

NYU LLM Pro Bono Research Projects 2023-24
Project Proposal – Human Rights in China
Research on Mainland

A. Description of Organization

Human Rights in China (HRIC) is a nongovernmental organization founded in March 1989 by overseas Chinese students and scientists. Our small and committed staff brings diverse expertise in Chinese and international human rights law, Chinese politics, language, and culture, as well as internet policy issues. HRIC’s mission is to support and strengthen domestic civil society actors through the advancement of international human rights and the institutional protection of these rights in the People’s Republic of China (including Hong Kong).

B. Overview of Research Topic(s) & Scope

Context:

On July 1, 2023, an amendment to the Counterespionage Law of the People’s Republic of China (2014) (2023 Amendment) took effect, following adoption by the Standing Committee of the 14th National People’s Congress of the People’s Republic of China in April. The 2023 Amendment will likely have major implications for multinationals doing business in China.

Most critically, the 2023 Amendment broadens the definition of “espionage activities” and further empowers Chinese law enforcement authorities to inspect and seal or seize IT infrastructure (including software). The Counterespionage Law of the People’s Republic of China (2014) provided Chinese law enforcement authorities some power to inspect IT infrastructure and access documents and materials, but the 2023 Amendment provides more detail on the authorities’ investigative powers and institutes certain procedural rules for investigations. The expanded scope of the 2023 Amendment and the recent uptick in enforcement activity significantly raises the risk for multinationals operating in China as well as the confidentiality of data and digital assets located in China.

Suggested research topic(s):

1. International Human Rights Law: Right to Privacy, Anti-Espionage & Transnational Repression
 - What is anti-espionage? What is transnational repression? How do anti-espionage and transnational repression violate international human rights norms and concepts?
 - What is the right to privacy? What are the international human rights standards applicable to issues relating to privacy and freedom of expression?
2. Impact of 2023 Amendment on MNCs operating in mainland China

- What is the impact of the 2023 amendment on MNCs operating in mainland China? How does that in turn affect global relations?
- 3. Impact of 2023 Amendment on human rights within and outside of mainland China
 - What is an anti-espionage drive and how does that impact upon the constitutional rights of ordinary Chinese?
 - What are the human rights implications of the 2023 Amendment on individuals within and outside of mainland China?
- 4. Exploring positive narratives and a hope-based approach
 - How can an individual or a group continue to advocate for human rights and democracy without being unfairly prosecuted or feeling threatened by the 2023 Amendment and other anti-espionage laws?
 - What examples of positive narratives are there?

C. Relevance of Project(s) & Intended Audience

The culture of anti-espionage has prompted many individuals to “spy” on each other, in a strange turn of events. In recent years, China has arrested and detained dozens of Chinese and foreign nationals on suspicion of espionage, including many in the United States. For many Chinese individuals in the United States and outside of mainland China, there is a constant fear that their regular activities or exercise of their rights would form the wrongful basis of their arrests under the anti-espionage law amendments.

The research of HRIC, focused on privacy rights and anti-espionage laws, would ensure that Chinese individuals and groups continue to be able to exercise their rights to freedom of expression and to freedom of peaceful assembly, which has become crucial and inevitable for many Chinese especially during the COVID-19 period and especially for who have been compelled to leave their family, friends, and lives behind when they relocated.

D. Links to Relevant Websites

- <https://www.ohchr.org/en/special-procedures/sr-privacy/international-standards>
- <https://new.hrichina.org/>
- https://www.gov.cn/yaowen/2023-04/27/content_5753385.htm
- <https://www.straitstimes.com/asia/east-asia/china-s-anti-espionage-drive-turns-ordinary-citizens-into-spy-hunters>
- <https://www.reuters.com/world/china/china-wants-mobilise-entire-nation-counter-espionage-2023-08-01/>

E. Preferences for Student Participants

It would be a bonus for student participants to be fluent in Mandarin Chinese and/or Cantonese, but it is not a must. No professional experience is required.