

Executive Summary

It has been more than three years since the October 2013 UN Universal Periodic Review (UPR) of China, during which UN Member States reviewed China's human rights record and made a total of 252 recommendations to the Chinese government.¹ These recommendations cover a broad range of human rights proclaimed in the Universal Declaration of Human Rights and protected under international human rights treaties.² The third cycle of the UPR review of China is scheduled for late 2018.³ This mid-point presents an opportunity to evaluate human rights conditions in China, and the extent to which the government has lived up to its international pledges and implemented the recommendations from the 2013 UPR.

This mid-term assessment report, produced by civil society groups, finds large discrepancies between the Chinese government's promises and its actions related to protecting and promoting human rights. As analyzed in the report, human rights conditions in China have deteriorated in many areas where UN Member States recommended ending abuses, strengthening protections, and reforming existing laws and practices. Since the previous UPR, human rights conditions and safeguards in China have slightly improved in some limited aspects. However, the overall human rights situation has worsened over the past three years.

The findings of our assessments are in line with those of other international human rights NGOs and governmental agencies, which have documented the overall deterioration of human rights since President Xi Jinping came to power in early 2013.⁴ We hope these findings are useful for China watchers and policy makers as they continue to grapple with the causes and impact of the rapid reversal in China's legal and political reforms, and of Xi's departure from previous efforts by civil society and reformers within the government to push for rule of law.

Though UN Member States are encouraged to submit mid-term reports that assess their implementation of UPR recommendations, the Chinese government, a member of the Human Rights Council, has not submitted such a report following either the first or the second UPR. In contrast to China's lack of cooperation with efforts to make the UPR more effective through a mid-term assessment process, 63 other UN Member States have submitted such reports on a voluntary basis.⁵ The Chinese government's failure to provide information on its follow-up on UPR recommendations has made it even more important for civil society organizations to conduct their own independent assessment. This non-governmental mid-term assessment report helps to fill the void created by the lack of a self-assessment by the Chinese government.

In this report, we try to identify any progress, or the lack thereof, that the Chinese government has made in implementing the 204 recommendations that China "accepted," including those that China stated it had already put into practice or were being implemented. Also, we attempt to measure the current state of human rights in areas where China did "not accept" recommendations.

This report is the fruit of cooperation among multiple Chinese civil society groups and human rights defenders in China, and presents a summary of their findings, analysis of systemic changes, and suggestions for going forward. In preparations for this report, contributors conducted research, held discussions, and shared information for the assessment. They have made specific *suggestions* that governments of UN Member States, as well as other stakeholders, can refer to in their own efforts to engage China and encourage the Chinese government to fully and effectively implement the 2013 UPR recommendations before the 2018 UPR.

This report gives voice to Chinese human rights defenders, whose participation in the UPR process has been aggressively suppressed by the Chinese government. Publicly demanding civil society participation in the UPR has led to harassment and detention of human rights defenders, including the death in custody of activist Cao Shunli (曹顺利) in 2014. For years, Ms. Cao had organized grassroots efforts to push the government to consider non-governmental input and feedback on China's national reports for the 2009 and 2013 UPR and for China's National Human Rights Action Plans.⁶

The release of this UPR mid-term assessment report coincides with China's re-election for another three-year term as a member of the Human Rights Council, and highlights human rights issues in China that need improvement. The HRC is charged with being "responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all..." and "should address situations of violations of human rights."⁷ Unfortunately, governments unfriendly or even hostile to human rights continue to occupy membership seats, which is an indication that Member States have made serious compromises and have strayed from the stated mission of the HRC.⁸ The Chinese government cited the "high number of votes" it received for a seat for 2014-2016 as "proof" of its success in supporting international human rights, while it openly admitted that its objective to be on the HRC is to "actively declare China's own human rights policy and point of view."⁹ The next three years gives China yet another chance to demonstrate that it is able to behave cooperatively and constructively as a HRC member and make substantive contributions to the "promotion and protection of human rights."¹⁰

Key Findings

This report focuses mainly on the years between 2013-2016, and assesses China's level of implementation of key UPR recommendations. The scope of the evaluation covers a wide range of civil, political, social, economic, and cultural rights touched upon in the recommendations. The report is organized largely in sync with these thematic areas, and in the order that the 2013 UPR Working Group Report presented States' recommendations.¹¹

We found that, of the **236** *appropriate* recommendations (out of a total of **252** that included **16** "inappropriate" recommendations for which assessments are unavailable), **190** were "not implemented," **43** were "partially implemented," and **3** were "implemented." The 16 *inappropriate recommendations* are those that undermine, or are counter-productive to, achieving the ultimate aim of the UPR—"to improve the human rights situation in all countries and address human rights violations wherever they occur."¹²

The following are synopses of the key findings by chapter.

Chapter 1: Cooperation with the UN

The report starts with a review of China's implementation of UPR recommendations concerning its cooperation with UN human rights bodies. We found that there has been no progress on this front. China has not established an independent National Human Rights Institution and Chinese officials exclude input from the general public and independent civil society when drafting UN State Party reports and evaluating its National Human Rights Action Plans. (Section 1.2) The lack of independent consultation raises serious questions about the accuracy and objectivity of government claims about its "successes" in carrying out these plans.¹³ China continued to reject or stall most requests for country visits by UN Special Procedures mandate holders, and only allowed three visits under strict monitoring by state agents. (Section 1.3) Treaty bodies continue to face difficulties in receiving concrete information from China for their periodic reviews and, as we demonstrate throughout the report, few treaty body recommendations have been implemented. In addition, Chinese authorities continue to take reprisals against human rights defenders seeking to cooperate with the UN or participate in UN human rights activities. (Section 2.2)

Chapter 2: Civil & Political Rights

In the areas of civil and political rights, we present our evaluation of the implementation of selected key UPR recommendations concerning: right to political participation, the death penalty, torture, administrative detention, freedom of expression, peaceful assembly and association, religious freedom, independence of lawyers, and protection of human rights defenders.

We found that, in regards to political participation, women continue to be underrepresented in the government and Party at all levels. Election laws have not been fully implemented and government/Party interference in elections has increased to such a degree that there is practically no guarantee of the right to vote or be elected in local elections. We documented multiple cases of retaliation against independent candidates and election monitors. Authorities in minority areas, including the Tibet Autonomous Region, not only interfere in elections, but also intrude at the household level in attempts to monitor political thought and behavior. (Section 2.1)

Since the 2013 UPR, despite small decreases in the number of crimes for which the death penalty applies, the trend of small reductions in the number of annual executions seems to have stalled, and non-transparency remains the rule. Various reform measures have been extraneous or inadequate, and China's application of the death penalty still does not conform to international standards. (Section 2.2)

Despite China's new legislation banning forced confessions, authorities continue to fail to adequately enforce preventive measures nor conduct investigations into credible accusations of torture. (Section 2.3) Police continue to involuntarily commit activists to psychiatric facilities, in violation of China's Mental Health Law, and without facing any consequences. (Section 2.4)

Since 2013, the government has intensified systematic suppression of freedom of expression, and peaceful assembly and association, leveraging laws and regulations to curtail these rights and escalate criminal prosecution of those who exercise them. China continues to jail journalists and bloggers and draconian cyber policies have been codified into law. Authorities routinely prosecute participants of peaceful gatherings for “disrupting public order” or “picking quarrels,” and independent human rights NGOs face closure under new regulations. (Sections 2.5 & 2.6)

Human rights defenders in China and civil society in general have come under government assault in the past few years, as Chinese authorities adopted laws and regulations to legitimize its harshest political repression since the mid-1990s. China’s hostility towards human rights defenders has become evident in international human rights fora. (Section 2.9) Human rights lawyers, in particular, have become targets of unprecedented harassment and persecution. Any rule of law reform initiatives have practically stalled and the legal environment for practicing law has rapidly deteriorated. (Section 2.8)

Chapter 3: Economic & Social Rights

In the areas of economic and social rights, we present our evaluation of the implementation of selected key UPR recommendations concerning: women’s rights, discrimination on the grounds of sexual orientation and health status, rights of the child, rights of persons with disabilities, and equal protection for China’s rural population, including migrant laborers. Despite some limited improvements, we find that protection of these rights still falls far short of international human rights standards.

On women’s rights, China’s legal framework for protecting women’s right to equal pay for equal employment remains inadequate. The much-welcomed new Anti-Domestic Violence Law (2015) provides legal tools for combating widespread domestic violence, but it does not provide comprehensive protection for victims. China’s Criminal Law does not fully comply with international standards in terms of protecting women, and it does not effectively combat trafficking in women. (Section 3.1)

The 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 protection of their rights. Current laws and regulations do not prohibit discrimination based on sexual orientation, gender identity, or HIV status. (Section 3.2)

Child labor, child trafficking, and sexual abuse remain serious concerns, despite some attempts by the government at protecting children at the legislative and regulatory levels. The new “two-child” birth control policy does not sufficiently help combat abuses against disabled children and girls due to entrenched social discrimination. Some children are still deprived of their right to be legally registered and their entitlement to public services and government subsidies. The household registration system has led to the denial of equal education to rural children, especially migrant workers’ children. (Section 3.3)

Despite government efforts at improving national legislation, Chinese laws and regulations still do not meet crucial international standards for persons with disabilities, especially for disabled

children. The disabled continue to face discrimination and a lack of basic access and support to public benefits and services. Many regulations continue to contain discriminatory language. The “two-child” birth control policy continues to contribute to the persistence of abandoned disabled children, and the government has not provided adequate programs to assist disabled orphans. (Section 3.4)

China frequently emphasizes its achievements in economic development, including lifting hundreds of millions out of poverty, as evidence of its protection of social and economic rights. However, the government still has not put in place meaningful accountability mechanisms for the full realization of economic rights. Its policies have resulted in expanding disparities in income and in access to poverty relief between urban and rural areas as well as coastal and inland areas, including in ethnic minority regions. Reform of the “household registration” system, which discriminates against rural migrants, has been limited. Revamping of the discriminatory health insurance and pension systems is long overdue. (Section 3.5)

Chapter 4: Human Rights Education

We also present our evaluation of China’s implementation of UPR recommendations on promoting human rights education. The government remains non-transparent about human rights education and training materials, especially those for officials and public servants. We find that insufficient focus has been placed on the content of human rights education and training materials. Instead, the government simply concentrates on the number of trainings or education programs. Available information indicates that the existing materials in school curriculum do not meet international standards or convey fundamental human rights principles. Nor do there appear to be any rigorous efforts to examine the effectiveness of human rights education and training programs. In the 2016-2020 National Human Rights Action Plan, the government omitted the goal to bring educational materials in line with international standards. (Chapter 4)

In the annexed Table to this report, we present the final “grades” that we gave to China’s mid-term performance in implementing all 252 recommendations from China’s second UPR. (Annex 2) The “Guide to the Accompanying Table” helps explain what the “grades” represent and how the quality of the recommendations themselves are assessed. (Annex 1) To further illustrate China’s failure to constructively cooperate with the UN, included is a chart of the 24 cases that the UN Working Group on Arbitrary Detention issued “opinions” on from 2009-2016 concerning China. (Annex 3)

Civil Society Suggestions

The next two years, before the third UPR in 2018, presents yet another opportunity for China to demonstrate that it is able to and can behave cooperatively and constructively with the UN. As a member of the Human Rights Council, China has an obligation to promote and protect human rights. We have proposals in this report for the government on what measures it can take, if it has the political will, to make genuine human rights progress.

In this report, we make specific *suggestions* to the Chinese government about how to fully and effectively implement the 2013 UPR recommendations before the 2018 UPR. Governments of

UN Member States, as well as other stakeholders, can refer to these suggestions in their own efforts to engage China to take measures to implement recommendations.

Our key suggestions include:

- Provide a clear legislative timetable with the earliest possible dates for completing all the necessary administrative and judicial reforms toward compliance with the ICCPR and for ratifying the ICCPR;
- Establish an independent National Human Rights Institution that protects and promotes human rights without government interference and retaliation;
- Fulfill treaty obligations under all the international human rights treaties that it has ratified, and amend all national laws and regulations that are not in full compliance with these treaties;
- Fully cooperate and constructively interact with the UN High Commissioner for Human Rights, the Special Procedures and treaty bodies;
- Increase transparency regarding the number of executions and individuals sentenced to death and repeal the classification of executions as a state secret;
- Implement a five-year moratorium on executions and ensure humanitarian treatment of death penalty convicts;
- Strictly enforce relevant legal provisions to ensure that illegal evidence extracted through torture is excluded in court trials, and hold state agents criminally accountable for committing acts of torture;
- Withdraw China's reservation to Article 20 of the Convention against Torture, declare in favor of Articles 21 and 22, and sign and ratify OPCAT;
- Abolish all forms of extra-judicial detention and ensure all psychiatric facilities meet international human rights standards and protect the rights of those committed in such institutions, including granting access to legal counsel, visitors, and periodic judicial review;
- Amend laws and remove restrictions on freedom of information, expression, and on the media, including the Internet and social media, that are not in accordance with the ICCPR and UDHR; release those being held in detention or imprisonment for exercising their right to freedom of expression and press;
- Stop all criminal prosecutions, arrests and all other forms of intimidation of individuals for exercising their rights to freedom of association and peaceful assembly;

- Allow national and international NGOs to play a full and active role in promoting and protecting human rights, specifically by removing legislative obstacles to NGO funding and legal registration so they can operate freely and effectively;
- Allow all Chinese citizens, particularly ethnic minorities, to fully exercise freedom of religion, such that they can practice their religion without fear of government reprisal; release all prisoners of conscience who have been punished for the peaceful exercise of their religion;
- Remove administrative obstacles, such as the annual inspection of lawyers and law firms, and any regulations that can be used to intimidate or penalize lawyers for practicing their profession;
- Guarantee access to prompt and effective investigation by an independent and impartial body of all allegations of obstruction of lawyers' access to their clients or violence against lawyers; close loopholes in laws and regulations that grant police broad powers to use "national security" in denying detainees' access to lawyers;
- End all forms of reprisal against Chinese citizens who seek to participate in, or cooperate with, UN human rights mechanisms, and ensure their freedom and safety;
- Facilitate the development, in law and practice, of a safe and enabling environment in which human rights defenders can operate without fear, obstruction, and threats;
- Eliminate discrimination based on gender and gender identity, sexual orientation, and HIV/AIDS or Hepatitis B status in employment, including in relevant laws and regulations; amend the Anti-Domestic Violence Law to fully apply to all types of relationships; and amend the Criminal Law to hold both sellers and buyers involved in trafficking into all types of exploitation and servitude criminally accountable;
- 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 such illegal therapy;
- 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 household registration (*hukou*) system to ensure all citizens, especially children, receive equal access to health care, social services and benefits, and employment in line with principles of non-discrimination;

- Lift state birth control quotas and remove all forms of penalties that deter parents or guardians from registering their children at birth, and enforce the right to nine-year compulsory education for migrants' children and rural children;
- Introduce a human rights model of disability into national disability law and policy, in accordance with the International Convention on the Rights of Persons with Disabilities;
- Combat abandonment of children with disabilities, reform family planning policies with the aim of combatting the deep-rooted causes of discrimination against children with disabilities; provide equitable medical care and other access facilities in rural regions for disabled persons, and ensure school-age disabled children receive inclusive compulsory education;
- Implement effective measures to set up programs targeting poverty alleviation in remote rural and ethnic minority areas;
- Include more specific and measurable goals related to human rights education in National Human Rights Action Plans, based on the UN Declaration on Human Rights Education and Training and the World Programme for Human Rights Education;
- Apply UN-provided standard international human rights education materials for trainings at schools at all levels, for law-enforcement and judicial officers, and other government officials, that promote respect for universal rights and fundamental freedoms as outlined in the Universal Declaration of Human Rights and other UN human rights conventions.

¹ All the documents from the first cycle (2009) and second cycle (2013) Universal Periodic Review of China can be found here: UN Human Rights Council (HRC), Universal Periodic Review Second Cycle – China, <http://ohchr.org/EN/HRBodies/UPR/Pages/CNSession17.aspx>.

² HRC, “Report of the Working Group on the Universal Periodic Review, China (including Hong Kong, China and Macao, China),” A/HRC/25/5, December 2013.

³ The estimated timing of China’s third cycle of UPR is based on the HRC timetable, in which each State undergoes a review every four-and-a-half years.

⁴ Human Rights Watch, “China: Events of 2015,” World Report 2016, <https://www.hrw.org/world-report/2016/country-chapters/china-and-tibet> (see also reports for 2013-2014); Amnesty International, “China 2015/2016,” The State of the World’s Human Rights 2015/16, February 2016, <https://www.amnesty.org/en/countries/asia-and-the-pacific/china/report-china/> (see also reports for 2013-2014); European Union Parliament, Motion for a European Parliament Resolution on EU-China Relations, 2015/2003(INI), December 16, 2015, paras. 49-62, <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2015-0458>; UK Conservative Party Human Rights Commission, “The Darkest Moment: The Crackdown on Human Rights in China, 2013-16,” June 2016, http://www.conservativehumanrights.com/reports/submissions/CPHRC_China_Human_Rights_Report_Final.pdf; US State Department, “Country Reports on Human Rights Practices for 2015: China (Includes Tibet, Hong Kong, and Macau),” Bureau of Democracy, Human Rights and Labor, 2015, <https://www.state.gov/j/drl/rls/hrrpt/2015/eap/252757.htm>, (see also reports for 2013-2014); Congressional-Executive Commission on China, 2016 Annual Report, October 6, 2016, <https://www.cecc.gov/sites/chinacommission.house.gov/files/2016%20Annual%20Report.pdf> (see also reports for 2013-2015).

⁵ A total of 55 States submitted reports in relation to recommendations put forward during the first cycle of the UPR, 18 States submitted reports in relation to recommendations put forward during the second cycle, and 10 States submitted reports in relation to recommendations put forward during both cycles. UN Office of the High Commissioner for Human Rights (OHCHR), UPR Mid-Term Reports, <http://ohchr.org/EN/HRBodies/UPR/Pages/UPRIImplementation.aspx>.

⁶ OHCHR, “Deadly reprisals: UN experts deplore the events leading to the death of Chinese human rights defender Cao Shunli, and ask for full investigation,” March 18, 2013, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14394>; CHR, “Cao Shunli (曹顺利) & Her Legacy,” <https://www.nchrd.org/2014/04/prisoner-of-conscience-cao-shunli/>.

⁷ UN General Assembly, Resolution 60/251- Human Rights Council (created UPR), A/RES/60/251, March 15, 2006, <http://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx>.

⁸ See HRC website for a list of current members: <http://ohchr.org/EN/HRBodies/HRC/Pages/CurrentMembers.aspx>.

⁹ *People’s Daily*, “Excerpts of Speeches from NHRAP (2012-15) Implementation Evaluation Concluding Conference” (《国家人权行动计划（2012—2015年）》实施评估总结会议发言摘登) June 16, 2016, <http://politics.people.com.cn/n1/2016/0616/c1001-28448543.html>.

¹⁰ See HRC website for membership qualifications: <http://ohchr.org/EN/HRBodies/HRC/Pages/Membership.aspx>.

¹¹ HRC, “Report of the Working Group on the Universal Periodic Review, China (including Hong Kong, China and Macao, China).”

¹² See: OHCHR, Universal Periodic Review, <http://ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>; UN General Assembly, Resolution 60/251- Human Rights Council (created UPR).

¹³ The government releases its own assessments of the National Human Rights Actions Plans, but independent assessment shows a different picture. See for example, Information Office of the State Council, “Assessment Report on the National Human Rights Action Plan of China (2009-2010),” July 2011, <http://www.china-un.ch/eng/rqrd/jblc/t953970.htm> in comparison to: Human Rights Watch, “Promises Unfulfilled An Assessment of China’s National Human Rights Action Plan,” January 2011, <https://www.hrw.org/report/2011/01/11/promises-unfulfilled/assessment-chinas-national-human-rights-action-plan>.