

Chapter 3. Economic & Social Rights

3.1. Women's Rights

11 Recommendations Assessed:

186.84 (Central African Republic), 88 (Palestine), 91 (Moldova), 92 (Bolivia), 93 (Eritrea), 95 (Moldova), 96 (Romania), 97 (Mali), 98 (Botswana), 135 (Egypt), and 177 (Iceland)

China's Replies:

11 recommendations accepted

84, 88, 91, 92, 93, 95, 96, 97, 98, 135 & 177

5 already implemented

88, 92, 96, 97 & 98

1 being implemented

177

NGO Assessment:

China has partially implemented recommendations 88, 95 & 97, has not implemented the other seven recommendations

Recommendation 99 (Oman) is inappropriate [not assessed]

Limited Positive Steps in Protecting Women

In this section, we assess the implementation of the 2013 UPR recommendations on discrimination against women in employment and the right to pay equality, as well as on combating domestic violence and human trafficking.¹

The Chinese government has made public pledges and taken some steps in legislation to protect women's rights and promote gender equality. During its successful bid to the Human Rights Council in 2013, the government promised to eliminate gender discrimination in employment.² The State acknowledged in its 2014 report to CEDAW that China still faces problems and challenges in eliminating gender discrimination in many aspects of life.³ In its National Human Rights Action Plan (2012-2015), the government promised to "make efforts to eliminate gender discrimination in employment and realize equal payment for men and women doing the same work." However, in its June 2016 assessment of the Action Plan's implementation, it provided no evidence of having taken any actions to reach the target.⁴

China took a major step forward by adopting its first Anti-Domestic Violence Law in December 2015 and enacting it in 2016 after decades of advocacy for such legislation by women's rights activists and academics.⁵ The adoption of the law drew welcome public attention to the issue of domestic violence. One positive element is that the law clearly defines domestic violence to include mental abuse (Article 2). But, as we discuss below, the law has several serious flaws. In our assessment, we consider that the UPR recommendation by Moldova (186.95) to adopt a comprehensive law for combatting domestic violence has been *partially implemented*.

Weak Laws & Lack of Effective Measures to Combat Employment Discrimination

China's legal framework for protecting women's right to equal pay for equal employment remains inadequate, and measures to effectively implement relevant laws and regulations have fallen far short. In responding to Bolivia (92) and Iceland's (177) recommendations on eliminating gender discrimination in employment and guarantee equal pay for equal work, the government claimed that it had "already implemented" Bolivia's recommendation and Iceland's

was “being implemented.” The government then made a sweeping and unrealistic statement that “there is no gender discrimination” in China.⁶ The government instead pointed to existing legislation, though it provided no evidence that these laws are implemented or women enjoy equal employment rights.

China has a provision in the Constitution on equal pay for equal work (Article 48) and the principle is included in the Law on the Protection of the Rights and Interests of Women (Article 23), but there is no separate and specific legislation on the principle, an issue CEDAW raised in 2014.⁷ The lack of full legislation on the issue means the problem has persisted, and pay disparity has been worsening.

The World Economic Forum’s 2015 Gender Gap Report found that women in China earn 65 percent of what men earn.⁸ According to the last major government study conducted by the All-China Women’s Federation and the National Bureau of Statistics, in 2010, the pay ratio for men and women in urban areas was 1:0.67, while, in comparison, the ratio in 1990 was 1:0.78.⁹ According to a January 2015 report released by a Chinese university, 19 percent of women responded that they believed men received higher pay for equal work, and 33 percent of respondents believed that men were more frequently considered for promotion even if a female employee had equal qualifications. The report also indicated that 61 percent of female graduates and 29.14 percent of all working-age women faced gender discrimination while looking for a job in 2014.¹⁰

The Labor Law, Law on the Protection of Rights and Interests of Women, and Law on Promotion of Employment formally guarantee equal rights of women, but they fail to provide a clear definition of discrimination, and contain discriminatory provisions—for instance, those that authorize the state to decide on the “suitability” of types of employment for women.¹¹ Chinese law prohibits women from working in certain types of employment involving physical labor or under certain conditions when they are menstruating.¹² China’s National Program for Women’s Development (2011-2020) also promotes the concept of legally proscribed “unsuitable” positions for women.¹³

Existing laws and regulations also fail to establish mechanisms to seek legal accountability from those who violate the law. The Promotion of Employment Law provides that an employee can file a lawsuit in court over discriminatory practices (Article 62), but there are no specific stipulations establishing an administrative supervisory body to prevent employers from retaliating against those who filed complaints about discrimination. In March 2016, the Ministry of Education released a notice reminding universities not to distribute companies’ hiring advertisements that contain gender discriminatory qualifications.¹⁴ However, the notice fails to provide guidelines for universities to report companies that issue such discriminatory job ads.

In 2015, a group of students set up an organization that reported 244 companies on suspicion of gender discrimination to the labor supervision authorities, but none of the companies was investigated by the government.¹⁵ There have been only a handful of court cases on gender discrimination and the first ever gender discrimination lawsuit was settled out of court in 2014.¹⁶ While three subsequent cases were ruled by courts in favor of the plaintiffs, the courts—in Beijing, Hangzhou and Guangzhou—only penalized the employers with paying 2,000 RMB

(approx. 300 USD) in compensation.¹⁷ The extremely light punishment is unlikely to act as a deterrent for employers in China.

Persistent stereotypical portrayal of women's roles in society underlies many problems, including that of discriminatory hiring and employment practices. For example, schools and government sponsored social programs in China have in recent years promoted so-called "women's morality education."¹⁸ In November 2014, CEDAW expressed its concerns over the "persistence of deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and society," and recommended the government allow an independent body to monitor its efforts to eliminate gender stereotypes.¹⁹ For the 2013 UPR, China "accepted" the recommendation by Moldova (91)—to eradicate stereotypes of the role of women—but the government has *not implemented* it.

UN independent experts have continued to raise the issue of gender discrimination in employment in China. The Working Group on the issue of discrimination against women in law and in practice, in a report on its visit to China in December 2013, highlighted its concern about the continued discrimination against women in "recruitment, wages, and dismissals."²⁰ In June 2014, CESCR called on China to take concrete measures to eliminate the disparity between men and women in employment.²¹ In November of the same year, CEDAW recommended China "provide dispute resolution mechanisms for women who seek justice for discrimination in employment."²² CEDAW also called on China to enact a comprehensive definition of discrimination against women in law to combat this systematic and structural problem.²³ None of these recommendations have been implemented.

New Anti-Domestic Violence Law Fails to Provide Adequate Protections

Domestic violence is very common in China. Approximately 25 percent of married women experience violence at some point, according to numbers provided by the government in 2011.²⁴ China's new Anti-Domestic Violence Law, which went into effect in March 2016, sets out legal tools for combating this problem, but it does not provide comprehensive protection for victims.

While the law includes the provision that "the state prohibits domestic violence in any form" (Article 3), the law fails to explicitly mention sexual violence and economic restrictions in the definition of domestic violence.²⁵ The law covers people living together who are not family members, but the government announced that the law specifically does not cover LGBT relationships. According to the NPC Standing Committee spokesperson, the reason the law excludes homosexual couples is because "in China we have never discovered violence in homosexual relationships."²⁶ (See also Section 3.2) The law also does not cover estranged or divorced couples.

The law authorizes a special mechanism to penalize perpetrators of domestic violence, including personal safety protection orders and a written warning system aimed at protecting victims (Article 29). There have been media reports that the first protection orders have been issued.²⁷ However, the law calls for the orders to be enforced by the people's courts and only assisted by public security organs and residents and village committees (Article 32),²⁸ and it remains to be seen how effective orders will be if they are principally enforced by court officials. Violating the

orders results in only a small fine of 1,000 RMB (approx. 150 USD) or a maximum 15-day detention, unless the individual has also committed a crime (Article 34).

China's law-enforcement officers and judicial personnel need training on how to properly address complaints. State media reported that, in October 2016, police issued an administrative penalty against a woman after she called police to report an incident of domestic violence. Police questioned the woman in front of her husband until she withdrew the complaint, and then penalized her for "filing a false report."²⁹

The new law does not include measures recommended by treaty bodies. CESCR recommended that China provide victims adequate access to shelters for immediate physical protection, legal aid and medical services.³⁰ CEDAW also recommended adequately equipped shelters be made available and called on the government to "effectively investigate complaints, prosecute acts of violence against women, and adequately punish perpetrators."³¹

Population Policy & Defective Law Fail to Deter Trafficking in Women

There continue to be reports that females, including both women and girls, are trafficked both domestically and across borders for the purposes of sexual exploitation, forced marriage, illegal adoption, and forced labor. (See also Section 3.3) The government acknowledged the severity of this problem by announcing an Action Plan for Fighting Human Trafficking (2013-2020) in March 2013.³² In 2014, CEDAW welcomed the creation of this plan, but expressed concern "about the absence of comprehensive anti-trafficking legislation and a lack of clarity as to whether domestic law criminalizes all forms of trafficking, including trafficking for the purpose of sexual exploitation, forced labour, forced marriage and illegal adoption."³³

The State Council's Action Plan fails to acknowledge a major consequence of the government's birth control policy—severe gender imbalance caused in part by the cultural and economic preference for boys—impacts the trafficking of females. Specifically, a shortage of females relative to males has contributed to trafficking of women for forced marriage. While family-planning policies have been relaxed—to allow for two births per married couple, as of January 2016—the existence of any limit on the number of children still makes girls vulnerable to abandonment or trafficking. The State's birth control policy has deterred parents of "out of quota" infants from reporting cases of missing children to authorities, for fear of punishment for violating the birth control policy.³⁴

China has made efforts to meet the minimum standards for the elimination of trafficking of women, but changes made to China's Criminal Law (CL) neither fully comply with international standards nor effectively combat the problem. Article 240 in the CL, which was revised in 2011,³⁵ punishes trafficking in women, but still does not explicitly criminalize trafficking for the exploitative purposes of forced labor, debt bondage, or involuntary servitude, which are often the conditions of women trafficked into the sex industry, and also standards of trafficking according to international law.³⁶ Furthermore, while traffickers can and do face criminal punishment,³⁷ purchasers of trafficked victims are not held legally accountable under this law.³⁸

There is insufficient evidence demonstrating that the government has taken effective measures to “provide women victims [of abduction and trafficking] with physical and psychological rehabilitation services with a view to their integration into the society,” though the government claims that it had “accepted and already implemented” this UPR recommendation by Mali (97). The Chinese government has not provided data on the number of women trafficking victims who have received rehabilitative or legal services, or how many have accessed shelters that could provide them such assistance. Psychological health services for such victims are believed to be inadequate, and the accessibility and effectiveness of other services, including for vocational training, remain unclear.³⁹

Suggestions

- Guarantee gender equality and eradicate stereotypes regarding the roles and responsibilities of women in society;
- Adopt a comprehensive law on discrimination that defines gender discrimination in line with the UN Convention on the Elimination of All Forms of Discrimination against Women;
- Eliminate gender discrimination in employment, including in the relevant laws and regulations, which must be accompanied by appropriate enforcement mechanisms, sanctions, and dispute resolution procedures;
- Amend the Anti-Domestic Violence Law to fully apply to all types of relationships;
- Amend the Criminal Law to hold all offenders—sellers and buyers—involved in female trafficking into all types of exploitation and servitude criminally accountable, and abolish state birth-control measures that contribute to trafficking in women and children.

3.2 Discrimination Based on Sexual Orientation & Health Status

3 Recommendations Assessed:

186.85 (Portugal), 89 (Ireland), and 90 (Netherlands)

China's Replies:

3 recommendations accepted and already implemented

NGO Assessment:

China has not implemented any of these recommendations

The Chinese government has not made any substantial progress in law or practice towards ensuring LGBT persons and individuals with HIV/AIDS or Hepatitis B enjoy equal rights. This contradicts the Chinese government's claim that it had already implemented all three UPR recommendations on these issues. In accepting the UPR recommendations, China asserted that various existing laws ban discrimination, including the Labor Law.⁴⁰ However, the reality is that current laws and regulations do not prohibit discrimination based on sexual orientation, gender identity, or HIV status.

Without legal protection for LGBT individuals, they remain vulnerable to systematic discrimination, violence, and are excluded from government services without any recourse to justice. Due to the absence of legal protection prohibiting discrimination based on sexual orientation or gender identity, LGBT persons have faced challenges in seeking equal treatment in schools, workplaces, and in obtaining legal redress. Moreover, China has not revised ministerial regulations that are in conflict with national-level laws specifically pertaining to discrimination against individuals with HIV/AIDS in employment.

No Marriage Equality & Involuntary "Conversion Therapies"

Chinese authorities perpetuate discrimination against LGBT persons by denying marriage equality and equal protection under the law. In 2016, a Chinese court ruled against a landmark same-sex marriage case.⁴¹ Individuals in same-sex relationships do not receive the same legal protections against violence that heterosexual couples enjoy. (See Section 3.1.) Officials stated unequivocally that same-sex partners are not covered by the Anti-Domestic Violence Law after its passage in 2015, despite optimism in the early drafts that the law would be more inclusive.⁴² Chinese NGOs have released ample evidence of violence in same-sex relationships and the need for legal protection.⁴³ This was a major setback in advancing the protection of LGBT rights and reflected the lack of political willpower by the government to ensure equal treatment for all.

In its 2015 Concluding Observations, the Committee Against Torture (CAT) raised concerns over private and public clinics in China that offered "gay conversion therapy" to change the sexual orientation of homosexual individuals, and the failure of the government to outlaw such practice or legally guarantee the respect and integrity of LGBT persons.⁴⁴ In China, private and public clinics and hospitals promote treatments to "correct" one's identity through "conversion therapy," which often involves psychiatric therapy, aversion therapy, hormone therapy, drug treatment, and the use of electric shocks.⁴⁵

LGBT individuals have been involuntarily sent to psychiatric hospitals or clinics to undergo treatment, often by family members. In 2015, one gay man was involuntarily sent to a

psychiatric hospital by his family because he wanted to divorce his wife.⁴⁶ Without any communication or evaluation, the hospital committed him for 19 days on grounds of “sexual preference disorder,” during which he was drugged, forcibly injected with medicines, and harassed. This type of involuntary treatment is the result of government policies, which continue to classify some form of homosexuality and bisexuality as mental perversion in the Chinese Classification of Medical Disorders (CCMD-3).⁴⁷ It is also a violation of China’s Mental Health Law, which stipulates comprehensive examination by qualified doctors and voluntary participation. (See also Section 2.4.)

Discrimination & Inequality in Employment for LGBT Persons

In 2015, the LGBT community celebrated language in the proposed “Employment Anti-Discrimination Law,” which stipulates that gender identity and sexual orientation should not be factors considered by employers when recruiting, hiring, training, paying, promoting, and providing benefits to employees.⁴⁸ If passed, it has the potential to be a legal breakthrough that could offer official protection for LGBT individuals in the workforce. However, there is no clear timeline to pass this proposal and no guarantee that the final version will include the stipulations regarding gender identity and sexual orientation, or that they will be implemented.

Discrimination against LGBT individuals in the workplace is widespread and officially endorsed due to the lack of legal recognition of gender diversity. According a 2013 survey by Aibai Culture and Education Center of 2,161 LGBT individuals, 38.5 percent of them were subjected to discrimination and unequal treatment in the workplace because of their gender identity or sexual orientation.⁴⁹

While Chinese authorities have taken some small steps to prevent discrimination in the workplace, they have not yet taken concrete or substantial steps in law or practice to prevent discrimination based on gender identity or sexual orientation. When authorities accepted all three UPR recommendations, they claimed laws already prohibited discrimination against different groups. Authorities argued that “the Labor Law of China stipulates that workers shall not be discriminated against on grounds of ethnicity, race, sex and religious beliefs;” and that “the Employment Promotion Law contains systematic stipulations against employment discriminations.” Neither the Labor Law nor the Employment Promotion Law, however, offer any legal protection for LGBT persons because gender identity and sexual orientation are not listed as grounds for discrimination.⁵⁰

The lack of legal protections for LGBT individuals has also led to unequal treatment when they seek legal redress in employment discrimination cases. In 2014, a man in Shenzhen lost his job after his sexual orientation was revealed.⁵¹ He filed a lawsuit against his employer, in what was China’s first employment discrimination suit based on sexual orientation. The judge indirectly admitted sexual orientation had played a role in the termination of employment, but still ruled against him.⁵² In 2016, a transgender person was fired because the employer feared the individual gave customers an impression of being “unfit.”⁵³ The victim brought the case to a labor arbitration committee, but they ruled in favor of the employer.⁵⁴ In both of these landmark cases, the lack of legislation prohibiting discrimination based on sexual orientation or gender identity was a key factor in the decisions by the court and labor committee.

According to a directive issued by the Guangdong Province Public Security Bureau, post-operative transsexuals are allowed to update their gender identity on household registration and identity cards.⁵⁵ However, they may face difficulties when updating their gender identity on academic records or other documents.⁵⁶ Such inconsistency among identification documents may cause challenges for LGBT individuals in finding employment.⁵⁷ Furthermore, there are no signals from the government that these policies will be implemented nationally.

Discrimination in Schools & Universities

Homophobia and discrimination remain widespread in China, with gender-nonconforming students routinely subjected to bullying. According to a 2015 survey published by the Chinese Journal of Clinical Psychology, 40.7 percent of gender-nonconforming students were bullied, nearly 35 percent were verbally threatened, and almost all of them experienced some degree of depression afterwards.⁵⁸ The measures taken by school authorities to suppress the growing presence of LGBT students on campuses, and the lack of awareness of gender diversity contribute to this problem.

Many colleges refused to allow students to register LGBT student associations on campus, thus preventing them from openly recruiting members, accessing facilities and resources, and conducting activities.⁵⁹ Schools often restrict activities or events that promote gender diversity, and even repress signs of public LGBT presence on campus.⁶⁰ In 2016, university officials in Guangdong Province threatened to refuse to give a woman her diploma after she was proposed to by her girlfriend on campus and photos of them were posted online, among other forms of harassment.⁶¹

Biased materials used in higher education course curricula exacerbate discrimination against LGBT individuals. Despite the 2001 removal of homosexuality and bisexuality from the classification of mental disorders, textbooks continue to teach the opposite. According to a 2014 study conducted by a LGBT rights NGO, 40 percent of books used for psychology or mental health classes in colleges still referred to homosexuality as a form of sexual perversion and 50 percent of the materials included introductions to “conversion therapy.”⁶² In 2016, a lesbian college student sued the Ministry of Education for failing to recall textbooks used for professional examinations and college curriculum that still label homosexuality as a mental disorder and provided information on “conversion therapy.”⁶³ Such textbooks were published as recently as in 2013, and contain discriminatory and outdated information.

Conflicting Provisions Undermine Protections for People With HIV/AIDS & Hepatitis B

Chinese ministerial regulations continue to conflict with national laws relevant to the protection of individuals with HIV/AIDS, thus undermining enforcement of the legal protections in those laws. China’s Employment Promotion Law prohibits employers from refusing a candidate’s employment on the basis that the individual is a carrier of any infectious pathogen, except in jobs that are prone to facilitate the spread of infectious diseases (Article 30). However, the law does not define or list the type of employment that is considered “prone to facilitate the spread of infectious diseases,” resulting in loopholes for employers to discriminate against individuals

with HIV/AIDS or Hepatitis B.⁶⁴ Furthermore, directives and regulations passed by lower level administrative bodies openly violate the non-discrimination provision. Regulations such as “Standards on Physical Examination of Civil Servants,” “Standards on Physical Examination Relating to Employment,” and “Implementation Measures of the Prevention and Control of Infectious Diseases Act” prohibit individuals with HIV/AIDS or Hepatitis B from working in certain fields, violating their right to equal employment.⁶⁵

The proposal for the “Employment Anti-Discrimination Law” excluded guarantees for individuals infected with HIV/AIDS or Hepatitis B, leaving these marginalized groups out of much-needed protection for equal employment under the law.⁶⁶

The conflict between national laws and local regulations has undermined victims of employment discrimination in seeking legal redress, particularly in getting courts to accept lawsuits. There has only been seven known cases involving employment discrimination related to HIV/AIDS status, and the courts denied a hearing in three of these cases.⁶⁷ In one case, court authorities claimed such employment discrimination fell out of its jurisdiction, while a local court rejected all requests for litigation in another case.⁶⁸ In the third case, after the plaintiff filed an appeal, the victim was granted a hearing and received some compensation.⁶⁹ In June 2016, the seventh case, Guangzhou Labor Arbitration Committee ruled against a victim of employment discrimination, citing an outdated version of “Prevention and Control of Infectious Diseases Act.”⁷⁰

Suggestions

- Expedite adoption of proposed “Employment Anti-Discrimination Law” and ensure prohibitions against discrimination based on sexual orientation, gender identity, and HIV/AIDS or hepatitis B status are included and robustly enforced;
- Adhere to international standards by completely depathologizing homosexuality in the Chinese Classification of Medical Disorders-3, as well as in school education curricula, and follow the Yogyakarta Principles to ensure sexual orientation and gender identity are incorporated into public education;
- Ban “gay conversion therapy” treatments throughout China, penalize hospitals or clinics that utilize the “therapy,” and provide remedies to individuals who were forced to undergo the illegal therapy.

3.3. Rights of the Child

29 Recommendations Assessed:

186.56 (South Africa), 77 (Mauritius), 79 (United Arab Emirates), 80 (Ethiopia), 82 (Italy), 83 (Finland), 84 (Central African Republic), 86 (Mexico), 87 (Slovenia), 94, (Canada), 96 (Romania), 98 (Botswana), 135 (Egypt), 183 (Russia), 205 (Chad), 206 (Portugal), 207 (Singapore), 208 (Eritrea), 209 (Russia), 210 (Senegal), 211 (Chad), 212 (Italy), 213 (Lesotho), 214 (Republic of Korea), 215 and 216 (South Sudan), 218 (Zimbabwe), 244 (Namibia), and 245 (Yemen)

China's Replies:

27 recommendations accepted

56, 77, 79, 80, 83, 84, 86, 87, 96, 98, 135, 183, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 218, 244 & 245

3 already implemented

83, 96 & 98

2 recommendations not accepted

82 & 94

NGO assessment:

China has partially implemented recommendations 77, 79, 80, 94, 209, 214 & 215, and has not implemented the other 22 recommendations

Ineffective Measures Leaving Children Exposed to Exploitation & Violence

Child labor, child trafficking, and sexual abuse remain serious issues in China. The government has not made significant progress in this area since the 2013 UPR, despite China's claim that it "accepted and already implemented" Finland's recommendation to "[c]reate national and local-level systems to protect children from all forms of exploitation, including child labour" (186.83).⁷¹

The Chinese government has made some attempts at protecting children at the legislative and regulatory levels, including issuing opinions and joint circulars to enhance safeguards, and amending the Criminal Law (CL) to increase punishments for defenders. Both new provisions and existing laws on the protection of children's rights, however, critically lack concrete and specific stipulations to ensure effective enforcement, supervision, evaluation, and accountability. This is largely due to the lack of political will to establish a fully integrated system of laws and to hold law breakers accountable, and an independent complaint and redress mechanism. Public education and awareness raising efforts are also lacking.

The Committee on the Elimination of Discrimination against Women (CEDAW) and Committee on the Rights of the Child (CRC) have repeatedly expressed concerns over the absence of comprehensive legislation, missing crucial data on child abuse and missing children, impunity for perpetrators, limited access to

justice and public services, and lack of public awareness.⁷² The CRC positively noted the adoption in July 2011 of the National Plan for Child Development 2011-2020 (NPCD), but CRC was concerned about the lack of implementation mechanisms and the lack of participation of independent experts and non-governmental organizations.⁷³ The government has made insufficient efforts for raising public awareness of the issues, especially among law-enforcement and criminal justice personnel.

Child Labor

While no statistics on child labor in China have been released by the government, authorities from the China Youth Research Association estimated child laborers in urban areas to be

around two to three million children, based on middle school dropout rates published by the Ministry of Education.⁷⁴ In many poor and ethnic minority regions, children, particularly girls, are more susceptible to becoming child laborers due to poverty, gender discrimination, and limited access to public services like education and state subsidies.⁷⁵

Problems contributing to the government's failure to eradicate child labor include the lack of comprehensive preventative measures and weak enforcement. China's Labor Law and Law on the Protection of Minors both clearly prohibit the hiring of children under the age of 16, and the Criminal Law was amended in 2002 to punish those who use children to do dangerous and hazardous work.⁷⁶ However, China has no independent supervisory mechanisms that could ensure implementation of the law and credibly handle complaints to help prevent child labor. The government has also not provided strong support to public education programs or assistance to businesses, schools, and parents to stop this problem. Due to financial incentives given to schools by employers or brokers, namely taking a portion of students' monthly salary as commission, the welfare and interests of students are often neglected.⁷⁷ Employers who exploit student workers often evade inspection by school authorities.⁷⁸ Government corruption is also a major factor that contributes to lack of enforcement of regulations and law.⁷⁹

In April 2016, five government ministries jointly issued "Administrative Measures for Internships at Vocational Schools" to provide more protection for student workers.⁸⁰ However, the measures lack clear and effective mechanisms for supervision, complaints, and redress.⁸¹ Among other shortcomings, the measures include ambiguities that create loopholes for employers to evade providing benefits and insurance, and unclear employment status that makes legal redress difficult to pursue.⁸²

China accepted recommendation 83 and, in addition, stated, "China's labour security organs at the state, provincial, municipal and county levels carry out routine inspection, report and special law enforcement activities and take eliminating child labour and protecting lawful rights and interests of minors as their key tasks." In practice, however, offenders often avoid punishment, making impunity another reason for the persistence of child labor. Assistance for seeking redress from relevant government bodies is critically lacking. According to a labor rights NGO, in the past five years in Zhejiang Province, workers as young as 13 years old have been employed in physically dangerous jobs. When some children were injured, they were threatened into not filing complaints or, if they filed reports, they were forced to accept unfair settlements.⁸³ When such accidents occur, authorities tend to blame the children or their parents for allowing children to work illegally. Even in cases where children have died as victims of work accidents, employers have only paid minimal fines.⁸⁴

Child Trafficking

The Chinese government has not released official statistics on the number of trafficked and missing children. Media reports focus on the subset of cases where rescues may have occurred. One State media report quoted the Ministry of Public Security as claiming it had successfully rescued 13,000 abducted children nationwide in 2014.⁸⁵ Many factors have fueled China's market of buying and selling children, including decades of government enforcement of strict birth control policies, failure to break down traditional gender preferences, lack of adequate

pensions for rural elderly, and an increasing number of left-behind children in rural areas due to parents migrating to urban cities in search for work.⁸⁶ Many children are sold into forced labor, prostitution, forced marriages, and adoption. Child traffickers also profit from forcing trafficked children to engage in panhandling.⁸⁷ Tens of millions of children have been left behind after their parents went to cities to look for work, with little parental care and protection from criminal abduction and abuses.⁸⁸

The government put out a National Action Plan (2013-2020) to combat human trafficking in 2013, but it has not taken effective measures to tackle the root causes. The Action Plan promised some new measures, especially the creation of a mechanism across multiple ministries to expose and report trafficking, and a plan to strengthen public education.⁸⁹ However, the Action Plan fails to set up concrete targets with specific timelines for implementation of these measures. It did not include any concrete provisions to establish a nationwide data collection system to track human trafficking in the country, which is a key concern of the UN.⁹⁰

Existing laws and regulations contain loopholes and ineffective punitive measures against suppliers and customers in China, which have allowed buyers, abductors, traffickers, and sellers of children, in some cases their parents, to abuse children with little chance of criminal punishment. The Chinese criminal system only targets traffickers of children, who could face criminally punishment if convicted. Prior to 2015, buyers who bought children for adoption or forced marriages faced little consequences, unless they were found to be mistreating the child or obstructing police investigations. A 2015 amendment to the Criminal Law changed such an approach and new stipulations would give buyers a “light” punishment, though the cost to buyers remains low enough such that the law has little effect in deterring offenders.⁹¹ Though the government issued an opinion that included a stipulation to hold parents criminally accountable for selling their own children, the opinion has a loophole that allow parents to sell children without legal consequences if they are poor and do not intend to make a profit.⁹² Chinese media reported in 2015 that about 50 percent of all children in trafficking cases were sold by their parents.⁹³

Sexual Abuse

The government has not taken effective measures to protect children, especially young girls, from sexual abuse. The government has not made enough efforts to document and provide data to build up an understanding of the scale of the abuses and to identify the problems. The government did *not accept* and did *not implement* Italy’s recommendation to “[i]ncrease efforts to gather data on child abuse with the aim of supporting policy formulation process” (82), while it has continued to refuse to disclose data on child abuse.⁹⁴ Chinese officials acknowledged this problem during the 2013 CRC review, saying, “[n]o specific statistics of cases of sexual violence and rape against children are available,” while officials also indicated that there were thousands of criminal cases each year involving sexual abuse of minors. According to a report by the China Children’s Culture and Arts Foundation, only 340 cases of sexual abuses suffered by children under 14 years old were publicized in 2015.⁹⁵ Due to the lack of education on sexual abuse and little knowledge on the part of victims or parents about how to report such incidents to police, the actual number of victims likely far exceeds the number of reported cases. CRC noted the “limited public accessibility to reliable and comprehensive statistical data,” and recommended the government review state secrecy laws in order to ensure that data is available.⁹⁶

In one positive step, in an amendment to the Criminal Law in 2015, the government removed the crime of “prostituting minor girls” and began to instead hold offenders accountable for the crime of “rape” in cases of sexual abuse and prostitution of underage girls.⁹⁷ However, the government has not provided sufficient support to education programs to raise public awareness of this crime. In addition, there is not a confidential and impartial system for reporting and investigating reports of sexual abuse of minors.

Meanwhile, the government has obstructed and even retaliated against families or women’s rights activists seeking accountability for alleged perpetrators of rape, sexual assault, abuse, or forced prostitution of minors. One case involved a rape victim, an 11-year-old girl, in Hunan Province, whose mother was determined to bring the perpetrators to justice.⁹⁸ The ordeal the mother met with legal and political obstacles that prohibited her pursuit of justice, an experience that has unfortunately been representative. In another case, women’s rights activist Ye Haiyan (叶海燕) and human rights lawyer Wang Yu (王宇) tried to draw public attention to a serious case of sexual assault of many girls, aged 11 to 14, by a school principal. Partly in retaliation for this advocacy, Ye and Wang faced harassment and criminal persecution.⁹⁹

Violence Tied to Birth-Control Policy

Under a new birth control regulation put into effect on January 1, 2016, the government is allowing all married couples in China to have two children without financial penalty.¹⁰⁰ The State, however, continues to restrict couples’ reproductive freedom, and the loosened policy relaxation does not sufficiently help combat abuses against disabled children and girls due to entrenched social discrimination.

Influenced by social biases toward women and persons with disabilities, some pregnant women feel pressured to abort fetuses or kill or abandon their disabled or female infants. This is partly possible because some ultrasound tests are done to detect female gender or possible birth defects, even though such testing is illegal in China.¹⁰¹ The government consistently denied that the more strict “one couple per birth” policy resulted in the deaths or abandonment of disabled children.¹⁰² Yet, the CRC continued to raise serious concerns in its 2013 review about “infanticide, particularly of girls and children with disabilities”¹⁰³ and “the widespread abandonment of ...children with disabilities and girls, mainly due to the State party’s family planning policy and discrimination and stigma attached to children with disabilities and girls.”¹⁰⁴

China has the world’s most imbalanced sex ratio, according to the World Economic Forum’s 2015 Global Gender Gap report.¹⁰⁵ In responding to Canada’s recommendation on addressing the sex imbalance and missing women and girls, the government claimed “There is no such situation as many women and children missing in China.” According to the UN Population Fund, women that are not born due to gender-biased sex selection are considered “missing.”¹⁰⁶

Persistent Under-registration of Children

The Chinese government accepted the two UPR recommendations, by Mexico (86) and Slovenia (87), that called for the protection of the rights of children by ensuring the proper registration at

birth of all boys and girls in China. However, the government has not implemented these recommendations.

Some children in China are still deprived of their right to be legally registered and their entitlement to public services and government subsidies. Government policies on family planning and national laws limit the number of births couples can have, and create a system of fines for out-of-quota children, which can lead parents to not register such children for fear of stiff financial penalties. Children who have not been registered within the household registration (*hukou*) system cannot access basic social services, such as healthcare, education, housing and social security benefits, which also negatively affect their employment eligibility later in life. The latest available statistics show that there are approximately 13 million people in China that are not registered.¹⁰⁷ In 2015, researchers estimate that 60 percent of such individuals had been born either as out-of-quota children, born to unmarried women, or abandoned as babies.¹⁰⁸

CRC expressed “serious concerns” in 2013 that China’s family planning policies and financial penalties “significantly deter parents or guardians from registering their children” and that “the family household registration (*hukou*) to which the birth registration is attached impedes birth registration of children of migrant workers.”¹⁰⁹ The Committee recommended the removal of all penalties and the abandonment of the *hukou* system.¹¹⁰ CEDAW reiterated its recommendation to China to remove all barriers to the registration of children in its 2014 Concluding Observations.¹¹¹

The relaxing of the one-child policy in January 2016 should improve the chance for some children to be registered at birth. However, provisions remain that establish financial penalties—called “social maintenance fees”—for having children outside of the state quota.¹¹² Parents face large financial penalties for having more than two children or children born out of wedlock.¹¹³ The fee is set by local governments and is, on average, three to six times the annual salary of the parents.¹¹⁴

In late 2015, the State Council called for all Chinese citizens to be registered and forbade local governments from setting pre-conditions for obtaining a *hukou*.¹¹⁵ However, the “Opinion on Resolving Issues of Hukou Registration for Persons with no Hukou” does not have the force of law, and detailed regulations have not been released; thus, enforcement and implementation are a concern. Furthermore, it is not clear if individuals registering for a *hukou* would have to pay a fine afterwards, thereby harming the effectiveness of the policy change.¹¹⁶ In Guangdong, as well as other provinces, authorities have announced they delinked registering for a *hukou* with paying the “social maintenance fee” after the State Council directive.¹¹⁷ Provincial officials, however, also said they would still demand parents pay the fee, and would apply for a court order to enforce payment, if needed.

Unequal Access to Education for Rural & Migrants’ Children

Our assessment finds that the Chinese government *partially implemented* Russia (209) and South Sudan’s (215) recommendations concerning increase of resources for education in rural areas. It also *partially implemented* the Republic of Korea’s recommendation (214) to “continue to make efforts to promote the right to education for children of migrant workers from rural areas.”¹¹⁸

However, the government has *not implemented* recommendations made by Chad (211) and Italy (212) on “fully ensuring the right of education” for the children of migrant workers. It also did not implement Lesotho’s recommendation (213) to “continue to attach great importance to safeguarding the compulsory education rights of children accompanying rural migrant workers.”¹¹⁹ The government also did not implement South Sudan’s recommendation to “better the conditions of urban schools, especially in the poor neighborhoods” (216).

China’s household registration system has led to the denial of equal education to children based on their rural or urban *hukou* residential registration status. Of particular concern has been the continued obstacles for children of rural migrants working in cities to receive education. Millions of China’s rural residents have moved from the countryside to cities in the past few decades. According to the last government census, there are approximately 261 million rural resident living in urban areas.¹²⁰ Because their *hukou* remains attached to their rural residency, they and their children are denied government subsidized services and benefits for urban residents, including public school education.

While laws exist in China to protect the rights of migrant children to education, there is also a lack of clarity regarding enforcement. China’s 2006 Compulsory Education Law stipulated nine-year compulsory education for all children.¹²¹ Under Article 12 of the law, children of migrant workers are entitled to schooling of “equal conditions” in their place of residence, but local provinces and regions are given the power over enacting the regulations.¹²² As a result, migrant children’s access to public schools varies from region to region. Under Article 4 of the Ministry of Education’s “Provisional Measures for the Schooling of Migrant Children and Young People” (1998),¹²³ local government bureaus of education must guarantee and provide the required compulsory education for migrant children. However, the regulations do not specify which government bodies are responsible to enforce the regulations or to punish violators. Despite a “non-discrimination” provision in its 2012 Law on Protection of Minors to protect children’s right to education,¹²⁴ migrant children still face discrimination in accessing education.

One major struggle in providing equal education to migrant children and children in rural areas is the inadequate funding budgeted by or allocated from the government. The government systematically allocates more resources for schools in urban areas than in rural areas. As a direct impact of official campaigns to centralize schools, 50 percent of rural primary schools closed between 2000 to 2010, making education less accessible.¹²⁵ As a result of severe shortage of resources for education in poor rural regions, combined with the problem of endemic corruption, schools in these places charge high fees for different services and school materials, creating an undue financial hardship for some parents despite the statute that all compulsory nine-year education should be “free.”¹²⁶ Many rural schools have been forced to shut down due to a dwindling number of school-aged children, which is a result of both family-planning policies (that have suppressed population growth) and the fact that large numbers of rural children end up migrating to cities with their parents.¹²⁷

The Chinese government reported to CRC in 2012 that education spending accounted for 3.48 percent of the gross national product, a figure the CRC considered “inadequate.” The Committee expressed concerns that, due to the dependence on “provincial and lower-level resources,” this resulted in “sharp inequities in public resource allocations” for “the implementation of children’s

rights” to education.¹²⁸ CRC was particularly concerned about disparities in access to education between urban and rural children (and children of migrant workers), and the harassment and forced closure of privately run or community schools for such children.¹²⁹ Similarly, following its review of China in 2014, CESCR stated “with concern that unequal geographic distribution of funds is increasing the disparities in access to, and availability of, education between urban and rural areas,” and that “compulsory education is still not free and is often unaffordable for children in rural areas and poor urban areas.”¹³⁰

Local government regulations also hamper efforts for migrant children to receive free public education. In 2015, the Beijing Municipal Education Committee released regulations on compulsory education, which allow schools to demand up to five different documents for children whose families do not have a Beijing residential registration before they could enroll.¹³¹ As a result of policies like this and high fees, schools districts erected hurdles to make it almost impossible for migrant parents to get their children enrolled in schools.¹³² One school in Beijing required 28 different certificates for children without Beijing residential registration, according to a 2015 report in the State-run *People’s Daily*.¹³³

For migrant laborers’ children to stay back in rural villages is hardly a viable solution. The “left-behind” children, compared to rural children who live with their migrant parents, suffer from psychological and social issues that lead to other problems, including juvenile delinquency, poor academic performance, and suicide.¹³⁴ CRC has expressed concern that, “due to the restrictive *hukou* policy, many migrant parents face the difficult choice of leaving their children behind.”¹³⁵ Merging rural schools and building more boarding schools for left-behind children are not solutions to the abandonment of children, as the CRC pointed out. Similarly, CESCR stated in 2014 “that, reportedly, owing to the *hukou* system, an estimated number of 55 to 60 million children have been left behind by their parents in the rural areas.”¹³⁶ In response, the State Council issued an opinion in 2016 that called for more research to better understand the conditions of rural children who are left behind by parents who have gone to cities to seek work, often since the children cannot access public services in urban areas.¹³⁷

Confronting these problems, parents of migrant children and civil society groups have experimented with opening private or community schools for these children. The schools—commonly known as “migrant schools”—do not receive state funding, face severe funding shortages, lack qualified teachers, and are often housed in unsafe buildings. These schools risk being shut down by authorities for failing to pass safety inspections or due to licensing issues.¹³⁸ The government has taken a hard line against civil society efforts to address the problems of migrant children’s education. For instance, legal activist Xu Zhiyong (许志永) received a four-year prison sentence in 2014 after he organized protests and petitions to the Ministry of Education from parents of migrant children who were being denied equal education.¹³⁹ The court verdict against Xu accused him of “exploiting social issues of great public concern” in order to “gather crowds to disturb order in public places.”¹⁴⁰

In recent years, the government has taken some legislative steps to tackle unequal access to education by improving funding, though there have yet to be noticeable effects. At a State Council meeting in November 2015, Chinese Premier Li Keqiang announced a unified education fund that would guarantee compulsory education in rural and urban areas, with the first round of

changes to go into effect in the spring of 2016.¹⁴¹ The new fund can be seen as a response to the CRC recommendation to increase budget allocations of resources to rural areas to be used on education of children. However, the government has not created a mechanism, as called for by the Committee, to “monitor and evaluate the efficacy, adequacy and equitability of the distribution of resources across provinces, prefectures and counties in mainland China.”¹⁴²

In inadequately providing for education for migrant children, the government has fallen short of achieving protections outlined in its National Human Rights Action Plan (2012-2015), namely that China “will guarantee equal right to education for children of migrant workers, mainly relying on full-time public schools in cities they migrate to” and “allocat[e] educational resources in [a] balanced manner.”¹⁴³

Suggestions

- Take effective measures, including establishing national and local-level systems to protect children from child labor, child trafficking, and sexual abuse;
- Strictly enforce the International Labor Organization’s standard of 18 as the minimum age for admission to any type of employment or work that is likely to jeopardize the health and safety of minors;
- Abolish the *hukou* system to protect the rights of all boys and girls born in rural or urban China to enjoy equal access to government subsidies and social benefits;
- Lift state birth control quotas and remove all forms of penalties that deter parents or guardians from registering children at birth;
- Enforce the right to nine-year compulsory education for migrants’ children and rural children in law and practice;
- Establish a mechanism to monitor and evaluate the efficacy, adequacy, and equitability of the distribution of resources across the country, with particular focus on ensuring adequate resources reaching rural, remote, and minority areas;
- Establish a centralized and publicly available data system to collect comprehensive and disaggregated statistics on indicators of children’s rights protection;
- Take effective measures to combat social discrimination against children with disabilities.

3.4. Disability Rights

15 Recommendations Assessed:

186.78 (South Africa), 81 (Kuwait); 84 (Central African Republic), 100 (Brazil), 101 (Uruguay), 102 (Senegal), 103 (Costa Rica), 104 (Argentina), 105 (Zimbabwe), 106 (Brunei Darussalam), 183 (Russia), 210 (Senegal), 217 (Jordan), 244 (Namibia), and 245 (Yemen)

China's Replies:

15 recommendations accepted

78, 81, 84, 100, 101, 102, 103, 104, 105, 106, 183, 210, 217, 244 & 245

1 already implemented

100

NGO Assessment:

China has partially implemented recommendations 78, 81, 101, 102, 103 & 106, and has not implemented the other nine recommendations

According to the latest comprehensive government statistics, 6.34 percent of the Chinese population are recognized as having some disability, and the vast majority of persons with disability—75 percent—live in rural and economically underdeveloped areas.¹⁴⁴ Households with disabled persons have lower income levels than the national average, and many live in poverty, but government assistance only reaches around 10 percent of this population.¹⁴⁵ The majority of disabled persons are over the age of 60, and the illiteracy rate for disabled persons aged 15 and older is 43.29 percent.¹⁴⁶

Statistics from the government body China Disabled Person's Federation (CDPF) show that the rate of disabled persons who found new work has been falling since 2013.¹⁴⁷ In rural areas, disabled children are far more likely to be deprived of education, resulting in their high rates of illiteracy. Once they reach working age, disabled individuals face barriers in finding employment. Compared to conditions for men, discrimination against disabled women in areas of education and employment is even worse.¹⁴⁸

The Chinese Constitution includes an article on supporting disabled persons (Article 45).¹⁴⁹ In 2008,

China ratified the Convention on Persons with Disabilities (Convention), and revised the Law on the Protection of Disabled Persons (LPDP) the same year. However, national law and regulations still do not meet crucial international standards. Persons with disabilities, especially children, continue to face discrimination and obstacles, and lack basic access and rights protections.

Some Positive Moves

China's record on protecting and promoting the rights of persons with disabilities has seen some improvement since the second UPR. In our assessment, we consider that six of the recommendations that China accepted on disability rights have been *partially implemented*.¹⁵⁰

Since 2013, China has taken some steps towards improving legislation and policy related to disability rights. The government put out draft amendments to include measures toward inclusive education in 2013, though the proposed changes (to the "Regulations of Education of Persons with Disabilities in China") have not yet been adopted.¹⁵¹ When making public the draft amendments of the regulations in February 2013, China's State Council released an explanation of the proposals, in which it referenced the Convention in explaining additional language about adhering to the "principle of inclusive education" to Article 4 of the regulations.¹⁵²

Unfortunately, the proposed amendments also promote further development of the parallel, segregated school system for disabled children.

In August 2015, the China Disabled Person's Federation and other government bodies jointly issued the "Opinion on Strengthening the Social Assistance for Persons with Disabilities."¹⁵³ However, as one disability rights activist pointed out, the Opinion perpetuates a "charity mentality" that emphasizes one-off assistance programs rather than a long-term approach that can help the disabled bring about and/or experience sustainable life improvements.¹⁵⁴ In September 2015, the Ministry of Education released a test version of new "Standards for Special Education Teaching Professionals,"¹⁵⁵ which expands the definition of "special education teacher" in order to improve the quality of special education, while also lending support to the idea of "inclusive education."¹⁵⁶

Failures to Meet International Standards in Law & Practice

In 2008, China ratified the Convention on Persons with Disabilities (Convention) and also revised the Law on the Protection of Disabled Persons (LPDP). However, LPDP still does not conform to the Convention. Specifically, the LPDP does not include a comprehensive legal definition of "discrimination."¹⁵⁷ The legal definition of a person with disabilities in the LPDP uses medical terminology, an issue that the Committee on the Rights of Persons with Disabilities (Committee) "noted" in its review of China, in 2012, when it also expressed concern that the language used contributes to the lack of a coherent strategy to "implement the human rights model of disability." The Committee called on China to provide legal definitions of "discrimination" and "reasonable accommodation" in national legislation.¹⁵⁸

Because of the absence of a comprehensive legal definition of "discrimination," many government regulations continue to contain discriminatory language against disabled persons. For example, despite a legal prohibition on discriminating against disabled individuals in employment,¹⁵⁹ the "Standards for Civil Service Recruitment Examination (provisional)" require all applicants to undertake a physical examination.¹⁶⁰ According to these standards, applicants for government civil servant jobs must be certified as not having certain types of diseases or visual/hearing impairments. As a result, many applicants with disabilities have no chance of passing the examination. Some of the diseases listed in the Standards that would prevent an individual from obtaining a civil service position include: significant visual impairment, hearing aids of a certain range, sleepwalking, chronic bronchitis, emphysema, asthma, diabetes, genital herpes, among others.¹⁶¹ In concluding its 2014 review of China, the Committee on Economic Social and Cultural Rights expressed its concern that "the high rate of unemployment among persons with disabilities persists and that the existing disparities in relation to wages have not been effectively addressed."¹⁶²

While the Convention requires State parties to "ensure an inclusive education system at all levels,"¹⁶³ a sentiment echoed in Costa Rica's recommendation, the Chinese government has continued to promote segregated special schools for children with disabilities.¹⁶⁴ China amended the Compulsory Education Law in 2006 to include for the first time a provision on allowing disabled children to attend mainstream schools, provided they are "capable of receiving regular education." Schools that refuse to admit such children can face penalties.¹⁶⁵ However, the draft

amendments to the Regulations on Education of Persons with Disabilities (2012) include provisions on building more segregated schools and establishing a panel of experts to decide where to place children in schools.¹⁶⁶ The reality is that education opportunities for disabled children have been unevenly developed across the country, causing discrimination against disabled children to persist within the public educational system.¹⁶⁷

The Committee on the Rights of Persons with Disabilities raised concerns in 2012 over the “high number of special schools and the State party’s policy of actively developing these schools,” and said it was “especially worried that in practice only students with certain kinds of impairments (physical disabilities or mild visual disabilities) are able to attend mainstream education, while all other children with disabilities are forced to either enrol in a special school or drop out altogether.”¹⁶⁸

The Committee also recommended that the government create a comprehensive and inclusive national action plan to guarantee the rights of persons with disabilities, which was echoed by Brazil in its UPR recommendation. In its response to Brazil’s recommendation (186.100), the government claims that it “accepted and already implemented” the recommendation, stating that, “China has formulated and implemented six national five-year work programs on disability. After the adoption of Convention on the Rights of Persons with Disabilities, China has integrated the convention’s purposes and principles into its latest five-year work program on disability to its aim and principles.” However, government “work programs” are not the same as an “national action plans,” which the UN describes as plans identifying steps for the government to improve the promotion of human rights.¹⁶⁹ Furthermore, these “work programs” have not been open for civil society participation; only government ministries and the China Disabled Person’s Federation, a State body, have been included in the drafting and implementation.¹⁷⁰ This exclusive emphasis on the CDPF as evidence of civil society participation led the Committee to express concern over the lack of inclusion of organizations outside of the CDPF in implementing the Convention.¹⁷¹

The government has included chapters on disability rights in its two most recent National Human Rights Action Plans (2012-2015) and (2016-2020); however, these plans cannot be considered comprehensive and inclusive due to the restrictions on participation from independent NGOs and civil society groups working on disability rights. Furthermore, in 2013, the Chinese government began crackdowns on civil society organizations, including some NGOs working on disability rights, making it more challenging for disabled persons to have a voice in and contribute to government action plans.¹⁷²

China’s birth control policies have contributed to the persistence of abandoned disabled children, a problem raised in Uruguay’s recommendation (101) in 2013 and by the Committee on the Rights of Persons with Disabilities in 2012. The Committee has urged China to take measures to fight the widespread stigma in relation to boys and girls with disabilities and revise its strict family planning policy, so as to combat the root causes for the abandonment of boys and girls with disabilities.¹⁷³ In October 2015, the government relaxed its “one child” policy and allowed couples to have two children.¹⁷⁴ However, the “two-child” birth control policy still upholds State control over reproductive rights. The “two-child” policy thus has only a limited impact in improving the situation for disabled children. According to a State media report in May 2015,

there were 100,000 orphans in China, of whom 90 percent were disabled.¹⁷⁵ As one disability rights activist explained, legal adoption is a complicated process in China, and the elderly traditionally rely on children to care for them, which adds more difficulties for families to adopt disabled children.¹⁷⁶ According to Chinese government statistics from 2014, only 4.38 percent of disabled children are orphans raised by their non-birth families.¹⁷⁷ Since the mid-2000s, the government has promoted two programs to assist disabled orphans, achieving modest success, but it has not created new assistance programs since the second UPR.¹⁷⁸

The Committee on the Rights of the Child also made recommendations to China over the government's responsibility to protect the rights of children with disabilities. Following its 2013 review of the implementation of the Convention, the Committee recommended that China take a human rights-based approach to solving this problem, and specifically, urged the government to "repeal all provisions which result in de facto discrimination against children with disabilities."¹⁷⁹ However, the government has not repealed any such legal provisions since that time.

Suggestions

- Fully protect the rights and interests of disabled persons by introducing a human rights model of disability into national disability law and policy;
- Introduce a comprehensive and inclusive national plan of action to guarantee the rights of persons with disabilities, in accordance with international human rights treaties;
- Reform family planning policies with the aim of combatting the deep-rooted causes of abandonment of boys and girls with disabilities;
- Allocate sufficient State funding and provide equitable medical care and other access facilities in rural regions for disabled persons;
- Include all persons with disabilities, in particular children, in all areas of society;
- Combat discrimination and abandonment of children with disabilities by including in national law a definition of discrimination and abolishing discriminatory law provisions and regulations;
- Take effective measures to ensure that school-age disabled children receive inclusive compulsory education.

3.5. Discrimination Against Rural Residents

29 Recommendations Assessed:

186.56 (South Africa), 74 (Togo), 75 (Bhutan), 76 (Ecuador), 84 (Central African Republic), 97 (Mali), 135 (Egypt), 174 (Iran), 175 (State of Palestine), 178 (Algeria), 179 (Bulgaria), 180 (Angola), 182 (Brunei Darussalam), 183 (Russia), 184 (Niger), 185 (Democratic People's Republic of Korea), 186 (Congo), 187 (Azerbaijan), 188 (Mauritius), 189 (Malaysia), 190 (Eritrea), 191 (Morocco), 192 (Mozambique), 193 (Serbia), 194 (Cambodia), 198 (Bolivia) 244 (Namibia), 245 (Yemen), and 247 (Côte d'Ivoire)

China's Replies:

29 recommendations accepted

56, 74, 75, 76, 84, 97, 135, 174, 175, 178, 179, 180, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 198, 244, 245 & 247

1 already implemented

97

NGO Assessment:

China has partially implemented recommendations 76, 97, 174, 182, 184, 186, 188, 192, 193 & 198, and has not implemented the other 19 recommendations

During the 2013 UPR, China accepted all the recommendations concerning equal protection of basic social benefits and services, which specifically focused on: strengthening the provision of public services and benefits for groups vulnerable to discrimination; alleviating rural-urban disparities; and combatting poverty. However, our assessment shows that the government has only *partially implemented* 10 recommendations.¹⁸⁰

China has been a party to the International Covenant on Economic, Social and Cultural Rights since 2001. The government has often emphasized its achievements in economic development, including lifting hundreds of millions out of poverty, as evidence of its protection of social and economic rights. Recognizing such progress, the Special Rapporteur on extreme poverty and human rights said after an August 2016 visit that China has made huge progress in poverty reduction.¹⁸¹ However, the SR noted challenges ahead, such as the high levels of inequality, and that China needs to put into place meaningful accountability mechanisms for the full realization of economic rights. The Committee on Economic, Social, and Cultural Rights (CESCR) expressed concern in its 2014 Concluding Observations over large disparities in living standards among different regions and between urban and rural areas.¹⁸²

In our assessment, we have found the continued discrimination against rural residents as a failure of the Chinese government to protect economic and social

rights. In particular, the “household registration” system, medical insurance programs, pension system, unequal income levels, and poverty relief all discriminate against rural residents.

Limited Reform of the Discriminatory “Household Registration” Against Rural Migrants

A major reason for discrimination in China is the implementation of the “household registration” (*hukou*) system, which leads to a lack of rights protections for certain groups, especially the rural population. The system enforces segregated legal registration of Chinese citizens into either rural or urban households. An individual’s household registration status determines their level of

access to government subsidies, benefits, and public services, with over 60 different categories of services and benefits tied to the system.¹⁸³

In concluding its 2014 review of China, CESCR expressed regret about inadequate protections of rights guaranteed under the International Covenant on Economic, Social and Cultural Rights partly due to the defects of China's *hukou* system; the Committee observed that “the State party does not have a comprehensive anti-discrimination law that protects all marginalized and disadvantaged individuals and groups in their enjoyment of economic, social and cultural rights.”¹⁸⁴

Internal migrants—specifically, those who move from rural areas to cities for work—are among the groups who face the most serious discrimination under the household registration system. At present, migrant workers and their family members are rarely able to obtain urban registration, which is required for them to obtain access to government subsidized services and benefits provided to registered urban residents, including health care, education, and employment opportunities.¹⁸⁵

CESCR stated its concern that migrant workers, “particularly those who lack household registration, continue to be de facto discriminated against in the fields of employment, social security, health care and education,” and expressed alarm “about the significant persistence of disparities between the urban and rural populations and among rural-to-urban migrant workers, in relation to access to and the quality and amount of benefits.”¹⁸⁶ Despite recommendations by treaty bodies as well as by Member States during China's 2009 and 2013 UPRs, the government has not signed an important human rights instrument related to migrants' rights—the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).¹⁸⁷

Though limited and gradual, some steps have been taken by the government towards reforming the *hukou* system. China's State Council laid out guidelines in 2014 for some rural migrants to obtain urban household registration by 2020.¹⁸⁸ However, concerns remain about the potential effectiveness of the proposed changes. Under the plan, the number of migrants who would obtain local residency by 2020 is estimated at 100 million, but that number only accounts for about one-third of China's total migrant population.¹⁸⁹ The anticipated gap—in the total number of migrants compared to those who can obtain residency—is partly because of the government's “gradual” approach; reform will first be implemented in smaller cities, even though a large portion of migrants are in major municipalities.¹⁹⁰ The State Council plan also does not guarantee that residents who have never obtained any *hukou* registration whatsoever—mostly due to being born “out-of-quota” or out of wedlock in violation of family planning laws (see Section 3.3)—can ever get legally recognized residency status, meaning that such individuals will continue to be excluded from access to state benefits and social services.¹⁹¹

A 2015 State Council regulation has allowed migrant workers to apply for urban *hukou* registration in the city where they live and work, but only after they have obtained a temporary resident permit and fulfilled other requirements.¹⁹² The application process for temporary residential permits is open to individuals who live or work for more than six months in the city where they apply for resident permits.¹⁹³ So far, the process of obtaining an urban *hukou* is

localized and limited in scope. Some measures have been applied on a “trial” basis in major urban areas with sizable populations of migrant workers, like Beijing, Guangzhou, and Shanghai.¹⁹⁴ In such places, however, the criteria for obtaining urban residency registration is highly selective; registration is restricted to so-called “desirable” and “suitable” migrants who meet requirements based on their employment record, education level, and housing situation, and is difficult to obtain for the majority of migrant workers.¹⁹⁵

A proposed provision in the draft “Anti-Discrimination Employment Law”—to prohibit considering household registration status in recruitment and hiring—offers potentially positive reform of the discrimination against rural migrants who seek work in cities.¹⁹⁶ Though the proposal has been stagnant since 2008, there has been a new effort in 2016 to push it through the legislative process.¹⁹⁷ If this legislation were adopted, employment discrimination against migrants would be illegal. This change should also help to fill a void in China’s Labor Law and Promotion of Employment Law, neither of which clearly prohibits employment discrimination against rural registration holders.

Considering these gradual but still inadequate measures, we assess that the government has only *partially implemented* Iran’s recommendation to “increase its effort to address the issues of rural and urban migrant workers and their families in a more effective way.”

Reform of Discriminatory Medical Insurance & Pension Systems Long Overdue

In China’s 2012-2015 National Human Rights Action Plan (NHRAP), the government stated that it would “...promote the equal coverage of the social relief system in both rural and urban areas to improve the social security level” and reform “the basic medical insurance system to make medical insurance basically cover both rural and urban residents” as well as “the old-age social security system that covers both urban and rural residents.”¹⁹⁸ The government reported in its 2016 assessment of the NHRAP that it had achieved a 95 percent rate of participation in basic medical insurance coverage.¹⁹⁹ However, despite these alleged achievements, the system is still largely discriminatory against rural residents.

Medical Insurance

Severe underfunding by the government of the social insurance system has forced China’s urban poor and rural residents to rely heavily on their personal savings to cover medical expenses and old-age care.²⁰⁰ According to a 2015 World Bank report, China’s population in poor rural areas have little access to the country’s health care infrastructure, even as the government has put forth programs to improve such conditions in the countryside.²⁰¹ According to available government data, Chinese employers have largely failed to comply with China’s Labor Contract Law and Social Insurance Law in providing subsidies to rural migrant workers so that they can afford to enroll in basic insurance programs.²⁰² By 2015, or four years after the Social Insurance Law went into effect, on average, only 20 percent of migrant workers have been enrolled in programs for a basic pension, 19 percent in medical insurance, 15 percent in unemployment insurance, and 27 percent in work-related injury insurance.²⁰³

In a move to narrow the gaps of medical insurance between urban and rural residents, and between those with government jobs and small private businesses, including the urban poor, the government in January 2016 announced the decision to create the “Unified Basic Medical Insurance System for Urban and Rural Residents.” This system has the potential to provide equitable payment standards and scope of medical insurance coverage for all Chinese citizens.²⁰⁴ If implemented successfully, the system would partially address the problem of systemic discrimination against rural residents in protecting their right to health. Under the *hukou* system, rural residents have been eligible for much lower levels of health insurance coverage—with practically no government or employment contribution—than that offered to urban residents, especially government employees.²⁰⁵

As China’s elderly population has grown and medical care become costlier at the same time, the country has experienced a decline in the number of workers paying into social security.²⁰⁶ This general trend due to demographic changes has more serious consequences for rural residents and urban poor. The new medical insurance system, which merged the urban and rural divides under the previous system, could potentially shrink the widening insurance funding gap.²⁰⁷

Chinese academics have pointed out that the new medical insurance system’s efficacy hinges on several factors.²⁰⁸ First, the central government must monitor and assess the system’s implementation, since the insurance schemes will be run on decentralized local levels. Second, the system must prioritize benefitting the poor in both urban and rural areas, since they are more likely to experience “catastrophic health spending”—medical costs so high that they lead to poverty. Third, the system should provide for “consistent” quality and effectiveness of health services, with an emphasis on developing rural health care delivery. Finally, benefits also should come with the option to make them “portable,” allowing rural-to-urban migrants to use their health insurance in the cities to which they move.

Inequitable Pensions Systems

The government responded to Mali’s UPR recommendation (186.97) that China “continue improving the pension system covering urban and rural areas” with the claim that it “accepted and already implemented” such improvements. However, this recommendation has only been *partially implemented* as rural-urban discrimination in the pension system persists.

Jobs concentrated in urban areas, such as those in the civil service or large privately-owned or state-run corporations receive higher government pensions and company contributions to retirement savings.²⁰⁹ Rural residents, on the other hand, predominantly work in farming or work in small businesses, which has far fewer retirement savings plans. Consequently, pensions for urban residents have been much larger than for those retired from farming or small businesses.²¹⁰

An academic survey published in 2016 in China found that retirees from government and state-owned enterprises receive pensions that are, on average, 22.5 times higher than rural retirees; government and state enterprises retirees receive on average 3,174.69 RMB (approx. 470 USD) per month per person, and all urban retirees receive on average 1,387.20 RMB (approx. 200 USD), while rural retirees receive only on average 141.21 RMB (approx. 20 USD) per month.²¹¹

Income Inequality & Disparities in Access to Poverty Relief

In the past few decades, the Chinese government has significantly rolled back state control over the economy and allowed market forces and private enterprises to play important roles in the country's economic growth. Consequently, many people have worked their way out of poverty. In this sense, the government has *partially implemented* Mauritius (188) and Serbia (193)'s UPR recommendations, namely, to eradicate poverty and bridge rural-urban gaps.

China's main strategy to alleviate poverty—prioritizing rapid urbanization and industrial development in cities—has increased urban-rural income disparities, as population groups in remote, rural, and ethnic minority regions have been “left behind.” However, poverty continues to affect large population groups in China. In October 2014, a senior Chinese government official acknowledged that over 200 million of the country's citizens—or about 15 percent of China's population—are impoverished, as measured by the extreme poverty line set by the World Bank (living on 1.25 USD or less per day).²¹²

Income inequality in China remains severe, even as China's Gini index, measuring the degree of inequality in income distribution, has decreased from a peak level in 2008.²¹³ According to a 2013 World Bank report, China is among the 25 percent least equal countries in the world.²¹⁴ A UN Development Programme report found that, as of 2014, China ranked 90th of 188 ranked countries in terms of its human development index, a component of which is per capita income.²¹⁵

A disturbing reality in China is the high rates of suicide among the elderly, particularly in rural areas. Overall, China's elderly commit suicide more often than their counterparts in other countries. Rural elderly are far more likely to take their own lives than Chinese in urban areas. In the past two decades, the suicide rate of Chinese elderly increased five-fold in rural areas, according to a study of 40 villages in 11 provinces conducted by a Chinese university.²¹⁶ Some contributing factors are believed to be that the elderly become debilitated by illnesses and anguished about life in rural desolation, particularly since their children are unable to care for them.²¹⁷ Many of these children are not physically present to offer support, since they are the only offspring in the family—due to enforcement of China's past “one-child-per-family” policy (see Section 3.3)—and often have gone to urban areas to work and live.

China is also the only country in the world where the female suicide rate is higher than for males, and the overall suicide rate is four to five times higher in rural areas compared to urban ones.²¹⁸ A tragic case of this little-known reality made headlines in 2006 after a rural woman in an impoverished region of Gansu Province killed her four children, all under seven years of age, and then committed suicide.²¹⁹ Local government officials had reportedly stripped the mother of low-income subsidies in 2014—because she did not meet the official standard for eligibility for poverty relief—and the family apparently lacked any medical insurance.²²⁰

While the Chinese government has promised to unify urban and rural standards for subsidies provided to low-income families, the localized programs have remained largely discriminatory against rural residents. According to one State media report, several Chinese municipalities (which include rural residents in their surrounding countryside) have taken steps to address this

problem by providing approximately the same level of subsidies to both urban and rural low-income families (*dibao*).²²¹ Yet, more than 20 other cities continue to maintain a disparity between urban and rural subsidies for low-income families. For instance, in Tianjin Municipality, a rural low-income resident would receive 540 RMB (approx. 80 USD) per month, while an urban resident receives at least 705 RMB (approx. 100 USD) per month, or 165 RMB more than the rural resident; in the city of Zhengzhou, the difference in subsidy between rural and urban resident is 230 RMB (approx. 33 USD), with rural residents receiving 290 RMB (approx. 43 USD) compared to the 520 RMB (approx. 77 USD) per month that urban residents receive. (Rates as of July 1, 2015).²²²

Double Discrimination Against Ethnic Minorities as Members of Rural Populations

Members of China's ethnic minority populations in remote rural regions are also victims of the discriminatory *hukou* system and regional disparities in economic development, while their traditional livelihoods and cultures continue to come under threat.²²³ The household registration system has erected serious barriers for ethnic minorities to look for work in Han-majority cities in China's most developed eastern region, while lack of opportunities and poverty exist at home. In one example, poverty is rampant in the remote mountainous areas in southwest China that hold a significant concentration of the ethnic Yi minority.²²⁴ Compounded problems, such as neglected schools, lack of healthcare access, inadequate transportation infrastructure, underfunded relief programs, drug addiction, and drug trafficking exist.²²⁵ State media rarely covers the conditions in the area, and an independent Chinese journalist interviewed for this report told us that the government prevented his team from reporting on conditions in the region.²²⁶

The Chinese government has discriminated against ethnic Tibetans and Uyghurs by blocking members of these groups from obtaining employment opportunities. For example, authorities have instructed companies to refuse job applicants who hold household registration in the autonomous regions of Tibet and Xinjiang.²²⁷ In the Tibet Autonomous Region (TAR), Han Chinese have benefitted from government policies enforced since 2008, allowing them to acquire local residency and invest in business ventures and obtain loans.²²⁸ Tibetans in the TAR continue to experience de-facto discrimination in obtaining government jobs, as Tibetans are not able to take the civil service exam in the Tibetan language, and thus miss out on good benefits and social security protections.²²⁹

China has not implemented recommendations by Togo (74), Bhutan (75), Russia (183), Palestine (175), and Morocco (191), all of which focused on protecting and raising the standard of living for the most vulnerable and marginalized in society, especially the rights of people living in rural areas. As the world's second-largest economy, the Chinese government has the economic capacity to provide better and more equitable protections and relieve poverty in rural areas.

Suggestions

- Abolish the discriminatory household registration (*hukou*) system to ensure all citizens equal access to health care, employment, and other social services and benefits in line with principles of non-discrimination;

- Implement effective measures to set up programs targeting poverty alleviation in remote rural and ethnic minority areas, in order to provide socioeconomic services and benefits to the most marginalized population groups;
- Protect the rights of migrants by signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

¹ There were two “poor” recommendations made in the area of women’s rights. Eritrea recommended that China “further expand and consolidate achievements made in promoting women’s rights and well-being in tandem with its policy and practice of protecting and promoting human dignity” (93). We regard this recommendation as “poor” because it assumes the existence of certain “achievements,” both as a matter of “policy and practice,” in “protecting and promoting human dignity.” In the absence of such achievements, judging by both the government’s admission to CEDAW and the “concluding observations” of CEDAW’s recent review, it makes little sense to ask the state to “expand” and “consolidate” them. In addition, Egypt recommended that China “maintain its effective protection for the family as the fundamental and natural unit of society” (135). This recommendation is “poor” since it contains a problematic presumption, namely that China has “effective protection” for the family. In fact, current laws and practices are not “effective” and do not provide adequate protection.

² The government said it would: “Further guaranteeing the rights to employment and economic resources, and equal participation in State and social affairs by minority ethnic groups, women and other special groups.” UN General Assembly, “Note verbale dated 5 June 2013 from the Permanent Mission of China to the United Nations addressed to the President of the General Assembly,” A/68/90.

³ The government wrote in the state report: “Discrimination against women still exists in society; relevant laws are yet to be fully implemented in reality; women are not represented in significant numbers at senior levels of decision-making; women are still subjected to unequal treatment in village rules and customs in some rural areas in terms of resource allocation and benefits-sharing; many rural women’s job skills need to be further enhanced; women’s health services in remote areas need further improvement; violence against women still occurs; and there are still some women living in poverty.” Combined Seventh and Eighth Periodic Report of States Parties China to the Committee on the Elimination of Discrimination against Women, 2012, CEDAW/C/CHN/7-8, para. 52.

⁴ Information Office of the State Council of the People’s Republic of China, National Human Rights Action Plan (2012-2015), Chap. III, Sec 2., <http://www.china-un.ch/eng/rqrd/jblc/t953936.htm>; In the assessment, no mention was made of improvements on gender discrimination or for equal pay for equal work. Instead, the government claimed “Women enjoy the equal right with men to employment” and cited as evidence that certain public servants have same age retirement levels as women and men, and that women account for 44.8 percent of all people employed in the country. Information Office of the State Council, Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012-2015), June 2016, Chap. IV, Sec. 2, http://english.gov.cn/archive/white_paper/2016/06/15/content_281475372197438.htm.

⁵ People’s Republic of China Anti-Domestic Violence Law (中华人民共和国反家庭暴力法), 2015, http://news.xinhuanet.com/legal/2015-12/27/c_128571791.htm.

⁶ China’s reply to 186.92: “China’s Labour Law, Law on the Promotion of Employment, Law on the Protection of the Rights and Interests of Women and other laws establish the principles of prohibiting gender discrimination in employment and equal pay for equal work for men and women, clearly stipulate that equal pay for equal work and post-based wage system are applied in China. There is no gender discrimination. In practice, China actively protects women’s rights and interests of employment.” UN Human Rights Council, “Report of the Working Group on the Universal Periodic Review: China. Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review,” A/HRC/25/5/Add.1. February 27, 2014.

⁷ Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the combined seventh and eighth periodic reports of China, CEDAW/C/CHN/CO/7-8, November 2014, paras. 36-37.

⁸ World Economic Forum, “The Global Gender Gap Report 2015: China,” November 18, 2015, <http://reports.weforum.org/global-gender-gap-report-2015/economies/#economy=CHN>.

⁹ All-China Women’s Federation (ACWF) and China National Bureau of Statistics, “Report on Major Results of the Third Wave Survey on The Social Status of Women in China” (第三期中国妇女社会地位调查 主要数据报告), October 21, 2011, http://www.china.com.cn/zhibo/zhuanti/ch-xinwen/2011-10/21/content_23687810.htm.

¹⁰ Anhui University News Department, “Research Center for Economic Law Releases ‘China Female Employment Discrimination Research Report’” (经济法制研究中心发布《我国女性就业歧视问题调研报告》), January 12, 2015, <http://ahnews.ahu.edu.cn/n/2015-01-12/290371.shtml>.

¹¹ For example, the three laws cited in the government’s response to Bolivia’s recommendation all contain a variation of this provision, which is discriminatory: “When an employing unit recruits persons, it shall not refuse to employ women or raise recruitment standards for females by using gender as an excuse, except where the types of work or posts are not suitable for women as prescribed by the State.” Article 27, Law on Promotion of Employment of the People’s Republic of China (2008), http://www.npc.gov.cn/englishnpc/Law/2009-02/20/content_1471590.htm; Article 23, Law on the Protection of Rights and Interests of Women of the People’s Republic of China, 1992, amended 2005, <http://www.china.org.cn/english/government/207405.htm>; Article 13, Labor Law of the People’s Republic of China, 1995, http://www.china.org.cn/living_in_china/abc/2009-07/15/content_18140508.htm.

¹² Women are prohibited from working in underground mining jobs, jobs involving physical labor at Grade 4 or above, or work that requires lifting 20 kilograms at least six times an hour, or any job that requires lifting 25 or more kilograms. Women who are menstruating are prohibited from working jobs in high altitudes, low temperatures, and cold water, or that involve physical labor. State Council of the People's Republic of China, "Special Rules on the Labour Protection of Female Employees" (女职工劳动保护特别规定), April 18, 2012, http://www.gov.cn/zwggk/2012-05/07/content_2131567.htm.

¹³ China National Program for Women's Development (2011-2020), <http://www.womenofchina.cn/womenofchina/html1/source/1502/998-1.htm>.

¹⁴ Ministry of Education, "General Office of the Ministry of Education Notice Concerning Launch of Nationwide Common University Graduate Seeking Employment Service Work" (教育部办公厅关于开展全国普通高校毕业生精准就业服务工作的通知), March 17, 2016, http://www.moe.gov.cn/srcsite/A15/s3265/201604/t20160401_236231.html.

¹⁵ See the *weibo* account of the Employment Sex Discrimination Monitor Group (就业性别歧视监察大队), http://weibo.com/u/5327831786?refer_flag=1005055013_&is_all=1.

¹⁶ In Beijing, Cao Ju settled out of court in January 2014 with a tutoring company for 30,000 RMB (approx. 4,366 USD) after her application was turned down because she was not a man. Tania Branigan, "China: woman settles in first gender discrimination lawsuit," *The Guardian*, January 28, 2014, <https://www.theguardian.com/world/2014/jan/28/china-woman-settles-first-gender-discrimination-lawsuit>.

¹⁷ The latest case is Gao Xiao, who won a case against the Guangdong Huishijia Economic Development Company, which owns a seafood restaurant, and was awarded 2,000 RMB (approx. 291 USD) in compensation in April 2016. She appealed, and the Guangzhou Intermediate People's Court upheld the original compensation amount, but demanded the company issue a written apology. *Guangzhou Daily*, "Female cook wins lawsuit over gender discrimination in Guangzhou" (粤女厨师应聘遭性别歧视状告酒楼获胜诉), September 22, 2016, <http://gd.sina.com.cn/news/m/2016-09-22/detail-ixfwewmc5124698.shtml?from=>; In Hangzhou in November 2014, Huang Rong won her case against a cooking school, but was only awarded 2,000 RMB (approx. 291 USD) for "psychological pain." She later sued again, demanding an apology from the company for discriminating against her because of her gender. Liu Jiaying, "Court Backs Woman Who Sued Cooking School over Employment Bias," *Caixin*, November 14, 2014, <http://english.caixin.com/2014-11-14/100751283.html>; A woman successfully sued China Post over firing her from a courier position because of her gender, the first such case against a State-owned company. *Xinhua News Agency*, "Female Graduate Wins Employment Discrimination Case" (女大学生打赢就业歧视官司), November 3, 2015, http://news.xinhuanet.com/local/2015-11/03/c_128386181.htm.

¹⁸ A search in Chinese for "女德班" (*nüdeban*) brings up many results for these classes. See also, a first-hand account from a woman who attended such a class: Women's Discussion, "" (东莞女德班: 不变贤妻不回家), <http://zhenhua.163.com/14/0610/19/9UDEGJR8000465TT.html>; Zhang Yiqian, "Commandments for wives," *Global Times*, June 23, 2014, <http://www.globaltimes.cn/content/867105.shtml>; All-China Women's Federation, "Henan Women's Federation Launches Social Morality Lectures," *Global Times*, August 27, 2013 <http://www.womenofchina.cn/womenofchina/html1/news/action/15/2159-3.htm>; ACWF, "Henan Holds Women's Morality, Traditional Culture Forum," April 12, 2013, <http://www.womenofchina.cn/womenofchina/html1/news/action/15/5993-1.htm>; One school in Dongguan City in Guangdong Province was ordered to stop offering the "women's morality" classes in 2014, but only following widespread public outrage, and there has been no central approach to shutting down classes that promote antiquated stereotypes on the role of women. Dongguan City Government News Department, "Mengzheng School 'Women's Virtue Classes' Ordered to Stop" (蒙正国学馆“女德班”已被责令停办), September 25, 2014, <http://www.dg.gov.cn/cndg/s35957/201409/798477.htm>.

¹⁹ CEDAW, Concluding observations on the combined seventh and eighth periodic reports of China, paras. 24-25.

²⁰ UN Office of the High Commissioner for Human Rights (OHCHR), "Preliminary Observations and Conclusions of the Working Group on the issue of discrimination against women in law and in practice: End Visit to the People's Republic of China from 12 to 19 December 2013," December 19, 2013, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14129&LangID=E>; see also, UN Human Rights Council, "Report of the Working Group on the issue of discrimination against women in law and in practice - Mission to China," June 12, 2014, A/HRC/26/39/Add.2.

²¹ Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations on the second periodic report of China, including Hong Kong, China and Macao, May 2014, CESCR/E/C.12/CHN/2, para 16.

²² CEDAW, Concluding observations on the combined seventh and eighth periodic reports of China, para 37.

²³ *Ibid.* para. 10

²⁴ The latest comprehensive data is from 2011. All-China Women's Federation (ACWF) and China National Bureau of Statistics, "Report on Major Results of the Third Wave Survey on The Social Status of Women in China" (第三期中国妇女社会地位调查主要数据报告).

²⁵ The definition of domestic violence is contained in Article 2 of the Law: "Domestic violence as used in this Law refers to physical, psychological or other infractions between family members effected through the use of methods such as beatings, restraints, maiming, restrictions on physical liberty as well as recurrent verbal abuse or intimidation."

²⁶ *China Daily*, "Anti-Domestic Violence "Persons Living Together" Provision does not Cover Homosexuals" (反家暴法中"共同生活人"不包括同性恋), December 27, 2015, http://www.chinadaily.com.cn/micro-reading/china/2015-12-27/content_14436421.html.

²⁷ *People's Daily*, "Anhui Issues First Personal Protection Order to a Man," September 9, 2016, <http://www.womenofchina.cn/womenofchina/html1/features/rights/1609/1085-1.htm>;

²⁸ Some participants at a seminar on the domestic violence law held in June 2016 at the Chinese Institute of Applied Jurisprudence called for public security organs to enforce the personal safety protection orders, not the courts. *China Women's News*, "Legal Experts Call on Public Security Organs to Execute Personal Protection Orders," July 20, 2016, <http://www.womenofchina.cn/womenofchina/html1/news/china/1607/1904-1.htm>.

²⁹ *China News*, "Woman Reports False Claim of Domestic Violence, Police Late at Night Diffuse Dispute" (女子报警谎称家暴民警深夜化解纠纷), October 21, 2016, <http://www.hb.chinanews.com/news/2016/1021/262600.html>.

³⁰ CESCR, Concluding observations on the second periodic report of China, including Hong Kong, China and Macao, para 27.

³¹ CEDAW, Concluding observations on the combined seventh and eighth periodic reports of China, para. 27.

³² Information Office of the State Council, Action Plan for Fighting Human Trafficking of the State Council of the People's Republic of China, (2013-2020), (国务院办公厅关于印发中国反对拐卖人口 行动计划 (2013-2020年), http://www.gov.cn/zwgk/2013-03/08/content_2349019.htm; The Action Plan is officially intended to address efforts to amend anti-trafficking law, improve interagency and international cooperation, boost anti-trafficking investigations, develop anti-trafficking awareness campaigns, and enhance victim protection services. Both local and central authorities have funded activities outlined in the plan; for instance, the Ministry of Public Security in 2015 contributed 55 million RMB (approx. 8.5 million USD) for local law-enforcement efforts and anti-trafficking campaigns. US Department of State, 2016 Trafficking in Persons Report, pp. 130-1, <http://www.state.gov/documents/organization/258876.pdf>.

³³ CEDAW, Concluding observations on the combined seventh and eighth periodic reports of China, para. 28.

³⁴ CHRD, Report Submitted to UN Committee on the Elimination of Discrimination Against Women, September 2014, para.18, <https://www.nchrd.org/2014/10/report-submitted-to-un-committee-on-the-elimination-of-discrimination-against-women-september-2014/>.

³⁵ Article 240 of China's Criminal Law stipulates that: Whoever abducts and traffics in a woman or child shall be sentenced to fixed-term imprisonment of not less than five years but not more than 10 years and shall also be fined; if he falls under any of the following categories, he shall be sentenced to fixed-term imprisonment of not less than 10 years or life imprisonment and shall also be fined or sentenced to confiscation of property; if the circumstances are especially serious, he shall be sentenced to death and also to confiscation of property: (1) being a ringleader of a gang engaged in abducting and trafficking in women and children; (2) abducting and trafficking in three or more women and/or children; (3) raping the woman who is abducted and trafficked; (4) enticing or forcing the woman who is abducted and trafficked to engage in prostitution, or selling such woman to any other person who would force her to engage in prostitution; (5) kidnapping a woman or child by means of violence, coercion or anaesthesia for the purpose of selling the victim; (6) stealing a baby or an infant for the purpose of selling the victim; (7) causing serious injury or death to the woman or child who is abducted and trafficked in or to her or his relatives or any other serious consequences; or (8) selling a woman or a child out of the territory of China. By abducting and trafficking in a woman or child is meant any of the following acts: abducting, kidnapping, buying, trafficking in, fetching, sending, or transferring a woman or child, for the purpose of selling the victim. Criminal Law of the People's Republic of China (中华人民共和国刑法), (1979, amended 2015), http://www.china.com.cn/policy/txt/2012-01/14/content_24405327_16.htm.

³⁶ US Department of State, 2016 Trafficking in Persons Report, p. 131, <http://www.state.gov/documents/organization/258876.pdf>. Article 3 (a), Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, 2000, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>.

³⁷ Data on criminal punishments for human traffickers provided by the Chinese government are believed to be incomplete. Also, such statistics may not accurately reflect "trafficking" offenses based on international standards for such crimes (i.e., the purpose of such acts include exploitation through sex trafficking or forced labor). The government reported that it had arrested 1,932 alleged traffickers in 2015, compared with 194 that it had reported the year prior, and that government authorities had prosecuted 284 cases of sex trafficking and forced labor involving 486 suspected traffickers. In 2015, the government reported convicting

642 sex traffickers and 72 labor traffickers, compared with 35 total trafficking convictions in 2014. The statistics the government provided include data on other crimes, including the abduction and sale of women and children, for which the nexus to human trafficking was unclear. The Chinese government reported investigating 637 cases involving women and 756 cases involving children abducted and sold in 2015, 670 prosecutions involving 1,195 suspects, and the conviction of 1,362 perpetrators for the abduction and sale of women and children. US Department of State, 2016 Trafficking in Persons Report, p. 131, <http://www.state.gov/documents/organization/258876.pdf>.

³⁸ CHR, Report Submitted to UN Committee on the Elimination of Discrimination Against Women – September 2014, paras. 16-17.

³⁹ US Department of State, 2016 Trafficking in Persons Report, p. 132, <http://www.state.gov/documents/organization/258876.pdf>.

⁴⁰ In response to recommendations 186.85 (Portugal) and 89 (Ireland), the government replied: “China’s Constitution clearly stipulates that all citizens are equal before the law. China prohibits all possible discriminations via enacting specific laws. China’s Law on Regional National Autonomy, Law on the Protection of Rights and Interests of Women, Law on the Protection of Rights and Interests of Elderly, Law on the Protection of Minors, Law on the Protection of Rights and Interests of Disabled Persons, Law on the Promotion of Employment and other laws clearly prohibit discriminations based on ethnicity, religion, gender, age, disability and other aspects.” In response to 90 (Netherlands), the government said, “The Labour Law of China stipulates that workers shall not be discriminated on grounds of ethnicity, race, sex and religious beliefs. The Law on the Promotion of Employment of China contains systematic stipulations against employment discriminations.” UN Human Rights Council, “Report of the Working Group on the Universal Periodic Review, China, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review,” A/HRC/25/5/Add.1, 2014.

⁴¹ *BBC Chinese*, “China’s First Same-Sex Marriage Case Ruled Against Gay Couple” (中国首例同性婚姻维权案判同性恋者败诉), April 13, 2016, http://www.bbc.com/zhongwen/simp/china/2016/04/160413_china_same-sex_marriage_case.

⁴² The September 2015 second draft of the Anti-Domestic Violence Law opened up the definition from the initial draft to cover “family members,” which was viewed as ambiguous enough to cover same-sex couples. However, authorities specifically mentioned in a press conference after the law’s passage that it does not cover homosexual couples. China Law Translate, “What’s new in the new Domestic Violence Law draft?,” September 16, 2016, <http://chinalawtranslate.com/major-changes-in-the-domestic-violence-law/?lang=en>.

⁴³ Xie Wenting, “Gay people seek protection under China’s first domestic violence law,” *Global Times*, January 15, 2016, <http://www.globaltimes.cn/content/963684.shtml>.

⁴⁴ Committee Against Torture, Concluding observations on the fifth periodic report of China, CAT/C/CHN/CO/5, February 2016, paras. 55-56.

⁴⁵ In 2014, there were many reports of cases involving clinics and hospitals that subjected individuals to “gay conversion therapy” in cities around China, including in Beijing, Chongqing, Guangzhou, Nanchong, Xi’an, and Zhuhai. Volunteers from the Gays’ Charity Organization reported the psychiatric clinics that offer “gay conversion therapy” to the offices of the Trade and Industry Bureau and Health Bureau in 10 cities (including Beijing, Guangzhou, Hangzhou, Nanning, Shenzhen, and Xi’an). In 2013, a gay man who went to a clinic to seek psychological counselling in 2013 was subjected to hypnosis and electric shocks for more than a month in Shenzhen City, Guangdong Province. In another case, from 2011, the parents of an 18-year-old lesbian who disapproved of her sexual orientation beat her, locked her inside their home, and then forcibly committed her to a psychiatric hospital in Changchun City, Jilin Province. CHR and Coalition of NGOs, “Information Submission to the UN Committee Against Torture for Consideration in List of Issues, February 2015,” <https://www.nchrd.org/2015/02/chr-information-submission-to-the-un-committee-against-torture-for-the-review-of-the-fifth-periodic-report-of-china-february-2015/>.

⁴⁶ Meng Fanyong (孟繁勇), “Involuntarily Committed for 19 Days at a Psychiatric Hospital, Reason was Sexual Preference Disorder” (他被精神病医院强制治疗19天 理由是：性偏好障碍), *Henan Business*, June 15, 2016, http://newspaper.dahe.cn/hnsb/html/2016-06/15/content_41104.htm.

⁴⁷ Chinese Classification of Medical Disorders kept a category of “ego-dystonic homosexual” (article 62.31) to describe people who have difficulties accepting their homosexuality or bisexuality. China’s classification deviates from international standard, such that “ego-dystonic homosexual” is not found in World Health Organization’s International Statistical Classification of Diseases and Related Health Problems (ICD-10). Chinese Classification of Medical Disorders (CCMD-3), “Homosexuality, Bisexuality” (同性恋 双性恋), <http://www.psychcn.com/counseling/zxjn/200612/2580826650.shtml>.

⁴⁸ The proposal was submitted by National People’s Congress (NPC) delegates after initial consultation started in 2008, and has since been approved for further drafting and consultation with relevant departments. No calls for consultation with civil society have been made. Luo Jingwen (罗静雯), “NPC Deputy Sun Xiaomei: Speed Up Adoption of ‘Employment Anti-Discrimination Law’ To Ensure Equal Employment for Everyone” (人大代表孙晓梅：抓紧制定《反就业歧视法》确保每个人平等就业), *Chongqing Daily*, March 16, 2016, http://cq.cqnews.net/html/2016-03/16/content_36531225.htm; Employment Anti-Discrimination Law of the People’s Republic of China (Proposal Draft by Experts) (中华人民共和国反就业歧视法 (专家建议

稿)), 2016 draft (uploaded by CHRD), <https://www.nchrd.org/wp-content/uploads/2016/11/Employment-Anti-Discrimination-Law-of-the-People%E2%80%99s-Republic-of-China-Proposal-Draft-by-Experts2016.pdf>.

⁴⁹ Asia Catalyst, Beijing Zuoyou, and Shanghai SCMC Center, “‘My Life is Too Dark To See The Light’: A Survey of the Living Conditions of Transgender Female Sex Workers in Beijing and Shanghai,” January 2015, p. 14, <http://asiacatalyst.org/wp-content/uploads/2014/09/Asia-Catalyst-TG-SW-Report.pdf>.

⁵⁰ Labor Law of the People’s Republic of China, 1995, http://www.china.org.cn/living_in_china/abc/2009-07/15/content_18140508.htm; Law on Promotion of Employment of the People’s Republic of China, 2008, http://www.npc.gov.cn/englishnpc/Law/2009-02/20/content_1471590.htm.

⁵¹ NGOCN, “China’s First Workplace Discrimination Against Homosexuality Lawsuit Filed” (全国首例同性恋职场歧视案今起诉), November 27, 2014, <http://www.ngocn.net/news/360566.html>.

⁵² The victim lost both the first-instance trial and appeal in 2015. The judge stated that it was unclear if the termination of his job was due to his homosexuality or damages to the company’s image caused by a video that was posted online, which revealed his sexual orientation. The judge’s reasoning reflected sexual orientation had in fact played a role, but the verdict was ruled against the victim. Pan Bo (潘播), “Man Fired After Coming Out of the Closet, Lost Lawsuit Against Company for Employment Discrimination” (男子出柜后被解雇 告公司就业歧视败诉), *Guangzhou Daily*, April 23, 2015, <http://news.sina.com.cn/s/2015-04-23/053931749820.shtml>.

⁵³ Vanessa Piao, “Chinese Panel Rules Against Plaintiff in Transgender Job Discrimination Case,” *The New York Times*, May 10, 2016, <http://www.nytimes.com/2016/05/11/world/asia/china-transgender-job-discrimination.html>.

⁵⁴ Ibid.

⁵⁵ Guangdong PSB promulgated a directive in 2008 on updating one’s sex after sex reassignment surgery. Guangdong Public Security Bureau, “Citizens After Sex-Reassignment Surgery Changing Gender Identity in One’s Hukou Registration” (公民手术后变更户口登记性别项目), August 22, 2011, http://zwgk.gd.gov.cn/006940140/201108/t20110822_267369.html.

⁵⁶ Xu Ye, “Research on China’s Transsexual Group: Discrimination and Ignorance Even Among LGBT Group” (中国跨性别群体调查: LGBT群体内也有歧视和无知), *IFeng*, January 7, 2015, http://news.ifeng.com/a/20150107/42878387_0.shtml.

⁵⁷ The Ministry of Education has issued no directive or rules regarding how post-operative transsexuals can update their gender identity on school diplomas, hence, many schools refuse to change the identity for students. In some cases, the inconsistencies have caused distrust between employer and job candidate. CHRD interview with a LBGT rights NGO, 2016.

⁵⁸ Wei Chong-zheng and Liu Wen-li, “The Association between School Bullying and Mental Health of Sexual Minority Students,” *Chinese Journal of Clinical Psychology*, No. 4, Vol. 23, 2015.

⁵⁹ CHRD interview with two LBGT rights NGO, 2016. According to them, they were not allowed to register on campus and currently there are no known open LBGT group allowed to register like other student groups.

⁶⁰ Prominent activist Ai Xiaoming was able to register a LBGT group at Guangzhou’s Sun Yat-sen University when she was still teaching at the school in 2006 because university authorities did not fully understand what LBGT stood for. University authorities then blocked the group from registering the following year, after the group began receiving media attention, and the university was under pressure to close it. NGOCN, “Story of Sun Yat-sen University’s Rainbow Club: University Is Not So Free and Inclusive” (中大彩虹社的故事: 中大并没有那么自由包容), July 9, 2014, <http://www.ngocn.net/news/90658.html>; In 2016, another school in Guangzhou pressured facilities and stores on campus not to provide space for an exhibition on homosexuality. WeChat User Sisyphus-stone, “An Exhibition Without People: The Most Authentic Artwork of Exhibition ‘Named’” (一场没有人的展览 | 被取消是“命名”展最真实的作品), September 19, 2016, http://mp.weixin.qq.com/s?__biz=MzIwMjM4MTIxNA==&mid=2247483701&idx=1&sn=8f4392b3db1c94c084eb2c6fdb26288&chksm=96dec3c4a1a94ad29044166bc0a06dc9c13bdcf9b1036d324b06bada5a85a8e8291ed37099a7&scene=1&srcid=09198vt4EG0dwIKTBZwa0dYi#wechat_redirect.

⁶¹ Police and university officials also searched the woman’s home, an official from the university’s Communist Party Committee repeatedly harassed the two students, and state censors blocked a feminist group’s online social media account that posted the story. Wang Xiaoyu, “Heterosexual Proposal at Graduation Is Blessed, But Homosexual Proposal Gets Denied Diploma?” (异性恋毕业求婚得校长祝福, 同性恋毕业求婚不给毕业?), *China Digital Times*, June 28, 2016, <http://chinadigitaltimes.net/chinese/2016/06/%E5%BC%82%E6%80%A7%E6%81%8B%E6%AF%95%E4%B8%9A%E6%B1%82%E5%A9%9A%E5%BE%97%E6%A0%A1%E9%95%BF%E7%A5%9D%E7%A6%8F%EF%BC%8C%E5%90%8C%E6%80%A7%E6%81%8B%E6%AF%95%E4%B8%9A%E6%B1%82%E5%A9%9A%E4%B8%8D%E7%BB%99/>.

⁶² CHRD interview with a LBGT rights NGO, 2016.

⁶³ Natalie Thomas, “Chinese gay activist challenges homosexuality ‘disorder’ textbooks,” *Reuters*, September 12, 2016, <http://in.reuters.com/article/us-china-rights-textbook-idINKCN111174>.

⁶⁴ Article 30, Law on Promotion of Employment of the People's Republic of China.

⁶⁵ Article 18, National Health and Family Planning Commission of China, "Notice Concerning Disseminating 'Standards on Physical Examination of Civil Servants (Trial Phrase)'" (关于印发《公务员录用体检通用标准(试行)》的通知), March 1, 2005, <http://www.nhfpc.gov.cn/yzygj/s3573/200804/1cb6bc5f8e1a4a77a7367449a758d78b.shtml>; Article 5, 13, "Standards on Physical Examination Relating to Employment" (事业单位体检项目以及合格标准), August 29, 2013, http://sydw.offcn.com/2013/zx_0829/37650.html; Article 18 "Implementation Measures of the Prevention and Control of Infectious Diseases Act" (中华人民共和国传染病防治法实施办法), October 7, 2006, <http://www.shutcm.com/shutcm/ygc/zcfg/gjflfg/4171.shtml>.

⁶⁶ Article 25 of the most recent proposal of the "Employment Anti-Discrimination Law" stipulates no discrimination based on one's health status, except for infectious diseases including HIV/AIDS and hepatitis B as according to existing law. However, because of conflicting provisions between national and ministerial regulations, employers could get away with employment discrimination based on HIV/AIDS and hepatitis B status.

⁶⁷ The first two cases occurred in 2010 where both of the victims were teachers who were denied employment because of their HIV/AIDS status. In 2011 and 2012, respectively, another two cases were filed by two qualified teachers who were denied their jobs after a physical examination. In 2013, one man passed a job interview working for a government organ but he was rejected after a positive HIV testing. In 2014, in the sixth case, a teacher filed for lawsuit after he was denied renewal of his employment contract due to HIV-positive status. Xu Mengna (许梦娜), "China's Sixth Lawsuit Against Employment Discrimination Based on HIV/AIDS Status Rejected, Previous Five Cases All Lost" (全国第六例艾滋就业歧视案诉讼遭拒, 此前五例亦无一胜诉), *The Paper*, November 12, 2014, http://www.thepaper.cn/newsDetail_forward_1277316. For the seventh case, see: NGOCN, "Guangdong's First HIV/AIDS Employment Discrimination Case Lost in Labor Arbitration" (广东首例艾滋就业歧视案仲裁败诉), June 23, 2016, <http://www.ngocn.net/news/2016-06-23-5168781b82cddb23.html>.

⁶⁸ Ibid.

⁶⁹ In the only successful lawsuit, it took the court three years to reach a verdict that provided some compensation for lost employment to the victim, however, the court did not grant the victim's request to return to work. Yu Ziru (于子茹), "Lessons From China's First Winning Case of Employment Discrimination Against AIDS Infection" (国内首例艾滋病就业歧视案胜诉的启示), *Xinhua News Agency*, May 13, 2016, http://news.xinhuanet.com/legal/2016-05/13/c_128979915.htm.

⁷⁰ NGOCN, "Guangdong's First HIV/AIDS Employment Discrimination Case Lost in Labor Arbitration."

⁷¹ We have assessed some of the recommendations in this section to be "poor." The recommendation by Egypt (135) is "poor" since it contains a problematic presumption, namely that China has "effective protection" for the family. The full text recommends China "maintain its effective protection for the family as the fundamental and natural unit of society," but current laws and practices are not "effective" and do not provide adequate protection. Furthermore, the recommendation by the United Arab Emirates (79) for China to "Continue its efforts to successfully achieve the Child Development Plan 2011-2020" is also "poor" because it practically praises China for its "efforts" to "successfully" achieve the stated goals, but the government has not made enough efforts and these goals have not been successfully achieved. Namibia's recommendation (244) "Continue promoting the right to development" is assessed as "poor" because the Chinese government has not promoted the "right to development" as a human right to equitable and participatory human development. Yemen's recommendation (245) "Give priority to the right of people to development..." is assessed as "poor" for the same reason.

⁷² CEDAW welcomed the promulgation of the National Plan of Action on Combating Human Trafficking (2013-2020), but noted the lack of clarity as to whether domestic law criminalizes all forms of trafficking, including trafficking for the purpose of sexual exploitation, forced labour, forced marriage and illegal adoption. Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the combined seventh and eighth periodic reports of China, CEDAW/C/CHN/CO/7-8, November 2014, para. 28.

⁷³ Committee on the Rights of the Child (CRC), Concluding observations on the combined third and fourth periodic reports of China, CRC/C/CHN/CO/3-4, October 2013, para. 8.

⁷⁴ *InvestorChina.com.cn*, "Story Behind Du Chuanwang Incident, 3 Million Urban Child Laborers" (杜传旺事件背后 300万城市童工陷困境), July 23, 2012, <http://www.investorchina.com.cn/article-11066-1.html>.

⁷⁵ Currently, there is no regulation that stipulates punishment for individuals who recruit child laborers from around the country. They target minority groups in poor rural areas where poverty has forced children to search for work, such as the case of children of Yi ethnic minority group from Liangshan Yi Autonomous Prefecture in Sichuan Province. Children as young as 11 years old were forced to go out and work, not knowing it is illegal. Girls are more vulnerable to being pressured to find work because of gender discrimination. *Beijing Youth Daily*, "A Different Life for Child Laborers of Daliangshan" (大凉山童工的另一种人生), January 26, 2014, http://epaper.yynet.com/html/2014-01/26/content_38001.htm?div=-1.

⁷⁶ Fourth Amendment to the Criminal Law of the People's Republic of China (中华人民共和国刑法修正案(四)), December 28, 2002, http://www.npc.gov.cn/npc/lfzt/rlys/2008-08/21/content_1882891.htm.

⁷⁷ *Beijing Youth Daily*, "Interns 'Sold' To Factories" (被“卖”进工厂的实习学生), September 25, 2016, http://epaper.ynet.com/html/2016-09/25/content_219784.htm; *Xinhua News Agency*, "Student Interns From A Sichuan School Allegedly Became Cheap Labor, Working 12 Hours A Day" (四川一学校学生实习疑变廉价工 1天工作12小时), October 21, 2016, http://news.xinhuanet.com/local/2016-10/21/c_129331765.htm.

⁷⁸ In 2014, several cities in Jiangsu Province had reported incidents of students under 18, including children laborers, were subjected to overtime work, night shifts, and poor living conditions. Students and their parents were not informed of the working conditions beforehand. No punishment was given to either the factory that employed underage workers or schools that knowingly sent students to unlawful work environment. *Jiangsu TV*, "Undercover Visits to Chemical Plants Suspected of Using Child Labor, Interns Work 12 Hours Every Day" (暗访化工厂涉嫌使用童工 实习生每天工作12小时), September 2014, <https://www.youtube.com/watch?v=8JS2sCWkSYE>.

⁷⁹ In 2014, over 60 students under 16 years old were forced to work summer internships at a packaging facility in Guangdong Province, for up to 13 hours daily. The manager of the factory claimed to have good relations with the local labor inspectorate, an administrative branch of Ministry of Human Resources and Social Security, hence they were not afraid of complaints against them. Xu Zhanglong (徐章龙), "Vocational School Teachers Expose 'Illegal Employment' at Chang'an Factory" (职校老师曝长安工厂“非法用工”), *Nandu.com*, August 1, 2014, http://epaper.oooo.com/epaper/1/html/2014-08/01/content_3288982.htm?div=-1.

⁸⁰ The five government agencies include: Ministry of Education, Ministry of Finance, Ministry of Human Resources and Social Security, State Administration of Work Safety, and China Insurance Regulatory Commission. This new regulation will apply "Provisions on Prohibition of Child Labor" to carry out criminal punishment if violations occur. The new regulation outlaws overtime, dangerous, and harmful work. In addition, an agreement from guardian is required if an intern is at least 16 but younger than 18 and unlike its predecessor, this new regulation stipulates offenders be prosecuted accordingly. "Notice Concerning Published 'Administrative Measures for Internships at Vocational Schools'" (关于印发《职业学校学生实习管理规定》的通知), April 11, 2016, <http://www.xxy.org.cn/a/falvfagui/20160507/765.html>.

⁸¹ Under the regulations, schools have unchecked power to manage the system, including selecting companies and supervising internships, investigating violations, and deciding what remedies to give. The absence of an independent body to oversee the internship programs and a mechanism for students to file appeals and seek redress fail to protect the interests of young workers, particularly those who are under 18.

⁸² A major area of concern is the ambiguity of the labor relations between interns and employers, where it is unclear whether students could file civil lawsuits or take their case to labor arbitration bodies as channels for legal redress. This problem is further exacerbated when companies are not mandated to pay for welfare benefits and insurance for student workers, creating a pool of cheap labor for employers. Furthermore, while the regulation provides a list of banned activities, it does not stipulate a "catch-all" provision that outlines the basic guarantees of students' rights, hence potential loopholes for offenders who committed violations not included on the list.

⁸³ Such work including metal forming, pressing, cutting, and welding. Most of them do not have worker's compensation insurance, which employers are required by law to have to cover for employees. In most cases, because it is illegal to hire underage workers, employers intentionally do not provide labor contracts, hence depriving them of fair wage, guarantees of payment, and benefits including periodic health examinations especially for those working dangerous or harmful jobs. CHRDI interview, 2016.

⁸⁴ In 2016, a 14-year-old died after working up to 12 hours every day for two months at a factory in Guangdong Province. Journalists reported this case to the local branch of Ministry of Human Resources and Social Security and after an investigation confirming employment of child labor, the factory was fined 10,000 RMB (approx. 1,500 USD), but no one was held criminally responsible. *Foshan Public*, "14-year-old Child Laborer Died in Sleep Worked 11 Hours A Day, Factory Fined 10,000 RMB" (14岁童工每天工作11小时梦中猝死 工厂被罚1万), April 23, 2016, <http://v.qq.com/cover/s/s9l6zociw68qaf5.html?vid=d01959jby4u>.

⁸⁵ *Legal Daily*, "Police Rescued 13,000 Abducted Children Nationwide in 2014" (2014年全国公安解救被拐儿童1.3万), February 16, 2015, http://www.legaldaily.com.cn/Police/content/2015-02/16/content_5973062.htm.

⁸⁶ Child trafficking affects both sexes, although in different ways: male infants and toddlers sell for higher price and in high demand while girls trafficked are usually older, because they would be sold into sex trafficking and forced marriage. According to an analysis of over 8,000 cases of child abduction, more girls aged 13 and above than boys are trafficked because they would be trafficked into illegal markets for forced prostitution and marriage. Wang Qingkai (王庆凯), "Analysis of 30 Years of Missing Children: More Children Go Missing as Temperature Rises" (三十年失踪儿童分析: 气温回暖儿童失踪几率增大), *Caijing*, March 25, 2016, http://www.caijingmobile.com/political/2016/03/25/257035_1_0.html.

⁸⁷ In 2008, the Ministry of Civil Affairs (MCA) estimated the number of child beggars to be 1-1.5 million, with 75 percent of the children being trafficked from rural areas. Zhang Han (张寒), “Director of Anti-Trafficking Office of Ministry of Public Security: Huge Profits in Trafficking Children, Remains Rampant Despite Crackdown” (公安部打拐办主任: “拐卖儿童有暴利, 屡打不绝”), *Beijing News*, November 12, 2010, <http://politics.people.com.cn/GB/1026/13194577.html>; MCA has not published any new data and although the MCA and Ministry of Public Security jointly issued an opinion to strengthen efforts to confirm the identity of homeless individuals and beggars, and provide referral services to assist them, it does not include any specific and concrete measures for evaluation. Ministry of Civil Affairs and Ministry of Public Security, <http://xxgk.mca.gov.cn/gips/n1360/65165.html>.

⁸⁸ According to the 6th Population Census conducted in 2010, an estimated 61 million children were left behind in rural areas. At least 2 million children were left to live by themselves. All-China Women’s Federation, “Research Report on China’s Rural Left-Behind Children and Migrant Children’s Situation” (《我国农村留守儿童、城乡流动儿童状况研究报告》), May 10, 2013, <http://acwf.people.com.cn/n/2013/0510/c99013-21437965.html>; A 2008 research report by Guizhou University found 46% of street children in the provincial capital are either rural left-behind children or rural children who migrated to urban areas. A state media article in 2015 alleged the trend of left-behind children becoming street children was increasing. Hu Han (胡涵), “Left-Behind Children Becoming New Source of Homeless Children, Or Manipulated Into Criminals” (留守儿童正成流浪儿童新来源 或被操纵走向犯罪), *Beijing News*, July 14, 2015, http://news.xinhuanet.com/local/2015-07/14/c_128016439.htm.

⁸⁹ Some other proposed measures include: incentivizing reporting of trafficking, strengthening enforcement and inspection efforts, expanding a database to help match parents of missing children with homeless children, regulating adoption procedures and rehabilitation mechanisms, and evaluating local authorities’ anti-trafficking performance. Notice of the State Council Office Regarding the Printing and Distribution of the Action Plan to Prevent Trafficking in China (2013-2020) (国务院办公厅关于印发中国反对拐卖人口行动计划(2013—2020年)的通知), March 2, 2013, http://www.gov.cn/zhengce/content/2013-03/08/content_6108.htm.

⁹⁰ CEDAW, Concluding observations on the combined seventh and eighth periodic reports of China, para. 20.

⁹¹ Article 15, Ninth Amendment to the Criminal Law of the People’s Republic of China (中华人民共和国刑法修正案(九)), November 2015, <http://npc.people.com.cn/n/2015/1126/c14576-27857512.html>.

⁹² A joint legal opinion issued in 2010 by the Ministry of Justice, the Ministry of Public Security, and the Supreme People’s Procuratorate and Supreme People’s Court clarified the criminal liability of parents who sell their children. “Opinion Regarding the Punishment of Crime of Trafficking in Women and Children According to Law” (关于依法惩治拐卖妇女儿童犯罪的意见), March 15, 2010, http://news.xinhuanet.com/legal/2010-04/02/c_1214478.htm.

⁹³ According to one Chinese media report, more than half of child trafficking cases analyzed (133 cases) were committed by parents or relatives. *Caixin*, “Analysis of Trafficked Children in China: Half of Them Sold by Family Members” (中国被拐卖儿童状况分析: 一半为亲人所卖), June 23, 2015, <http://opinion.caixin.com/2015-06-23/100821499.html>. Previously, parents only needed to forfeit money they made and pay a fine if they were found guilty, according to a joint circular issued in 2000 by six departments concerning striking down on trafficking of women and children. “Notice Regarding Relevant Issues of Combating the Crime of Trafficking in Women and Children” (关于打击拐卖妇女儿童犯罪有关问题的通知), March 20, 2000, <http://www.spp.gov.cn/site2006/2006-02-22/00025-127.html>.

⁹⁴ In China’s reply to the CRC’s List of Issues, the government stated, “China’s Criminal Law lays down the crime of abuse, but the crime object is not limited to children alone. In 2010, 2011 and 2012, Chinese courts respectively handled 67, 68 and 40 cases of abuse crimes, with 27, 27 and 16 perpetrators convicted. China’s Criminal Law lays down the crime of sexual harassment of children. In 2010, 2011 and 2012, Chinese courts respectively handled 1,721, 1,818 and 2,017 such cases, with 1,513, 1,550 and 1,662 perpetrators convicted.” Response of the Chinese Government to Questions Concerning the Combined 3rd and 4th Periodic Reports on the Implementation of the Convention on the Rights of the Child, CRC/C/CHN/Q/3-4/Add.1, September 2013.

⁹⁵ China Development Brief, “Girls’ Protection: 2015 Report on Cases of Sexual Assault and Educational Statistics on Child Sexual Abuse” (女童保护: 2015年性侵儿童案件及儿童防性侵教育统计报告), March 2, 2016, <http://www.chinadevelopmentbrief.org.cn/news-18626.html>.

⁹⁶ CRC, Concluding observations on the combined third and fourth periodic reports of China, paras. 15-16.

⁹⁷ Under Article 360 (2), “Prostitution of underage girls” has been removed under the Ninth Amendment to the Criminal Law; Supreme People’s Procuratorate of the People’s Republic of China, “China Abolishes Crime of Prostitution of Underage Girls, Replaces It With Rape Charges to Punish More Harshly” (中国取消嫖宿幼女罪 奸淫幼女以强奸论从重处罚), August 30, 2015, http://www.spp.gov.cn/zdgz/201508/t20150830_103811.shtml.

⁹⁸ For six years, Tang went to the police, judicial authorities, and government offices that receive complaints seeking redress for police negligence and to have the offenders criminally prosecuted. Local authorities retaliated against her by detaining her because she brought unwanted attention from higher-level authorities and the press. Eventually, under such pressures, seven individuals were convicted, but Tang was also sentenced to a Re-education Through Labor (RTL) camp for 18 months. Her

lawyer took the RTL authorities to court. In what some hailed as a landmark case that grabbed international attention, the Hunan Provincial Higher People's Court ruled in her favor in July 2013. However, two police officers also involved in raping Tang's daughter remained free. CHRDR, "Flowers of the Country": Mistreated and Abused A Report on Violations of the Rights of the Child in China," August 2013, <https://www.nchrdr.org/wp-content/uploads/2013/09/CHRDR-report-on-Rights-of-the-Child-in-China-FINAL.pdf>.

⁹⁹ Ye was beaten and harassed by police after the protest, and taken into police custody facing criminal charges. Ye and her daughter faced eviction after authorities pressed the landlord to end her lease. CHRDR, "Flowers of the Country": Mistreated and Abused A Report on Violations of the Rights of the Child in China," August 2013; PBS, "Women's Rights Activist in China Takes on Officials Accused of Raping Young Girls—And Pays a Steep Price," September 26, 2016 <http://www.pbs.org/pov/blog/pressroom/2016/09/womens-rights-activist-in-china-takes-on-officials-accused-of-raping-young-girls-and-pays-a-steep-price/>.

¹⁰⁰ *Xinhua News Agency*, "China to ease one-child policy," November 15, 2013, http://news.xinhuanet.com/english/china/2013-11/15/c_132891920.htm.

¹⁰¹ *BBC*, "China's two-child policy: Single mothers left out," November 2, 2015, <http://www.bbc.com/news/world-asia-china-34695899>. Any set restriction on the number of births still maintains the state's power over citizens' reproductive choices, and the policy continues to discriminate against unmarried women, who are not allowed to legally have children unless they receive a "reproduction permit" from the government. Married women may still be pressured to undergo gynecological tests to monitor their reproductive status, face forcible IUD insertion or sterilization, or be forced to abort a fetus if a pregnancy is "out-of-quota." CHRDR, Report Submitted to UN Committee on Economic, Social and Cultural Rights, April 2014, paras. 24-25, <https://www.nchrdr.org/2014/04/report-submitted-by-the-network-of-chinese-human-rights-defenders-a-coalition-of-ngos-to-the-committee-on-economic-social-and-cultural-rights-for-its-review-at-the-52nd-session-of-the-second-report/>.

¹⁰² The government has responded to criticism of China's family planning policy by saying that it is a "distortion" to assert that the "family-planning policy of mainland China is a major factor for infanticide and abandonment (particularly of girls and children with disabilities)." The government asserted that it "has taken actions of caring for girls and children with disabilities, creating a good social environment for their growth and development." Comments of the Chinese Government about the Concluding Observations on the combined third and fourth periodic reports of China, adopted by the Committee on the Rights of the Child at its sixty-fourth session (CRC/C/CHN/CO/3-4), January 2014, 2 (c).

¹⁰³ CRC, Concluding observations on the combined third and fourth periodic reports of China, para. 33.

¹⁰⁴ *Ibid.*, para. 52.

¹⁰⁵ World Economic Forum, The Global Gender Gap Report 2015 – China, <http://reports.weforum.org/global-gender-gap-report-2015/>.

¹⁰⁶ United Nations Population Fund, "Gender-Biased Sex Selection-Overview," July 29, 2016, <http://www.unfpa.org/gender-biased-sex-selection>.

¹⁰⁷ National Bureau of Statistics, "2010 6th National Census Main Points Announcement" (2010年第六次全国人口普查主要数据公报), April 28, 2011, http://www.stats.gov.cn/tjsj/tjgb/rkpcgb/qgrkpcgb/201104/t20110428_30327.html.

¹⁰⁸ *Xinhua News Agency*, "Investigation Shows Entire Country has 13 Million Non-Registered Citizens, Of Whom 60% Were Born Out of Family Planning Quotas" (调查显示全国“黑户”1300万 60%以上为超生人员), December 10, 2015, http://news.xinhuanet.com/legal/2015-12/10/c_128517997.htm.

¹⁰⁹ CRC, Concluding observations on the combined third and fourth periodic reports of China, CRC/C/CHN/CO/3-4, para. 39 (b).

¹¹⁰ *Ibid.*, paras. 39-40.

¹¹¹ CEDAW, Concluding observations on the combined seventh and eighth periodic reports of China, para. 39 (b).

¹¹² Under Article 41 of the Population and Family Planning Law, parents that have a child outside of provisions of Article 18 must pay a social maintenance fee. Individuals that don't pay the fee within a set time period must pay an additional surcharge. Failure to pay the fee and additional surcharge can result in the relevant administrative department applying to the People's Courts for enforcement. Family Planning Law of the People's Republic of China (中华人民共和国人口与计划生育法), 2001, amended 2015, http://www.gov.cn/xinwen/2015-12/28/content_5028414.htm.

¹¹³ The "Measures for Administration of Collection of Social Maintenance Fees" are still in effect, and Article 3 of the Measures lay down the formula for the fees parents have to pay, with reference to their annual income. Measures for Administration of Collection of Social Maintenance Fees, 2002, http://english1.english.gov.cn/laws/2005-07/25/content_16929.htm.

¹¹⁴ Sheng Menglu "China Keeps Fines for One-Child Policy Even after Rule Change," *Caixin*, February 22, 2016, <http://english.caixin.com/2016-02-22/100911219.html>.

¹¹⁵ State Council Office, “Opinion on Resolving Issues of Hukou Registration for Persons with no Hukou” (国务院办公厅关于解决无户口人员 登记户口问题的意见), December 31, 2015, http://www.gov.cn/zhengce/content/2016-01/14/content_10595.htm; *Xinhua News Agency*, “China to ensure all citizens get registered,” January 14, 2016, <http://www.shanghaidaily.com/national/China-to-ensure-all-citizens-get-registered/shdaily.shtml>.

¹¹⁶ Xu Ming, “Millions of unregistered individuals await legal status after China scraps one-child policy,” *Global Times*, January 27, 2016, <http://www.globaltimes.cn/content/965972.shtml>.

¹¹⁷ Huang Kai (黄恺), Guangdong Household Policy Current Situation: Household Registration and Family Planning Delinked, but Outside of Quota Births Still Need to Pay Social Maintenance Fee” (广东落户政策现状: 落户与计生已脱钩 超生仍要缴费), *Southern Metropolis*, “January 15, 2016, <http://www.oeeee.com/nis/201601/15/416731.html>.

¹¹⁸ We consider this a *poor* recommendation, as it calls on China to “continue” making certain efforts with an unsupported assumption that such efforts have been made so far.

¹¹⁹ This is *poor* recommendation, as it as pre-supposes the government is already attaching great importance to the issue, and does not give an actionable goal to be implemented.

¹²⁰ National Bureau of Statistics, “2010 6th National Census Main Points Announcement” (2010年第六次全国人口普查主要数据公报).

¹²¹ Compulsory Education Law of the People’s Republic of China, 1986, amended 2006, http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383936.htm.

¹²² Article 12 states: “School-age children and adolescents shall be exempted from the entrance examinations. The local people’s governments at various levels shall ensure that school-age children and adolescents enroll in school near the places where their residence is registered. For school-age children and adolescents whose parents or other statutory guardians work or reside in places other than the places of their registered residence and who have to receive compulsory education in the places where their parents or other statutory guardians work or reside, the local people’s governments shall provide equal conditions for them to receive compulsory education. The specific measures in this regard shall be formulated by provinces, autonomous regions, and municipalities directly under the Central Government. The administrative department for education of the people’s government at the county level shall ensure that the children of servicemen within its administrative area receive compulsory education.” Compulsory Education Law of the People’s Republic of China, 1986, amended 2006.

¹²³ Ministry of Education, “Provisional Measure for the Schooling of Migrant Children and Young People” (流动儿童少年就学暂行办法), March 2, 1998, http://www.moe.edu.cn/publicfiles/business/htmlfiles/moe/moe_621/200409/3192.html.

¹²⁴ Law on the Protection of Minors of the People’s Republic of China (中华人民共和国未成年人保护法), 1991, amended 2012, http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383869.htm.

¹²⁵ During the daily commute to schools in urban areas from rural villages, children are exposed to high risks of accidents, abduction, and other rights violations. In the span of a decade, 50 percent of rural primary schools were closed due to campaigns to centralize education. Lijun Chen, Dali Yang, Qiang Ren, “Report on the State of Children in China,” Chapin Hall at the University of Chicago, October 2015, p. 11, http://www.chapinhall.org/sites/default/files/Chapin_CFPSReport2016_ENGLISH_FNLweb.pdf; Furthermore, not only has the quantity of schools lowered, quality of education remained poor as teachers are in short supply, undertrained, and overworked but underpaid, especially in boarding schools. For examples, responsibilities of teachers have extended beyond teaching to include overlooking safety and security, helping with cooking and looking after children after school. China Labor Union for Education, Technology, Culture, Health, and Sports, “Solution to Rural Education Development and Ending Intergenerational Poverty” (发展乡村教育和阻止贫困代际传递的治本之策), August 31, 2016 <http://media.worker.cn/115/201608/31/160831151551255.shtml>.

¹²⁶ See CHR, “Flowers of the Country”: Mistreated and Abused A Report on Violations of the Rights of the Child in China, August 2013; and CHR, Appendix 2: The Right to Basic Education of Rural Children in Suizhou, Hubei Province - Report on an investigation conducted in 2005, <https://www.nchr.org/wp-content/uploads/2013/09/Appendix-2-The-Right-to-Basic-Education-of-Rural-Children-in-Suizhou-Hubei-Province.pdf>.

¹²⁷ CHR, Report Submitted to UN Committee on Economic, Social and Cultural Rights, paras. 36-38.

¹²⁸ CRC, Concluding observations on the combined third and fourth periodic reports of China, paras. 12 and 13(a); CRC, Third and fourth periodic reports of States parties due in 2009 China, CRC/C/CHN/3-4, June 2012, para. 167.

¹²⁹ CRC, Concluding observations on the combined third and fourth periodic reports of China, para. 75.

¹³⁰ Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations on the second periodic report of China, including Hong Kong, China and Macao, May 2014, CESCR/E/C.12/CHN/2, para. 35.

¹³¹ An Su (安苏), “Non-Beijing Registered School Children Growing and “Five Cards” Remains: Full Text” (非京籍学生幼升小仍需“五证”齐全), *Beijing Youth Daily*, February 11, 2015, http://epaper.yynet.com/html/2015-02/11/content_115452.htm?div=-1.

¹³² According to one research study conducted in 2010-11, 84 percent of public schools in Beijing charged migrant students various fees and tuition amounting to as much as 50,000 RMB (approx. 8,500 USD) per year. Most migrant students were not granted reduced tuition or scholarships. CHR, “Flowers of the Country”: Mistreated and Abused A Report on Violations of the Rights of the Child in China, August 2013.

¹³³ *People’s Daily*, “Difficulties for Children of Migrant Workers to Attend School: Non-Beijing Registered Children Must Provide 28 Certificates to Attend School” (流动儿童上学难: 非京籍儿童北京念书需办28个证), June 15, 2015, <http://edu.people.com.cn/n/2015/0615/c1053-27155342.html>.

¹³⁴ Emily Feng, “China to Survey Children Left Behind by Migrant Workers,” *The New York Times*, March 29, 2016, http://www.nytimes.com/2016/03/30/world/asia/china-left-behind-children-survey.html?_r=0; “China’s Rural Boarding School Students Research Report” (中国农村住校生调查报告), 2015, http://www.growinghome.org.cn/upload/file/20150114163848_59.pdf.

¹³⁵ CRC, Concluding observations on the combined third and fourth periodic reports of China, para. 48.

¹³⁶ CESCR, Concluding observations on the second periodic report of China, including Hong Kong, China and Macao, China, para. 15.

¹³⁷ State Council, “Opinion Regarding the Strengthening of Protection Work for Left-Behind Rural Children” (国务院关于加强农村留守儿童关爱保护工作的意见), February 2016, <http://www.mca.gov.cn/article/zwgk/jd/201602/20160200880304.shtml>; State Council, “Letter Agreeing to Establish Inter-Ministry Joint Conference System for Protecting Left-Behind Rural Children” (国务院办公厅关于同意建立农村留守儿童关爱保护工作部际联席会议制度的函), March 2016, http://www.gov.cn/zhengce/content/2016-04/05/content_5061324.htm.

¹³⁸ CHR, “‘Flowers of the Country’: Mistreated and Abused: A Report on Violations of the Rights of the Child in China,” August 2013.

¹³⁹ CHR, Portrait of a Defender – Xu Zhiyong (许志永), <https://www.nchrd.org/2013/10/prisoner-of-conscience-xu-zhiyong/>.

¹⁴⁰ Xu had founded the “New Citizens’ Movement,” a loose grouping of individuals advocating for rule-of-law reforms, constitutionalism, human rights, and social justice; the movement was targeted and several members imprisoned in 2013-2014 after they publicly protested over social justice issues.

¹⁴¹ According to the State Council press release from November 28, 2015: “Starting from the spring term of 2016, China will unify the basic funds per student for public use, and grant subsidies to urban and rural compulsory education schools (including private schools) no less than the stipulated amount. ... Starting from the spring term of 2017, students receiving compulsory education in both urban and rural areas will be exempt from tuition and incidentals, while provided with free textbooks. In addition, boarding students from poor families will receive subsidies to cover their living expenses. ... the guideline stipulates that teachers at compulsory education schools in central and western areas and in parts of eastern areas will be financially guaranteed, with governments at provincial and county level making sure teachers are paid in full and on time.” State Council, “Government to improve public service,” November 18, 2015, http://english.gov.cn/premier/news/2015/11/18/content_281475237397955.htm; State Council, “Government to guarantee funds for compulsory education,” November 28, 2015, http://english.gov.cn/policies/latest_releases/2015/11/28/content_281475243824738.htm.

¹⁴² CRC, Concluding observations on the combined third and fourth periodic reports of China, para. 14 (b).

¹⁴³ Information Office of the State Council of the People’s Republic of China, National Human Rights Action Plan (2012-2015), Chap. I, Sec. 5, Chap 3. Sec. 3, <http://www.china-un.ch/eng/rqrd/jblc/t953936.htm>.

¹⁴⁴ The World Health Organization estimates that 15 percent of the world’s population is disabled. The Chinese government, in response to the Committee on The Rights of Persons with Disabilities question on the discrepancy, responded that “China, a developing country constrained by the overall level of its economic security and social services, has not yet included the loss of or defect in organs in its disability criteria. According to the current classification criteria of disability in China, a person with disability refers to one with visual, or hearing, or speech, or physical, or intellectual, or psychiatric disability, multiple disabilities and/or other disabilities. In this sense, people with disabilities accounted for 6.34 percent of the country’s total population. Response by the Government of the People’s Republic of China to the List of Issues (No.1 to No.30) by the Committee on the Rights of Persons with Disabilities, CRPD/C/CHN/Q/1, September 2012, para. 2. The percentage comes from the 2007 national survey. National Bureau of Statistics, “Principle Statistics of China’s 2nd National Sample Survey on Disabled Persons” (中国发布第二次全国残疾人抽样调查主要数据公报), May 28, 2007, http://www.gov.cn/jrzq/2007-05/28/content_628517.htm.

¹⁴⁵ According to the 2007 national survey on disabled persons, their household income is not even half the national average of 11,321 RMB (approx. 1,650 USD) in urban areas and 4,631 RMB (approx. 675 USD) in rural areas. Eight percent of rural

households with disabled persons have a household income of less than 1,000 RMB (approx. 145 USD) per month. Only 9.75 percent of the urban population with disabilities, and 11.68 percent of the rural population with disabilities, receive regular or irregular government assistance. National Bureau of Statistics, “Principle Statistics of China’s 2nd National Sample Survey on Disabled Persons” (中国发布第二次全国残疾人抽样调查主要数据公报), May 28, 2007.

¹⁴⁶ According to the 2007 survey: ages 0-14 accounted for 4.66 percent, ages 15-29 accounted for 42.10 percent, and ages 60 and above accounted for 53.24 percent. National Bureau of Statistics, “Principle Statistics of China’s 2nd National Sample Survey on Disabled Persons” (中国发布第二次全国残疾人抽样调查主要数据公报), May 28, 2007.

¹⁴⁷ In 2013, the number of employed disabled persons in China who found work was 369,000; in 2014, it was 278,000, and in 2015, it was 263,000. China Disabled Persons’ Federation (CDPF), “2013 China Disabled Persons Work Development Report” (2013年中国残疾人事业发展统计公报), March 31, 2014, http://www.cdpf.org.cn/sjzx/tjgb/201403/t20140331_357749.shtml; CDPF, “2014 China Disabled Persons Work Development Report” (2014年中国残疾人事业发展统计公报), March 31, 2015, http://www.cdpf.org.cn/zcwj/zxwj/201503/t20150331_444108.shtml; CDPF, “2015 China Disabled Persons Work Development Report” (2015年中国残疾人事业发展统计公报), April 1, 2016, http://www.cdpf.org.cn/zcwj/zxwj/201604/t20160401_548009.shtml.

¹⁴⁸ CHRDR, Report Submitted to UN Committee on the Elimination of Discrimination Against Women, September 2014, paras. 29, 34, <https://www.nchr.org/2014/10/report-submitted-to-un-committee-on-the-elimination-of-discrimination-against-women-september-2014/>; Appendix 4 to CHRDR and Coalition of NGOs Report Submitted to CEDAW, <https://www.nchr.org/2014/09/appendix-4-to-chrd-and-coalition-of-ngos-report-submitted-to-cedaw-october-2014/>.

¹⁴⁹ Article 45. Protection of old, ill, disabled: Citizens of the People’s Republic of China have the right to material assistance from the state and society when they are old, ill or disabled. The state develops social insurance, social relief and medical and health services that are required for citizens to enjoy this right. The state and society ensure the livelihood of disabled members of the armed forces, provides pensions to the families of martyrs and gives preferential treatment to the families of military personnel. The state and society help make arrangements for the work, livelihood and education of the blind, deaf-mutes and other handicapped citizens. Constitution of the People’s Republic of China, 1982, amended 2004, http://www.npc.gov.cn/englishnpc/Constitution/node_2825.htm.

¹⁵⁰ However, one of the partially implemented recommendations came from a poor recommendation; Senegal (102) asked China to “[c]ontinue actions to address the needs of persons with disabilities,” a vague recommendation with no concrete goals.

¹⁵¹ “State Council Legislative Affairs Office Releases ‘Regulations of Education of Persons with Disabilities in China (revised draft) (present examination draft) for Public Comment’” (国务院法制办公室关于《残疾人教育条例(修订草案) (送审稿)》公开征求意见的通知), and “Explanation of ‘Regulations of Education of Persons with Disabilities in China (revised draft) (present examination draft)’” (关于《残疾人教育条例(修订草案) (送审稿)》的说明), February 25, 2013, http://www.gov.cn/gzdt/2013-02/27/content_2341027.htm.

¹⁵² Ibid.

¹⁵³ China Disabled Person’s Federation, Ministry of Education, State Council, Ministry of Finance, Ministry of Human Resources and Social Security, Ministry of Housing and Urban-Rural Development, and National Health and Family Planning Commission, “Opinion on Strengthening the Social Assistance for Persons with Disabilities” (关于加强残疾人社会救助工作的意见), August, 17 2015, http://www.cdpf.org.cn/zcwj/zxwj/201509/t20150901_526890.shtml.

¹⁵⁴ CHRDR interview, 2016.

¹⁵⁵ “Notice of Ministry of Education Release of Standards for Special Education Teaching Professionals (provisional)” (教育部关于印发《特殊教育教师专业标准(试行)》的通知), August 26, 2015, http://www.moe.gov.cn/srcsite/A10/s6991/201509/t20150901_204894.html.

¹⁵⁶ However, the Standards continue to support the concept that the situation of a disabled person is a personal tragedy and individual defect, rather than recognize the inherent dignity of all persons.

¹⁵⁷ “Discrimination” (“歧视” *qishi*) and “reasonable accommodation” (“合理便利” *heli bianli*) are both defined in Article 2 of the Convention. The LPDP prohibits “discrimination” against disabled persons in Article 3, 38, and 64 of the LPDP but does not define it, and there is no mention of “reasonable accommodation.” International Convention on the Rights of Persons with Disabilities, 2008, <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx>; Law of the People’s Republic of China on the Protection of Disabled Persons, 1990, amended 2008, http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383889.htm

¹⁵⁸ Committee on the Rights of Persons with Disabilities (CRPD), Concluding observations on the initial report of China, CRPD/C/CHN/CO/1, October 2012, paras. 9, 11-12.

¹⁵⁹ Article 19 of the Employment Promotion Law and Article 38 of the LPDP.

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- ¹⁶⁰ “Standards for Civil Service Recruitment Examination (provisional)” (公务员录用体检通用标准 (试行)), October 14, 2010, <http://www.gjgwy.org/2010/1014/11476.html>.
- ¹⁶¹ Articles 19 and 20 deal with the visual/hearing impairments; Article 5 deals with lung diseases; Article 10 deals with diabetes; Article 18 deals with sexually transmitted diseases.
- ¹⁶² Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of China, including Hong Kong, China and Macao, China, CESCR/E/C.12/CHN/2, May, 2014, para. 18.
- ¹⁶³ Article 24, International Convention on the Rights of Persons with Disabilities, 2008.
- ¹⁶⁴ See also, Human Rights Watch (HRW), “As Long as They Let Us Stay in Class: Barriers to Education for Persons with Disabilities in China,” 2013, <https://www.hrw.org/report/2013/07/15/long-they-let-us-stay-class/barriers-education-persons-disabilities-china>.
- ¹⁶⁵ Articles 19, 57, Compulsory Education Law of the People’s Republic of China, 1986, amended 2006, http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383936.htm.
- ¹⁶⁶ “State Council Legislative Affairs Office Releases “Regulations of Education of Persons with Disabilities in China (revised draft) (present examination draft) for Public Comment,” February 27, 2013.
- ¹⁶⁷ HRW, “As Long as They Let Us Stay in Class: Barriers to Education for Persons with Disabilities in China.”
- ¹⁶⁸ CRPD, Concluding observations on the initial report of China, paras. 35-36.
- ¹⁶⁹ See, UN Office of the High Commissioner for Human Rights (OHCHR), Handbook on National Human Rights Plans of Action, August 2002, <http://www.ohchr.org/Documents/Publications/training10en.pdf>.
- ¹⁷⁰ The government claimed the CDPF “represented persons with disabilities” in submitting comments on national legislation and to the State Council. However, the CDPF is clearly a quasi-government body, as it has been tasked by the central government to supervise the administration of disability related affairs, and acts as the secretariat of the State Council Working Committee on Disability. China Disabled Persons’ Federation, “About,” (Accessed October 15, 2016), http://www.cdpf.cn/english/About/overview_1793/. Furthermore, Article 8 of the Law on the Protection of Disabled Persons gives the CDPF an elevated position: “China Disabled Persons’ Federation (CDPF) and its local organizations shall represent the common interests of persons with disabilities, protect their lawful rights and interests, unite persons with disabilities and enhance education among them and provide service for them.”
- ¹⁷¹ The Committee also “strongly recommends that the State party revise article 8 of the Law on the Protection of Disabled Persons, thus allowing non-governmental organizations other than the China Disabled Persons’ Federation to represent the interests of disabled people in the State party and be involved in the monitoring process. It further recommends the establishment of an independent national monitoring mechanism.” CRPD, Concluding observations on the initial report of China, paras. 9-10, 49-50.
- ¹⁷² CHRDR, “Police Detain Two Rights Advocates as NGO Crackdown Intensifies,” June 15, 2015, <https://www.nchr.org/2015/06/police-detain-two-rights-advocates-as-ngo-crackdown-intensifies/>; see also CHRDR 2013, 2014, and 2015 Annual Reports. CHRDR, “A Nightmarish Year Under Xi Jinping’s “Chinese Dream”: 2013 Annual Report on the Situation of Human Rights Defenders in China,” <https://www.nchr.org/2014/03/a-nightmarish-year-under-xi-jinpings-chinese-dream-2013-annual-report-on-the-situation-of-human-rights-defenders-in-china/>; CHRDR, ““Silencing the Messenger: 2014 Annual Report on the Situation of Human Rights Defenders in China,” <https://www.nchr.org/2015/03/silencing-the-messenger-2014-annual-report-on-the-situation-of-human-rights-defenders-in-china/>; CHRDR, ““Too Risky to Call Ourselves Defenders”: CHRDR 2015 Annual Report on the Situation of Human Rights Defenders in China,” <https://www.nchr.org/2016/02/too-risky-to-call-ourselves-defenders-chrds-2015-annual-report-on-the-situation-of-human-rights-defenders-in-china/>.
- ¹⁷³ CRPD, Concluding observations on the initial report of China, paras. 14-15.
- ¹⁷⁴ *Xinhua News Agency*, “China to allow two children for all couples,” October 29, 2015, http://news.xinhuanet.com/english/2015-10/29/c_134763645.htm.
- ¹⁷⁵ *Legal Daily*, “Long-Awaited Children’s Welfare Law Finally Out” (《法制日报》: 儿童福利法 千呼万唤当出来), May 31, 2016, <http://finance.sina.com.cn/sf/news/2016-05-31/192131873.html>.
- ¹⁷⁶ CHRDR interview, 2016.
- ¹⁷⁷ At the end of 2015, the National Bureau of Statistics released the previous year’s implementation statistics of the “China National Programme for Child Development 2011-2020,” which revealed that in 2014, the country had 525,000 disabled children, of which only 23,000 were orphans raised by non-birth families, or only 4.38 percent. National Bureau of Statistics, “2014: China National Programme for Child Development (2011-2020) Implementation Statistics Report” (2014年《中国儿童发展纲要(2011-2020年)》实施情况统计报告), November 27, 2015, http://www.stats.gov.cn/tjsj/zxfb/201511/t20151127_1282230.html.

- ¹⁷⁸ The “Tomorrow Plan” provides free surgery and treatment for disabled orphans, and “Blue Sky Plan” creates new orphanages. Ministry of Civil Affairs, “Notice on Implementation Plan for “Disabled Orphan Surgical Recuperation Tomorrow Plan” (关于印发《“残疾孤儿手术康复明天计划”实施方案》的通知), May 9, 2004, <http://www.mca.gov.cn/article/zwgk/fvfg/shflhshsw/200711/20071100003618.shtml>; Ministry of Civil Affairs, “Ministry of Civil Affairs Released Implementation Plan for “Child Welfare Construction Blue Sky Plan” (民政部印发《“儿童福利机构建设蓝天计划”实施方案》), February 1, 2007, <http://www.mca.gov.cn/article/zwgk/gzdt/200711/20071100003905.shtml>.
- ¹⁷⁹ Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of China, CRC/C/CHN/CO/3-4, October 2013, paras 58, 61(a).
- ¹⁸⁰ We consider the following recommendations to be “poor,” since they urge China to “maintain” protection or “continue” to improve in areas where prior progress has not been clearly evident (135 – Egypt, 183 – Russian Federation, 185 – Democratic People’s Republic of Korea, 187 – Azerbaijan, 196 – Serbia, 244 – Namibia, 245 – Yemen, 247 – Côte d’Ivoire).
- ¹⁸¹ Office of the High Commissioner on Human Rights (OHCHR), “End-of-mission statement on China by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights,” August 23, 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20402&LangID=E>.
- ¹⁸² Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China, CESCR/E/C.12/CHN/CO/2, June 2014, para. 28.
- ¹⁸³ *People’s Daily*, “NPC Standing Committee Member: Urban and Rural Hukou Have Over 60 Kinds of Unequal Benefits” (全国人大常委会委员:城乡户籍有60多种不平等福利), February 25, 2013, <http://fangtan.people.com.cn/n/2013/0225/c147550-20593215.html>.
- ¹⁸⁴ CESCR, Concluding observations on the second periodic report of China, para. 14.
- ¹⁸⁵ CHRDR, Report Submitted to UN Committee on Economic, Social and Cultural Rights, April 2014, paras. 20-22, <https://www.nchrd.org/2014/04/report-submitted-by-the-network-of-chinese-human-rights-defenders-a-coalition-of-ngos-to-the-committee-on-economic-social-and-cultural-rights-for-its-review-at-the-52nd-session-of-the-second-report/>.
- ¹⁸⁶ CESCR, Concluding observations on the second periodic report of China, paras. 15, 24.
- ¹⁸⁷ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx>.
- ¹⁸⁸ State Council, “State Council Opinion on Advancing Reform for Household Registration System” (国务院关于进一步推进户籍制度改革的意见), July 2014, http://www.gov.cn/zhengce/content/2014-07/30/content_8944.htm.
- ¹⁸⁹ State Council, “State Council Opinion on Advancing Reform for Household Registration System.” The 2010 National Census, the last available official statistics, said there were 261 million rural residents living in urban areas, and that number is assumed to have increased in the past six years. National Bureau of Statistics, “2010 6th National Census Main Points Announcement” (2010年第六次全国人口普查主要数据公报), April 28, 2011, http://www.stats.gov.cn/tjsj/tjgb/rkpcgb/qgrkpcgb/201104/t20110428_30327.html.
- ¹⁹⁰ Shannon Tiezzi, “China’s Plan for ‘Orderly’ Hukou Reform,” *The Diplomat*, February 3, 2016, <http://thediplomat.com/2016/02/chinas-plan-for-orderly-hukou-reform/>; Zhou Tian, “State Council Releases Hukou Reform Proposal,” *Caixin*, December 5, 2014, <http://english.caixin.com/2014-12-05/100759833.html>.
- ¹⁹¹ For more background information on the “household registration” system, see: CHRDR, Report Submitted to UN Committee on Economic, Social and Cultural Rights, paras. 20-22; Beijing Yirenping Center, Appendix 2: End Discriminatory Household Registration System (Hukou), April 2014, <https://www.nchrd.org/2014/04/appendix-2-to-chrd-coalition-ngos-report-submitted-to-cescr-april-2014/>.
- ¹⁹² It is up to municipal governments to define and establish “progressive access” to benefits available to urban residents, such as employment support, housing, pension services, and social welfare. State Council, “Resident Permit Provisional Regulations” (居住证暂行条例), Order No. 663, December 12, 2015, http://www.gov.cn/zhengce/content/2015-12/12/content_10398.htm.
- ¹⁹³ *Ibid.*
- ¹⁹⁴ Migrant workers face huge obstacles when they seek urban residency registration even after they have obtained temporary residential permits. Major cities like Beijing and Shanghai have adopted a stringent point-accumulation system that awards high points for having higher education, advanced professional and technical skills, and official awards from government organs. Permit holders need to pay into social and employment insurance programs for seven consecutive years in Beijing and have no criminal record, among other requirements, before they become eligible for residency registration. Effective January 2017 to the end of 2019, Beijing resident permit holders need to fulfill four criteria and accumulate enough “points” in order to qualify for a Beijing *hukou*. Beijing People’s Government General Office, “Measures for Administration of Point-Accumulation Hukou in

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²²⁶ Local officials blocked the team from entering and confiscated some of their equipment. Eventually, authorities allowed them to leave and returned their equipment only after ordering the group to destroy notes and photos from interviews they had conducted. CHR D interview with journalist, September 2016.

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²²⁸ Since 2008, authorities have recruited Han veteran military servicemen to work in law enforcement and state enterprises in the TAR, effectively excluding Tibetans from such jobs. The Chinese government also has implemented policies to restrict Tibetans' use of grasslands and forcibly displaced tens of thousands of Tibetans who have historically relied on such land to pursue a traditional lifestyle. Once forced into more urban areas, these Tibetans lack the work skills to find employment while being deprived of their culture, religion, diet, and way of life. CHRD, Report Submitted to UN Committee on Economic, Social and Cultural Rights, paras. 13, 42.

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