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To cite this article: Anouk Wear (2024) Hong Kong: Exporting International Law with Chinese Characteristics, The Washington Quarterly, 47:3, 41-57, DOI: [10.1080/0163660X.2024.2397232](https://doi.org/10.1080/0163660X.2024.2397232)

To link to this article: <https://doi.org/10.1080/0163660X.2024.2397232>



Published online: 18 Sep 2024.



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Hong Kong: Exporting International Law with Chinese Characteristics

On March 19, 2024, the Hong Kong Special Administrative Region (HKSAR) passed new security legislation under Article 23 of the Basic Law, also known as the city's "mini-constitution." Although the HKSAR had the legal basis to pass this law, doing so marked significant shifts in the HKSAR and the People's Republic of China (PRC). Its passage signaled the HKSAR's ever-increasing proximity to the PRC in terms of its politics, disregard for the rule of law, and increasing violation of international law. Notably, the PRC is now using the HKSAR to push its antidemocratic agenda abroad, and to test its ability to violate and redefine international law. The PRC's legal maneuvers in the HKSAR showcase how it is seeking to shape and export its own vision of international law, one with "Chinese Characteristics."

International law, and the rules-based international order which it codifies, defines states' conduct and legal obligations to one another. It encompasses a wide range of issues, from human rights to international borders to the rules of war.¹ International human rights law is a crucial component of this order. Given that domestic politics are dynamic and evolving, as are the relationships and standards between different states, international law is also a living concept which evolves with the actions and challenges of the international community, and which has significant moral, historical and political weight as a framework highly correlated in the modern day with the desire to promote peace and avoid repeating mass atrocities.

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The Washington Quarterly • 47:3 pp. 41–57
<https://doi.org/10.1080/0163660X.2024.2397232>

Despite its voluntary nature, lack of concrete enforcement mechanisms, and decreasing global confidence, international law still carries significant weight and importance as a set of global standards. Its symbolic and concrete impacts, reflected by the way in which many states have voluntarily signed up for it and improved domestic human rights accordingly, form the backbone of the international organizations and international rules-based order which are vital for global peace and security. While deeply flawed, international law is nevertheless a politically and ethically significant marker, drawing clear definitions and red lines around certain fundamental rights, freedoms, and international crimes.

In the current world of great-power competition, international law is frequently used by competing powers as a tool to gain legitimacy and justify political decisions.² Instead, international law should be setting standards for guiding states, no matter how great or small, toward predictable and fair treatment across a range of international challenges from diplomatic relations to human rights violations. The key pillars of international law, including sovereignty and human rights standards, are important and something to continually work to uphold, despite challenges and threats. It is worth protecting and improving rather than giving up on them in order to strive for a more peaceful, prosperous, and predictable global order.

The increasingly influential PRC is reshaping the rules-based international order and international law, first by eroding the HKSAR's autonomy and violating the HKSAR's international legal obligations, which weakens the system in itself. In the face of a muted international response to these initial transgressions, the PRC has gone further by pushing the already-codified international consensus to become more aligned with Chinese domestic politics and values, such that international legal obligations become less meaningful and are easier to violate. This means that it faces less international criticism and therefore can violate international law further, and also work with certain states (such as Russia and Iran) with more ease.

Although international law is always evolving and dynamic, the PRC's vision for it is drastically different from current and historical standards. In particular, there are significant differences in how human rights are understood, and thus international human rights standards are at risk when the PRC pushes its own vision instead of the current globally-agreed upon framework. For example, the PRC has claimed to have a Confucian perspective toward human rights, which emphasizes collective rights and diminishes individual rights, and uses this to argue that the Chinese people (and perhaps other people too) do not need civil and political rights in the same (democratic) way as interpreted by Western states. In other words, the PRC uses cultural arguments to undermine universal human rights that were previously debated and agreed upon.

While human rights can be continually improved by making them more inclusive and expansive, and updated to reflect changing attitudes, the PRC seeks to change human rights by reducing their number and scope. The PRC's goal is to increase its sovereign power over its own people and promote its style of undemocratic control, and it uses the language of international human rights law to justify and promote this behavior abroad. This risks changing the direction of international human rights around the world, as there is increasing debate and uncertainty over fundamental rights and freedoms, and a decreasing authority for countries to intervene in extreme cases of genocide or ethnic cleansing.

The PRC's goal is to increase sovereign power over people

At a time when international law is violated by many states and is constantly evolving in various directions, this article explores how the PRC seeks to influence and reshape international law, focusing on its recent legal actions in Hong Kong. First, the article examines the PRC and international law, then the crackdown on the HKSAR, the international response to the crackdown, the new national security legislation in the HKSAR and how it reflects the PRC's influence on international law, and ends with conclusions and recommendations for the international community.

The PRC and International Law

The PRC has an extensive history of attempting to rewrite and provide new perspectives on international law, in particular on international human rights law. For example, it has sought to use legal arguments to justify its activities and claims in the South China Sea, despite criticism from international courts and neighboring states. Through its activities in the HKSAR, the PRC is experimenting with how to apply and enforce its interpretation of international law, essentially seeking to export international law with Chinese characteristics.

The United Nations' Universal Periodic Review (UPR) is one rhetorical lens through which the PRC's strategy can be observed. The UPR is a mechanism whereby each state's compliance with its international human rights obligations is peer-reviewed by the other states. Each state is reviewed every 4.5 years and has the opportunity to report on its own human rights situation, as well as to receive reports on domestic human rights written by NGOs and the UN Office of the High Commissioner for Human Rights.³

The PRC's compliance with its international human rights obligations was reviewed at the UPR in 2009, 2013, 2018, and most recently in 2024. By

examining the PRC's national reports across the last four UPR cycles, one can see the shift in its language and values in relation to its international human rights obligations. This also gives insight into how the PRC sees and seeks to shape international law more broadly. Across these years, the PRC has shifted from largely accepting its international human rights obligations, albeit focusing on some (such as the right to food) more than others (such as freedom of assembly), to promote a radically new and different interpretation of international human rights—i.e. international law with Chinese characteristics. This despite the fact that all human rights are equal, interrelated and indivisible under the law.

Analyzing the PRC's national report to the 2009 review, the Review reports that the PRC's "basic position on human rights and the situation of human rights in China" included urging the international community to "respect the principle of the indivisibility of human rights and attach equal importance to civil and political rights and economic, social and cultural rights as well as the right to development."⁴ Here, the PRC is clear in expressing its respect for international law and commitment to upholding and engaging with it. It added "the right to development," which is not codified in international human rights law, as a way of incorporating an idea that is useful for the PRC's own interests, but it did not seek to undo or reinterpret any language as of 2009.

The PRC's 2013 national report echoed the 2009 language, highlighting efforts to promote and protect human rights in the PRC. It explained that "the Chinese Government is working to explore paths for human rights development, establishing a robust system of human rights safeguards, and continuously enriching the theory of human rights, all within the framework of socialism with Chinese characteristics."⁵ The evolution of the PRC's human rights language indicates that human rights are no longer seen as "indivisible and equal," and now depend on the PRC framework to "enrich the theory of human rights." Hence, there is a subtle shift in the language and the first introduction of "Chinese characteristics" as relevant to human rights. Although many states may seek to interpret human rights in a cultural or politically sensitive way, this is blatant and aggressive in a way that is beyond the norm because it does more than craft a narrative; it undermines the previously agreed-upon standards that the PRC itself had adhered to, not only posing a risk to the standards themselves, but also showing that the PRC is a powerful and influential actor who negotiates in bad faith.

By 2018, the PRC National Report expresses its support for the UPR and efforts in implementing 204 out of the 252 Recommendations it accepted in 2013. On the linguistic front, however, a new substantive section appears on "the concept and theoretical system of human rights with Chinese characteristics," which elaborates on how human rights are "guided by Xi Jinping

Thought on Socialism with Chinese Characteristics for a New Era.” This means that “China attaches great importance to the promotion and protection of human rights, ever acting as an advocate, practitioner, and promoter of the cause of protecting human rights and always following the road of *developing human rights with Chinese characteristics*” (emphasis added).⁶

Similar to the trajectory between 2009 and 2013, the 2018 report reveals an increasing focus on Chinese characteristics, in addition to explicit guidance by Xi Jinping Thought, as crucial to defining international human rights, even if at the time it remained unclear what that meant for China’s goals vis a vis the revision of international law. Rather than clearly abiding by their international legal obligations, the PRC was now stating that Chinese political ideology could be used to influence human rights at the global level. That was a huge shift. Normally, and according to the international treaties that the PRC had already signed, the PRC should fulfill its international legal obligations. Instead, it increasingly ignored these obligations (such as working toward the enjoyment of economic, social and cultural rights in the PRC under the international convention that it has signed) and suggested that its ideology is above international law.

PRC reports reveal an increasing focus on defining human rights with Chinese characteristics

Finally, in preparing for the 2024 UPR, the PRC’s report stated that “China will continue to raise the level of human rights protections and promote the free and comprehensive development of the people as it promotes the great rejuvenation of the Chinese nation through Chinese modernization.” It would also “promote the work of the United Nations human rights mechanisms in a just, objective, non-selective and non-politicized manner, and advance the development of global human rights governance in a fairer, more equitable, more reasonable and more inclusive direction.”⁷

In contrast to the 2018 report, this report is more subtle and nuanced in what it promotes, but also more concrete in rejecting current norms by implying that those norms were “selective” and “politicized.” The PRC has toned down its language and is less explicit in promoting its political ideology. However, it is clear in stating that international human rights law needs to benefit the Chinese people more, as defined by the PRC, and reflected in the PRC’s language and Xi’s domestic policies, rather than by international human rights laws. This shows that the PRC is promoting a concept of human rights aligned with its political ideology, and not the universal values that have been codified and to which it already has obligations.

Over at least the last 15 years, the PRC has increasingly promoted a cynicism of international human rights law and filled the gap with notions of

“human rights with Chinese Characteristics,” development, and modernity. This shift places an emphasis on collective rights and empowering governments to provide for people over individual rights and protecting people from government oppression and violence. The uncertainty around which rights are *Chinese*, or consistent with Chinese characteristics, allows the PRC to redefine and prioritize rights allegedly aligned with Chinese history and culture, when in reality they are aligned with Xi Jinping’s current ideology and agenda.

Probing Legal Limits: the 2020 National Security Law

Manipulating the human rights sphere in this manner has not just been done rhetorically in international fora, but it is also already being exported to devastating effect through the PRC’s distinct relationship with the HKSAR. On July 1, 1997, the HKSAR was handed over from the United Kingdom to the PRC, ending 156 years of British rule. Under the Sino-British Joint Declaration of 1984, the “Hong Kong Special Administrative Region” was established. At the time, it was promised that the HKSAR would “enjoy a high degree of autonomy” and “be vested with executive, legislative and independent judicial power, including that of final adjudication”—in other words, that self-determination and protection from centralized power would be guaranteed.⁸

The HKSAR has a legal obligation to respect and protect the individual rights guaranteed under the Universal Declaration of Human Rights, and the international human rights treaties that the PRC has signed because the HKSAR is a part of the PRC. In addition, the HKSAR has legal obligations under the International Covenant on Civil and Political Rights (ICCPR) which it—but notably not the PRC—has ratified.

While the PRC largely respected the HKSAR’s autonomy for a time following the handover, since 2019 it has used its unusual relationship with the HKSAR as a laboratory to test the limits of the current international legal order and increasingly mold international law to be in line with its ideology. In the HKSAR, the PRC can test new policies and legislation, effectively using the HKSAR to measure how the HKSAR specifically, and international community more broadly, respond to violations of international legal obligations and shifting norms. They can see which points cause controversy and which points are broadly accepted, by both the HKSAR itself and by other states or international organizations. If it receives neutral or even positive feedback, generally from other authoritarian governments, the PRC judges that the legal goalposts have been successfully shifted.

The recent security legislations passed by the PRC in the HKSAR in 2020 and 2024 are prime examples of this goalpost shifting and testing of the international community's reaction to Chinese initiatives. In 2020, following months of pro-democracy protests and an increasingly oppressive crackdown from the HKSAR police, the PRC decided to take sharp legal action and introduce new legislation in the HKSAR. On June 30, the Standing Committee of the National People's Congress passed the *Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region*—otherwise known as the Hong Kong National Security Law, commonly referred to as the NSL.⁹ The NSL represented a total crackdown on the HKSAR: in the way it was passed, its terms, its enforcement, and where it would be applied.

2020 and 2024 security legislation test the inter- national commu- nity's reaction to Chinese initiatives

First, the law was passed without any prior consultation with, or even reading by, the people of the HKSAR, which was highly unusual. This secrecy was framed as necessary under the guise of national security, and as such the people did not have the chance to critique or suggest changes to any component of the NSL. In a city which is legally a part of the PRC but supposedly possesses a high degree of autonomy, this showed the PRC's disregard for the HKSAR's rule of law, including its judicial independence.

Second, the title of the law denotes that it is a PRC law to be enacted in the HKSAR, and that it is designed to protect the national security of the PRC, not the HKSAR itself. The NSL specifically criminalizes the offenses of “secession, subversion, organization and perpetration of terrorist activities, and collusion with a foreign country or with external elements to endanger national security.”¹⁰ Although these offenses are criminalized in other jurisdictions, the HKSAR has neither defined them nor articulated its interpretation of “national security” itself.

The NSL legally connected the HKSAR to the PRC in a much closer way than previously because the PRC had enacted a law that it had written in Beijing in the HKSAR, creating a loophole in its previously high degree of autonomy. Hence, not only was the HKSAR subservient to the PRC when it came to writing the NSL, it is now also at the full mercy of the PRC's interpretation and application of the NSL, including its purposes and offenses. Therefore, the NSL introduces a political element into the HKSAR's rule of law, effectively introducing Chinese characteristics into the HKSAR and making it a testing site for the exportation of international law with Chinese characteristics.

Third, the NSL has also created three new structures: the Committee for Safeguarding National Security (CSNS), the Office for Safeguarding National Security (OSNS), and the National Security Department within the Hong Kong Police Force. These were created to enforce the NSL. The first two institutions serve the role of being PRC-controlled entities in the HKSAR, which can approve key appointments to the third institution, the Hong Kong Police Force. Not only has the PRC written and enacted its law in the HKSAR, the PRC itself will also establish an office in the HKSAR for the purpose of safeguarding the PRC's national security, in accordance with its own laws and interpretation. On top of that, the PRC will oversee the staff in this office, ensuring that they are vetted and aligned with the PRC and its goals.¹¹ Finally, Article 60 states that staff of the office "shall not be subject to the jurisdiction of the Hong Kong Special Administrative Region." As with the Committee, the Office would also seem to be effectively above the law of the HKSAR, making any promise that it will abide by HKSAR law unenforceable.

Fourth, the NSL included an extraterritoriality clause, set out in Article 38, meaning that the HKSAR can extend and apply the NSL beyond its borders. So, in addition to violating its international legal obligations at home, it is also attempting to do so abroad in other jurisdictions, posing a direct threat to free societies—and potentially to freedom—well beyond the HKSAR's borders.

Hence, the PRC successfully passed a law in the HKSAR which imposed a PRC interpretation of "national security" and introduced PRC institutions directly into the HKSAR. The NSL violates a number of the HKSAR's international legal obligations because it is used to violate basic rights and freedoms under the guise of national security and shapes the HKSAR by introducing Chinese characteristics to HKSAR domestic law. While the PRC and HKSAR claim that the NSL is

The 2020 National Security Law introduced Chinese characteristics to Hong Kong's domestic law

only to be employed to prosecute a narrow range of cases, its ambiguous and vague nature gives authorities a broad mandate, and even the ability to pursue action extraterritorially. It has, in fact, been used very broadly thus far: to put political activists behind bars, force civil society organizations to disband, and to drastically change the human rights landscape in the HKSAR.¹² Beyond this, the PRC has broken its international legal obligations both by directly imposing a law in the HKSAR and by the provisions of that law. It successfully

weakened the international legal order and proved that it can export international law with Chinese characteristics at the expense of its international legal obligations and the HKSAR's legally-codified autonomy.

A Muted International Response

The main reason that the PRC has been so successful in increasingly violating international law and promoting international law with Chinese characteristics is the consistent lack of international response. The international response to the PRC's actions in the HKSAR is a litmus test for measuring how the international community responds to its shifting narratives and agenda more broadly. There have been some strong statements, but little concrete action in international fora. Without critical international response, the PRC receives the message that its human rights violations and its vision are globally acceptable, or at least will go unchallenged, and can then further ratchet up its efforts to influence other states and international law more generally.

Despite the provisions enshrined in the Basic Law, the HKSAR has not adhered to its legal obligations under the ICCPR and the International Covenant on Economic, Social and Cultural Rights (ICESCR). In July 2022, the UN Human Rights Committee reviewed the HKSAR's implementation of the ICCPR and concluded that the NSL violates the ICCPR, therefore violating the HKSAR's international legal obligations. They were "deeply concerned about the overly broad interpretation" of the NSL and recommended that the HKSAR repeal it and refrain from applying it in the meantime.¹³

In February 2023, the Committee on Economic, Social, and Cultural rights reviewed the PRC (including the HKSAR)'s implementation of the ICESCR and concluded that the NSL also violates the ICESCR, therefore violating the PRC (including the HKSAR)'s international legal obligations. Specifically, they highlighted that the NSL "has de facto abolished the independence of the judiciary of Hong Kong SAR" and raised concerns about the independence of the judiciary and the right to fair trial, in addition to academic freedom and artistic freedom.¹⁴

In May 2023, the Committee on the Elimination of Discrimination against Women reviewed the PRC (including the HKSAR)'s implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and raised concerns about "over-prioritizing public order and security concerns when considering restrictions on democratic manifestations" which would violate women's rights.¹⁵

At the UN UPR of the PRC in 2024, eighteen UN Member States made recommendations related to human rights in the HKSAR, including some that called for the 2020 NSL to be repealed.¹⁶

Beyond these actions within the UN, which cannot be enforced, a number of governments around the world issued statements condemning the NSL when it was passed. One month after the NSL was passed, the United States introduced sanctions which were enacted under the Hong Kong Human Rights and

Democracy Act of 2019 and the Hong Kong Autonomy Act of 2020.¹⁷ (The groundwork for this was laid in the 2019 *Hong Kong Human Rights and Democracy Act*, which affirmed the US policy to “(1) reaffirm the principles set forth in the United States-Hong Kong Policy Act of 1992; (2) support the democratic aspirations of the people of Hong Kong; (3) urge China’s government to uphold its commitments to Hong Kong; (4) support the establishment by 2017 of a democratic option to nominate and elect the Chief Executive of Hong Kong, and the establishment by 2020 of democratic elections for all members of the Hong Kong Legislative Council; and (5) support freedom of the press.”)¹⁸

Beyond the United States, the United Kingdom and Canada also introduced immigration pathways specific to Hong Kongers after the NSL, so that people could leave and migrate to a democratic country.¹⁹ The European Parliament welcomed many statements supporting human rights in the HKSAR and condemning violations,²⁰ and the European Council and European stated issued their own statements,²¹ but there was no action beyond them. Although the statements were strongly worded and had a name-and-shame impact on the PRC and HKSAR, they did not lead to long-term policy change or other consequences for the PRC or HKSAR in response to the introduction of the NSL. Therefore, the PRC and HKSAR learned that there are no real punishments or serious consequences for violations of international law in this way.

In 2023, for the first time the HKSAR issued two sets of arrest warrants and bounties against Hong Kongers abroad who were accused of violating the NSL. All thirteen of these individuals are residing and carrying out allegedly criminal activities abroad, and some are foreign citizens, creating a startling new precedent for extraterritoriality and transnational repression.²² At the time, a number of governments issued statements condemning the HKSAR’s arrest warrants and bounties, and met with affected individuals,²³ but there was no specific policy or legislation change—such as setting new restrictions on trade with the PRC since it will not abide by its international legal obligations—in response.

Seeing Little Response ...

In March 2024, the HKSAR announced that it would introduce new security legislation, titled the *Safeguarding National Security Ordinance* (SNSO), under Article 23 of the Basic Law. It had previously attempted to do this in 2003, but half a million people protested against the proposed security legislation and the proposal was ultimately shelved. However, the political climate in 2024 is

drastically different from 2003, as is the PRC's ability to put pressure on the HKSAR.

In contrast to the NSL, which was imposed by the PRC in the HKSAR, this law is “home-grown” in the HKSAR. Its passage and content is a reflection of the fact that the HKSAR's domestic legislature is now able to do to the city what Beijing did in 2020, and that the HKSAR leadership is now in closer alignment with the PRC than ever before. Electoral reforms and decreases in civil and political rights in the HKSAR have brought its leadership further under the thumb of the PRC. There is no longer any need for Beijing to directly intervene; the HKSAR is now firmly in the fold.

The HKSAR leadership has been brought further under the thumb of the PRC

Don't Overlook the National Security Ordinance

Based on the enormous number of press releases they put out in response to international reactions,²⁴ the PRC (and HKSAR to an extent) studied the international response to the NSL, and calculated that they could introduce the SNSO and maintain their international reputation, or at least that the costs to it would be worthwhile. The SNSO amends existing legislation (namely the NSL) and creates new criminal offenses related to acts of treason, secession, sedition, subversion, insurrection, incitement to mutiny and disaffection, and revealing state secrets. Under this legislation, the maximum penalty is life in prison, and organizations that engage in activities which endanger national security are subject to separate sanctions.

It introduces the PRC's concept of “national security” into the HKSAR's domestic law, which is “holistic” but not specifically defined. This embeds Chinese characteristics into the HKSAR because it cements a core PRC political ideology into domestic law, and creates a framework for its enforcement. UN Special Rapporteurs raised concerns that “the offense set a low threshold due to a combination of the overbroad and vague definition of ‘national security,’ and that the provisions of the SNSO were not in compliance with international law.”²⁵

Additionally, there is a new office related to prosecuting “sabotage endangering national security,” which can be punishable by up to 20 years' imprisonment, and “external interference in activities endangering national security” which can be punishable by up to 14 years' imprisonment. The new and overly broad offenses do not have sufficient safeguards or exceptions to ensure that rights and freedoms are protected while at the same time protecting national security. Hence, the SNSO has a huge potential for misuse as a tool to violate human rights in the HKSAR.

Under clause 26 of the SNSO, the HKSAR police can also enter any premise, place or conveyance to “remove or obliterate” seditious publications and to

“remove by reasonable force” anyone who obstructs power. Because of how broadly sedition is defined, this may violate the right to freedom from arbitrary or unlawful interference with privacy, the home and correspondence.

Furthermore, clauses 71-75 of the SNSO allow for the pre-charge detention of a person to be extended beyond the initial period of 48 hours by a magistrate to a new total of 16 days’ detention without charge. This puts Hong Kongers at a high risk of arbitrary detention that is not in compliance with international human rights law, which requires that the HKSAR promptly inform an arrested person of any charges against them or else release them.

The SNSO also contains clauses that put the right to fair trial at risk. Specifically, article 76 enables the Hong Kong Police Force to ban certain lawyers from representing clients on the basis that such legal representation would harm national security or hinder police investigations. Article 77 states that the same restriction “applies if a person is investigated for being reasonably suspected of having committed an offense endangering national security, regardless of whether the person has been arrested.” Given the broad scope of the crimes in the SNSO, these articles may violate the right to choose one’s own lawyer and the right to a fair trial, and could also be used to remove attorney-client privilege.

Furthermore, articles 86 and 90 give the Secretary for Security the power to summarily suspend any professional qualification granted under a HKSAR ordinance from an “absconder” charged with a national security violation. This could be used to deprive lawyers of their right to practice, and put at risk their decisions to take on national security cases.

A final alarming new detail is that article 93 allows authorities to cancel HKSAR passports without due process, a threat they can use to silence dissent and further violate rights and freedoms guaranteed under international law, especially in combination with the provisions’ extraterritorial clauses. This means that not only is the SNSO applicable abroad according to the HKSAR, it can also be used to cancel the passports of HKSAR citizens without due process. This was enforced in June 2024, when six overseas activists had their HKSAR passports canceled.²⁶ In addition to the rights and freedoms that are violated by the SNSO, it is a sword of Damocles that can be used to threaten any critic of the HKSAR and PRC, both at home and abroad.

In relation to its international legal obligations, although clauses 2(b) and 2(c)(i)-(iv) do express the HKSAR’s commitment to respecting rights and freedoms under the Basic Law, the ICCPR and the ICESCR, these clauses have no safeguards or enforcement mechanisms and the rest of the law undermines them. In fact, the SNSO has no mechanism at all for a regular independent review of its operations and effect, making it even harder to hold the HKSAR accountable for its violations of its international legal obligations.

What Next?

Since 2020, the HKSAR has become a city of political prisoners, with a quiet and obedient civil society left in their wake. Thus, this time around there was little political or civil opposition to the proposed new security law, and after a rushed consultation and record-speed reading in the Legislative Council, the HKSAR passed the SNSO on March 19, 2024.²⁷ The speed of its passage raised doubts about the process, but the HKSAR condemned critics of the SNSO, foreshadowing how the legislation would violate freedom of expression.

A number of states have issued strong statements condemning the new legislation and raising concerns about its impact on rights and freedoms in the HKSAR, as well as the HKSAR's failure to fulfill its international legal obligations. But the HKSAR and the PRC have apparently learned that international legal obligations can be violated and that they will face few consequences.

The HKSAR has successfully incorporated the PRC's vision of international law with Chinese characteristics into domestic legislation. This shows that the ideology can successfully spread and withstand criticism, an alarming trend that undermines the rules-based international order and international law to which the PRC, like every state, has obligations. Instead of upholding its international legal obligations, it violates them, reinterprets them, and then spreads this new interpretation. This risks very damaging consequences to the people of Hong Kong and beyond, and fundamentally erodes the integrity of international law.

Since 2020, Hong Kong has become a city of political prisoners

Eroding the Rule of Law in Hong Kong and Beyond

In the last four years, the PRC has passed two security laws (one directly from Beijing and one indirectly through the local legislature) in the HKSAR, both of which violated the HKSAR's legal obligations under human rights law, and which also have troubling extraterritorial clauses and global jurisdiction. The 2020 NSL can be viewed as a test to see how the international community would respond. Once the PRC assessed that the international blowback was minimal and economically and politically acceptable, the HKSAR proceeded to pass even more extreme legislation in 2024.

Both pieces of legislation do refer to the ICCPR and the ICESCR, but this is mere lip service, and the HKSAR did not implement any of the recommendations from the various UN treaty body Committees, UN Special Rapporteurs, or other states regarding the NSL or the SNSO's violations of international law.

The HKSAR has also started issuing press releases condemning criticism of these laws. This shows how adversarial they have become toward international law and that they have no interest in complying with it—a directive that likely comes from Beijing because it aligns so closely with the PRC’s own engagements with international law.

For the rules-based international order, the developments in the HKSAR are extremely dire. First, they show that if a state actively violates their international legal obligations, the United Nations and its member states have few tools to respond; the state in question can carry out these violations with very few consequences—a core weakness in public international law. In addition, the PRC (via the HKSAR) is further eroding the international legal order by claiming that this security legislation, which clearly violates the HKSAR’s legal obligations, complies with international law. They are using a new language, one that aligns with Chinese characteristics, to shape international law in alignment with their ideology, which is undemocratic, authoritarian, and undermines the current norms and standards across all areas of international human rights law. This is a new challenge for the international legal order, which was built on

For the rules-based international order, developments in the HKSAR are extremely dire

the ideas of universal values and rights for all and is now at risk of being molded into a drastically different philosophy, putting governments and stability before people and freedom. Finally, the PRC is using its legal actions in the HKSAR to test how far it can go outside its borders while still maintaining its status quo with the international community. As it stands, the impotent international response could invite the PRC to continue to violate the rights and freedoms of its people, and also perhaps those beyond its borders.

The PRC could very feasibly continue to seek to shape international law according to Chinese characteristics and further violate human rights—Taiwan, for instance, might feasibly be a target.

What can be done in response? The international community—from states to civil society—must continue pointing out the PRC’s violations and seek accountability by imposing real consequences like sanctions and tariffs. The PRC’s attempts to reshape and violate international law with Chinese characteristics pose a threat to the entire global community, and should not be normalized. The international response should begin with a more considered reaction to the 2024 SNSO.

Furthermore, the US and its allies should be doing more to support the rules-based international order by complying with and investing in it, both for the

larger global benefit of greater security and stability, and directly in response to the PRC's efforts. This could include efforts to support people in the HKSAR, Hong Kongers abroad, and to change the tone toward and introduce restrictions against the PRC for its human rights violations in the HKSAR, as well as its threats to the global order.

Notes

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