



Hong Kong’s Legislative Council (Legco)

The United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5701, P.L. 102-383) states, “Support for democratization is a fundamental principle of United States foreign policy.” The development of Hong Kong’s Legislative Council, or Legco, has been a fundamental part of Hong Kong’s complex and incomplete process of democratization, and as such has become a key concern of some U.S. policymakers.

As currently constituted, some of Legco’s members are elected via a democratic process, and others are selected by a restricted mandate. Under the 1990 Chinese law establishing the governance system for the Hong Kong Special Administrative Region (HKSAR) of the People’s Republic of China (PRC), known as the “Basic Law,” “the ultimate aim” is the election of “all the members of the Legislative Council” (as well as the Chief Executive) by universal suffrage “in accordance with the principle of gradual and orderly progress.” As a result, Legco plays a critical role in both an assessment of democratization in Hong Kong, as well as progress toward democratization.

Brief History of Legco

Legco has a history going back over 170 years marked by some progress—and some setbacks—in democratization. The first Legco met in 1844, when the city was a British colony. All Legco members were appointed by Hong Kong’s Governor until 1985, when 24 of the 57 members were selected by limited suffrage. In 1995, the last Legco under British rule consisted of 30 members selected by 29 “functional constituencies” representing social and economic sectors, 20 members elected by universal suffrage in 20 geographical constituencies, and 10 members selected by an Election Committee. Every registered voter could vote in one geographical and one functional constituency.

The PRC government objected to the manner by which the 1995 Legco was selected, and appointed a 60-member Provisional Legco on December 21, 1996, which assumed office on July 1, 1997, the day on which the United Kingdom transferred sovereignty over Hong Kong to China. On May 24, 1998, the first Legco under Chinese sovereignty was chosen, consisting of 60 members: 20 elected by universal suffrage, 30 selected by limited suffrage through 28 functional constituencies, and 10 appointed by the Election Committee. The electors in the 28 functional constituencies included individuals, corporations, and organizations. Between 1998 and 2004, the number of Legco members selected by the Election Committee was gradually reduced to zero, with the seats being reallocated to the five geographical constituencies.

Legco now has 70 members, with 35 elected by universal suffrage in 5 geographical constituencies, 30 chosen through limited suffrage in 28 functional constituencies,

and 5 District Council members elected by voters ineligible to vote in the functional constituencies, the so-called “super seats” (see **Table 1**). Elections are held every four years. Many analysts maintain that the system gives certain groups disproportionate influence in Legco. For instance, the financial sector seat is chosen by 125 financial institutions, while the five district council (second) seats are elected by nearly 3.5 million people.

Table 1. Legco’s Geographical and Functional Constituencies in 2016

(Number of seats and number of registered electors in 2016)

Constituency	Seats	Electors
Geographical Constituencies:		
Hong Kong Island	6	627,804
Kowloon East	6	601,566
Kowloon West	5	488,129
New Territories East	9	975,071
New Territories West	9	1,086,515
Functional Constituencies:		
Accountancy	1	26,008
Agriculture and Fisheries	1	152
Architectural, Surveying, Planning, and Landscape	1	7,371
Catering	1	5,485
Commercial (First)	1	1,045
Commercial (Second)	1	1,491
District Council (First)	1	431
District Council (Second)	5	3,473,792
Education	1	88,185
Engineering	1	9,406
Finance	1	125
Financial Services	1	622
Health Services	1	37,423
Heung Yee Kuk	1	147
Import and Export	1	1,400
Industrial (First)	1	544
Industrial (Second)	1	769
Information Technology	1	12,115
Insurance	1	134
Labour	3	668
Legal	1	6,773
Medical	1	11,191
Real Estate and Construction	1	714
Social Welfare	1	13,824
Sports, Performing Arts, Culture, and Publications	1	2,920
Textiles and Garments	1	2,332
Tourism	1	1,426
Transport	1	195
Wholesale and Retail	1	6,727

Source: Hong Kong Electoral Affairs Commission.

Note: Figures in italics include both individual and corporate/organizational electors.

The Basic Law and Legco

The Basic Law established an executive-led government headed by a Chief Executive under which Legco has limited powers. Legco members can introduce legislation, but the legislation cannot be related to public expenditure, political structure or operation of the government, and must have the written approval of the Chief Executive if pertaining to government policy. The Basic Law also stipulates that any proposal to amend the Basic Law—including amendments that would change the election system for the Chief Executive or Legco—must be approved by at least two-thirds of all Legco members, as well as the Chief Executive, two-thirds of the HKSAR's deputies in China's National People's Congress (NPC), and the NPC's Standing Committee (NPCSC).

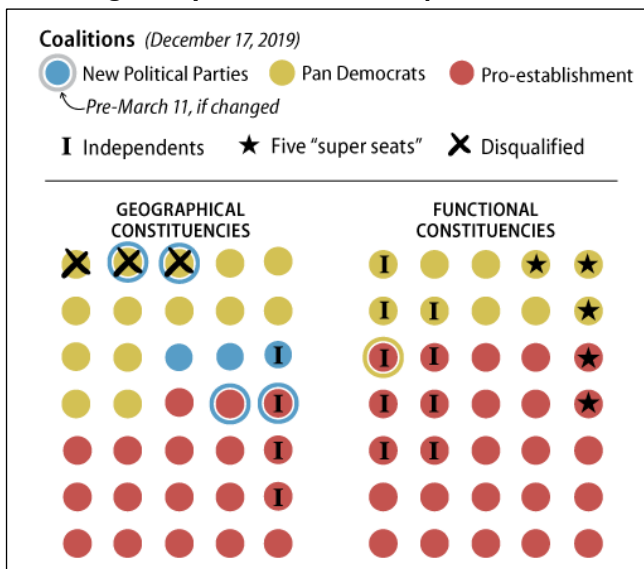
Political Parties and Coalitions

Most of Hong Kong's political parties are part of one of two informal coalitions. The "pro-democracy" coalition, which consists of the older "pan-democrat" parties and new political parties that emerged out of the 2014 Umbrella Movement, support more rapid democratization; the "pro-establishment" coalition prefers more gradual adoption of universal suffrage. The functional constituencies have generally selected pro-establishment candidates, while the geographical constituencies have elected more pro-democracy candidates.

The HKSAR's 6th Legislative Council

Candidates from 19 separate parties, as well as 12 independent candidates, won seats in the 6th Legco elections held in September 2016. The 2016 Legco elections also saw seven candidates from five new political parties nominate candidates and win seats. These new political parties generally support greater autonomy for Hong Kong. Six of the elected candidates, including four from the new political parties and two from the pan-democrats, however, were disqualified by Hong Kong's High Court from serving on Legco (see below).

Figure 1. Political Composition of the 6th Legco, Following the By-Elections and Disqualifications



Source: CRS.

Oath Controversy, Disqualifications, and By-Elections

Since the 2016 elections were held, Chinese and Hong Kong officials have undertaken measures that appear to be designed to disqualify pro-democracy Legco members. Five of the oaths taken by Legco-elect members on October 12, 2016, were ruled invalid by the Legco president, including those given by Leung Chung-hang and Yau Wai-ching. On October 18, then-Chief Executive Leung Chun-ying and Justice Secretary Rimsky Yuen Kwok-keung filed a suit in Hong Kong's High Court to prohibit Leung and Yau from retaking their oaths. On November 7, 2016, the NPCSC issued an "interpretation" of Article 104 of the Basic Law, mandating that all Hong Kong public officials must "accurately, completely and solemnly read out the oath prescribed by law." On November 15, the High Court disqualified Leung and Yau, ruling they "declined" to take their oaths. Chief Executive Leung and Secretary Yuen subsequently filed suits against two pan-democrats and two new political party members alleging that their oaths were not valid. On July 14, 2017, the High Court disqualified the four Legco members. Leung Chung-hang and Yau lost their final appeal to Hong Kong's Court of Final Appeal on August 25, 2017. Hong Kong's Court of Appeal ruled against Leung Kwok-hung on February 15, 2019; he reportedly plans on appealing his disqualification to Hong Kong's Court of Final Appeal.

By-elections held on March 11, 2018, and November 25, 2018, filled five of the six vacant seats (see **Figure 1**). Pro-democracy candidates won two geographical constituency seats (previously held by new political party members); pro-establishment candidates won two geographical constituency seats (previously held by new political party members) and one functional constituency seat (previously held by a pan-democrat).

On April 9, 2019, Legco members Tanya Chan Suk-chong and Shiu Ka-chun were convicted of incitement to commit public nuisance and incitement to incite public nuisance for their activities during Hong Kong's Umbrella Movement. Chan was also sentenced to eight months in prison, but the sentence was suspended for two years. Shiu was subsequently sentenced to eight months in prison; he was released on October 4, 2019.

Under Article 79 of the Basic Law, a Legco member who has been convicted and sentenced for one month or more can be disqualified by the two-thirds vote of the Legco members present. On December 11, 2019, Legco rejected motions to eject Chan and Shiu. Hong Kong's High Court ruled on December 17, 2019, that pro-democracy Legco members Au Nok-hin and Gary Fan Kwok-wai, who won seats in the by-elections, were not properly elected because two pro-democracy candidates, Agnes Chow Ting and Ventus Lau Wing-hong, were improperly banned from running for office. It is unclear if special by-elections will be held before the next Legco elections, scheduled for September 2020.

Michael F. Martin, Specialist in Asian Affairs

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