



Universal Suffrage

There were no recommendations made on Hong Kong Special Administrative Region, China (HKSAR) in the Second UPR Cycle.

Framework in the HKSAR

Articles 45 and 68 of the HKSAR Basic Law stipulate universal suffrage as the ultimate method of electing the Chief Executive and Members of the Legislative Council (LegCo). Currently, the Chief Executive is elected by a committee of 1,200 members, which favours pro-establishment and business interests. It includes representatives from catering, industrial and commercial backgrounds, including members of the National People's Congress.

There are 70 members in the LegCo. 35 are directly elected through five geographical constituencies under a proportional representation system, with the largest remainder method and Hare quota. The other 35 are elected through functional constituencies, which is a professional or special interest group, such as finance or insurance, holding a seat. Some of these members are elected by fewer than 150 people from those sectors. Anyone who is a permanent resident, ordinarily resides in HKSAR and is over the age of 18 is eligible to vote.

Article 25 of the International Covenant on Civil and Political Rights (ICCPR) protects the right and opportunity to vote and be elected at genuine periodic elections which shall be by universal and equal suffrage without distinction of political or other opinion. The ICCPR applies to HKSAR. Article 39 of the Basic Law provides that they shall be implemented through HKSAR laws.

Challenges

Cases, facts and comments

<ul style="list-style-type: none"> • More than twenty years since the handover, the Chief Executive is still not elected through universal suffrage, which is stipulated in the Basic Law. 	<ul style="list-style-type: none"> • The Election Committee of 1,200, which votes in the Chief Executive, is widely disproportional to its represented votes. For example, 60 votes from the Agriculture and Fisheries Sector represents only 154 registered voters, while 30 votes from Education Sector represents 80,643 registered voters. Further, some registered voters are companies, rather than persons.
<ul style="list-style-type: none"> • Half of the LegCo is made up by functional constituency members, formed and voted by professional and special interest groups. This leads to pro-establishment and pan-democrats receiving seats disproportionate to their votes. The LegCo has increasingly lost its capacity to monitor government actions and use of power. 	<ul style="list-style-type: none"> • In the 2016 LegCo election, 12 out of 35 seats in the Functional Constituency were uncontested, while in 2012, 16 were uncontested. • The ratio of votes received by pro-establishment and pan-democrats in 2016 was 40.9: 54.9, but their representation in the LegCo is 57:41 (40:29 seats), which leads to pan-democrats being minorities. • Rules of procedure have been amended to limit the oversight. For example, changes in 2017, mean that 35 members are required to establish an investigative committee. This bans pan-democrats requests. Quorums for meetings have been reduced for general meetings from 20 to 35, making it easier to pass government bills. Additionally, the President was granted substantial new powers.



透過聯合國普遍定期審議機制於香港推動人權
Advancing human rights in Hong Kong through
the UN Universal Periodic Review process

<ul style="list-style-type: none">Members of the LegCo must undergo political screening. This impinges upon the right to take part in public affairs, the right to vote and limits the free expression of voters under Article 25 of the ICCPR. Screening takes place in an unreasonable manner, inconsistent with General Comment 25.	<ul style="list-style-type: none">Six candidates were debarred from running the 2016 LegCo election, and three in the 2018 by-election, due to their political views and affiliations.In 2018, government officials decided that any political view that includes the possibility of independence was against the Basic Law, thus Agnes Chow from Demosistō was banned because her party fosters democratic self-determination.Political screening was conducted by returning officers, meaning even low-ranking government officials had the power to deprive citizens' rights.
<ul style="list-style-type: none">Elected legislators have been removed from the Legislative Council by court decisions due to their irregular vow making. This has taken place in a manner inconsistent with the rule of law, limiting the free expression of the will of electors under Article 25 of the ICCPR.	<ul style="list-style-type: none">Six Legislative Council members who received 180,000 votes were removed from the Legislative Council, undermining those voters' rights.The NPCSC interpreted the Basic Law of the HKSAR before HKSAR courts handed down a decision. This is seen as placing pressure on HKSAR courts.The interpretation was beyond interpretation and was considered by legal sector as putting additional meaning to the provisions.

Recommendations

- HKSAR should outline clear and detailed plans, with a timetable on how universal and equal suffrage will be instituted and enjoyed by all citizens, within one year.**
- HKSAR should develop an election system that is democratic, fair, open and transparent, and in accordance with international human rights law.**
- HKSAR should immediately abolish all functional constituencies in the Legislative Council, replacing all positions with directly elected candidates.**
- HKSAR should legislate to protect the rights of all persons to stand for election, regardless of their political affiliation or political beliefs, within one year. HKSAR should ensure that decisions by returning officers are made in accordance with ICCPR, especially the right to participate in public affairs.**
- HKSAR should remove restrictions barring bankrupt persons from running for elections within one year.**

Questions to ask in advance

- Universal suffrage (one person one vote) is stipulated by the Basic Law and has been discussed since the handover of HKSAR. What is the HKSAR Government's timeframe for implementing universal suffrage for Chief Executive and Legislative Council elections? What actions will the HKSAR Government take in the next 5 years to implement universal suffrage?*

Contact

- Hong Kong UPR Coalition:
Simon Henderson, Justice Centre Hong Kong (simon@justicecentre.org.hk, +852 3109 7359)
- Coalition Subject matter expert:
Yik Mo Wong, Civil Human Rights Front (wongyikmo.de@gmail.com)
- Hong Kong UPR Coalition submission: <https://bit.ly/2KyGreK>

