

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	706
Land:	Kina
Kilde:	HRIC – Human rights in China
Titel:	Civil society submission the Universal Periodic Review (4 th cycle) on online rights and internet freedoms in Hong Kong
Udgivet:	17. juli 2023
Optaget på baggrundsmaterialet:	31. juli 2024



**HONG KONG (CHINA):
CIVIL SOCIETY SUBMISSION
TO THE UNITED NATIONS
UNIVERSAL PERIODIC REVIEW (FOURTH CYCLE)
ON ONLINE RIGHTS AND INTERNET FREEDOMS IN HONG KONG**

45th session (April – May 2024)

Submitted by **Human Rights in China**

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July 17, 2023

HRIC was founded in March 1989 by overseas Chinese students and scientists with a mission to support rights defenders and advance the institutional protection of international human rights in the People's Republic of China.

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I. Introduction: UPR Review (Fourth Cycle) of Hong Kong in Context

1. Human Rights in China (HRIC) makes this submission to the Human Rights Council (HRC) in advance of the Universal Periodic Review (UPR) (Fourth Cycle) of Hong Kong SAR, China. HRIC's submission focuses on online rights and internet freedoms in Hong Kong, which has significantly deteriorated in a post-COVID era, and after the promulgation of the *National Security Law* (NSL)¹. We highlight examples of the erosion of online rights in Hong Kong, particularly the freedoms of expression, peaceful assembly, and association, experienced by individuals or vulnerable groups such as activists, journalists, and human rights defenders. In exercising their fundamental freedoms and rights, they have been targeted, criminally sanctioned, and discriminated against. Lastly, we draw attention to how women are disproportionately affected, with online gender-based violence (OGBV) becoming a prevalent issue.

II. Deterioration of Online Rights & Internet Freedoms in Hong Kong

2. In today's Hong Kong, fundamental freedoms and rights are no longer respected and protected like before.² In particular, defenders and vulnerable groups are at the hands of an increasingly authoritarian Hong Kong government (HKG) that is rapidly weaponizing and deploying new tools of online repression within and outside of Hong Kong's borders to surveil, censor, attack, and harass. Since COVID-19 hit, the HKG weaponized social distancing measures together with draconian legislation, including the *Public Order Ordinance* and sedition charges under *Crime Ordinance*, to restrict online and offline civic space. This is intensified by the promulgation of the sweeping NSL in June 2020 that criminalizes secession, subversion, terrorism, and collusion with foreign organizations.³
3. While issues regarding online rights and internet freedoms have risen in prominence in recent years globally, these issues are not new to Hong Kong in the UPR. During the Third Cycle of the UPR review,⁴ the following five (5) recommendations were made by various State parties on related issues:
 - Remove restrictions on freedom of expression and press freedom, including on the Internet, that are not in accordance with international law (Sweden)
 - Enable unrestricted use of the Internet by all members of society by ensuring cybersecurity and the safe flow of information without violating freedom of expression (Estonia)
 - Guarantee freedom of expression, assembly and association including in Hong Kong, and remove obstacles to freedom of information on the Internet, in particular for human rights defenders (France)
 - Guarantee freedom of opinion and expression, enhancing efforts to create an environment in which journalists, human rights defenders and NGOs can freely operate in accordance with international standards (Italy)
 - Protect and guarantee respect for freedom of information and expression, in particular by journalists, bloggers and human rights defenders (Luxembourg) [Emphasis added]
4. During the Third Cycle, the Chinese delegation claimed "that [China] was... home to the most dynamic and enriched discourse anywhere in the world, and that its people enjoyed substantial freedom of speech."⁵ Further, China emphasized how it was committed to the protection of human rights and freedoms, including the freedom of the press in Hong Kong.⁶ However, it appears that such fundamental freedoms in Hong Kong have considerably regressed since the culmination of the Third Cycle, exacerbated by China's expanding transnational repression. HRIC's 2018 submission for the Third Cycle review of China noted how the Chinese government used its Cybersecurity Law and implemented regulations to severely curtail freedom of expression, access to information, a free press, and privacy—aimed at obscuring and stamping out the diverse views in civil society.⁷ It is chilling that the same approach is now undertaken in Hong Kong.

5. Further, Central People's Government policies and new laws present additional challenges for the future of data governance and open access to information in Hong Kong, in particular the overarching data policy to control all data—their movement, production, and distribution—and the consumption of resources and ideas.⁸ Hong Kong's governance and legislative deficits, including ineffective anti-corruption bodies and the lack of an archives law and a freedom of open information law, undermine the right to information, right to know, and right to participate—citizen rights that are essential for promoting democracy progress and ensuring government transparency and accountability.

a. Rights Repression in post-COVID and *National Security Law* era

6. Since the beginning of COVID-19, Hong Kong experienced a rapid expansion of e-governance and digital surveillance tools. The Leave Home Safe app became compulsory for anyone who entered shops, government offices, or restaurants, and was used for extensive contact-tracing. It raised widespread alarm due to privacy concerns.⁹ Other government services became centralized via the “iAM Smart” app, which bundles accounts across various branches and departments.¹⁰
7. The government also invoked social distancing measures to restrict all public gatherings and assemblies. Until 2023, no “notice of no objection” was given to any assembly organizer which meant that no protest or demonstration was allowed.¹¹ Crucially, the Anti-Extradition Law Amendment Bill (Anti-ELAB) movement, which was marked by a series of large-scale demonstrations in the summer of 2019, was forced to halt in the face of all these restrictions. The movement entered into a period of “enforced abeyance.”¹² Additionally, the two major annual Hong Kong events banned for the first time in or since 2020 are: 1) the annual July 1 pro-democracy march which marked the anniversary of the transfer of Hong Kong's sovereignty in 1997; and 2) the annual June Fourth candlelight vigil which has commemorated June Fourth victims since 1990.¹³
8. The passage of the NSL in June 2020 is a major catalyst that precipitated attacks on internet freedoms—especially through the application of the law to block specific websites, arrest and prosecute individuals for online speech, and engage in transnational actions against internet companies and websites in other countries. The NSL also increases pressure on companies to comply with government censorship or surveillance requests, often in the form of content removal requests. Further, the HKG has announced upcoming legislation that could further damage internet freedoms. It is expected that the internet freedoms Hong Kong has enjoyed will further deteriorate in the foreseeable future, and that methods and tools of digital authoritarianism in the region will steadily align with practices in the mainland.

i. Use of Draconian Legislation: Shrinking Civil Space Offline & Online

9. According to a 2022 CIVICUS Monitor report, Hong Kong civil society is now in the rank of “closed” in the Asia Pacific, alongside countries like Afghanistan and North Korea.¹⁴ The report documents how dozens of civil society groups were forced to be disbanded after the NSL was passed, and how international NGOs like Amnesty International also left Hong Kong as they could not navigate the vague and catch-all nature of “colluding with foreign forces” as well as the extra-territorial reach of the NSL.¹⁵ The effects of censorship and surveillance are also keenly felt in the loss of freedom of the press, in a bid to achieve “stability and prosperity.”¹⁶ However, not all defenders and groups in Hong Kong have given up. More likely or not, they have chosen to organize and collaborate among themselves covertly or online, which is why the preservation of their online rights has become even more vital.
10. In 2021 alone, at least 50 civil society organizations (CSOs) disbanded following the crackdowns on key segments of civil society that are critical to the protection of rights,¹⁷ spanning across professional legal associations,¹⁸ media groups, trade unions, political parties, and students' unions.¹⁹ The NSL was widely used to arrest and prosecute senior staff and executives, raid offices, and freeze assets.²⁰ Some

had their websites, social media accounts and online content or presence removed voluntarily to avoid breaching the law,²¹ or as requested by the authorities.²²

- Assembly organizers **Civil Human Rights Front** and the **Hong Kong Alliance in Support of Patriotic Democratic Movements in China (Hong Kong Alliance)**, both disbanded during 2021, with many of their former members still in jail or facing national security charges.²³ On June 4, 2021, **Chow Hang-tung**, barrister and former vice-chairwoman of Hong Kong Alliance and another 20-year-old man were arrested under the *Public Order Ordinance* for “publicizing unauthorized assembly” online.²⁴ No other CSO is now willing to take the risk to organize the mass assemblies or protests online or offline, not even after all COVID-19 restrictions were lifted earlier in 2023.
- Corporations are cutting defenders and groups financially²⁵ in order not to run afoul of the NSL. Banks are also complying with national security legislation, under the order of authorities, like HSBC assisting in freezing defenders’ and CSOs’ assets.²⁶
- Even for other demonstrations resumed and approved earlier this year, the police set out a new (unfair) requirement to wear numbered badges for holding assemblies, citing security reasons.²⁷

11. In January this year, Hong Kong’s national security police arrested a 24-year-old man for sedition over his social media posts,²⁸ including some which called for independence and in March, Hong Kong national security police arrested a 48-year-old woman over “acts with seditious intention,” reportedly related to posts on Twitter.²⁹ This year, a Hong Kong student studying at a Japanese university was arrested when she returned to Hong Kong over posts she shared on social media for “inciting Hong Kong independence.” She was charged with “inciting secession” and was the first person arrested under NSL for acts that took place outside of Hong Kong.³⁰
12. The NSL will not be the end of such draconian legislation. On July 3, 2023, Secretary for Security Chris Tang Ping-keung said Hong Kong’s Article 23 security legislation would have provisions to deal with “soft resistance,” referring to online discussions and publications that could easily “radicalize” people³¹ and that law enforcement would conduct “online patrol” to detect information that supposedly endangered national.” It has been made clear that espionage and cybercrimes are areas that the government would review continuously.³² In an already rights repressive environment, the HKG is only further suffocating civil society in all ways possible.

ii. Internet Censorship Eroding Freedom of Information

13. Under the NSL, internet censorship is intensified under Article 43 which allows police to “require service provider(s) to take a disabling action on electronic message(s) on an electronic platform the publication of which is likely to constitute an offence endangering national security or is likely to cause the occurrence of an offence endangering national security.”³³ Under this provision, national security has been invoked repeatedly by the police to block the following websites from accessing their content in Hong Kong (all of them being pro-democracy):³⁴
 - Hong Kong Democracy Council (www.hkdc.us)
 - Hong Kong Watch (<https://www.hongkongwatch.org>)
 - HKChronicles (<https://hkchronicles.com>)
 - 2021 Hong Kong Charter (<https://2021hkcharter.com>)
 - June 4th Incident Online Museum (8964museum.com) – unavailable
14. Foreign companies like Google, Meta and Twitter are blocking Hong Kong authorities from accessing users’ data, in an increasingly visible show of retaliation, and in turn many have issued warnings to Hong Kong authorities. These are foreign companies with a strategic interest in internet freedoms. However, foreign companies continue to face pressure from authorities to give in to HKG requests that may violate users’ rights. Under the NSL, even tech giants like Google, Apple, Spotify are all under a

lot of pressure to restrict rights online.

15. In the later half year of 2022 alone, Google received requests from the HKG to remove 183 items, and 330 items in total during 2022 with 57 related to national security. In all, Google took no action on 48.1% of the requests, while nearly 30% were complied with.³⁵ The Department of Justice applied for a court injunction seeking to ban “Glory to Hong Kong,” the unofficial anthem popularized during the 2019 protests which was circulating online, but different versions of the song disappeared from Spotify and iTunes.³⁶ A man was then criminalized for using the song in an edited video, marking it the first conviction in relation to the song.³⁷ Before this injunction, the government had unsuccessfully made Google take down or rank the song lower in its search results. A recent development meant that Hong Kong internet users may now even be potentially cut off from using Google.³⁸
16. A report in 2022 also revealed that more than 50 VPN and private browsing applications have been removed from Hong Kong’s Apple App Store. Overall, around 2,370 apps available elsewhere are missing from the Hong Kong’s, making it the place with the third-highest number of disabled apps, behind China and Russia.³⁹

b. Online Gender-based Violence against Women

17. OGBV is also known as technology-facilitated gender-based violence enabled or perpetrated by using technology or a digital interface, specifically the internet or smart devices.⁴⁰ In particular, women and girls experience online violence in a highly gendered way, where perpetrators aim to assert power and control, threaten, shame, and silence them through using various forms of online violence.⁴¹ OGBV is additionally pervasive in that it is often difficult or impossible for victims to avoid the online dimension in this modern day and age.⁴²

i. Lack of Redress & Further Shrinking Civic Space

18. In Hong Kong, the *Basic Law* and *Bill of Rights Ordinance* protect the fundamental rights of HKSAR residents, including the right to equality and non-discrimination. Legislation aimed at eliminating discrimination against women on grounds including of sex, marital status, pregnancy, disability, family status, and race include: the *Sex Discrimination Ordinance*, *Family Status Discrimination Ordinance*, *Disability Discrimination Ordinance*, and *Race Discrimination Ordinance*. However, there is no legislation or policy in Hong Kong that addresses the online dimension of gender-based violence or even has a definition of OGBV. This is problematic as victims of OGBV have no means of redress or support. Additionally, this may also indicate a wider lack of awareness as to OGBV being a form of gender-based violence.
19. An unprecedented number of women participated in the Anti-ELAB movement protests which empowered a new generation of women activists. At the same time, their activism also exposed them to various forms of gender-specific attack campaigns online such as disinformation, gendered attacks, and doxing via doctored photos. During the protests, women were subjected to verbal abuse targeting their physical appearances, rape threats, and doctored photos, many by suspected pro-establishment trolls.⁴³ In a similar vein, female journalists covering the 2019 protests constantly faced gender-based violence or ambivalent sexism.⁴⁴ A freelance female journalist **Amy Ip** recounted in an interview with the now-defunct online news media Stand News that her name and photo had been circulated widely online by pro-establishment groups after she read a statement and pointed a flashlight at an official during a daily police press conference to show the outrage at the treatment of journalists. The ensuing doxing by pro-Beijing groups called her a “prostitute.”⁴⁵
20. Of particular note is how women human rights defenders (HRDs) like lawyers, democracy activists and legislators have been targeted online and subject to OGBV for expressing their views or opinions. Outspoken female pro-democracy figures are often targets of sexual harassment and cyber bullying.

The independent online news outlet Hong Kong Free Press interviewed five female pro-democracy politicians who all lamented that “they have been sexually harassed on a daily to weekly basis—online and offline—and that sexism and misogyny permeated almost every nook and corner of politics.” Women HRDs continue to exercise their freedom of expression although some have resorted to self-censorship,⁴⁶ which also robs them of their rights to political and public participation. This is a vicious cycle that will only continue to shrink the existing civic space if women cannot feel comfortable even online to express themselves.

III. Recommendations

21. As with all three cycles of the UPR in the past, it is key that the HKG continues to ensure that it is compliant with its international obligations. The upcoming review is an important opportunity to highlight once again that formal protections in law are not sufficient to comply with the state party’s implementation obligation. While Hong Kong ratified the *International Covenant on Civil and Political Rights* (ICCPR) with many articles set out in its *Basic Law*, it must ensure that its existing domestic legislation (the NSL, *Public Order Ordinance*, *Crime Ordinance*, and even potentially the upcoming Article 23 legislation) do not go against the spirit of the ICCPR in protecting key fundamental freedoms and rights.
22. Additionally, as emphasized in HRIC’s 2018 submission,⁴⁷ the HKG must include systematic assessment information, such as specific indicators and benchmarks to enable a meaningful assessment and promotion of progress. There must also be a willingness to promote greater awareness and diverse participation. We urge the HKG to widely disseminate information on official websites of all relevant government ministries, subnational government departments, and mass organizations regarding Hong Kong’s international human rights obligations and outcomes of UPR cycles. In light of the continually shrinking civic space in Hong Kong, the HKG must ensure there are still opportunities for civil society to provide input into, monitor, and engage with Hong Kong’s Fourth UPR and upcoming treaty body reviews, including for monitoring and remote engagement.

¹ *Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region* (2020). Available at: <https://www.elegislation.gov.hk/hk/A406>.

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³ “Too Soon to Concede the Future: The Implementation of The National Security Law for Hong Kong--An HRIC White Paper,” *Human Rights in China*, October 16, 2020, <https://www.hrichina.org/en/press-work/press-release/too-soon-concede-future-implementation-national-security-law-hong-kong-hric>.

⁴ Report of the Working Group on the Universal Periodic Review, December 26, 2018, Para. 28, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/446/59/PDF/G1844659.pdf?OpenElement>.

⁵ Ibid, Para. 23.

⁶ Ibid, Para. 25.

⁷ Human Rights in China UPR (Third Cycle) Submission on China, March 2018. Human Rights in China. This submission has not been made public. MS on file.

⁸ Sourabh Gupta, “China’s Data Governance and Cybersecurity Regime,” Institute for China-America Studies (ICAS), April 5, 2023, <https://chinaus-icas.org/research/chinas-data-governance-and-cybersecurity-regime/>.

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¹⁴ CIVICUS Monitor, op. cit.

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¹⁶ “Xinhua Commentary: ‘Press freedom’ not an excuse for Western interference,” *Xinhua*, July 12, 2021, http://www.xinhuanet.com/english/2021-07/12/c_1310057142.htm.

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³⁶ Derek Cai, “Glory to Hong Kong: Protest anthem removed from iTunes, Spotify,” *BBC News*, June 15, 2023, <https://www.bbc.com/news/world-asia-china-65874954>; and Chang Che, “Hong Kong Asks Court to Stop Protest Anthem From Circulating Online,” *The New York Times*, June 7, 2023, <https://www.nytimes.com/2023/06/07/business/hong-kong-google.html>.

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³⁹ Emma Woollacott, “Apple Accused Of Censoring App Stores In Hong Kong And Russia,” *Forbes*, Dec 22, 2022, <https://www.forbes.com/sites/emmawoollacott/2022/12/22/apple-accused-of-censoring-app-stores-in-hong-kong-and-russia/?sh=411a23e03fbc>; and Global Voices, “The Unfreedom Monitor: Hong Kong Country Report,” April, 2022, https://globalvoices.org/wp-content/uploads/2023/04/Unfreedom_Monitor_Hong_Kong_Country_Report_2023.pdf.

⁴⁰ According to the UN Youth Guide to End Online Gender-Based Violence, online gender-based violence also referred to as technology-facilitated gender-based violence (TFGBV), which is any form of violence that is enabled by or perpetrated by using technology or a digital interface - specifically the internet or smart devices. See “Toolkit: Youth Guide to End Online Gender-Based Violence,” UN Women, December, 2022, https://asiapacific.unwomen.org/sites/default/files/2022-12/Youth-Toolkit_14-Dec_compressed-final.pdf.

⁴¹ “Take five: Why we should take online violence against women and girls seriously during and beyond COVID-19,” UN Women, July 21, 2020, <https://www.unwomen.org/en/news/stories/2020/7/take-five-cecilia-mwende-maundu-online-violence>.

⁴² Dristy Moktan, “How online violence is shaping our lives,” *Asia News Network*, <https://asianews.network/how-online-violence-is-shaping-our-lives/>.

⁴³ “Hong Kong women claim online abuse over protests,” *Agence France-Presse*, September 3, 2019, <https://www.taipeitimes.com/News/world/archives/2019/09/03/2003721630>.

⁴⁴ Luwei Rose Luqiu, “Female journalists covering the Hong Kong protests confront ambivalent sexism on the street and in the newsroom,” *Feminist Media Studies (Volume 22, 2022 - Issue 3)*, November 4, 2020; Kwok Hiu Ching, Lin Zhihuai and Wong Ting Yan, “Gender-based violence against journalists in Hong Kong,” Hong Kong Baptist University, 2020, <https://datastory.hkbu.edu.hk/hkbudmc/>.

⁴⁵ Kwok Hiu Ching, Lin Zhihuai and Wong Ting Yan, “Gender-based violence against journalists in Hong Kong,” Hong Kong Baptist University, 2020, <https://datastory.hkbu.edu.hk/hkbudmc/>.

⁴⁶ Gwyneth Ho Kwai-lam, <https://www.facebook.com/gwynethhokl/>, <https://www.instagram.com/gwyneth.kl.ho/>, <https://twitter.com/KwaiLamHo>; Tiffany Yuen Ka-wai, <https://www.facebook.com/tiffanykawai/>, www.instagram.com/kawaitiffany, <https://twitter.com/tiffanykw?lang=en>.

⁴⁷ Human Rights in China UPR (Third Cycle) Submission on China, op. cit.