

**Hong Kong District Councillor Diaspora Network
(HKDCDN)**

Submission For the Universal Periodic Review of

**Hong Kong
Special Administrative Region
(HKSAR)**

China

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The Hong Kong District Councillor Diaspora Network (HKDCDN) is a coalition network of resigned or disqualified Hong Kong District Councillors. These individuals, who were democratically elected in the 2019 Hong Kong District Council Election, now reside in the UK, Australia, Taiwan, Canada, and Japan.

Established in 2023, HKDCDN's mission is to unite democratically elected former Hong Kong District Councillors living abroad, to ensure the well-being of District Councillors elected in 2019, and to assist in building an international network of Hongkongers. The network also facilitates communication among former District Councillors, thereby supporting local community building and advocacy for legal, immigration, and human rights issues related to Hong Kong. HKDCDN does not currently have a public address. Information related to HKDCDN will be announced via:

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Introduction

1. The District Council (DC), categorized as a "district organization" under the Basic Law of Hong Kong (BLHK, the constitutional law of Hong Kong), has played a vital role in the political development and actualization of Hongkongers' political power since its inception in 1982. Before 2021, the DC was the most democratic council system in Hong Kong, with the majority of its members elected by universal suffrage and minimal vetting procedures¹ (which were not entirely democratic due to the political stance of the candidates, an issue discussed in further detail below).
2. Members of the District Council (MDC) are expected to represent their constituents and provide opinions to the Government of Hong Kong Special Administrative Region (HKSARG) concerning the well-being of residents residing in their respective administrative districts. In 2019, Hong Kong comprises 18 Administrative Districts, with a total of 452 elected District Council members and 27 ex-officio members from the Rural Committee.
3. With the widespread democratic movement in Hong Kong beginning with the Anti-Extradition Bill Protest in 2019, attention has been drawn to the rights of citizens to participate in government and freely choose their representatives. This has led to heightened concerns about the implementation of human rights recognized by the UN in Hong Kong. In November 2019, the 6th District Council election was held with a record-breaking total turnout rate of 71.23%. The elected District Council members officially took office on January 1, 2020.
4. This submission aims to inform the United Nations Human Rights Council (UNHRC) for its upcoming Universal Periodic Review (UPR) of the People's Republic of China (PRC), including the Hong Kong Special Administrative Region (HKSAR). It focuses on the PRC's neglect of its commitments outlined in the Universal Declaration of Human Rights (UDHR), and other international human rights covenants it has signed, particularly obligations listed in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Violations of these apparatuses have caused substantial harm to the human rights of District Council members and their families, as well as the rights of the constituents these members represent.

¹ See Annex 1 - "Evolution and Influence- The Role of District Council in Hong Kong's Political Landscape"

I. Universal Suffrage

1.1 Unrepresented Elections

5. In light of events such as the extension of the incumbent 6th LegCo on August 11, 2020, the right of voters to be represented in the LegCo, especially in relation to the District Council-related Functional Constituency (FC) (DC(1), DC(2)), has been significantly compromised. Notably, two seats in the Legislative Council (LC), occupied by Members of the District Council (MDC) who lost their DC seats after the 2019 DC Election (Holden Chow and Edward Law from the Pro-government Party DAB), have adversely affected the representation rights of voters in the LC.
6. With the LC's split voting system in both the Geographic Constituency (GC) and FC, it is said that the HKSARG can easily pass any bills they wish to, including the aforementioned "Extradition Bill," which is said to enable the PRC to extradite anyone they want. Despite massive waves of protests in the town, leading to the bill's eventual withdrawal, other controversial measures have been unaffected. With the arbitrary disqualification of certain LC seats, the government can easily control the likelihood of holding the majority in both GC and FC within the LC. Indeed, with the disqualification of some pro-democracy camp LC members in 2020, the government passed bills to align the political landscape with the PRC's decision, which flagrantly violates the "One Country, Two Systems" principle that both PRC and HKSARG committed to uphold in both BLHK and observations of the 3rd UPR (A/HRC/40/6/Add.1 - Para. 2 28.343).
7. In March 2021, the National People's Congress of the People's Republic of China (NPC) passed a political reform decision regarding Hong Kong's Legislative Council (LC) and Chief Executive (CE) elections without consulting Hong Kong citizens or allowing democratic participation². This decision, known as the "Patriots Governing Hong Kong" principle, eliminated all representation seats in the LC and the Election Committee (EC) of the CE of HKSARG held by pro-democracy members. It also established a vetting system for CE, EC, and LC candidates that effectively sidelined pro-democracy candidates who expressed views opposing the government. Moreover, the representation of MDCs in both EC and LC was completely eliminated in this amendment, and the MDC's positions in EC were replaced by three government-appointed committees - the Area Committee (AC); the District Fight Crime Committee (DFCC); and the District Fire Safety Committee (DFSC),

² Hong Kong Special Administrative Region, C. and M.A.B. (2021) *Improve electoral system - decisions of the National People's Congress and its Standing Committee*. Available at: <https://www.cmab.gov.hk/improvement/en/npc-decision/index.html> (Accessed: 19 July 2023).

each established in every administrative district³.

8. In July 2023, the election system was overhauled from universal suffrage to a new format whereby only 88 "elected" seats, or 20% of total seats, remained subject to the vetting process under the "Patriots Governing Hong Kong" principle. The remaining seats are appointed to the DCs and divided among members of the aforementioned advisory bodies – AC, DFCC, and DFSC. This change also introduced a compulsory requirement for nomination by the three government-appointed committees, circumventing free candidate participation and voters' right to choose candidates.
9. These alterations to the EC, LC, and DC election systems have significantly eroded the professed "progressive development" of Hong Kong's electoral systems, undermining the rights of Hongkongers to participate in their government and of pro-democracy politicians to hold office. It indicates that the HKSARG lacks the legitimate authority of the people's will. The aforementioned developments constitute violations of Article 21 of UDHR by both the HKSARG and the PRC. (UDHR Art.21)

1.2 Pre-selection of Election Candidates

10. As mentioned in the previous section, election candidates in the LC are required to obtain nominations from the EC, while DC Candidates need to secure their nominations from the AC, DFCC, and DFSC. All the EC, LC, and DC candidates are subjected to scrutiny by a committee composed entirely of government officials and pro-government supporters⁴. This committee aims to ensure only pro-government "patriots" can be nominated as candidates. Such practices create a distinction of political opinions over the right to be chosen as a representative, violating Articles 2 and 21 of the UDHR. (UDHR Art.2, 21)

1.3 Disqualification of Candidates in Elections

11. High-profile disqualifications of pro-democracy camp candidates, such as that of Joshua Wong in the DC Election in 2019 and the disqualification of MDC members in the 2020 LC Election (Lester Shum, Tiffany Yuen, Fergus Leung,

³ Hong Kong Special Administrative Region, C. and M.A.B. (2021a) *Improve electoral system - improving electoral system (Consolidated Amendments) bill 2021*. Available at: <https://www.cmab.gov.hk/improvement/en/bill/index.html> (Accessed: 19 July 2023).

⁴ Hong Kong Special Administrative Region, C. and M.A.B. (2021b) *Improve electoral system - candidate eligibility review mechanism*. Available at: <https://www.cmab.gov.hk/improvement/en/qualification-review/index.html> (Accessed: 19 July 2023).

Cheng Tat-hung) on July 30, 2020⁵, have severely hindered the democratic process. The reason of their disqualification by HKSARG were “advocacy of self-determination”, “opposing the enactment of National Security Law (NSL)” and “seeking for foreign intervention”, which the first reason is believed to be a right stated in ICCPR and ICESCR (ICCPR and ICESCR Art. 1), the second reason is a common opinion on legislation (UDHR Art.19), and the third reason, the right of spreading political belief and seeking international order, should be protected by Article 19 and 28 of UDHR. (UDHR Art.19, 28)

1.4 Disqualification of Elected Candidates

12. The disqualification of elected MDC members after oath-taking due to their previous political expression of pro-democracy movement, as witnessed from September 2021, has undermined the democratic process.⁶

1.5 Refusal of By-election

13. Refusal of by-election after massive resignation and disqualification of MDC⁷ has led to a loss of representation and has left empty seats for more than two years in DC, which lead to dysfunction of most of the DC as the chairperson cannot be elected. Other DC which were still able to operate suffered by lack of representative as most of the MDC was resigned or disqualified.

⁵ <https://www.hk01.com/%E6%94%BF%E6%83%85/504984/%E7%AB%8B%E6%B3%95%E6%9C%83%E9%81%B8%E8%88%89-%E4%B8%80%E5%9C%96%E7%9B%A4%E9%BB%9E12%E5%90%8D%E8%A2%AB%E6%B0%91%E4%B8%BB%E6%B4%BEdq%E7%90%86%E7%94%B1-15%E6%8A%97%E7%88%AD%E6%B4%BE6%E4%BA%BA%E6%8F%90%E5%90%8D%E7%84%A1%E6%95%88> (2020) 01. Available at: (Accessed: 19 July 2023).

⁶ <https://www.rfi.fr/tw/%E4%B8%AD%E5%9C%8B/20211022-%E9%80%BE%E7%99%BE%E8%90%AC%E9%81%B8%E6%B0%91%E7%9A%84%E4%BB%A3%E8%AD%B0%E5%A3%AB%E5%9B%A0%E5%AE%A3%E8%AA%93%E8%80%8C%E8%A2%AB%E6%B8%AF%E5%BA%9Cdq%E6%88%96-%E8%A2%AB%E8%BE%AD%E8%81%B7-%E5%8D%80%E8%AD%B0%E6%9C%83%E9%87%8D%E7%94%B1%E5%BB%BA%E5%88%B6%E6%8A%8A%E6%8C%81-%E8%8B%B1%E6%AD%90%E5%90%8C%E6%89%B9> (2021) RFI. Available at: (Accessed: 19 July 2023).

⁷ 林鄭月娥：現屆無能力舉行區議會補選 應由下屆決定 (2021) 01. Available at: <https://www.hk01.com/%E6%94%BF%E6%83%85/718193/%E6%9E%97%E9%84%AD%E6%9C%88%E5%A8%A5-%E7%8F%BE%E5%B1%86%E7%84%A1%E8%83%BD%E5%8A%9B%E8%88%89%E8%A1%8C%E5%8D%80%E8%AD%B0%E6%9C%83%E8%A3%9C%E9%81%B8-%E6%87%89%E7%94%B1%E4%B8%8B%E5%B1%86%E6%B1%BA%E5%AE%9A> (Accessed: 19 July 2023).

II. Freedom of Opinion and Expression

2.1 Censorship of MDC or DC Candidates' direct mail

14. During the 2019 DC election and after incumbent of 6th MDC, Government owned postal service HKpost censored various direct mail which was planned to be issued by DC Election Candidates. Those direct mail were planned to print with pro-democracy slogans, opinions against the enactment of NSL, DC motions which were passed by the DC but were disregarded by HKSARG, etc.
⁸ The censorship of MDC publications and direct mail by the Home Affairs Department (HAD) and HKPost is a direct infringement on the freedom of opinion and expression. (UDHR Art.19)

2.2 Expressions on political stances as materials of disqualification

15. The use of motions, statements, Internet posts, and office decorations with pro-government slogans was used as a reason for MDC's disqualification after the oath-taking process or prosecution infringed on the freedom of expression. We believe the above acts by HKSARG are violating Article 19 of UDHR. (UDHR Art.19)

⁸ 甘乃威稱疑因涉批評政府 郵局拒寄區議員工作報告 (2020) 星島日報. Available at: <https://std.stheadline.com/realtime/article/1321418/%E5%8D%B3%E6%99%82-%E6%B8%AF%E8%81%9E-%E7%94%98%E4%B9%83%E5%A8%81%E7%A8%B1%E7%96%91%E5%9B%A0%E6%B6%89%E6%89%B9%E8%A9%95%E6%94%BF%E5%BA%9C-%E9%83%B5%E5%B1%80%E6%8B%92%E5%AF%84%E5%8D%80%E8%AD%B0%E5%93%A1%E5%B7%A5%E4%BD%9C%E5%A0%B1%E5%91%8A> (Accessed: 19 July 2023).

III. Arbitrary Interference with Privacy, Family, Home, and Correspondence

3.1 Doxxing sites of MDC and families

16. Alleged state-sponsored doxxing sites “hkileaks” leaking private information of MDC and their families⁹, which is believed only the HKSARG have the possession of the information, is an egregious invasion of privacy. For example, Kam-lung Sam Yip’s personal information (Date of birth, Private phone number, name of parents) which was believed to be possessed by HKSARG, was being leaked on the site since late 2019.

3.2 Freezing MDC and his families’ property, Bounty of MDC on political prosecution

17. The HKSARG freezing some specific MDC’s family members’ assets is an arbitrary interference with property rights. Ted Hui, Former LC and MDC, was in-exile since late 2020. The bank account and assets of him and his family (Spouse and Mother) in Hong Kong were freezed by HKSARG after his self-exile.¹⁰
18. The bounty issue to MDC and its effect on MDC's family rights is a significant interference with privacy and family life, as in the case of Ted Hui and his family. (UDHR Art.12)

⁹ <https://thecollectivehk.com/%E8%B3%87%E8%A8%8A%E6%88%B0-%EF%BD%9C%E7%A0%94%E7%A9%B6%E6%8C%87%E3%80%8C%E9%A6%99%E6%B8%AF%E8%A7%A3%E5%AF%86%E3%80%8D%E5%BE%88%E5%A4%A7%E5%8F%AF%E8%83%BD%E8%88%87%E5%85%A7%E5%9C%B0%E6%9C%89%E9%97%9C/> (Accessed: 19 July 2023).

¹⁰ 黎智英譴責港府“法律騷擾”，流亡議員遭凍結財產株連家人 (2022) 美國之音. Available at: <https://www.voacantonese.com/a/hong-kong-icon-jimmy-lai-appeals-to-un-20220412/6526257.html> (Accessed: 19 July 2023).

IV. Freedom of Peaceful Assembly and Association

19. The prevention of election rallies and assemblies organized by candidates, as well as the prosecution of participating candidates, infringes upon the right to peaceful assembly. On November 2, 2019, hundreds of District Council Election candidates organized multiple election assemblies in Victoria Park, Causeway Bay, in accordance with the rights listed in the "Public Order Ordinance" (7(2)(a), Cap245 of HKSAR). Three District Council Candidates, who later became MDCs, were arrested for "organizing an unauthorized assembly". Their prosecution was delayed and a guilty verdict was delivered three years after the incident. (UDHR Art.19, 20.1)
20. The forced resignation of MDC due to threats by the HKSARG (oath-taking) in January-August 2021 undermines the freedom of association. From December 2020 to September 2021, articles from various news outlets spreaded the information that the HKSARG is going to impose the oath-taking process to existing MDC, and the condition of being prosecuted by NSL and calling on paying back all honorarium and expenses claimed by MDC during incumbent if failed to pass the oath-taking process by disqualification. With time passing and the eroding situation after the crackdown of LC primary elections candidates, many MDC decided to resign from their office¹¹. (UDHR Art.20.2)

V. Arbitrary Deprivation of Property

21. The freezing of MDC property, including bank accounts, by HKSARG under the terms of the National Security Law (NSL) constitutes an arbitrary deprivation of property.¹² (UDHR Art.17)

¹¹ 2023年7月 (2023) '香港からの通信【第12回】——風前の灯火となる香港区議会', 8 June, pp. 162–167.

¹² Para 17 of this report

VI. Security of Person

22. There were failures to protect candidates in Hong Kong during the election period, as exemplified by the attack on Jimmy Shum on 16 October 2019 by unknown, who had announced his DC candidacy on 10 October 2019. (UDHR Art.3)
23. The abusive use of police force to assault elected MDC in public rallies harms the security of MDC. Kam-lung Sam, YIP was assaulted by police officers on 24 May 2020 during a public rally against the enactment of NSL when he was performing his duty of MDC to monitor the police activity. Ted Hui, who was a LC member and MDC, was assaulted by police officers on 18 November 2019 and 2 January 2020 in public assembly by pepper spray. (UDHR Art.3)
24. The transnational repression to MDC in exile also harmed the former MDC's security of person. Ted Hui was assaulted by pro-HKSARG supporters in Australia on 7 August 2022. Although there was no evidence showing government backed movement on this assault, it is believed that the propaganda and bounty by HKSARG on demonizing former MDC or other human rights defenders aboard is stirring the situation by harming the security of these peoples.¹³ (UDHR Art.3, 12)

¹³ See note 10

VII. Conclusion

25. This report has highlighted a number of disturbing trends in the Hong Kong political landscape, revealing significant and systematic violations of the human rights principles articulated in the Universal Declaration of Human Rights (UDHR) and United Nations International Covenant on Civil and Political Rights (ICCPR). It is paramount for the global community to monitor these developments closely and advocate for the maintenance of democratic values and human rights in Hong Kong.
26. To uphold the principles of democracy and human rights, the following recommendations are made by HKDCDN to :
 - 26.1. Reinstate universal suffrage as the primary system for elections, allowing for the free participation and representation of all candidates.
 - 26.2. Abolish the use of pre-screening committees that are devoid of opposition representation.
 - 26.3. Ensure the right to free expression is upheld, abstaining from censoring political parties or using expressions of opinion as grounds for disqualification.
 - 26.4. Protect the privacy of individuals and their families by enforcing stricter data privacy laws and refraining from freezing assets without proper legal justification.
 - 26.5. Safeguard the right to peaceful assembly and association, including election-related events.
 - 26.6. Guarantee the freedom of movement for all individuals, barring legal restrictions.
 - 26.7. Uphold the principles of justice, due process, and proportionality in all judicial proceedings.
 - 26.8. Ensure the safety and security of all individuals, especially during politically sensitive periods.
27. It is our hope that these recommendations serve as a framework for improving the political climate in Hong Kong, enabling a more democratic and respectful system that upholds the rights of its citizens. We encourage the HKSARG and the NPC to reconsider their current practices and policies to better align with international human rights standards, fostering a political environment that promotes peace, justice, and fundamental freedoms.

(2314 words)

Evolution and Influence: The Role of District Council in Hong Kong's Political Landscape

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The District Council (DC) in Hong Kong, although designated a "district organization" according to Article 97 of the Basic Law of Hong Kong (BLHK), plays a critical role in the ongoing process of "progressive development" spearheaded by The Government of the Hong Kong Special Administrative Region (HKSAR). This process aims for the ultimate achievement of universal suffrage in the elections of both the Chief Executive (CE) and the Legislative Council (LC) of the HKSAR as enshrined in Articles 45 and 68 of the BLHK, the constitutional law of HK.

For many years, civil society has been engaged in discussions around the composition of the LC and the Election Committee (EC), the body responsible for electing the CE. Concerns have been raised about the low proportion of seats that ordinary voters are eligible to vote for in the LC, the lack of direct election of EC members, and the limited representation of the public through the Member of District Council (MDC) in the EC. This situation underwent a significant transformation following a major political reform by the HKSAR in 2021, which occurred without the consent of Hong Kong residents.

The first involvement of the DC in the LC dates back to the initial indirect election of the LC in 1985. This election saw Members of the District Board (DB), the forerunner of the DC, included as part of the electoral college for the LC. The same electoral method was utilized in the 1988 LC election. Between 1989 and 1999, representatives from the Urban Council (UC) and Regional Council (RC) constituencies in the LC also constituted an indirect participation of the DB in the LC. There were 9-10 seats in both the UC and RC (a total of 18-19 seats) chosen through an internal election within each DB.

Direct representation from the DB in the LC began in 1995, when the UK colonial government passed a political reform proposal in the LC. This proposal was aimed at aligning with the BLHK requirements and established the Election Committee Constituency (ECC) with 10 seats in the LC (out of 60 seats, 16.67%), elected by all elected DB members. However, the 10 ECC seats for the MDB in the LC were abolished after the Provisional Legislative Council came into power following the Handover of Hong Kong on July 1, 1997, without any consultation or consent from Hongkongers.

The involvement of the DC in political bodies and structures of political power was reestablished in the 1998 Election Committee Election. This election was responsible for electing 10 ECC seats of the LC in 1999. The election employed a multiple non-transferable vote system for all MDCs, resulting in a total of 42 seats for the DC Constituency (DCC) out of 664 EC seats (6.52%). The 2000 EC was responsible for the indirect election of both the CE in 2002, and 6 ECC seats of the LC in 2000.

After the abolishment of UC and RC in December 1999 by LC, the government was

committed to transfer part of the municipal power of UC and RC to DC. In 2000 LC election, 2 DCC seats in LC's FC (later DC (1)) elected by MDC reestablished the representation of DC in LC (out of 60, 3.33%).

On the other hands, the DCC's number of seats in EC increased to 121 in 2011 and was adjusted to 117 seats (out of 1200 seats in the EC, 9.75-10%) after 2012 as a result of a political reform enabling 5 additional seats as DC (2) Constituency, and reducing the DC (1) FC into 1 seat. The 5 additional DC (2) seats were nominated by the MDC and directly elected by voters without any votes in the Functional Constituency (FC) in the LC. These 5 seats also served as *ex officio* members of the EC.

As for the Election Method, the inaugural DB in 1982 was constituted through a combination of election and appointment, with 132 seats determined through election out of a total of 490 seats. The number of elected seats progressively increased over time. By 1994, the entire DB was proclaimed to be freely elected under universal suffrage, with the exception of 27 *ex officio* seats held by Chairpersons of Rural Committees. This system was abolished after the handover and replaced by a blend of election and appointment by the HKSARG, until 2013 when the LC approved a political reform bill. This legislation officially eliminated the appointment system in the DC, while retaining the *ex officio* seats for the Chairpersons of Rural Committees, a practice guaranteed under the BLHK.

The District Council (DC) in Hong Kong, despite the limitations of its power, has been instrumental in the progression towards universal suffrage in the Chief Executive and Legislative Council elections. Its unique characteristic of universal suffrage has served as a crucial platform for voters to express their political opinions, particularly when other electoral platforms have failed to provide a fair and accessible stage for direct elections. This has been particularly evident during politically charged periods, with the 2019 DC election acting as a *de facto* referendum for Hong Kong citizens. Academic research by Tetsuro Kobayashi in 2022 echoes this sentiment, showing that during the 2019 pro-democracy movement, the DC elections served as a significant conduit for citizens to express their political standpoints. This highlights the profound significance of the DC in shaping the political landscape of Hong Kong. The continued commitment to democratic representation within the DC is vital for the progression and preservation of Hong Kong's democratic ideals, as it offers a window for the citizens to engage in the political process and have their voices heard.

18 July, 2023