

Beijing bars two Hong Kong legislators from taking their seats

Peter Symonds
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In a heavy-handed move yesterday, the top Chinese legislative body effectively banned two elected Hong Kong legislators from taking their seats in the territory's Legislative Council for advocating independence from China.

Sixtus Leung and Yau Wai-ching were among six young political activists who won seats in the council elections in September on the basis of calling for independence or greater autonomy from China. All were prominent in the 2014 protests that erupted against Beijing's decision to restrict the nomination of candidates in the 2017 election, the first by universal suffrage, for Hong Kong's powerful post of chief executive.

A protracted dispute emerged in the council after Leung and Yau refused to take the standard oath of office last month, which includes swearing allegiance to the Hong Kong Special Administrative Region as part of China. Instead, displaying a banner that read "Hong Kong is not China," the two pledged allegiance to the "Hong Kong nation." Their modified oath provocatively included a derogatory Japanese term for China.

The Standing Committee of the National People's Congress (NPC) in Beijing yesterday issued an official interpretation of Hong Kong's Basic Law that "those who support Hong Kong independence do not qualify to run for and serve as members of the legislature" and should face legal consequences. In addition, it ruled that those who failed to take the oath of office solemnly should not be permitted to take it again.

In comments to the media, Standing Committee Deputy Secretary-General Li Fei branded Leung and Yau as "traitors." Advocating separatism, he declared, was not a matter of legal opinion but a legal issue and those doing so should be punished by law. In a

particularly menacing threat, he added: "Traitors of the country will not have good endings."

The NPC ruling pre-empts the outcome of a case before the Hong Kong courts to determine whether Leung and Yau should be permitted to retake their oath of office. It also calls into question the status of the other four legislators, some of whom stop short of calling for full independence but advocate some form of "self-determination."

Britain returned Hong Kong to China in 1997 on the basis of "one country, two systems," not to promote democracy in its former colony, but rather to ensure that it remained a major Asian financial centre. Underpinning its legal system is the Basic Law, which stipulated that Hong Kong was part of China and that the Legislative Council and chief executive—relics of British colonial rule—would eventually be elected by universal suffrage.

Beijing has rarely used the right of the NPC to interpret the Basic Law. It has done so in this case out of growing fears that the advocacy of Hong Kong independence will encourage separatist movements in other parts of China including Tibet and Xinjiang. The Chinese Communist Party (CCP) is also fearful that calls for democratic rights in Hong Kong will spill across the border and trigger similar demands, including by the working class, for greater democratic and social rights in China.

However, the leaders of the 2014 protest movement base themselves on backward appeals to Hong Kong parochialism and, in the case of Leung and Yau, are explicitly hostile to immigrants and tourists from mainland China. The two stood as candidates for Youngspiration, which in July last year organised a protest to demand that Hong Kong authorities deport a 12-year-old boy who had overstayed a visa and lived

with his grandparents for nine years.

None of the organisations that dominated the 2014 protests—the Hong Kong Federation of Students, Scholarism and Occupy Central—had any orientation to the working class or appealed more broadly to workers and youth over unemployment, social inequality and the lack of public services in Hong Kong.

These groups had no basic disagreements with the so-called pan-democrats—more longstanding parties and organisations representing layers of the Hong Kong elite who want greater autonomy for the territory from China. Their overriding concern is that Beijing’s intrusion into Hong Kong’s political and economic life will harm its status as a leading financial centre.

The *Financial Times* commented yesterday: “Many legal experts and opposition politicians argue that by unseating elected politicians through a decree, Beijing has dealt another serious blow to autonomy and the rule of law in Hong Kong. Hong Kong’s independent legal system is one of the territory’s main attractions for foreign investors.”

For corporations doing business in China, including private Chinese companies, Hong Kong’s legal protection of private property, solid commercial law and well-established court system offer a security for investors that is not available in China. While capitalist property relations have flourished under the CCP regime for more than four decades, the legal framework that guarantees private property and profits is still relatively rudimentary.

Both the pan-democrats and the newer separatist organisations such as Youngspiration represent layers of the corporate elite and upper middle classes in Hong Kong who are determined to maintain their territory’s competitive advantage and the associated profits, business opportunities and careers that go with it.

The NPC ruling sets the stage for an escalating political confrontation. Opposition legislator Claudia Mo told the *Financial Times* that the decision was the “beginning of the end” for Hong Kong. “From now on, Beijing can do what it wants, telling Hong Kong courts and judges how to rule on anything that’s politically sensitive. It’s a sad situation but we have to fight on because if we don’t, we won’t get anything,” she said.

Last week, the Hong Kong Bar Association declared that an intervention by Beijing would “deal a severe blow to [Hong Kong’s] judiciary.” Lawyers and

barristers were planning to hold a “silent march” in protest today.

On Sunday thousands of protesters marched through Hong Kong holding signs saying “Defend the rule of law” and demanding the resignation of Hong Kong chief executive Leung Chun-ying. Police estimated the number at 8,000 while organisers put it at 13,000. Later in the evening, a group of hundreds of demonstrators clashed with police outside the Chinese government’s liaison office in Hong Kong.



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