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| logo4C01 | **香港九龍彌敦道778號****恆利商業大廈四樓**4th Floor Hanley House778 Nathan RoadKowloon Hong Kong\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| 網址:Website電郵:E-mail 電話:Tel傳真:Fax  | www.dphk.orgdphk@dphk.org2397 70332397 8998 |

**General Comment on Article 21 (Right to Peaceful Assembly) of the International Covenant on Civil and Political Rights**

**Submission from the Democratic Party (Hong Kong SAR)**

**March, 2019**

Article 21: The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

**Definition of ‘peaceful assembly’**

1. The right to peaceful assembly refers to the right of individuals and groups to assemble for the purpose of deliberating upon matters of their concern peacefully. In the assembly, opinions and views can be exchanged freely and publicly and the assembly can be held in the format of a peaceful protest.
2. It is important to stress the peaceful nature of the assemblies, so that people are gathered and views are exchanged in a peaceful, rational, and non-violent way. A certain level of disruption might result in order to deliver the message but it should be of a reasonable scale. An assembly where organizers and participants advocate, incite and resort to violence fall outside the scope of the protection of the particular right. The Democratic Party considers any act that threatens the safety of other people and their properties as an act of violence.

**The right of peaceful assembly in relation to other rights**

1. The right is closely related to other rights such as freedom of expression and political participation but differs in a sense that it physically enables a platform where participants can freely participate and express their views and ideas, regardless of the nature of the matter, be it political or of other social causes. The Democratic Party believes that in order to fully realize each of the rights, each right is indispensable and cannot exist without the other. In other words, freedom of expression cannot be fully realized if the right to peaceful assembly is not respected, neither can one say people are free to participate politically if they cannot organize or participate in a peaceful assembly. Right to peaceful assembly provides a channel and adds weight to the realization of both the right to freedom of expression and political participation.

**State’s duty to respect and ensure the right**

1. The Democratic Party affirms that the right of peaceful assembly should only be restricted in accordance with the law, and in the interests of mainly national security and public safety. However, we are concerned that authorities have increasingly begun to link the messages and views expressed in the assemblies as ‘threat to national security’ and breaking the law, for the purpose of barring individuals and/or groups from exercising their right to peaceful assembly. Such reasons should be cited with caution so that the citizen’s ability to exercise the rights is not unreasonably limited.

1. The Democratic Party firmly believes every individual has the right of organizing and participating in a peaceful assembly, drawing the line when the purpose and ideas expressed are advocating, inciting and/or using violence. And thus, even though one might not agree with the messages and views that are delivered in the peaceful assembly, one cannot deprive the individuals and/or groups of the right to peaceful assembly and exchange ideas and opinions.
2. The Democratic Party believes there is a duty on the State to facilitate peaceful assembly. Most importantly, the State should create an environment where people feel safe and will not fear prosecution or consequences in any way after organizing and/or participating in a peaceful assembly. To ensure good order and public safety, a proportional presence of law enforcement officials may be required. However, when the law enforcement officials are performing their duties by maintaining order, they should refrain from the excessive and unnecessary use of monitoring methods such as close-up video recording and soliciting personal information of the participants, so that the privacy of the participants are respected and they do not have to worry about any possible consequences arising from participation of a peaceful assembly.