

Citizens v. Government: Litigation Outcomes before the Hong Kong Court of Final Appeal

Waikeung Tam

Abstract

Based on reviewing all the judgments on substantive appeals issued by the Hong Kong Court of Final Appeal (HKCFA) between July 1997 and 2015, this research note studies how the Hong Kong government and individual litigants fared before the final appellate court. It is found that the overall success rate of the Hong Kong government before the HKCFA was 46 percent and that of individual litigants was 54 percent. There were, however, substantial variations in the litigation outcomes in different categories of cases. While the government achieved a remarkable record in administrative decision litigation, it fared poorly in criminal appeals. The research note also discusses two important insights from the litigation outcomes before the HKCFA.

Individuals have increasingly turned to the court to challenge the decisions of the Hong Kong government since July 1997. How often do individual litigants defeat the Hong Kong government before the Hong Kong Court of Final Appeal (HKCFA)? It is crucial to answer the above question. If it is found that the HKCFA tends to rule in favor of the government and individual litigants have a low success rate, bringing litigation to the HKCFA may not be an effective means for citizens to challenge the government, and vice versa.

Waikeung Tam is Assistant Professor in the Department of Political Science, Lingnan University, Hong Kong. Correspondence should be sent to: wktam@ln.edu.hk.