

**Submission from the Hong Kong Scots
to Universal Periodic Review of
The Hong Kong Special Administrative Region of
People's Republic of China**

**to
United Nations,
the Universal Periodic Review Working Group of
the Human Rights Council**



www.thehongkong.scot

Enquiries: contact@thehongkong.scot

**Prepared by
The Hong Kong Scots
and Former Councillors**

July 2023

Table of Contents

About the Hong Kong Scots	3
Contributors of this report	4
Advisors of this report	4
Forewords	4
Introduction	5
National Security Law of Hong Kong	5
Democratic Backsliding of District Councils Electoral System	7
Abolishment of Mutual Aid Committees of Public Rental Housing Estates	8
Commencement of China Loyalty “Deradicalization” Program by Correctional Service against Freedoms, Rights and Beliefs of Inmates	9
Lack of Protection for the Right to Education, and Underaged Protesters being Arbitrarily and Indefinitely Suspended from School for their Thoughts and Beliefs	9
Disproportionate Penalties, Harassment and Surveillance imposed upon Dissidents and Protesters Released from Correctional Facilities	10
Elements of National Security and Patriotism in Education	11
Recommendation	13

About the Hong Kong Scots

The Hong Kong Scots is a Scotland-based Community Interest Company (SC728635). It aims to facilitate better integration of Hongkongers into Scottish society. All our co-founders have extensive experience in politics and the civil society of Hong Kong before residing in Scotland.

Our organisation incubates initiatives launched by Hongkongers, regardless of their immigration status in the United Kingdom, to continue their civic way of life in Scotland. At the same time, we organise events and activities to facilitate dialogue and understanding between Scotsmen and Hongkongers in Scotland.

The Hong Kong Scots is one of the UK's Hong Kong immigrants and forced migrants-led organisations. Since our founding in 2021, we have organised cultural events such as documentary screenings in Scotland. At the same time, we act as a mutual-aid group to assist forced migrants from Hong Kong to continue their way of life in the UK. Our experience in organising events and programmes, as well as collaborations with other Hongkonger-led organisations in the country, can contribute to the topics which the Special Rapporteur in the field of cultural rights is enquiring the civil society.

Contributors of this report

- Daniel Tsz Kin KWOK ((Director of the Hong Kong Scots and a former member of the District Council in Hong Kong)
- Michael MO (Director of the Hong Kong Scots and a former member of the District Council in Hong Kong)
- CHUNG Wing Cheung ((Director of the Hong Kong Scots)
- LIU Cheuk Ho (Associate of the Hong Kong Scots)
- TANG Tsz Chung (Associate of the Hong Kong Scots)
- CHU Kai Kwong (Associate of the Hong Kong Scots)
- CHANG Hoi Kit (Associate of the Hong Kong Scots)

Advisors of this report

- YAN Kai Wing (former member of the District Council in Hong Kong)
- CHOW Wai Hung (former member of the District Council in Hong Kong)
- Rick Yui Yu HUI (former member of the District Council in Hong Kong)
- Clara CHEUNG (former member of the District Council in Hong Kong)
- LAM Siu Pan Ben (former member of the District Council in Hong Kong)
- LEE Yin Ho Ryan (former member of the District Council in Hong Kong)
- TSANG Kit (former member of the District Council in Hong Kong)
- LAI Chi Keong Joseph (former member of the District Council in Hong Kong)
- YAU Hon Pong (former member of the District Council in Hong Kong)
- YAU Man Chun (former member of the District Council in Hong Kong)
- TING Tsz Yuen (former member of the District Council in Hong Kong)

Forewords

1. The Hong Kong Scots is a Community Interest Company (SC728635) based in Scotland, the United Kingdom. All of the contributors and advisors of this report are now residing outside of Hong Kong. Nevertheless, the issues listed in the report are based on the observations of the contributors and advisors during their residency and public office in Hong Kong as well as information circulated in the public domain.



Introduction

2. The current state of human rights in Hong Kong has changed dramatically compared to the last reporting cycle. After rounds of protests in 2019 and 2020, Beijing's National People's Congress Standing Committee (NPCSC) enacted the National Security of Hong Kong (NSL) on the 30th of June 2020. Since then, individuals and representatives of political parties, media organisations, civil society organisations and commercial entities have been arrested, prosecuted, and imprisoned. Moreover, both Beijing and Hong Kong authorities have been pursuing executive means and media influences to limit the rights of groups and individuals to express their views peacefully. The vibrant sense of civil society which peaceful expressions and association were largely unrestricted, no longer exists.
3. Our organisation would like to draw the attention of members involved in this cycle of the Universal Periodic Review (UPR) to the following issues of Hong Kong concerning the state's commitment to the Universal Declaration of Human Rights (UDHR).

National Security Law of Hong Kong

4. Beijing's National People's Congress Standing Committee (NPCSC) enacted the National Security Law of Hong Kong on the 30th of June 2020. The law has been listed under Annex III of the Basic Law of Hong Kong, the constitutional setting which allows the PRC authorities to enact national laws applicable to Hong Kong, bypassing the Legislative Council (LegCo) of Hong Kong for approval.
5. Since the law was enacted, 259 people have been arrested for alleged violations as of June 2023¹. 160 people and 5 companies have been charged, and among them, 80 people have been convicted or are awaiting sentencing².
6. The Hong Kong authorities have utilised the NSL in conjunction with sedition, a crime under Section 10 of the Crimes Ordinance of Hong Kong. The provision was in place when the United Kingdom was governing Hong Kong.

¹ Press, H.K.F. (2023). *Explainer: How three years of the national security law transformed Hong Kong - Part I*. [online] Hong Kong Free Press HKFP. Available at: <https://hongkongfp.com/2023/06/30/explainer-how-3-years-of-the-national-security-law-transformed-hong-kong-part-i/> [Accessed 8 Jul. 2023]

² *ibid*



However, it has yet been utilised for at least two decades before the handover of sovereignty, and none after the People's Republic of China (PRC) assumed sovereignty over Hong Kong until the enactment of NSL. As of March 2023, 31 individuals have been arrested on both NSL and seditious grounds, while 23 of them were prosecuted³.

7. The NSL specified judges specifically handling the NSL trials and slashed the requirement of juries at the trial of NSL-related cases⁴. It also imposes disproportionately harsh conditions for bail⁵. Moreover, the NSL enables defendants to be extradited to China for trials⁶.
8. We believe the above conditions contravene Article 10 of the UDHR, as the entitlement of full equality to a fair and public trial by an independent and impartial tribunal is no longer guaranteed. The development is also backsliding of the rule of law and trial procedures of Hong Kong compared to the Conclusion/Recommendation of 28.343 stated in the last reporting cycle⁷, which the state indicated as accepted and already implemented⁸.
9. In a recent court case, the interpretation of the Basic Law and subsequent legislation, the appointment of foreign lawyers in common law jurisdictions by the defendants of NSL cases must be granted by the Chief Executive (CE)⁹. With the CE hailed 100% conviction rate in his recent public speech¹⁰, we believe the CE will unlikely grant such an appointment. The tradition which presumed innocence until proven guilty has become fading, as 71% of the defendants of NSL cases were denied bail by the courts¹¹. The Hong Kong

³ China File (2022). *Tracking the Impact of Hong Kong's National Security Law*. [online] China File. Available at: <https://www.chinafile.com/tracking-impact-of-hong-kongs-national-security-law>.

⁴ *Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region*.4 [online] Available at: <https://www.elegislation.gov.hk/hk/A406> [Accessed 8 Jul. 2023].

⁵ *ibid*

⁶ *Ibid*. 5

⁷ Refer to A/ARC/40/6

⁸ Refer to A/HRC/40/6/Add.1

⁹ Davidson, H. and Yu, V. (2023). Hong Kong passes law to limit work of foreign lawyers amid ongoing Jimmy Lai case. *The Guardian*. [online] 11 May. Available at: <https://www.theguardian.com/world/2023/may/11/hong-kong-passes-law-to-limit-work-of-foreign-lawyers-amid-ongoing-jimmy-lai-case> [Accessed 8 Jul. 2023]

¹⁰ Maroosha, M. (2023). Hong Kong hails 100% conviction rate in national security cases. *The Independent*. [online] 15 Apr. Available at: <https://www.independent.co.uk/asia/china/hong-kong-national-security-education-day-b2320277.html> [Accessed 8 Jul. 2023].

¹¹ *ibid*. 3



authorities are also considering amending the rules which allow the prosecutors to appeal against the acquittal judgement of NSL cases, and to deny bail to the person declared not guilty of NSL offences while waiting for appeal trial¹².

10. The condition mentioned above contravenes Article 11 of the UDHR, which guarantees they are necessary for one's defence. It is also a backsliding development compared to the last reporting cycle regarding the rule of law and trial procedures stated in the conclusion/recommendation of 28.343¹³.

Democratic Backsliding of District Councils Electoral System

11. On the 6th of July 2023, the LegCo passed the bill to slash the majority of directly elected seats of the District Councils (DCs) of Hong Kong¹⁴. The law cuts the total of directly elected seats of all 18 DCs in the city from 452 to 88, a reduction of nearly 95%. The Hong Kong authorities will appoint 179 individuals to the DCs, and the remaining 176 seats will be elected among members of the three advisory bodies¹⁵, whose members are all appointed by the Hong Kong authorities¹⁶.
12. Under the new law, the District Officers of the respective district, who are unelected civil servants, will be the chairpersons of the DCs. It replaces the established procedure in which the DC chairperson will be nominated and elected among the DC members¹⁷. The new arrangement also requires individuals seeking candidacy to the directly elected seats of any of the DCs to get nominations from members of the three aforementioned advisory bodies, backsliding from the previous practice to get candidacy from 10 eligible voters

¹² Tam, J. (2023). *Hong Kong national security: plan to allow prosecutors to appeal judges' acquittals*. [online] South China Morning Post. Available at: <https://www.scmp.com/news/hong-kong/politics/article/3217944/hong-kong-prosecutors-will-be-allowed-appeal-against-acquittals-some-national-security-cases-under> [Accessed 8 Jul. 2023].

¹³ *ibid.* 8

¹⁴ Pang, J. and Zhou, J. (2023). Hong Kong slashes number of directly elected council seats. *Reuters*. [online] 6 Jul. Available at: <https://www.reuters.com/world/asia-pacific/hong-kong-slashes-directly-elected-seats-local-polls-further-reducing-democracy-2023-07-06/> [Accessed 8 Jul. 2023].

¹⁵ The three advisory bodies are a) Area Committee established in the district; b) the District Fight Crime Committee established in the district; or(c) the District Fire Safety Committee established in the district.

¹⁶ *District Councils (Amendment) Bill 2023*. Available at: <https://www.legco.gov.hk/yr2023/english/bills/b202305301.pdf> [Accessed 8 Jul. 2023].

¹⁷ *ibid*



within the constituency ¹⁸.

13. More importantly, the nominees will have to go through the District Council Eligibility Review Committee, which “seeks the opinion of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region (CSNS) as to whether the person fails to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China”¹⁹. Nominees may be barred from candidacy by the said Committee.

14. We, with members of former democratically elected District councillors, believe the above developments contravene Article 21 of the UDHR, and it backslides the rights of individuals in Hong Kong to take part in the government. The people's will can no longer be expressed through periodic and genuine DC elections. Suffrage is no longer universal or equal in terms of the nomination process. The developments are also backsliding the rules of democratic institutions compared to the Conclusion/Recommendation of 28.345 stated in the last reporting cycle, which the state indicated as accepted and said to be being implemented.

Abolishment of Mutual Aid Committees of Public Rental Housing Estates

15. In 2022, the Hong Kong authorities approved to disband the Mutual Aid Committees (MACs) by the 1st of January 2023 ²⁰. The MACs were established in the 1970s to promote community cohesion and mutual assistance in the government-operated Public Rental Housing (PRH) Estates ²¹. Each PRH building can establish its respective MACs, and there were 1,663 of them before the abolishment decision was announced²². Resident representatives of

¹⁸ ibid

¹⁹ ibid

²⁰ Government of the Hong Kong SAR (2022). *LCQ22: Mutual Aid Committees of public housing estates*. [online] www.info.gov.hk. Available at: <https://www.info.gov.hk/gia/general/202207/06/P2022070600307.htm> [Accessed 8 Jul. 2023].

²¹ Mo, M. (2022). *Hong Kong’s Dismantled Society*. [online] thediplomat.com. Available at: <https://thediplomat.com/2022/06/hong-kongs-dismantled-society/> [Accessed 8 Jul. 2023].

²² The Standard (2022). *Committees promoting mutual help in housing estates to be disbanded*. [online] The Standard. Available at: <https://www.thestandard.com.hk/breaking-news/section/4/185596/Committees-promoting-mutual-help-in-housing-estates-to-be-disbanded> [Accessed 8 Jul. 2023].



MACs are democratically nominated and elected.

16. The government claimed that other advisory bodies, such as Area Committee established, District Fight Crime Committee and District Fire Safety Committee, can perform similar functions as MACs. Nevertheless, as we mentioned in the prior section, members of these committees are appointed by the government rather than elected democratically.
17. We, with members as former chairpersons of a MAC, believe the above developments contravene Article 21 of the UDHR, and it backslides the rights of individuals in Hong Kong to take part in the government. The people's will can no longer be expressed through periodic and genuine MAC elections. The developments are also backsliding the rules of democratic institutions compared to the Conclusion/Recommendation of 28.345 stated in the last reporting cycle, which the state indicated as accepted and said to be being implemented.

Commencement of China Loyalty “Deradicalization” Program by Correctional Service against Freedoms, Rights and Beliefs of Inmates

18. The Hong Kong Correctional Service Department (HKCSD) compels loyalty to state authority among jailed pro-democracy activists with “the deradicalization program”, which disregards human rights and fundamental freedoms and limits the development of the personality of the activists. The deradicalization program includes pro-China propaganda lectures and psychological counselling that mounts to brainwashing, leading to detainees confessing once held “extreme views,”. The program is accompanied by a system of close monitoring and punishment, including solitary confinement, including in juvenile facilities²³. The program has nothing to do with career training but coerces jailed activists to change their political beliefs and way of life.²⁴
19. While the HKCSD could argue the commencement of the program is to help prisoners to train their duties to the communities on the ground of Article 29 (1) of UDHR, we noticed that the so-called deradicalization program targets

²³ The Washington Post: Hong Kong prisons work to compel loyalty to China among young activists
https://www.washingtonpost.com/world/interactive/2023/deradicalization-hong-kong-democracy-activists/?itid=sr_2

²⁴ Voice of America: Hong Kong Authorities 'Brainwashing' Convicted Pro-Democracy Activists
<https://www.voanews.com/a/hong-kong-authorities-brainwashing-convicted-pro-democracy-activists-/6534809.html>



pro-democracy activists to compel them to be loyal to China's regime with Nationalism elements, against their political beliefs and their right to freedom of thought, conscience and belief. We believe the deradicalization program contravenes Articles 18 and 29 (2) of UDHR.

Lack of Protection for the Right to Education, and Underaged Protesters being Arbitrarily and Indefinitely Suspended from School for their Thoughts and Beliefs

20. Since 2019, some underaged protestors have been suspended from schools and could not find schools to continue their studies. In one of the cases we handled, one adolescent was suspended from the classroom after being arrested and prosecuted for participating in a pro-democracy demonstration in 2019²⁵. As the student was released on bail, he returned to school and requested to attend classes. The teachers denied the student's permission to attend classes and advised him to stay in the library during school hours, without advising when he could return to the classroom. The student was only given homework for self-study. After a few days, as the student was dissatisfied with the suspension, he did not return to school and the school has not contacted him ever since. While the student was not convicted of any wrongdoing and no decision of expulsion or suspension was made at the time being, the suspension was deemed an illegitimate punishment and restricted his right to education²⁶. While the student only received verbal instruction to stay outside of the classroom, the arbitrary and infinite suspension, without any intervention by the Education Bureau, and the failure to contact the student when absent, were serious negligence of the school for its incompliance with the Education Ordinance. The Hong Kong Education Bureau connives with the issue happening constantly.

21. We believe the above developments contravene Articles 18 and 26 of UDHR, and they create a culture of discrimination in the education system based on ideology, thought and belief.

²⁵ Submission of The Hong Kong SAR of PR China on the ICESCR to UN CESCR 73 Session §17 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCESCR%2FCSS%2FHKG%2F51291&Lang=en

²⁶ *ibid*

Disproportionate Penalties, Harassment and Surveillance Imposed upon Dissidents and Protesters Released from Correctional Facilities

22. A news report mentioned that Hong Kong's Department of Justice (HKDOJ) imposed unreasonable delays on appeals of some acquittals, resulting in dissidents being arrested and jailed in retaliation shortly after serving sentences for other crimes in the same case²⁷. Another news report showed that HKDOJ imposed unreasonable delays on appeals of acquitted protesters²⁸. It led protesters to face unfair trials and had their rights to be presumed innocent until proven guilty violated.
23. Some dissidents and protesters have been under surveillance and being harassed after being released on bail or completed their sentences, or even facing additional penalties. In one of the cases we handled, a previously detained protester under the age of 18 was constantly surveilled by authorities, and harassed by what appeared to be undercover police officers. The Hong Kong Security Bureau and the Hong Kong Police Force monitored the case beyond his sentence through regular reporting and contact with the family, restricting the freedom and infringing on personal privacy of the case.
24. We believe the developments contravene Articles 10, 11 and 12 of UDHR, where the Hong Kong authorities target dissidents by imposing disproportionate penalties and arbitrarily interfering with their privacy, family, residence or correspondence, or attacking their honour, and reputation.

²⁷ Sing Tao Daily (2022). 3 people released after serving sentences for being acquitted from riot, convicted for masking faces. Department of Justice appeals today, they are arrested again and permitted release on bail (In Chinese: 3名人士獲釋後再被逮捕). [online] Sing Tao. 10 Feb. Available at: <https://www.singtao.ca/5559223/2022-02-09/news-3%E4%BA%BA%E6%9A%B4%E5%8B%95%E7%BD%AA%E8%84%AB%E8%92%99%E9%9D%A2%E7%BD%AA%E6%88%90%E5%88%A4%E5%9B%9A%E5%88%91%E6%BB%BF%E5%87%BA%E7%8D%84+%E5%BE%8B%E6%94%BF%E5%8F%B8%E6%8F%90%E4%B8%8A%E8%A8%B4%E4%BB%8A%E5%86%8D%E8%A2%AB%E6%8D%95%E5%87%86%E4%BF%9D%E9%87%8B/?variant=zh-hk> [Accessed 10 Jul. 2023].

²⁸ InMediaHK (2023). Appeal case of assault on police won and remanded for retrial. Hearing-impaired student pleads not guilty, denied stay of proceedings (In Chinese: 聽障學生獲判無罪, 拒絕延期). [online] InMediaHK. 8 May. Available at: <https://www.inmediahk.net/node/%E7%A4%BE%E9%81%8B/%E8%A5%B2%E8%AD%A6%E7%BD%AA%E4%B8%8A%E8%A8%B4%E5%BE%97%E7%9B%B4%E5%BE%8C%E7%99%BC%E9%82%84%E9%87%8D%E5%AF%A9-%E8%81%BD%E9%9A%9C%E5%AD%B8%E7%94%9F%E4%B8%8D%E8%AA%8D%E7%BD%AA-%E7%94%B3%E8%AB%8B%E7%B5%82%E6%AD%A2%E8%81%86%E8%A8%8A%E9%81%AD%E6%8B%92> [Accessed 10 Jul. 2023].

Elements of National Security and Patriotism in Education

25. Since the enactment of the NSL, all teachers have been required to pass the Basic Law and National Security Law Test (BLNST) .²⁹ The test is compulsory and instils political values in teachers, while it is not relevant to teaching objectives for most of the subjects. Besides, National Security Education was also applied in National Education for students in primary and secondary education after the promulgation of the NSL.³⁰ In the curriculum, only the official view of national security is instructed while the discussions on alternative views are not arranged³¹. Public criticisms and denials of the content of National Security Education may be subject to prosecution for sedition offences.
26. In the updated Guidelines on Teachers' Professional Conduct, teachers are prohibited from advocating for the disruption of social order, disseminating such messages to students and promoting messages that breach laws and regulations and disrupt social order; directly or indirectly encouraging them to engage in activities that violate laws and regulations and disrupt social order. Teachers who express political views other than the official stance or encourage others to do so, in schools or publicly, will be deemed breaching the Guidelines and be subjected to cancellation of registration of teachers.³²
27. On 26 June 2023, the Patriotism Education Bill was proposed in the Chinese People's Congress. As stipulated, distortion, vilification and blasphemy of the deeds and spirit of heroic martyrs are prohibited³³. Although the Bill may not be implemented directly in HKSAR, we are worried that it can be implemented through the guidance on National Education in Hong Kong, an executive

²⁹ Education Bureau (2022). *Requirement for Newly-appointed Teachers to Pass the Basic Law and National Security Law Test* - Education Bureau. [online] www.edb.gov.hk. Available at: <https://www.edb.gov.hk/en/sch-admin/admin/about-sch-staff/blnst/index.html#BLNST> [Accessed 10 Jul. 2023].

³⁰ Education Bureau (2023). *National Security: Specific Measures for Schools*. [online] Education Bureau. Available at: <https://www.edb.gov.hk/attachment/en/sch-admin/national-security/specific-measures.pdf> [Accessed 8 Jul. 2023].

³¹ Education Bureau (2023a). 基本法及國家安全教育的課程發展 - 基本法。 [online] www.edb.gov.hk. Available at: https://www.edb.gov.hk/tc/curriculum-development/cross-kla-studies/gs-primary/references-resources/constitution_basic_law_and_national_security_education.html [Accessed 10 Jul. 2023].

³² Education Bureau (2022a). *Guidelines on Teachers' Professional Conduct*. [online] Available at: https://www.edb.gov.hk/attachment/en/teacher/guidelines_tpc/guidelines_en.pdf.

³³ National People's Congress (2023). *Patriotism Education Act (draft)*. [online] Available at: <https://npcobserver.com/wp-content/uploads/2023/06/Patriotic-Education-Law-Draft.pdf> [Accessed 10 Jul. 2023].



decision which can follow the framework of the Bill.

28. The introduction of BLNST the element of national security in National Education are compulsory in all schools which limits the freedoms of opinion, conscience and expression, with the liberty of parents and guardians to ensure the moral education of their children in conformity with their own convictions is therefore not respected, as provided in UDHR Article 26 (3). Meanwhile, the clauses about national security in the Guidelines on Teachers' Professional Conduct and the legislation of the Patriotism Education Bill restrict the right to freedom of thought and conscience as in UDHR Article 18 and the right to freedom of opinion and expression as in UDHR Article 19. The guideline also contradicts the UDHR Article 26 (2) which "Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms..." We urge the Hong Kong authorities to stop the implementation of the BLNST and revoke the forceful introduction of national security elements in the curriculum in all schools and in the Guidelines on Teachers' Professional Conduct.



Recommendations

29. The Hong Kong Scots urges Member States to recommend the following measures in relation to the HKSAR, at the Fourth Cycle UPR of the PRC:

- Repeal the National Security Law of Hong Kong and refrain from applying it in the meantime;
- Abolish the retrogressive district council electoral system and restore the original democratic electoral system;
- Reintroduce the original mutual aid committees, empowering residents directly or through freely elected representatives;
- Abolish the "deradicalization" program for dissident prisoners and refrain from applying it in the meantime;
- Ensure that underage protesters are not denied the right to education;
- Stop imposing harassment and surveillance on dissidents and protesters released from corrective facilities;
- Ensure that dissidents and protesters receive fair and public hearings in an independent tribunal on full equality, and limit the delay in appealing the acquittal of protesters;
- Repeal National Security Education and Patriotism Education Act;
- To ensure that education aims at the full development of the human personality and strengthens respect for human rights and fundamental freedoms.