



Hong Kong Government Disqualifies Four Legislative Council Members

November 16, 2020

The government of the Hong Kong Special Administrative Region (HKSAR) [disqualified four elected members](#) of the city’s Legislative Council (Legco) on November 11, 2020, following a [decision by China’s National People’s Congress Standing Committee \(NPCSC\)](#) that sets new qualifications to be a Legco member. The following day, [15 pro-democracy Legco members submitted their resignations](#) in support of the four disqualified members and in opposition to the actions of the NPCSC and the HKSAR government. As a result, Legco, which is supposed to have 70 members, now consists of 42 “pro-establishment” coalition members who generally support the HKSAR government, and 2 other unaffiliated members.

Critics of the disqualifications see the actions of the NPCSC and the HKSAR government as [denying the disqualified members their right to due process](#); [undermining Hong Kong separation of powers](#) between the executive, judicial, and legislative branches; [violating China’s obligation to provide the HKSAR a high degree of autonomy](#); and effectively [ending China’s “one country, two systems” policy](#). The governments of the PRC and HKSAR assert that the NPCSC decision and the HKSAR government’s disqualifications were made in accordance with the PRC’s constitution and law, including the [Basic Law of the HKSAR](#) (Basic Law).

On November 12, 2020, U.S. Secretary of State Michael Pompeo characterized the disqualifications as a continuation of the PRC’s [“onslaught against Hong Kong’s freedoms and liberties.”](#) He declared that the NPCSC’s decision “tramples on the rights of the people of Hong Kong to choose their elected representatives as guaranteed by the Basic Law and further exposes Beijing’s blatant disregard for its international commitments under the [Sino-British Joint Declaration](#), a U.N.-registered treaty.” Secretary Pompeo stated that the U.S. government “will hold accountable the people responsible for these actions and policies that erode Hong Kong’s autonomy and freedoms.”

Background

The disqualification of the four Legco members—Dennis Kwok Wing-hang, Kwok Ka-ki, Kenneth Leung Kai-cheong, and Alvin Yeung Kkok-kiu—is the culmination of a series of events over the last two years

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that pitted Hong Kong's pro-democracy movement against the PRC and HKSAR governments. In 2019, Hong Kong was riven by protests over the HKSAR government's attempt to pass extradition legislation and its failure to implement democratic reforms (see CRS In Focus IF11295, *Hong Kong's Protests of 2019*). The protests contributed to the NPCSC's decision on June 20, 2020, to approve a national security law for Hong Kong that criminalized acts of sedition, secession, organization and perpetration of terrorist activities, and "collusion with a foreign country or with external elements to endanger national security" (see CRS Report R46473, *China's National Security Law for Hong Kong: Issues for Congress*).

Hong Kong scheduled Legco elections for September 6, 2020. On July 30, [HKSAR election officials disqualified 12 candidates](#), including 4 Legco members up for re-election—the two Kwoks, Leung, and Yeung. The following day, [HKSAR Chief Executive Carrie Lam Cheng Yuet-ngor announced that Legco elections would be postponed](#) until September 5, 2021, citing the public health risk of holding the elections during the Coronavirus Disease 2019 (COVID-19) pandemic.

On August 11, 2020, [the NPCSC approved the extension](#) of the current Legco's term in office for a year, as proposed by Chief Executive Lam, but made no determination on the status of the four Legco members disqualified from running in the postponed September election. The four Legco members were initially allowed to remain in office, but Chief Executive Lam asked the NPCSC to make a determination regarding their eligibility in light of their disqualification as candidates.

On November 11, 2020, [the NPCSC decided](#) that Legco members must "uphold the Basic Law" and cannot support Hong Kong independence, solicit intervention by foreign or external forces in the HKSAR's affairs, or carry out "other activities endangering national security." According to the HKSAR government, any current Legco member or any future Legco candidate or member who does not meet these conditions is to be immediately disqualified. As a result, the HKSAR government disqualified the four Legco members.

U.S. Sanctions on China and Hong Kong

Congress has authorized and the Trump Administration has imposed a series of sanctions on China and Hong Kong in response to the perceived erosion of Hong Kong's autonomy. The 116th Congress passed the Hong Kong Human Rights and Democracy Act (P.L. 116-76) in November 2019 and the Hong Kong Autonomy Act (P.L. 116-149) in July 2020. Both laws authorize the imposition of sanctions on PRC and HKSAR officials who the President determines are responsible for actions that contravene China's obligations under the Joint Declaration and the Basic Law.

On July 14, 2020, President Trump issued [Executive Order 13936](#) (EO13936), suspending or eliminating "different and preferential treatment for Hong Kong to the extent permitted by law...." On August 7, 2020, [the Treasury Department imposed economic sanctions](#) on 11 PRC and HKSAR officials, including Chief Executive Lam, citing the authority of EO13936. On October 14, 2020, [the State Department imposed visa restrictions](#) on the same people designated by the Treasury Department. On November 9, 2020, [the State Department](#) and [the Treasury Department](#) designated an additional 4 PRC and HKSAR officials to be subject to restrictions.

Pending Legislation

Additional legislation introduced in the 116th Congress would address erosion of Hong Kong's autonomy and the rights of its residents, mostly by providing Hong Kong residents with preferential or priority treatment when requesting asylum or refugee status or applying for immigration to the United States. These bills include the Hong Kong People's Freedom and Choice Act of 2020 (H.R. 8428, S. 4229), the

Hong Kong Refugee Protection Act (S. 4631), the Hong Kong Safe Harbor Act (H.R. 7415, S. 4110), and the Hong Kong Victims of Communism Support Act (S. 3892).

In addition, the Hong Kong Freedom Act (H.R. 6947) would authorize the President to recognize Hong Kong as a separate and independent country from China. The Hong Kong Be Water Act (S. 2758) would direct the President to impose sanctions on, and freeze assets belonging to, individuals and entities responsible for suppression of freedoms in Hong Kong.

Author Information

Michael F. Martin
Specialist in Asian Affairs

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