



Electoral Reforms and the Erosion of Democracy in **Hong Kong**: A Briefing

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Executive Summary

This briefing examines the electoral system in the Hong Kong Special Administrative Region (HKSAR) since the handover of the HKSAR to the People's Republic of China (PRC) in 1997, including the promises made under the Sino-British Joint Declaration, and assesses the implications of recent reforms to the electoral system.

It illustrates how the PRC has not only failed to fulfill any of its legal obligations or treaty promises, but also how it is using legal and bureaucratic methods to **reduce genuine direct representation and democracy** in the HKSAR, whilst still maintaining the formality of elections.

The elections that take place are increasingly restricted, from the choice of candidates, to the diversity of political parties and platforms, to the number of elected representatives. This allows Beijing to have more direct and comprehensive control over the HKSAR, whilst maintaining the illusion of a democratic system and presenting increasing oppression as electoral reforms.

With every electoral reform, the HKSAR is **less democratic** and **more directly controlled** by the PRC.

Context relative to the PRC

In 2021, when Beijing published its White Paper "[China: Democracy That Works](#)", it cemented its shift from refuting democracy to arguing that Beijing does democracy better than everyone else.

Beijing argues that "democracy is a common value of humanity and an ideal that has always been cherished by the Communist Party of China (CPC) and the Chinese people" and that "China's democracy is thriving alongside those of other countries in the garden of civilizations."

Therefore, as Beijing increasingly controls the HKSAR and ‘reforms’ the democratic process, the regime **whitewashes** the human rights violations and restrictions of fundamental freedoms and **failure to uphold legal obligations** by arguing that they are improving democracy.

This is a part of Beijing’s global narrative on human rights and democracy and an injustice to the people of the HKSAR.

Legal Background

Under the [1984 Sino-British Joint Declaration](#), the HKSAR has “executive, legislative and independent judicial power, including that of final adjudication.” The government “will be composed of local inhabitants” but “the chief executive will be appointed by the Central People's Government on the basis of the results of elections or consultations to be held locally” and “principal officials will be nominated by the chief executive of the Hong Kong Special Administrative Region for appointment by the Central People's Government.”

Subsequently, Beijing [elaborated](#) that “The legislature of the Hong Kong Special Administrative Region shall be constituted by elections. The executive authorities shall abide by the law and shall be accountable to the legislature.”

Under the [Basic Law](#), which is the law governing the HKSAR, often known as the “mini-constitution”, there are detailed instructions for how different parts of the government are to be selected.

From the start, Article 15 states that the “Central People’s Government shall appoint the Chief Executive and the principal officials of the executive authorities.”

Nevertheless, Article 26 stipulates that all HKSAR residents “have the right to vote and the right to stand for election in accordance with law.”

Article 45 stipulates that “The Chief Executive of the Hong Kong Special Administrative Region shall be selected by election or through consultations held locally and be appointed by the Central People’s Government”. The method for selecting the Chief Executive “shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection

of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.”

The Chief Executive is the leader of the HKSAR government, functioning much like a Mayor or a Governor, and has a number of significant responsibilities including signing bills and budgets passed by the Legislative Council, and appointing principal officials as well as judges. They are also responsible for implementing “the directives issued by the Central People’s Government.”

For the Legislative Council, which is the HKSAR legislature, Article 68 states that it shall be constituted by election, and that “the ultimate aim is the election of all the members of the Legislative Council by universal suffrage.”

There is no guidance for the District Councils under the Basic Law.

The HKSAR has also [signed](#) the International Covenant on Civil and Political Rights, which is also guaranteed under Article 39 of the Basic Law.

The [Covenant](#) also provides the right “to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors” without unreasonable restrictions, under Article 25.

Therefore, under the Basic Law and the International Covenant on Civil and Political Rights, the HKSAR has the obligation to select the members of the Legislative Council by elections, and the Chief Executive via a combination of elections and appointment by Beijing.

A reasonable interpretation of this would be that the HKSAR has an obligation to hold elections that are free, fair, and representative for the positions of Chief Executive and lawmakers in the Legislative Council. This is an interpretation that many lawmakers and the pro-democracy movement in the HKSAR have used.

However, what is ambiguous is the lack of clarity in the definitions of elections and universal suffrage, as well as the lack of clear framework and timeline for attaining universal suffrage.

Furthermore, phrases such as “in accordance with the law” can be used by the HKSAR to introduce new laws and reforms in the electoral process, which are then used to benefit their own political interests and legally restrict democracy.

The Basic Law included this ambiguity, enabling Beijing to keep making promises regarding universal suffrage, to satisfy the people of the HKSAR and the international community, whilst also providing **no real timeline or benchmarks or accountability when they do not achieve it.**

As a result, the regime has successfully avoided having to provide universal suffrage to the people of the HKSAR, and can continue interpreting the Basic Law from its own perspective to support its narrative.

However, the HKSAR is in violation of its legal obligations under the International Covenant on Civil and Political Rights (ICCPR). When it was reviewed in 2022, the UN Human Rights Committee recommended:

- “Hong Kong, China, should take concrete steps, with a clear timeline, to introduce universal suffrage. In the meantime, it should reform the electoral system” in accordance with the ICCPR;
- increasing the number of seats directly elected by public voters in the Election Committee and the Legislative Council;
- increasing the number of public voters in the Election Committee;
- introducing public voting for the election of the Chief Executive;
- revising candidate eligibility criteria to ensure diversity among candidates;
- review the criteria for and process of disqualification, and repeal discriminatory criteria;
- reverse the decision to disqualify elected officials.

These concluding observations were made in addition to the recommendations to independently investigate police misconduct and repeal the National Security Law, among others.

Motivation for reforms

After a [pro-democracy landslide](#) in the 2019 District Council elections, the HKSAR government introduced a range of reforms in 2021 and 2023 to ensure that the pro-Beijing camp can maintain the majority, thereby further eroding the limited democracy left in the HKSAR.

Beijing previously attempted to introduce electoral reforms in 2014-2015, but these did not pass.

However, given the political changes in the HKSAR since then, and especially in the political crackdown post-2019, Beijing has been able to successfully pass new electoral reforms.

The reforms apply to elections for Chief Executive, Legislative Council and District Council seats.

Chief Executive

As described above, the most powerful person in the HKSAR government is the Chief Executive.

The Chief Executive is appointed by the [Election Committee](#) which “comprises a total of 1500 members who are broadly representative of different sectors and classes of the community” and 33% by functional constituencies, which are voters from “bodies, organisations, associations or businesses which are representative and specified in relevant laws.” They essentially represent different sectors of the economy, such as agriculture and finance. They have been criticised for being pro-Beijing and favouring business interests.

The Chief Executive is advised by the Executive Council, a group of 21 principal officials and 16 non-official members that are “appointed by the Chief Executive from among the senior officials of the executive authorities, members of the Legislative Council and public figures.”

The Executive Council is comparable to a Cabinet in a parliamentary system of government where collective responsibility exists.

However, the way people are appointed and who is appointed is what makes the Executive Council pro-Beijing.

Effectively, this is a small group of very powerful individuals in the HKSAR government because they are advising the Chief Executive, and they are chosen in a completely undemocratic way. This is exacerbated by the lack of democratic process for the Chief Executive’s position. It is also an opportunity for Beijing to ensure that the Chief Executive is advised by pro-establishment individuals.

Chief Executive Reforms

In 2007, the HKSAR consulted the Beijing National People's Congress Standing Committee (NPCSC) on their interpretation of the Basic Law regarding whether the Chief Executive could be selected by universal suffrage.

The NPCSC [responded](#) that universal suffrage was not possible for the 2012 Chief Executive election or the 2012 Legislative Council election, but provided the possibility for universal suffrage in the 2017 Chief Executive election and 2020 Legislative Council election.

In 2014, the [Tenth Session of the Standing Committee of the Twelfth NPCSC](#) made new decisions for the 2016 Legislative Council and 2017 Chief Executive elections. Although they maintained that universal suffrage would be possible in the HKSAR, they added the standard that "the Chief Executive shall be a person who loves the country and loves Hong Kong" and requires that "the method for selecting the Chief Executive by universal suffrage must provide corresponding institutional safeguards for this purpose."

Effectively, this meant that all Chief Executive candidates had to be vetted by Beijing, and then from these candidates, the people of the HKSAR could have the right to vote. These elections would not be free or fair at all. Many NGOs, activists, and opposition politicians in the HKSAR heavily criticised this at the time.

These reforms greatly influenced the 2014 Umbrella Movement, which was sparked by the Tenth Session of the Standing Committee of the Twelfth NPCSC's reforms to the electoral system, and major protests organised by the Hong Kong Federation of Students and Scholarism outside the HKSAR government headquarters.

These were very significant protests in the HKSAR's recent history, where police used tear gas and violence in a way that drastically changed the public's perspective, and new political groups were formed as a result. However, the protests ended without any change from the government's side. Instead, they adopted even more stridently pro-Beijing rhetoric and new repressive policies.

More recently, universal suffrage for the Legislative Council and Chief Executive elections (and the resignation of the then-Chief Executive Carrie Lam) was one of the **five demands of the 2019 anti-extradition law protests**. The other demands were: full withdrawal of the extradition bill, retraction of the characterisation of protests as "riots", release and exoneration of arrested protesters, and the establishment of an independent commission of inquiry into police behaviour.

In 2021, the [NPCSC amended the Annex I and Annex II of the Basic Law](#), changing the requirements for the composition of the Election Committee and the requirements for the Chief Executive.

The composition of the Election Committee was increased from 1200 to 1500 members, and the number of seats in the Legislative Council increased from 70 to 90. Of these 90, the number of seats which were directly elected was reduced from 35 to 25, and an extra 40 seats were to be decided by the Election Committee.

In the last Election Committee selection, 27 of the new seats were for [HKSAR representatives who were based in Mainland China](#). Although this could be perceived as a way of allowing HKSAR people overseas to vote, given the context, it is a way of ensuring that more of the Election Committee members are pro-Beijing.

Significantly, none of these changes were made by the people or government of the HKSAR. Beijing simply demanded and imposed these electoral reforms in order to exert greater direct control.

The NPCSC also introduced a new vetting process for candidates running for Chief Executive, the Legislative Council and the Election Committee based on the approval of the Hong Kong Committee for Safeguarding National Security. The process would be carried out according to the review by the National Security Department of the Hong Kong Police Force whose decision would be final and could not be appealed.

This ensured that only “patriots” could run for elections, and in practice, meant that only pro-Beijing candidates who would not challenge the Central Government could run in any election.

This means that the election is not really free or fair either, following the additional requirements for the Legislative Council members to also pass “patriot” tests and politicised oath-taking requirements. This ensures that two branches of the HKSAR have requirements that essentially only allow candidates to run if they are supportive of Beijing.

In the last election, in 2022, John Lee was [elected](#) unopposed as Chief Executive of the HKSAR. Unlike any previous election for Chief Executive since 1997, he was the only candidate in the election, and only published his manifesto days before the election. Lee was elected by the

Election Committee, where 1428 of the 1461 members voted, representing a turnout of 97.4%. Of these, 1416 people voted in support of him, representing a 99.2% support rate.

Lee had vetted the Election Committee members the year before, in his capacity as Secretary for Security, with oversight of the Hong Kong Police Force, which conducts background checks on all members. He essentially selected the group of people who later selected him to be the Chief Executive.

In addition, Lee is the first HKSAR Chief Executive to have spent his entire career in policing and security, first as a serving police officer and then as Under Secretary for Security and then Secretary for Security. In contrast to all his predecessors who were either career civil servants or business tycoons, Lee has no experience of wider government or policy-making besides police and security, apart from his brief one-year tenure as Chief Secretary. Furthermore, his advancement is based solely on his patronage from Beijing, with no mandate or legitimacy from the people. In addition to the policies and regulations described above, there is an implicit expectation for the Chief Executive to be closely aligned with and loyal to Beijing and likely a secret Chinese Communist Party member. This may be institutionalised in future reforms.

Legislative Council

The [Legislative Council](#) is the legislature of the HKSAR, with 90 members. 40 Members are chosen by the Election Committee, 30 by functional constituencies, and 20 by geographic constituencies by direct elections. It has responsibility for enacting, amending, and repealing laws, and approving the budget and public expenditure .

Despite the Basic Law clearly stating that the Legislative Council should be constituted by election and that the ultimate aim is “the election of all the members of the Legislative Council by universal suffrage,” only 22% of the seats are directly elected.

On the other hand, 44% are selected by the Election Committee, which also appoints the Chief Executive. This small group of unelected people has a very significant influence on the HKSAR political system.

Although one could argue that the 77% of the Legislative Council seats which are not directly elected are representative of sectors of the population associated with the Election Committee and functional constituencies, it is no doubt less democratic and representative than directly elected geographic constituencies.

Furthermore, the Election Committee and functional constituencies are opaque groups where the membership can be manipulated by inviting and encouraging pro-Beijing membership, and discouraging or disqualifying pro-democracy membership.

In practice, these groups are very much pro-Beijing and ensure that the overwhelming majority of the legislature’s seats are aligned with Beijing. This reality is far from the universal suffrage guaranteed under the Basic Law.

This follows from developments in 2017 where four opposition lawmakers were [disqualified](#) from the Legislative Council for allegedly saying their oaths incorrectly. This included Nathan Law, Leung Kwok-hung, Lau Siu-lai and Edward Yiu.

This was an earlier step towards restricting the elected pro-democracy representatives from serving in the Legislative Council. Now, these restrictions are still in place, but have been supplemented by additional rules that exacerbate and cement this strategy.

Legislative Council Reforms

Although the total number of seats was increased from 70 to 90, the number of democratically elected seats, by geographic election, was reduced from 35 (50% of total seats) to 20 (22.2% of total seats).

The rest of the 70 seats were returned by Functional Constituencies Election and Election Committees Election which have less than 300,000 voters in total.

The geographic constituencies only consist of 3.5 million voters, which is less than half of the HKSAR population.

Furthermore, candidates are required to pass two high political barriers before participating in the election. First, they have to be nominated by all five sectors of the Election Committee; and second, they have to be screened by the Candidate Eligibility Review Committee that is mainly composed of government officials.

As mentioned above, in the last Election Committee selection, 27 of the new seats were for [HKSAR representatives who were in Mainland China](#). This also increases the odds for pro-Beijing candidates and decreases the odds for opposition candidates.

Previously, potential candidates were only required to be nominated by the eligible voters of the related constituencies to run for election.

In addition, in 2020, Beijing [disqualified](#) four more opposition members of the Legislative Council — Alvin Yeung, Dennis Kwok, Kwok Ka-ki and Kenneth Leung — for allegedly having promoted or supported Hong Kong independence, refused to acknowledge the PRC's rule over the HKSAR, sought intervention by foreign powers in HKSAR affairs or engaged in acts that jeopardize national security. There was no judicial process or review or appeal available.

The 2021 Electoral Reforms came with the slogan "[Patriots Governing Hong Kong](#)." The purpose of this was to screen out the democrats and ensure that only pro-establishment camp candidates could run for the seats. Therefore, when reviewed by the Committee composed of government officials, candidates who did not have a strong pro-Beijing agenda could be rejected on the grounds of not being 'patriotic' enough. This was another way of ensuring that the HKSAR legislature was only composed of pro-Beijing members, disqualifying opposition candidates, in another move that reduced democracy in the HKSAR.

Moreover, these Legislative Council reforms were passed by the NPCSC of the PRC, followed by the legislation process of the Legislative Council in the HKSAR, which was met with no opposition.

This shows that Beijing is able to fully control the electoral reforms in the HKSAR and pass changes that significantly curtail democracy in the HKSAR, in a process that is technically correct, but also faces no political challenges or safeguards. Essentially, they can fully control the electoral process in the HKSAR.

District Councils

There are 18 [District Councils](#) with 479 seats. District Councillors are directly elected and appointed members who advise the HKSAR government on local issues in their district, and have funding to promote recreational, cultural and community activities.

There have been recent reforms of the District Councils which have also made them less directly representative and democratic, which will be discussed in detail below.

District Council Reforms

In April 2023, the Chief Executive John Lee [announced](#) that future District Council Elections will be solely composed of patriots and only “a certain number of seats” will be elected by the public, so that they are “depoliticised” and focused on administration. He added that they are “allowing people who love the country and Hong Kong and are willing to serve to participate in district councils through ‘various other ways’.”

The [proposed overhaul](#) will reduce the proportion of directly elected seats in the municipal-level organization to about 20% — from the current 90% — in a devastating blow to one of the last vestiges of democracy in the city.

With the [new reforms](#), only 88 seats in November’s District Council elections will be directly elected by the public — down from 452 in the last poll. 179 will be appointed by the Chief Executive, while 179 will be from the District Fight Crime Committees, District Fire Safety Committees and Area Committees of each district, and all will go through screening.

The HKSAR has also drastically changed its narrative surrounding the District Council elections. In 2019, when the pro-democracy candidates won the election by a landslide, then-Chief Executive Carrie Lam announced that “[the HKSAR Government respects the election results.](#)” and that the elections had been held “in a peaceful, safe and orderly manner.”

However, Lam’s successor, Chief Executive John Lee, stated in May 2023 that the District Councils were a “platform for [advocating] black riots, Hong Kong independence and mutual destruction.” Pro-Beijing legislators also stated that the 2019 District Council elections were a “coup” and that the results were “abnormal.” Under the current narrative, the electoral reforms are to “plug loopholes” and prevent elections from being a platform for unrest.

Additional Changes

This year, the HKSAR [has](#) close to 83,000 fewer registered voters, making it the second consecutive year that the number of voters in the city had fallen.

The number of young voters aged 30 or below dropped by just over 10 per cent, from 622,446 to 558,286. The provisional voter figures were revealed after the HKSAR government announced that the next District Council election, where only 20 percent of the seats will be democratically elected, will be held on 10 December.

National Security Law

On 30 June 2020, the NPCSC [passed](#) the Law of the People's Republic of China on Safeguarding National Security in the HKSAR (NSL) in the HKSAR. The HKSAR government welcomed this law, which took immediate effect.

The NSL broadly defines and criminalizes secession, subversion, terrorist activities, and collusion with a foreign country or with external elements to endanger national security. The maximum penalty under the NSL is life imprisonment.

In July 2022, the [UN Human Rights Committee reviewed the HKSAR's implementation of the ICCPR and concluded](#) that the NSL violates the ICCPR, therefore violating the HKSAR's international legal obligations. They were “deeply concerned about the overly broad interpretation” of the NSL and recommended that the HKSAR repeal it and refrain from applying it in the meantime.

In February 2023, the Committee on Economic, Social, and Cultural rights reviewed the PRC (including the HKSAR)'s implementation of the ICESCR and [concluded](#) that the NSL violates the ICESCR, therefore violating the PRC (including the HKSAR)'s international legal obligations.

In May 2023, the Committee on Women's Rights reviewed the PRC (including the HKSAR)'s implementation of the CEDAW and [raised concerns](#) about “over-prioritizing public order and security concerns when considering restrictions on democratic manifestations” which would violate women's rights.

Since the imposition of the NSL, over 60 civil society organisations – including political parties, trade unions, and media groups – have disbanded.

Under the NSL, many politicians, including former lawmakers, have been accused of no longer being eligible for office under the “patriot-only” tests, and furthermore many are on trial for allegedly violating the law.

One prominent case is the trial of the [47 democrats](#), which concerns the 47 democrats who organised or participated in “unofficial” primaries in July 2020. As a result of these primaries, 55 people were arrested in January 2021, in the largest crackdown since the NSL was passed.

Of these, 47 have been accused of “conspiracy to commit subversion” and are now facing trial. The majority of defendants have been in detention for 2 years, as only 13 have been granted bail. 31 of the defendants have pleaded guilty. This is one of the most significant trials since the NSL was passed.

The trial has lasted beyond the government’s predictions and raised concerns about the right to fair trial and rule of law, as well as criticisms about the NSL’s denial of bail to suspects unless the judge is convinced they will not commit national security offenses. Many of the defendants were denied bail for alleged collusion with foreign forces, which included peaceful communication with consular staff and foreign journalists, which is disproportionate and unfair.

The NSL has led to drastic changes in the HKSAR’s political climate, as politicians and political candidates now fear criticising the government, and can face life behind bars for doing so. The NSL also affects candidates and people who are in office by criminalising criticism of the government and preventing non-aligned people from being able to participate in the first place. This ensures that everyone supports Beijing and will not voice dissent.

Conclusions

Authoritarian regimes, including Beijing's governance of the HKSAR, use many tactics to **erode** and **reduce** democracy, whilst maintaining the official stance that the system is democratic.

These tactics include:

- the introduction of 'patriot-only' or other tests designed to eliminate candidates who do not support the regime; and
- reducing the number of directly elected officials and increasing the number of appointed officials, and disqualifying candidates (before or after) they are elected, particularly on National Security or other patriotic grounds; and
- Using specific vetting criteria and requirements to shift the demographics of the Election Committee, ensuring that these people will support pro-Beijing candidates.

These strategies allow the regime to tell domestic and international observers that all the changes are legal and bureaucratic.

Sometimes they argue that they are 'improving' or 'streamlining' the democratic process, or ensuring that it complies with security risks, such as in the case of national security.

However, the result is that fewer seats are directly elected, there are more appointed members, and that non-aligned candidates face increasing hurdles to get elected, therefore ensuring that **all candidates have to be on Beijing's side.**

Democracy in the HKSAR has been systematically and almost completely dismantled. Although the electoral reforms are all legal, since Beijing can control so much and the rule of law has been so undermined, the legality of the electoral reforms does not justify their political motives or validity.

Timeline

- 1984 [Sino-British Joint Declaration](#)
- 1997 Handover of Hong Kong
- 2007 NPCSC interprets the Hong Kong Basic Law, assessing that universal suffrage was not possible for the 2012 Chief Executive election or the 2012 Legislative Council election, but provided the possibility for universal suffrage in the 2017 Chief Executive election and 2020 Legislative Council election
- 2014 Umbrella Movement
- 2014 NPCSC states that universal suffrage would be possible in the HKSAR, they added the standard that "the Chief Executive shall be a person who loves the country and loves Hong Kong" and requires that "the method for selecting the Chief Executive by universal suffrage must provide corresponding institutional safeguards for this purpose"
- 2017 Four opposition lawmakers were [disqualified](#) from the Legislative Council for allegedly saying their oaths incorrectly
- 2019 [Pro-democracy landslide](#) in the 2019 District Council elections
- 2020 NPCSC [passed](#) the Law of the People's Republic of China on Safeguarding National Security in Hong Kong (National Security Law)
- 2020 Beijing [disqualified](#) four more opposition members of the Legislative Council for allegedly having promoted or supported Hong Kong independence, refused to acknowledge the PRC's rule over the HKSAR, sought intervention by foreign powers in HKSAR affairs or engaged in acts that jeopardize national security
- 2021 Beijing publishes White Paper "[China: Democracy That Works](#)"
- 2021 [NPCSC amended the Annex I and Annex II of the Basic Law](#), changing the requirements for the composition of the Election Committee and the requirements for the Chief Executive.
- 2021 Electoral Reforms came with the slogan "[Patriots Governing Hong Kong](#)"
- 2022 John Lee elected as Chief Executive
- 2023 John Lee [announced](#) that future District Council Elections will be solely composed of patriots and only "a certain number of seats" will be elected by the public