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# Branches of power



The SAR works under a delicate counterbalancing political system where the executive, legislature and judiciary branches of government perform their duties for the region's benefit

THE report on the HKDSE Liberal Studies examination results have just been released. The least satisfactory performances were noted when students attempted the question of "how political organisations contribute to the effective **governance** of the HKSAR government." High scorers to this question gave a two-way analysis showing complete understanding of the political scene. By pointing out that the government recently accepted the proposal from various political parties to invite the public's response to the 'Replacement Mechanism of Legco Vacancies', they recognised the key function of political parties. They then listed arguments against this **proposition** with an example of how the government was tied down by the pro-democratic camp (泛民主派) two years ago, that it needed to secure public support for political reform (政改方案) with a series of 'Act Now' campaigns and other promotional activities.

In this way, there are many difficult concepts in politics for students to absorb. It is not too complicated, however, when it is understood in terms of the three government branches of independent powers known respectively as the executive, legislature and judiciary. They are self-governing bodies that monitor and balance each other's levels of power. Students should keep up with current news, and refer them back to HK's political structure to observe how policies are carried out. In this way, there can be an understanding of the functions and **limitations** of these three independent branches of government – as written in the Basic Law.



Three powers	Branches	Powers and functions
Executive	Executive Council (Exco): Led by the Chief Executive; consists of 15 principal officials and 16 non-official members The administration: 12 policy bureaux and 61 departments and agencies, staffed mostly by civil servants; carries out the main administrative and executive functions of government.	- Exco, <b>presided</b> over by the Chief Executive, decides on matters of policy, the introduction of bills to the Legislative Council and the drafting of <b>subordinate</b> legislation; - Enacting policies, administering decisions and managing public affairs.
Legislature	The Legislative Council (Legco): The 70 seats of Legco comprise 35 members directly elected based on geographical constituencies and 35 members elected by functional constituencies representing different sectors of the community.	- To enact, amend or repeal laws in accordance with the provisions of the Basic Law and legal procedures; - To examine and approve budgets introduced by the government; - To receive and debate the policy addresses of the Chief Executive and any issues concerning public interest.
Judiciary	The Chief Justice heads the Court of Final Appeal, which is the highest appeal court.	Shows no bias. Jury trials are used in a significant number of serious criminal cases. A jury decides if a defendant is guilty through a majority vote.



This article enables students to:

1. assess qualities, phenomena, changes, trends and impacts in relation to various aspects of society and culture;
2. reflect on and develop their multiple identities, responsibilities and commitments as citizens in their community, country and the world.

## Separation of powers

THREE separate leaders head the executive, legislature and judiciary branches of the HK government. This political structure is designed to prevent any one branch from having too much

## From execution to legislation

THE Executive Council (Exco) is an organ for assisting the Chief Executive in policy-making. Under Article 56 of the Basic Law, except for the appointment, removal and disciplining of officials and the adoption of measures in emergencies, the Chief Executive consults the Executive Council before making important policy decisions, introducing bills into the Legislative Council, drafting subordinate legislations, or dissolving the Legislative Council.

Policies of the HKSAR government are initiated by the executive branch (Exco) and introduced into the law-making body (Legco), passed only by approval from Legco. As referred to on the left in 'powers and functions' of Legco, other than

## Guards against unwanted policies

THE interactions between the executive and legislature branches over the Special Allowance is in fact, like most other cases, viewed either as beneficial or harmful. Some say the 'seesaw' situation is delaying benefits that were supposed to be granted earlier to the elderly, while others say it is a fight for better, broader-reaching benefits the elderly deserve. Either way, financially blocking the government is often seen as the last resort used by Legco towards any undesired policies.

Public opinion is still the dominating force in Hong Kong's political environment, serving as an important alternative to the more result-guaranteed 'financial blockade'. Legislators can initiate debates on

power. Complicated political situations frequently develop however, usually from interactions between the executive and legislature branches and whether legislators are pro-government or not.

enacting laws and approving bills, Legco's role as the financial guard of the government probably works best at **intervening** government policies. Take the recent Special Allowance (特惠生果金) threshold debate as an example. Legco and the government have been in a stalemate over whether the income and asset assessment is necessary. Legco demanded **concessions** from the government by not approving the fund through a majority vote. Since the government continued to insist on the assessment, the bill has been examined a number of times by the Finance Committee, a standing committee of Legco. The means-tested HK\$2,200 monthly allowance was finally passed in December.

non-legislative motions as a way to voice out public concerns and demand actions from the government. At the same time, the public (as well as the media) can be involved by collecting signatures, organising demonstrations and holding assemblies.

Since Hong Kong remains 'executive-led' to the extent that legislation and expenditure proposals can only be initiated by the government's executive branch, typical debates and questionings are seemingly less powerful in influencing key policy-making decisions. However, the monitoring and power-balancing role of the legislators will remain in force as long as they are representing the public. ●

### Key ideas

The executive, legislature and judiciary branches exercise independent power in Hong Kong's political system. Apart from financial intervention by Legco, the public is a key monitoring force against unwanted policies proposed by Exco.

### Did you know?

The Legislative Council is primarily composed of Chinese citizens who are permanent residents of the HKSAR with no right of abode in any foreign country. Nevertheless, permanent residents of the HKSAR who are not of Chinese nationality or who have the right of abode in foreign countries may also be members, provided that the proportion of such members does not exceed 20 percent of the total membership of the Legislative Council.

### Critical questions

1. How do you think support ratings can influence HK's policy-making decisions?
2. Do you think HK works under an effective counterbalancing political system?

### References

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### Judicial independence?

THE court has the power of final interpretation with regard to all laws enforced in Hong Kong, except for the Basic Law. The power of interpretation of the Basic Law is vested in the Standing Committee of the National People's Congress of China (NPCSC), by virtue of Article 158 of the Basic Law. However, the same Article delegates such power to the courts of Hong Kong for interpretation while handling court cases. Although this arrangement has attracted public criticism of 'undermining judicial independence', an interpretation by the NPCSC does not affect any court judgments already rendered.

