



Government Structure

Led by the Chief Executive, the Hong Kong Government is composed of various bureaux and departments. Under the accountability system for principal officials implemented since July 2002, the Chief Secretary for Administration, the Financial Secretary, the Secretary for Justice and the various Directors of bureaux are the most senior officials within the Government, responsible for formulating government policies. According to Articles 57 and 58, the Independent Commission Against Corruption and the Commission of Audit are independent bodies reporting directly to the Chief Executive.

Development of the Political System

The Basic Law forms a solid foundation for the progressive development of Hong Kong's political system, which has undergone four critical stages over the past two decades.

The first stage was marked by the signing of the Sino-British Joint Declaration in 1984, which provides that the Chief Executive shall be appointed on the basis of the results of elections or consultations to be held locally, while the legislature shall be constituted by elections. There was no mention of election by universal suffrage then.

The second stage was marked by the progress between 1985 and 1990. In response to the aspirations of the community, the CPG conducted public consultations in Hong Kong on the drafting of the Basic Law, and explicitly specified under Articles 45 and 68 the ultimate goal of universal suffrage. Under these provisions, the methods for selecting the Chief Executive and forming the Legislative Council shall be specified in light of the actual situation in Hong Kong and in accordance with the principle of gradual and orderly progress. The ultimate aim is election by universal suffrage. In accordance with the Basic Law and the interpretation of the SCNPC in April 2004, it is necessary to go through a “five-step mechanism” for amending the two electoral methods:

- Step One: The Chief Executive shall make a report to the SCNPC as to whether there is a need to amend the two electoral methods;
- Step Two: A determination shall be made by the SCNPC that the two electoral methods may be amended;
- Step Three: The motions on the amendments to the two electoral methods shall be introduced by the HKSAR Government to the Legislative Council, and be endorsed by a two-thirds majority of all the members of the Legislative Council;
- Step Four: Consent shall be given by the Chief Executive to the motions endorsed by the Legislative Council; and
- Step Five: The relevant bill shall be reported by the Chief Executive to the SCNPC for approval or for the record.

The third stage took place in December 2007. Following the above “five-step mechanism”, having considered the report submitted by the Chief Executive, the SCNPC promulgated a timetable for possible universal suffrage for the Chief Executive in 2017 and all the members of the Legislative Council in 2020. The decision set a specific goal for the development of the Hong Kong’s political system, signifying a landmark progress far exceeding the promulgated framework under the Sino-British Declaration in 1984.



A returning officer announces the 2008 Legislative Council Election results. ©

The fourth phase took place in June 2010. The Hong Kong Government put forward the package of proposals for amending the two electoral methods for 2012. The two electoral methods were approved by the Legislative Council by a three-fourths majority. It showed that the electoral methods fully reflected the views of the community. In August 2010, the SCNPC approved or recorded respectively the amendments to Annexes I and II of the Basic Law concerning the two electoral methods, and then the Hong Kong Government took forward the implementation of the two electoral methods for 2012 by way of local legislation. Subsequently, the Legislative Council passed the Chief Executive (Amendment) Bill 2011 and the Legislative Council (Amendment) Bill 2011 in March 2011. It was a milestone in the political development of Hong Kong.

The number of seats for the Legislative Council will be increased from 60 to 70 in 2012. There will be five more members to be returned by geographical constituencies and five more members to be returned by the new District Council (second) functional constituency (“DC (second) FC”). Candidates for the DC (second) FC must be nominated by elected District Council members. As for the electors, they are registered geographical constituency electors other than those registered in the other functional constituencies. Under this arrangement, every registered elector will have two votes for



The Administration takes a proactive role in promoting the constitutional reform package by visiting local communities in 2010. ★



the 2012 Legislative Council election. Over 3.5 million registered electors will have one vote for a geographical constituency and another vote for the functional constituency. As for the 2012 Chief Executive election, the number of members of the Election Committee, which is responsible for electing the Chief Executive, has been increased from 800 to 1200. In accordance with the principle of balanced participation, the number of members for each of the four sectors of the Election Committee has been increased by 100. The number of subscribers for a candidate at the Chief Executive election is maintained at the ratio of one-eighth of the total membership of the Election Committee (i.e. 150 members). These arrangements provide more room for members of the community to participate in the Election Committee subsector elections, paving the way for implementing universal suffrage for the Chief Executive in 2017.

The electoral methods for 2012 fully meet the requirements of democratic development in light of the actual situation of Hong Kong and in accordance with the principle of gradual and orderly progress. These methods also comply with the principle of universal and equal suffrage. This development confirms that the procedures for political development are pragmatic and practical. Hong Kong society can form a consensus on complex constitutional issues, both within and outside the Legislature. The democratic development of Hong Kong under the framework of the Basic Law will greatly facilitate the implementation of universal suffrage for the Chief Executive in 2017 and the Legislative Council in 2020. (Appendix 3: Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage)

The Judiciary

Upon the establishment of the HKSAR on 1 July 1997, a new constitutional order built on the Basic Law was put in place. Hong Kong's legal system has its unique features.

Firstly, the PRC practises a unitary system. Under this system, there is only one state and only one constitution. The powers enjoyed by local provinces and municipalities, including Hong Kong, are conferred by the state. The HKSAR was established by the NPC, the supreme institution of state power, under Article 31 of the PRC Constitution. It was also the NPC that enacted the Basic Law, thereby conferring upon Hong Kong its executive, legislative and judicial powers.

Secondly, the Basic Law is a national law enacted by the NPC and is applicable to the entire nation.

Thirdly, the Basic Law preserves the substance and effect of the laws and legal systems previously in force in Hong Kong. Article 81 provides that the judicial system previously practised in Hong Kong shall be maintained except



The High Court. ©

for those changes consequent upon the establishment of Hong Kong's Court of Final Appeal. Article 8 provides that the laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances, subordinate legislation and customary law, shall be maintained, except for any that contravene the Basic Law, and subject to any amendment by the Hong Kong legislature. Article 84 further allows the Hong Kong courts, when adjudicating cases, to refer to precedents of other common law jurisdictions. A good example is the common law offence of misconduct in public office, where the Court of Final Appeal, in the case of *Shum Kwok Sher v HKSAR* (2002) 5 HKCFAR 381, had regard to decisions of the English and Australian courts when determining the ingredients of the offence. Through the continued application of the common law, the judge-made principles as developed by courts, including the concept of the rule of law, have been much enriched since the reunification. The common law and the Hong Kong legislation complement each other.



The Honourable Chief Justice, Mr Geoffrey Ma Taoli (left), takes the Judicial Oath administered by the Chief Executive, Mr Donald Tsang. ©



The Ceremonial Opening of Legal Year 2012. ★



The Chief Justice addresses more than 900 attendees, including judges, judicial officers and members of the legal profession, at the Concert Hall of the City Hall.



Fourthly, Hong Kong's judicial independence is recognised and highly respected. Under Article 2, the NPC authorises Hong Kong to enjoy independent judicial power, including that of final adjudication in accordance with the provisions of the Basic Law. Article 85 further provides that the courts shall exercise judicial power independently, free from any interference. Judicial independence is underpinned by the method of judicial appointment and the guarantee of security of tenure. Judges also enjoy a large measure of protection against civil liability in respect of their judicial functions and their performance as judges cannot be questioned by the legislature. These arrangements ensure that judgments are made independently and fairly.



The Secretary for Justice, Mr Wong Yan Lung, attends the Ceremonial Opening of Legal Year 2012. ★