performed its duty to combat electoral corruption in strict compliance with the law but also progressively carried out promotion on clean elections in cooperation with various sectors in society.

I. Supervision and law-enforcement against illegal acts related to elections

For the competence to combat electoral corruption and other illegal acts related to elections, the CCAC not only carried out investigation of the crimes of corruption in relation to the elections under Article 3 of the *Organic Law of the Commission Against Corruption* but also joined hands with the Management Committee of Legislative Assembly Elections (CAEAL) and the Public Security Police Forces to handle the cases of slight violations related to the elections in accordance with Article 184 of the *Electoral Law of the Legislative Assembly*.

In order to effectively perform the duty to combat electoral corruption, the Anti-Corruption Bureau of the CCAC started making the relevant plan in the latter half of 2016. Based on the experience in the law-enforcement in the previous elections and the amendments about the competence of the CCAC in the *Electoral Law of the Legislative Assembly* made in late 2016, the supervision against electoral corruption and the law-enforcement actions in relation to the Legislative Assembly Elections 2017 were carefully prepared.

On 13th March 2017, the Chief Executive promulgated an administrative order to determine 17th September 2017 as the Election Day, which marked the start of the

process of the 6th Legislative Assembly Elections. At the same time, the individuals or groups that intended to stand for the elections commenced their preparation and the CCAC also commenced the law-enforcement actions to prevent and combat electoral corruption and other illicit acts related to the elections.

In recent years, the situations of buying votes with money no longer existed. However, during the election period, there were a large number of activities organised by the associations intended to run for the elections under the name of anniversary, financial aid to students, caring for the elderly and festival celebration where free meals, trips or cash coupons and gifts were offered and, sometimes, propaganda activities were carried out, which might constitute electoral bribery. Through the promotion of clean elections, the CCAC enabled the public to clearly understand that the bottom line of the law is that “offering of advantages shall not have any relation with the elections”. Meanwhile, the CCAC also strengthened the law enforcement and supervision.

Between March and September 2017, the CCAC carried out the supervision against electoral corruption in accordance with its plan. A total of 5,089 checks against electoral bribery were conducted, including 2,907 in restaurants and venues for feast, 1,850 in venues for activities, such as anniversary celebrations, held by civil associations and 332 on activities including the distribution of allowances and trips. The checks conducted by the CCAC’s law-enforcement staff had a significant effect on the prevention and suppression of the corrupt acts which might have occurred at the events.

On the Election Day on 17th September, the CCAC strengthened its supervision and law-enforcement. Apart from the polling stations, the places where the voters were picked up and the restaurants were also included in the list of the sites to be checked. The CCAC conducted a total of 1,900 checks, including 1,235 in cars picking up voters and public places where groups of people gathered and 665 in

restaurants and venues for feast, and followed up the illegal acts found in the checks right away.

Throughout the election period, the CCAC closely cooperated with the CAEAL to organise symposia about the *Electoral Law of the Legislative Assembly* for candidate lists and voters and launch a hotline and an online platform for “complaints and reports about Legislative Assembly Elections” in order to receive citizens’ complaints and reports over illegalities related to the elections. Between 18th March and 17th September 2017, a total of 206 complaints and reports and 252 requests for help and consultation were received through the hotline and the online platform.

Compared with the previous elections, the number of candidates running for the directly elected seats was the largest in the 6th Legislative Assembly Elections and thus the competition was the fiercest. However, the number of reports received by the CCAC and works of supervision and law enforcement reflected that there has been an improvement of the situations of alleged electoral bribery and other related illegal acts. The public’s awareness of electoral integrity has constantly enhanced and the electoral environment has developed into a fairer, cleaner and more just one.

II. Promotion of clean elections

In March 2017, with reference to the illegal acts such as illegal canvassing and alleged electoral bribery detected in the previous Legislative Assembly Elections and the related stipulations in the newly amended *Electoral Law of the Legislative Assembly*, the CCAC commenced the promotion of clean elections through multiple channels in a holistic manner so that the candidate lists and the citizens would understand and abide by the law, run for the elections and exercise their civil rights in accordance with the law and the quality of the elections would be further enhanced.

In order to enable all strata of society to understand the process of the Legislative Assembly Elections and the stipulations about the illegal acts related to the elections

such as electoral bribery, starting from April 2017, the CCAC and the CAEAL co-organised 4 sessions of the “Symposium on the *Electoral Law of the Legislative Assembly*”. Meanwhile, at the request of some tertiary education institutions and civil associations, the CCAC organised 11 seminars about the *Electoral Law of the Legislative Assembly* for over 2,000 people.

The CCAC widely disseminated the information about clean elections and the complaint and report hotline and online platform through advertisements on newspapers, outdoor spaces and buses, newspaper columns, radio channels and TV programmes. Moreover, specific promotion for different groups were carried out through various kinds of publications including posters, brochures and comics and a series of TV and radio advertisements with different episodes including “student”, “teacher” and “athlete”.

Between March and June 2017, the CCAC held the itinerant theatre tour entitled “More about Clean Elections” at different schools, which enabled secondary students to understand the importance of the safeguard of clean elections through drama. The event was so popular among the students that a total of 18 schools joined the event. There were 28 sessions with over 4,000 students in total.

Due to citizens’, especially young people’s habit of obtaining information through application of the new media, in June 2017, the CCAC opened an account on Wechat, on which the representative samples of illegal acts related to elections such as electoral bribery were uploaded so that the information, with both texts and pictures, would be directly disseminated among the citizens through social network and enable them to understand and abide the law.

In order to foster the value of electoral probity in teenagers, the CCAC recruited 83 students from Form 3 to Form 6 as members of the “Volunteer Team for Clean Elections 2017” in June 2017. The volunteers not only assisted the CCAC with the

organisation of the event “Tour on Clean Elections 2017” and distribution of the leaflets promoting clean elections but also spread the message to their families, classmates and friends.

III. Improvement of legal regime to combat electoral corruption

For the 6th Legislative Assembly Elections, both the candidate lists and the government departments responsible for organisation of the elections have had an analysis and review of their experiences. As the law-enforcement entity responsible for the fight against electoral corruption, the CCAC has conducted an in-depth analysis and review of the *Electoral Law of the Legislative Assembly*, other stipulations related to prevention, supervision and suppression of electoral corruption and the effect of the law enforcement and considers that there is room for improvement of some of the contents.

The amendments of the *Electoral Law of the Legislative Assembly* made in 2016 have improved the legal regime related to the suppression of electoral corruption and have been tested in the elections this time. For example, the stipulations that the relevant criminal acts that occur outside the territory of Macao including electoral bribery are also punishable and that the law-enforcement staff of the CCAC are empowered to enter specific private places for supervision have provided more effective protection for the CCAC to conduct supervision of the elections and related activities.

The new amendments of the *Electoral Law of the Legislative Assembly* have introduced the system of declaration of activities where advantages were given away during the election period, which requires that when the association in which the candidate holds a position organises an activity involving advantage offering or when the candidate takes part in such an activity, he shall make a declaration. From the law-enforcement actions, the CCAC found that in the period designated by the

law for the declaration, there was a significant decrease in the events such as feasts, trips, entertainment and distribution of advantages organised by the associations running for the elections compared with the previous elections.

It was first time that the declaration system was applied to elections. Despite the existence of various problems, the implementation has demonstrated that through the mechanism of declaration and public disclosure, the situations of influencing voter's decision through advantage offering may decrease without affecting the regular activities of civil associations. The CCAC has the following suggestions for improving the declaration system based on the current situations:

- According to the *Electoral Law of the Legislative Assembly*, the period for civil associations and candidates to declare the activities involving advantage offering starts on the 15th last day before the Election Day and ends on the Election Day. Since the period is relatively short, some associations held the activities in advance in order not to make the declaration. Therefore, the CCAC suggests lengthening the period for declaration of organisation or participation of the activities to a proper extent without affecting normal social events.
- The *Electoral Law of the Legislative Assembly* provides that the “blackout period” and the Election Day fall within the period for civil associations and candidates to declare the activities involving advantage offering. The CCAC suggests stronger restriction on the activities held on these two days in order to prevent violation of the stipulations banning propaganda activities or electoral bribery and enhance electoral integrity.
- According to the *Electoral Law of the Legislative Assembly*, the activities that the associations and candidates shall declare include feast, trip, entertainment and distribution of allowances or gifts, but it does not regulate the number of participants, the amount of money involved and the scale of the activities. Since the purpose of electoral bribery will only be achieved when a certain number of voters are involved, the CCAC suggests regulating the number of participants and amount of money involved in the activities involving advantage offering. When they exceed the upper limit, declaration is required.

- The *Electoral Law of the Legislative Assembly* requires declaration of the activity involving advantage offering held by the legal person which has special relation with the candidate and his participation in such an activity. If the candidate participates in one held by the legal person which does not have any special relation with him, declaration is not required. In order to prevent evasion of the declaration system, the CCAC suggests requiring the candidates to declare all the activities involving advantage offering they participate in with participants and amount of money involved exceeding the statutory limit.

According to the *Electoral Law of the Legislative Assembly*, the act of offering or promising to offer advantage so that the voter votes or not to vote for a certain candidate list constitutes electoral bribery. The advantage may be goods, employment or opportunity of promotion. The law provides that the constitution of a crime of electoral bribery requires two elements, namely “offering of advantage” and “influencing voter’s decision by the advantage”.

Although the “value of advantage” is not provided for in the law, there shall be a causal relationship between “offering of advantage” and “influencing voter’s decision by the advantage”. During the election period, the candidates often canvass by distributing souvenirs to voters. Since the value of the souvenirs is too low or insignificant to influence voters’ decision, such act does not constitute electoral bribery.

For the “breakfast incident” occurred on the Election Day, although the law-enforcement standard of the CCAC never changed, it has caused controversy in society. The CCAC believes that the public’s attention to and opinions on the “breakfast incident” have shown the “zero tolerance” to electoral corruption in society and will facilitate the enhancement of the fairness, justice and integrity of the Legislative Assembly Elections.

In addition, the “breakfast incident” has reflected the necessity to clearer define the “value of advantage” that constitutes electoral bribery in the law. The CCAC believes that it is possible to take the legislative experiences of other regions as reference and consider legislating for the minimum value of the advantage that constitutes electoral bribery, or, through binding instructions issued by the CAEAL, to regulate the ways of distribution of souvenirs or other things during the election period and the types and value of them.