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新聞稿

由：香港人權資訊中心

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五名聯合國特別報告員發表聯署意見 批評香港立法規管眾籌或違反人權

聯合國五位特別報告員 (special rapporteurs) 於 2023 年 7 月 25 日發表[聯署意見](#) (communication)，關注香港擬立法監管眾籌活動的計劃，並強調在國際法之下，擬議法例可能違反部份基本權利和自由。他們亦批評政府建議的眾籌申請和註冊程序可能不符合國際法規定的必要性、相稱性和非歧視性門檻。

香港人權資訊中心認為，此份聯署意見反映聯合國人權專家正關注香港政府藉法例和行政措施扼殺香港公民社會的生存空間，令其無法發揮應有的社會功能。我們敦促香港政府立即撤回這項規管眾籌活動的立法計劃，並審視及修改現行法例，令公民社會組織能有效地行使其尋求、接受和使用資源的權利。

特別報告員今次對擬議法例提出了不少憂慮及關注。他們指出，擬議法例賦予政府廣泛的酌情權，卻沒有任何明確的限制性保障措施，而且缺乏對「國家安全」等詞語的明確定義，可能會導致過於寬泛或任意的解釋或應用。

對於擬議法例要求籌款者在進行眾籌前必須先向政府提出申請，特別報告員認為這項要求可能過於繁瑣，與既定目標不相稱，亦可能會對公民空間產生不利影響。他們又指，申請程序可能會抑制社團的職能自主和運作。此外，建議的程序適用於所有在香港進行的眾籌活動而不論實際活動是否在香港進行，亦可能引起域外司法管轄權的問題。

意見續指，要求超過一定金額的眾籌活動接受審計，並強制捐款人以實名捐款，也可能會產生進一步的寒蟬效應。對於眾籌平台必須在香港設有代表的擬議要求，特別報告員亦擔心眾籌平台可能會乾脆選擇不向政府註冊，最終令市民缺少可選擇的平台。

這份聯名意見是由五位人權專家，即「反恐中注意促進與保護人權和基本自由特別報告員」、「意見和表達自由權特別報告員」、「和平集會自由權和結社自由權特別報告員」、「人權維護者處境特別報告員」和「隱私權問題特別報告員」向中國政府發出的。

香港政府於 2022 年 12 月發佈監管眾籌活動的立法建議，公眾諮詢亦已於 2023 年 3 月 20 日結束，但目前尚未公佈明確的立法時間表。

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關於我們

香港人權資訊中心於 2022 年成立，由一群專注法律及政策研究的香港人權工作者組成，目標是向外界提供有關香港人權、法治及政治發展的最新和可靠的資訊，以支持香港的公民社會，並以國際人權法和標準，捍衛香港的人權和自由。

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Press Release

From: Hong Kong Centre for Human Rights

Date: 31 July 2023

Five UN Special Rapporteurs Issued Joint Communication Criticizing That Hong Kong’s Proposed Crowdfunding Law May Violate Human Rights

Five special rapporteurs of the United Nations issued a [joint communication](#) on 25 July 2023 to express their concerns over Hong Kong’s proposed legislation on the regulation of crowdfunding activities, highlighting that the proposed legislation may result in the violation of certain fundamental rights and freedoms under international law. The five independent experts also criticized that the proposed crowdfunding application and registration procedures may not meet the required thresholds of necessity, proportionality, and non-discrimination under international law.

Hong Kong Centre for Human Rights finds that this joint communication reflects the UN human rights experts’ concern that the Hong Kong government is actively using legislative and administrative measures to stifle the civil society in Hong Kong; the analysis also reveals the purpose of such measures to be decapitating civil society in Hong Kong. We urge the Hong Kong government to withdraw this legislative proposal immediately, and to review existing legislation for the purpose of creating and maintaining an enabling environment for the enjoyment of civil society organizations’ right to seek, receive and use resources.

The experts have made a number of critical observations of the proposed legislation. They stated that the proposed law gives expansive discretion to the government without any clear limiting safeguards, and that an absence of clear definition of terms such as “national security” could potentially lead to overly broad or arbitrary interpretations or applications.

They also pointed out that the proposed requirement to apply to the government prior to performing crowdfunding activities may be overly burdensome and disproportionate to the stated objectives with potentially detrimental impacts on civic space. They further stated that the application process may inhibit associations’ functional autonomy and operation. Moreover, the applicability of the proposed application process to all crowdfunding activities by people in Hong Kong, regardless of whether the actual activity is conducted there, may also raise extraterritorial jurisdictional issues.

The communication noted that the requirement for crowdfunding activities over a certain amount to be limited to “real name” contributors and to be subject to auditing may have further chilling effects. In response to the proposed requirement for crowdfunding platforms to designate a local representative in Hong Kong, the experts worried that this may significantly limit the availability of crowdfunding platforms because many providers without an existing physical presence in Hong Kong may simply opt out of registering with the government in the first place.

This joint communication was issued to the Chinese government by five human rights experts, namely the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the right to privacy.

The Hong Kong government issued a legislative proposal in December 2022 seeking to introduce tighter regulations of crowdfunding activities, with a public consultation having ended on 20 March 2023. No definite timeline of the legislative process has been announced yet.

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About us

Hong Kong Centre for Human Rights is established in 2022 by a group of human rights defenders from Hong Kong with background in policy and legal research. We aim to provide credible information on Hong Kong's legal, political, and human rights development with the goal of supporting the resilient civil society of Hong Kong and upholding international human rights standards.

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