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新聞稿

由：香港人權資訊中心

日期：2024 年 1 月 23 日

1 月 23 日聯合國普遍定期審議—四國質詢何時廢除香港國安法 香港人權資訊中心同日發表《香港人權報告 2023》

聯合國人權理事會將於 1 月 23 日於瑞士日內瓦舉行普遍定期審議，檢視中國（包括香港及澳門）的人權狀況。香港議題在是次審議中受到相關關注，共有八個國家作出提問，其中荷蘭、瑞士、英國及美國皆要求中國政府交代何時根據聯合國人權事務委員會的建議廢除《香港國安法》（《國安法》）。

中國（包括香港及澳門）的普遍定期審議會會議

時間：2024 年 1 月 23 日 9:00-12:30(日內瓦時間)

會議文件：<https://uprmeetings.ohchr.org/Sessions/45/China/Pages/default.aspx>

會議直播：<https://webtv.un.org/en/asset/k1z/k1z43db5bt>

香港人權資訊中心於去年七月已向普遍定期審議工作組提交報告，闡述自上輪審議於 2018 年結束以來香港的人權狀況，報告要求中國及香港政府落實各聯合國人權機制的建議：包括廢除《國安法》和煽動罪、停止所有針對因行使言論自由而被檢控的案件、建立一個擁有足夠權力的獨立機制以調查所有針對香港警方不當行為的投訴，並保護律師免受騷擾、恐嚇和攻擊。報告全文：<https://hkchr.org/wp-content/uploads/2023/07/HKCHR-UPR-HK-July-2023.pdf>

香港人權資訊中心發表《香港人權報告 2023》

香港人權資訊中心於 1 月 23 日發表《香港人權報告 2023》，記錄及分析 2023 年香港的人權狀況。報告涵蓋的範圍包括：《國安法》的實施情況、法治及司法獨立、集會及結社自由、表達自由、新聞自由、學術自由、參與公共事務的權利、性小眾的權利。

報告指出一些值得關注的趨勢，重點包括：

- (一) 在 2023 年至少 48 人因涉嫌違反《國安法》或煽動罪被捕。四個民間組織因政治立場或《國安法》的威脅而被逼解散。這些事件反映香港政府繼續以《國安法》及煽動罪打壓公民社會及持異見者。當局更積極地運用《國安法》的權力及行使域外法權，追究在香港境外發生的行為及言論，以及對流亡行動者發出懸紅通緝令。
- (二) 香港政府持續強化國安機制成為一個可行使極大權力而沒有相應透明或問責制度的權力機關：*(i)* 香港政府根據全國人大常委會對《國安法》的解釋，以閉門會議推翻了香港終審法院早前批准一名海外律師為國安法案件被告人辯護的決定；*(ii)* 繞過立法機關，擴大

《香港國安法第四十三條實施細則》中凍結財產的權力；(iii) 進一步撥款 50 億港元作為維護國家安全的開支，而這些開支不受立法機關的審查；(iv) 香港警察多次引用《國家安全法》第 63 條，禁止個人披露任何與國家安全案件有關的資訊。在一個案例中，抗議活動的組織者因受到第 63 條約束，在不能向公眾解釋的情況下取消了組織抗議活動的申請。這種任意引用《國安法》的做法，增加了法律適用範圍的不確定性，並為當局提供濫用權力的空間。

- (三) 儘管《國安法》已實施超過三年，法院並已審結多宗與國家安全相關的案件，但國家安全的定義並沒有變得更加清晰。打擊「軟對抗」成為壓制各種異議的口號，亦令危害國家安全的犯罪行為的定義變得更加不確定。
- (四) 香港政府在 2023 年的區議會選舉中引入嚴密的政治篩選機制和一度被廢除的委任議席。而這一個倒退的區議會制度，是由只容許「愛國者」參與的立法會一致通過。由「愛國者」組成的立法會成為了橡皮圖章，2023 年提交表決的 35 項法案全部獲得通過，其中包括對人權有重大負面影響的法案。立法會的透明度大幅下降，議員以不記名的方式表決議案、委員會會議記錄不再標明發言者，議會向公眾問責和監督政府的能力受到了質疑。這個民意代表性大幅下降的立法機關，預計會在 2024 年審議及通過另一條國家安全法 — 《基本法》第二十三條的本地立法。
- (五) 包括聯合國經濟、社會和文化權利委員會在內的國際社會對《國安法》提出了強烈批評。經濟、社會和文化權利委員會指出，《國安法》事實上中止了香港的司法獨立，這對香港作為曾經因法治而聞名的城市來說是一個沉重的打擊。聯合國任意拘留問題工作組也史無前例地裁定香港政府對鄒幸彤的拘留屬違反國際人權法的任意拘留。
- (六) 香港的新聞自由仍然岌岌可危，自《國安法》實施至今，至少有 28 名記者被捕，其中 13 人在本報告所述期間仍被拘留。儘管在資源匱乏及言論審查的壓力下，小型媒體仍保持著頑強的生命力。以國家安全為名對言論自由和出版物的審查仍然繼續，並涵蓋不同層面和媒介。例如，公共圖書館中有關六四屠殺的公開資料從 2022 年 4 月的 48 項減少到 2023 年 5 月的僅有 1 項。有新聞報導指近 40% 的政治書籍和錄音從圖書館的館藏中被下架，以及大量因其作者而被視為敏感的非政治出版物亦同被下架。2023 年期間，至少六套電影和影片被禁止或被要求經過剪輯後才能公開放映。

香港人權資訊中心於報告中作出以下建議：

- (一) 國際社會應持續關注中國和香港政府持續侵犯人權的行為，認識香港人面臨政治迫害、缺乏公平審判和權利保護的狀況，並就此向香港人和離散海外的香港人群體提供支援和保護。

(二)促請國際社會認識到香港的法治已受到嚴重破壞。令人遺憾的是，香港的法律和法院已不再像以前那樣受到國際社會的尊重和敬重。國際社會應該讓相關持分者，包括各自的地方當局、執法機構和企業瞭解此情況，並以最謹慎的態度審核涉及來自香港當局的司法協助請求，以免成為協助鎮壓或侵犯港人人權的幫兇。

(三)呼籲國際社會努力保護和維護聯合國的人權機制，推動中國和香港政府按聯合國各人權機制的建議改善香港的人權問題。

香港人權資訊中心發言人表示：

「有系統的侵犯人權行為在香港持續發生，而司法和立法機關在內的人權保障機制失靈，這些原因都令香港的人權狀況繼續惡化。」

「聯合國普遍定期審議在 1 月 23 日檢視中國，包括香港的人權狀況。我們鼓勵各國代表積極推動中國和香港政府按聯合國各人權機制的建議作出改善。」

「我們相信香港人仍然在抵抗威權的壓迫，並將這份信念融入日常生活之中，在壓迫的空間中尋找希望。我們期望這份報告除了見證香港的人權問題，亦是香港人抵抗威權的記錄。」

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

By: Hong Kong Centre for Human Rights

Date: 23 January 2024

UN Universal Periodic Review (UPR) on 23 January - Four countries questioned when Hong Kong's national security law would be repealed.

HKCHR releases "Hong Kong Human Rights Report 2023"

The United Nations Human Rights Council will hold a Universal Periodic Review (UPR) on 23 January in Geneva, Switzerland to examine the human rights situation in China (including Hong Kong and Macau). The issue of Hong Kong is of great concern in the UPR with eight countries submitted advance questions related to Hong Kong. Among them, the Netherlands, Switzerland, the United Kingdom and the United States asked the Chinese government to explain when the Hong Kong National Security Law will be repealed in accordance with the recommendation made by UN Human Rights Committee in 2022.

Universal Periodic Review (UPR) Session on China (including Hong Kong and Macau):

Time: 23 January 2024, 9:00-12:30 (Geneva time)

Meeting documents: <https://uprmeetings.ohchr.org/Sessions/45/China/Pages/default.aspx>

Live broadcast of the meeting: <https://webtv.un.org/en/asset/k1z/k1z43db5bt>

The Hong Kong Centre for Human Rights submitted a report to the Working Group on the Universal Periodic Review (UPR) in July last year on the human rights situation in Hong Kong since the conclusion of the last review in 2018. The report called on the governments of China and Hong Kong to implement the recommendations of the United Nations human rights mechanisms, including the repeal of the National Security Law and sedition offence, discontinue all cases against people charged for exercising their free speech, establish an independent mechanism with adequate powers and mandate to conduct investigation into complaints against Hong Kong police's misconduct, and protect lawyers from harassment, intimidation and attacks. Full report: <https://hkchr.org/wp-content/uploads/2023/07/HKCHR-UPR-HK-July-2023.pdf>

Hong Kong Human Rights Report 2023

The Hong Kong Centre for Human Rights released the "Hong Kong Human Rights Report 2023" on 23 January, documenting and analysing the human rights situation in Hong Kong in 2023. The report covers the implementation of the Hong Kong National Security Law (NSL), the rule

of law and the independence of the judiciary, freedom of assembly and association, freedom of expression, freedom of the press, academic freedom, the right to participate in public affairs, and the rights of sexual minorities.

This report has identified troubling trends that demand attention and action:

- (a) At least 48 people were arrested in 2023 for violating the NSL or sedition. Four civil society organisations were forced to disband because of their political stance or the threat of the NSL. These incidents reflect that Hong Kong government continues to use the NSL and the sedition offence to suppress civil society and dissidents. The authorities have made more active use of the powers of the NSL, including the exercise of extraterritorial jurisdiction to place warrants and bounties against individuals and exiled activists for their speeches and acts made outside Hong Kong.
- (b) The Hong Kong government has continued to strengthen the national security apparatus as an authority that can exercise enormous power without a corresponding system of transparency or accountability: (i) The Hong Kong government in pursuant of the Standing Committee of the National People's Congress (NPCSC)'s interpretation of the NSL, has made decision in a closed-door meeting to overturn the Hong Kong Court of Final Appeal's decision to allow the admission of an overseas lawyer as the legal representative for a defendant in a national security case; (ii) The Hong Kong government has bypassed the legislature to expand the power to seize properties under the Implementation Rules for Article 43 of the NSL; (iii) Hong Kong government has allocated a further HK\$5 billion for expenditure on national security which the fund is not subject to scrutiny by the legislature; (iv) the Hong Kong police have invoked Article 63 of the NSL in some cases to prohibit individuals from disclosing any information. In one instance, an organizer of a protest was pressurized to cancel his notification of assembly to the police. He cannot disclose the reason for choosing to cancel the protest to the public by citing the constraints imposed by Article 63. This arbitrary application of the NSL contributes to the increased uncertainty of the law and creates room for potential abuse of power by the authorities.
- (c) Although the NSL has been implemented for more than three years and the courts have concluded a number of cases related to national security, the definition of national security has not become clearer, and combating "soft resistance" has become a slogan to suppress all kinds of dissent, and has also made the definition of criminal acts endangering national security more uncertain.
- (d) The Hong Kong government introduces a stringent political screening mechanism and the once-abolished appointment mechanism in the 2023 District Council elections. This

regressive reform of District Council was unanimously endorsed by the Legislative Council that only allows "patriots" to participate. The "patriot"-composed Legislative Council has become a rubber stamp, and all 35 legislative bills put to the vote in 2023 were passed, including those with significant adverse impacts on human rights. The transparency of the legislature has plummeted, with limited voting records and committee minutes no longer identifying the speaker. The ability of the legislature to hold itself accountable to the public and oversee the government has been called into question. This legislature, which suffers from democratic deficiency, is expected to scrutinise and pass another legislation on national security - the domestic legislation of Article 23 of the Basic Law - in 2024.

- (e) The international community, including the United Nations Committee on Economic, Social and Cultural Rights (CESCR), has strongly criticised the NSL. The CESCR has pointed out that the NSL has in effect abolished Hong Kong's judicial independence, which is a severe blow to Hong Kong as a city once renowned for its rule of law. The United Nations Working Group on Arbitrary Detention also made an unprecedented opinion that the detention of Chow Hang Tung by the Hong Kong Government was arbitrary, contrary to the international human rights law.
- (f) Freedom of the press in Hong Kong remains precarious, with at least 28 journalists arrested since the implementation of the NSL in 2020, 13 of whom remained in detention as of the reporting period. Independent news organisations have remained resilient despite the pressures of lack of resources and censorship. Censorship of freedom of expression and publications in the name of national security continued and covered different levels and media. For example, the number of publicly available materials on the June 4 massacre in public libraries has decreased from 48 in April 2022 to only one in May 2023. There was a news report that nearly 40% of political books and recordings were removed from public library collections, and a large number of non-political publications deemed sensitive because of their authors were removed from public library collections. 2023 saw at least six films or videos banned or required to be edited before they could be shown publicly.

The Hong Kong Centre for Human Rights makes the following recommendations in the report:

1. The international community should remain concerned about the continuing human rights violations by the Chinese and Hong Kong governments, and recognise the need for protection for Hongkongers who may face political persecution in light of the lack of fair trial and rights protection in Hong Kong.

2. The international community is urged to recognise that the rule of law in Hong Kong has been severely damaged. Hong Kong's laws and courts regrettably no longer call for the level of respect and esteem from the international society they once held. The international community should make stakeholders, including their respective local authorities, law enforcement agencies, and corporations aware of this situation. They should take utmost caution in scrutinising requests for legal assistance involving the Hong Kong authorities, so as not to become accomplices in assisting in the suppression or violation of the human rights of the people of Hong Kong.
3. Calling on the international community to protect and uphold the human rights mechanisms of the United Nations, and to push the Chinese and Hong Kong Governments to improve the human rights issues in Hong Kong in accordance with the recommendations made by various human rights mechanisms of the United Nations.

A spokesperson for the Hong Kong Centre for Human Rights said:

"The persistence of systematic human rights violations in Hong Kong and the failure of human rights protection mechanisms within the judiciary and the legislature have contributed to the continued deterioration of the human rights situation in Hong Kong."

"The human rights situation in China, including Hong Kong will be examined in the United Nations Universal Periodic Review on 23 January. We encourage the international community to take an active role in urging Chinese and Hong Kong governments to act in line with the recommendations made by UN human rights mechanisms."

"We hold the belief that the people of Hong Kong persist in resisting authoritarian oppression, and that we all have incorporated this conviction into our daily lives, finding hope even within the constraints of oppression. This report aims not only to bear witness to the human rights issues in Hong Kong but also to document the ongoing resistance of Hong Kong people against authoritarianism."

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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