

Chapter 1. Cooperation with UN Human Rights Bodies

By CHRD

1.1. Acceding to Core UN Human Rights Instruments

1. Since the 2013 UPR, China has not signed or ratified any new human rights treaties and relevant optional protocols, including those specifically recommended by UN Member States. Of particular importance, given the large number of States' recommendations made during UPR, is China's continued refusal to ratify the International Covenant on Civil and Political Rights (ICCPR), which it signed in 1998. China has also not set out a clear legislative timetable for ratifying the ICCPR.¹
2. Despite "accepting" over half of the relevant recommendations, China has made no progress in signing or ratifying these specific treaties or optional protocols:
 - *Optional Protocol to the ICCPR;*
 - *Second Optional Protocol to the ICCPR (aimed at the abolition of the death penalty);*
 - *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;*
 - *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;*
 - *Optional Protocol to the Convention on the Rights of the Child on a communications procedure;*
 - *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;*
 - *International Convention for the Protection of all Persons from Enforced Disappearance;*
 - *Optional Protocol to the Convention on the Rights of Persons with Disabilities.*²
3. China rejected outright Estonia's recommendation (186.20) to accede to the Rome Statute of the International Criminal Court, though it accepted recommendations that called for China to "explore the option" and "consider the possibility" of doing so.³ Yet, there has been no visible action in implementing these recommendations.
4. This lack of progress in acceding to core human rights instruments demonstrates China's resistance to governing its behavior according to international human rights standards. It epitomizes China's non-cooperation with the UN human rights system.
5. In another indication of China's non-cooperation, the government has also ignored several UN human rights treaty bodies' repeated recommendations urging China to sign and ratify treaties and Optional Protocols since 2013:
 - In October 2013, the Committee on Rights of the Child (CRC) recommended that China "ratify the core human rights instruments to which it is not yet a party, particularly the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the International Covenant on Civil and Political Rights, the International Convention for the Protection of All

Persons from Enforced Disappearances and the International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families.”⁴

- In June 2014, the Committee on Economic, Social and Cultural Rights (CESCR) recommended China sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and “encouraged” the government “to ratify the International Covenant on Civil and Political Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of all Persons from Enforced Disappearance, as well as International Labour Organization (ILO) Convention No. 189 (2011) concerning decent work for domestic workers.”⁵
 - In November 2014, the Committee on the Elimination of Discrimination against Women (CEDAW) “encourage[d] the State party to ratify CEDAW Optional Protocol and consider acceding to the International Covenant on Civil and Political Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.”⁶
 - In December 2015, the Committee Against Torture (CAT) recommended China consider “acceding to the Second Optional Protocol of the International Covenant on Civil and Political Rights,” “encourage[d]” it “to consider making the declaration under Articles 21 and 22 of the Convention,” and repeated its recommendation that it “consider withdrawing its reservations and declarations to the Convention.”⁷
 - In August 2018, the Committee on the Elimination of Racial Discrimination (CERD) urged China “to consider ratifying those international human rights instruments that it has not yet ratified, including the International Covenant on Civil and Political Rights, the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and ILO Conventions No. 81 on Labor Inspections, No. 143 on Migrant Workers, No. 169 on Indigenous Peoples and No. 189 on Domestic Workers.”⁸
6. In China’s own assessment of its implementation of the National Human Rights Action Plan (2012-15), the government simply pointed to its participation (i.e., submitting state reports and attending dialogues) in treaty body reviews as “evidence” of its “implementation of international treaty obligations” between 2012 and 2015.⁹

1.2. National Human Rights Institution & National Human Rights Action Plans

Non-existing independent national human rights institution

1. China has continued to disregard the Paris Principles, which call for UN Member States to establish independent National Human Rights Institutions (NHRI).¹⁰ The government has not established any independent National Human Rights Institution.
2. In rejecting New Zealand and Tunisia’s recommendation (186.59), China stated that: “[M]any government agencies in China assume and share similar responsibilities. The issue of establishing a national human rights institution falls into China’s sovereignty, and should be considered in a holistic manner in accordance with its national conditions.”¹¹ We have two responses to this position:

- Government agencies in China do not “assume and share similar responsibilities” of NHRIs based on the Paris Principles. This is because these agencies are not independent from the government; they are run or controlled by the government. The Paris Principles requires “guarantees of independence” of NHRIs—that they be established “by powers which will enable effective cooperation to be established with, or through the presence of, representatives of,” among other things, “[n]on-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists.”¹² No Chinese government agency currently meets this requirement of the Paris Principles.
 - To insist that establishing an NHRI “falls under China’s sovereignty,” China has rejected the Paris Principles themselves. By requiring that Member States establish independent national human rights institutions, the Paris Principles, in China’s view, have interfered in States’ sovereignty. This response reveals that China continues to put its national sovereignty above human rights and the international consensus on the need for an independent NHRI.
3. In August 2018, CERD raised concern about the absence of an NHRI, and recommended that China establish an independent national human rights institution in accordance with the Paris Principles.¹³ CERD’s recommendation is in line with similar concerns raised in May 2014 by CESCR¹⁴ and November 2014 by CEDAW, which recommended China “establish, within a clear time frame, an independent national human rights institution...in accordance with the Paris Principles.”¹⁵

Civil society participation excluded in national human rights action plans

4. In June 2016, China issued an assessment of its second National Human Rights Action Plan (NHRAP) (2012-15).¹⁶ However, in this process, the government completely excluded non-governmental organizations and members of civil society.
5. Two of the recommendations concerning NHRAPs are poorly worded. Azerbaijan (186.34) asked China to “continue the successful implementation” of the NHRAP for 2012-2015, which problematically presupposes yet-to-be demonstrated “success.” Indonesia (36) made similarly problematic assumptions about China’s “progressive efforts and measures to implement the second NHRAP” and asked it to “continue” such efforts, despite the absence of any clear demonstration that these efforts have been made.¹⁷
6. China may have allowed some government-run “non-governmental organizations” (GONGOs) and state academic institutions to be involved in the drafting and evaluation of the 2012-15 NHRAP. However, according to local activists, the government did not hold open consultations with NGOs and the public.¹⁸ From the drafting to the evaluation of its implementation, everything involving the NHRAP was conducted virtually in a “black box.” Chinese human rights defenders who requested information regarding participation of independent experts or NGOs, concrete information about the substance of “actions” accomplished, or tried to submit their input during the drafting or evaluation of the NHRAP, have either been blocked by officials or faced police harassment and suffered reprisals.¹⁹ (See also Section 2.7.)
7. On June 14, 2016, the Chinese government held a conference to publicize its own “evaluation” of its implementation of the 2012-15 NHRAP. Government agencies, GONGOs, state-run universities and other academic institutions attended the conference, and some Western diplomats were also invited.²⁰ Missing at the conference were any truly independent NGOs, legal scholars and lawyers, or human

rights activists. The government concluded, following its own close-door “evaluation,” that “every measure” of the NHRAP “has been effectively implemented.”²¹ However, authorities said nothing about how the NHRAP goals were implemented, or how the evaluation results were measured, nor even what the specific targets were. The available state media reports provided no specific facts or data to back up the government’s vague and generalized conclusion, except one slightly more-detailed account appearing in the state-run *People’s Daily*; but the few numbers and examples mentioned in this media report only raise further questions about the lack of transparency.²²

8. More seriously, no available state media reports about the government’s conclusions from the evaluation included any critical or independent commentaries from non-government actors or civil society representatives. An independent and critical assessment of the NHRAP’s implementation by Chinese civil society groups has become practically impossible. Such groups have come under unprecedented assault by the Xi Jinping government and many civil society organizations have been forced to shut down.²³ CERD raised concern in its August 2018 Concluding Observations over reports that the number of NGOs in China “has decreased tremendously in the past few years.”²⁴ (See also Section 2.6)
9. One example of the government’s self-evaluation glossing over serious problems in implementing the 2012-15 NHRAP involves the issue of prolonged pretrial detention. The government claimed that it has “guaranteed the right of the accused to obtain rapid trial and sentencing.”²⁵ However, prolonged pre-trial detention has become an entrenched problem in recent years. Authorities held several human rights defenders in pre-trial detention for more than two years during this period.²⁶ Also, the government claims that it has “improved the state compensation system, guaranteeing the legitimate rights of applicants for compensation.”²⁷ This claim is problematic according to a civil society report that documented the lack of fair procedures for obtaining state compensation, and the obstacles faced and systematic denial of compensation to victims of torture and other rights abuses.²⁸
10. We acknowledge that the government took some legislative actions as proposed in the NHRAP—such as the adoption of the Mental Health Law and Anti-Domestic Violence Law. Some of the new laws and regulations, however, do not meet international human rights standards.²⁹

1.3. Engagement with Special Procedures & Treaty Bodies

1. We have examined China’s cooperation with UN mechanisms by looking at several indicators: country visits by Special Procedures (SP), concrete data requested by Treaty Bodies (TBs), and responses to SP communiqués, inquiries and recommendations for remedial measures. China has systematically denied visits by Treaty Bodies (TBs) by expressing reservations about relevant articles in treaties that it ratified, or by refusing to accede to Optional Protocols that require State parties to receive visits from TB committee members. In short, we find that China has a poor record in engaging with UN human rights mechanisms in a constructive and cooperative fashion. While China accepted the majority of the recommendations in this section, it only partially implemented one: Ecuador’s recommendation (186.68) to “consider the possibility” of inviting special procedures to visit China.³⁰ China’s behavior does not lend itself to the presumptions made by several states in recommending China “continue” its “constructive” cooperation with UN human rights mechanisms.³¹

Most requests from SPs for country visits are ignored or delayed

2. Since the 2013 UPR, China has not assented to Special Procedures’ visits to specific regions in China, including Tibetan and Uyghur areas, nor has not it taken the necessary concrete steps to facilitate a visit by the UN High Commissioner for Human Rights. China has not invited the UN Commission of

Inquiry on Human Rights in the Democratic People's Republic of Korea to visit Northeast China to meet officials and North Korean refugees, and thus has not implemented Canada's recommendation (66).

3. In not accepting Canada's recommendation, China stated that its rejection is based on China's opposition to "politicizing human rights issues" and it "disapproves exerting pressure on a country in the name of human rights, and does not support establishing a UN Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea." In this statement, China demonstrates opposition to Human Rights Council (HRC) resolution 16/21, which called on Member States to cooperate with the Special Procedures.³² As a member of the HRC during this time, it displays a particular lack of cooperation that the government of China is preventing SPs from fulfilling their role to enhance the Human Rights Council's capacity to address human rights situations in all UN Member States, including on country-specific issues.
4. China still has not joined the 118 UN Member States that have extended "standing invitations" to all thematic Special Procedures and the government rejected recommendations from Hungary and Latvia (70) and Australia (72) to do so.³³ The Chinese government has not extended invitations to the majority of the multiple mandate holders who made requests, in some cases repeatedly, to visit China in the past decade.³⁴
5. Two mandate holders have been invited, but China has not facilitated the visits, and they consequently have not taken place at the time of writing:
 - The Special Rapporteur on Freedom of Religion or Belief: No visit has taken place, though the SR received an invitation following a request made in 2003; and
 - Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health: No visit has taken place, though the SR received an invitation in second half of 2015.
6. In the past five years, only three SP mandate holders have visited China:
 - Working Group on the Issue of Discrimination against Women in Law and in Practice, visited December 12-19, 2013³⁵;
 - Independent Expert on the Effects of Foreign Debt and Other Related International Financial Obligations of States on the Full Enjoyment of All Human Rights, particularly economic, social and cultural rights, visited June 29-July 6, 2015³⁶; and
 - Special Rapporteur on Extreme Poverty and Human Rights, in August 15-23, 2016—11 years after the request was made in 2005.³⁷
7. In stating its opposition to recommendations asking China to extend "standing invitations" to SPs, China cited "its national conditions" but at the same time has claimed that the visits that China received "have produced good overall results."³⁸ However, the SR on Extreme Poverty and Human Rights, Philip Alston, told reporters at the end of his nine-day visit that the Chinese government interfered with his work by blocking access to individuals whom he had hoped to meet.³⁹ One human rights defender that met with Alston, lawyer Jiang Tianyong, was later convicted of "inciting subversion of state power" and sentenced to two years in prison.⁴⁰

8. Since the 2013 UPR, all of the Special Procedures mandate holders that visited have been related to social and economic rights, which means that China has only *partially implemented* the UPR recommendation made by Ecuador (68) that China take into account “the appropriate balance between economic, social and cultural rights and civil and political rights.” There are 17 outstanding requests from SPs to visit China, the majority of which focus on civil and political rights.⁴¹

Lack of substantive responses to SP communiqués & concrete data for TB reviews

9. From November 2013 to September 2018, China responded to just over 70 percent of communiqués sent to the government by Special Procedures.⁴² Sources familiar with the communiqués say China has in recent years been responsive to SPs’ inquiries.⁴³ However, China’s responses to SPs’ communiqués are usually not substantive or informative; the government tends to shed very little light on the individual cases in response to inquiries by SPs, and often just briefly repeats police accusations against the suspects or quotes directly from court verdicts.
10. For instance, in March 2018, the Working Group on Arbitrary Detention and the special rapporteurs on freedom of expression and on human rights defenders sent a “joint urgent action” to the Chinese government, raising concerns about the detention on human rights lawyer Yu Wensheng:

“Serious concern is expressed over the alleged arbitrary arrest, incommunicado detention and charges against Mr. Yu Wensheng for reasons that appear to be connected with his work as a human rights lawyer and with his exercise of the right to freedom of expression. We recall the importance of the activities of those in the legal profession as they pertain to the protection of human rights defenders and human rights overall.

The use of the measure of “residential surveillance at a designated location” by authorities also raises serious concerns over the treatment of Mr. Yu Wensheng, along with the conditions he is being kept in. Concern is similarly expressed over the lack of the guarantees of due process, including Mr. Yu Wensheng’s alleged lack of access to legal counsel and family members, due to the effects this may have on his ability to mount an effective defence to the charges which may potentially be levelled against him.”⁴⁴

11. In its very brief response, the government simply stated:

“Yu Wensheng is a male Chinese citizen from Beijing, born in 1967. On 20 January 2018 he was placed in criminal detention by the public security authorities, in accordance with the law, on suspicion of obstructing State personnel from discharging their duties. On 27 January, the public security authorities, in accordance with the law, converted the coercive measures into house arrest [residential surveillance at a designate location] and provided his family with written notification. The case is currently pending.”⁴⁵

12. This example, which is typical of the Chinese government’s responses, illustrates China’s lack of constructive cooperation with SPs despite its comparatively higher rate of replies. We suggest that a higher rate of responses to SPs’ communiques should not be a criterion for assessing “constructive cooperation” with SPs. Instead, the *quality* of responses is far more significant. More specifically, the quality of government responses can be assessed by the amount of useful and relevant information provided by the State and the government’s own willingness to handle the cases, or provide remedies if needed, strictly according to international human rights standards.
13. At the same time, China has continued to resist providing concrete data and specific information requested by treaty bodies in relevant lists of issues.⁴⁶ This lack of cooperation violates specific

articles in human rights treaties that China has ratified. Repeatedly, following reviews of China, treaty bodies have urged in their “Concluding Observations” that China provide numerical data, disaggregated statistics, and substantive details to assist their reviews of China’s implementation of its treaty obligations.⁴⁷

14. Without exception since 2013, all the treaty bodies that reviewed China have been forced to repeat their requests for disaggregated data and concrete information due to the government’s non-compliance:

- In concluding its 2013 review, CRC stated that it “reiterates its concern about the limited public accessibility to reliable and comprehensive statistical data in mainland China in all areas covered by the Convention (CRC/C/CHN/CO/2, para. 22). It is particularly concerned that due to laws and regulations on guarding State secrets in mainland China, disaggregated data and important statistics critical for effective implementation and monitoring of the Convention are often not available in the State party.”⁴⁸ CRC said it “recommends that the State party review the secrecy laws and regulations in mainland China in order to ensure that information concerning children, ... is systematically collected, made publicly available and discussed and used for the development of policies and plans on children’s rights. In this regard, the Committee further recommends that the State party establish in mainland China an independent review mechanism for the classification of State secrets.”⁴⁹
- In concluding its 2014 review, CESCR “notes the absence of reliable statistics that would allow for an accurate assessment of the fulfilment of economic, social and cultural rights in the State party,” and “urges the State party, ... to develop systematic data collection and the production and use of statistics for human rights indicators, including for economic, social and cultural rights based upon such data... The Committee requests the State party to include in its next periodic report statistical data on the enjoyment of each Covenant right, disaggregated by age, sex, ethnic origin, urban/rural population and other relevant status on an annual comparative basis.”⁵⁰
- In concluding its 2014 review, CEDAW said it was “concerned that some critical information required to assess the status of women is classified as a State secret under various security regulations, which unduly restricts access to information on women’s rights issues. The Committee is further concerned that the system of data collection and sharing remains too weak to enable adequate monitoring and evaluation of the implementation of the Convention,” and CEDAW “recommends that the State party study the obstacles, including the impediments presented by the State party’s State secret law, to the collection, sharing and dissemination of sex-disaggregated data so that the impact and effectiveness of policies and programmes aimed at mainstreaming gender equality and advancing women’s human rights can be accessed by all stakeholders.”⁵¹
- In concluding its 2015 review, CAT said it “remains concerned at the use of State secrecy provisions to avoid the availability of information about torture, criminal justice and related issues. While appreciating the State party’s assertion that “information regarding torture does not fall within the scope of State secrets”, the Committee expresses concern at the State party’s failure to provide a substantial amount of data requested by the Committee in the list of issues and during the dialogue. In the absence of the information requested, the Committee finds itself unable to fully assess the State party’s actions in the light of the provisions the Convention.” CAT further “call[ed] for the declassification of information related to torture, in particular, information about the whereabouts and state of health of detained persons whose cases fall under the scope of the State Secrets Law.”⁵²

- In concluding its 2018 review, CERD made multiple requests for statistics and data, including on: complaints related to racial discrimination, ethnicity of individuals stopped by law enforcement, extralegal detention in Xinjiang, convictions and sentences on charges of terrorism and separatism, employment rates and labor inspections, victims of trafficking and investigations conducted, racist hate speech, poverty rate statistics, and health indicators.⁵³

15. The Chinese government's secretiveness with information necessary for TB reviews is not accidental. China has been methodically non-transparent when it comes to treaty bodies' periodic reviews. It took reservations on articles in treaties authorizing TBs to conduct country visits or receive individual cases; it does not recognize some TBs' competence, and it has refused to join almost all the optional protocols associated with the six major human rights treaties that China ratified. China's systemic refusal to provide detailed information has seriously undermined TBs' role in examining China's genuine compliance with its treaty obligations and in promoting the realization of specific human rights that the government has obligations to protect.

Lack of remedial measures as recommended by SPs & TBs

16. UN Member States' cooperation with Special Procedures can also be assessed by the remedial measures States take to address issues that SPs have considered to be violations of international human rights standards. Such remedial measures include providing remedies to victims of human rights violations and amending laws to make them fully comply with international human rights treaties that China has ratified.
17. In most cases, when SPs have jointly issued statements about serious rights abuses in China, the government has responded with strident defiance. Just as one example, on August 11, 2016, the spokesperson for the Chinese Ministry of Foreign Affairs dismissed a joint SP statement concerning reports that jailed activist Yang Maodong (aka Guo Feixiong) was being deprived of proper medical treatment, stating that the statement was based on "false information," contained "irresponsible speech," and constituted "rude intervention" in "China's internal politics and judicial sovereignty."⁵⁴
18. One example of China's inaction in taking remedial measures is, since China underwent its first UPR in 2009, it has refused to take any of the remedial actions recommended by the Working Group on Arbitrary Detention (WGAD). Since 2009, the WGAD has issued "opinions" on 31 individual cases that it declared involved "arbitrary detention or arrest" and asked the Chinese government to "immediately and unconditionally" release the detainees or prisoners and provide state compensation. Most of these individuals remain in prison or in detention, under house arrest or residential surveillance, except a few who were released after serving their sentence. (See: Annex 3. Updates on 31 Cases of Arbitrary Detention Based on UN WGAD Opinions (2009-2018).)⁵⁵
19. China has also taken little action in implement treaty bodies' recommendations. This problem is discussed above in the context of TBs' repeated requests for disaggregated data and concrete information. Some TB recommendations have been made repeatedly in consecutive "Concluding Observations" of periodic reviews on China, indicating an ongoing lack of action on the part of the Chinese government to implement these recommendations.
20. For instance, in its 2015 Concluding Observations, CAT recalled its previous recommendation in 2008 and again urged China to ensure that all allegations of excessive use of force, torture and other ill-treatment perpetrated by State officials during the suppression of protestors in 1989 be effectively investigated by an independent authority and that perpetrators are prosecuted.⁵⁶ In 2008, CAT asked China to remove the main obstacles to the effective implementation of the Convention, including the

1988 Law on the Preservation of State Secrets and the harassment of lawyers and human rights defenders. In the following review in 2015, CAT repeated this request in the Concluding Observations, where the Committee also went as far as to request China specifically follow up, within one year, on this recommendation.⁵⁷ To date, China has continued to ignore the Committee's recommendations on these issues. (See Section 2.9)

21. It is common for treaty bodies to be forced to repeat recommendations in subsequent reviews of China's compliance with international conventions. In another example, in 2014, CESCR reiterated its previous recommendation from 2005 and called upon China "to strengthen its efforts to abolish the household registration system (*hukou*) and to ensure that all rural-to-urban migrants are able to enjoy the work opportunities, as well as social security, housing, health and education benefits, enjoyed by residents in urban areas."⁵⁸ Again, to date, the government has not implemented this recommendation.

¹ All the 2013 UPR recommendations to China by states cited in this report are based on UN Human Rights Council, "Report of the Working Group on Universal Periodic Review: China," A/HRC/25/5, December 4, 2013; All the statements of China's positions on the 2013 UPR recommendations are based on 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.

² See Chart disclosing the status of ratifications of human rights treaties on the right-side bar of the webpage of the UN Office of the High Commissioner for Human Rights, "Treaty Bodies," <http://ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>.

³ We have labelled the following recommendations as "poor" (186.3 – Cape Verde, 24 – Egypt, 25 – Ghana, 26 – Guatemala, 27 – Latvia, 29 – Seychelles, 30 – Uruguay, 31 – Uruguay, 32 – Zambia, 67 – Syria). It is impossible (or at least impractical) for us to assess whether China has "considered" (as several States recommended) ratifying or signing any of these treaties or optional protocols. A principal reason for this is that the Chinese government has intensified suppression on freedom of information and treats such information as tantamount to "state secrets."

⁴ Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of China, adopted by the Committee at its sixty-fourth session, CRC/C/CHN/CO/3-4, October 2013, para. 97.

⁵ 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/CO/2, June 2014, paras. 62, 63.

⁶ Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of China, November 2014, CEDAW/C/CHN/CO/7-8, paras. 11(c) and 77.

⁷ Committee against Torture, Concluding observations on the fifth periodic report of China, CAT/C/CHN/CO/5, February 2016, paras. 50, 62 & 64.

⁸ Committee on the Elimination of Racial Discrimination, Concluding Observations on the combined fourteenth to seventeenth periodic reports of China including Hong Kong, China and Macao, China, August 30, 2018, CERD/C/CHN/CO/14-17, para. 54.

⁹ 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. VI, http://english.gov.cn/archive/white_paper/2016/06/15/content_281475372197438.htm.

¹⁰ UN General Assembly, "Principles relating to the Status of National Institutions (The Paris Principles)," Resolution 48/134, 1993, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>.

¹¹ 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.

¹² Ibid.

¹³ Committee on the Elimination of Racial Discrimination, Concluding Observations on the combined fourteenth to seventeenth periodic reports of China including Hong Kong, China and Macao, China, August 30, 2018, CERD/C/CHN/CO/14-17, paras. 9-10.

¹⁴ 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/CO/2, June 2014, para. 8.

¹⁵ Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of China, November 2014, CEDAW/C/CHN/CO/7-8, paras. 16-17.

¹⁶ Information Office of the State Council, Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012-2015), June 2016, http://english.gov.cn/archive/white_paper/2016/06/15/content_281475372197438.htm.

¹⁷ We also consider other recommendations assessed in this section to be “poor.” For instance, Zambia (186.32) recommended that China “consider” establishing a NHRI, and Thailand (57) asked China to “look into the possibility of” doing so. It is difficult to assess whether the government has “considered” or “looked into the possibility” of doing so, due in part to the lack of government transparency. Qatar (58) asked China to “continue efforts in theoretical research.” This recommendation is poor because it did not ask China to undertake any concrete actions relevant to a specific human rights goal.

¹⁸ We held several direct consultations with Chinese NGOs and individual human rights defenders in 2016. All the people we spoke with had no knowledge of public or civil society participation in the NHRAP process. CHRDR interviews 2016.

¹⁹ See, for instance, the case of Cao Shunli. CHRDR, Cao Shunli (曹顺利) & Her Legacy, <https://www.nchrd.org/2014/04/prisoner-of-conscience-cao-shunli/>.

²⁰ Xinhua News Agency, “National Human Rights Action Plan (2012-15) Implementation Evaluation Concluding Conference Held in Beijing” (国家人权行动计划(2012—2015年)实施评估总结会议在京召开) June 14, 2016 http://www.gov.cn/xinwen/2016-06/14/content_5082040.htm.

²¹ The government declared that “major objectives and tasks [of NHRAP] have been realized in a timely fashion”; and “48% of the binding targets and more than 50% of targets that involved people’s livelihood have been reached ahead of schedule or over-fulfilled.” *Ibid.*

²² *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要) June 16, 2016, <http://politics.people.com.cn/n1/2016/0616/c1001-28448543.html>.

²³ See 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.nchrd.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.nchrd.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.nchrd.org/2016/02/too-risky-to-call-ourselves-defenders-chrdrs-2015-annual-report-on-the-situation-of-human-rights-defenders-in-china/>.

²⁴ Committee on the Elimination of Racial Discrimination, Concluding Observations on the combined fourteenth to seventeenth periodic reports of China including Hong Kong, China and Macao, China, August 30, 2018, CERD/C/CHN/CO/14-17, para. 32

²⁵ *People’s Daily*, “Excerpts of Speeches from NHRAP (2012-15) Implementation Evaluation Concluding Conference.”

²⁶ For example, activist Huang Wenxun (黄文勋) spent three years without a trial, before being convicted and sentenced to five years in prison. CHRDR, Portrait of a Defender – Huang Wenxun, <https://www.nchrd.org/2014/01/prisoner-of-conscience-huang-wenxun/>; Lawyer Xia Lin (夏霖) spent 19 months before his first trial took place, before he received a 12-year prison sentence. CHRDR, Portrait of a Defender – Xia Lin, <https://www.nchrd.org/2015/02/prisoner-of-conscience-xia-lin/>.

²⁷ *People’s Daily*, “Excerpts of Speeches from NHRAP (2012-15) Implementation Evaluation Concluding Conference.”

²⁸ CHRDR, Joint Civil Society Report Submitted to UN Committee against Torture, October 2015, paras. 100-110, <https://www.nchrd.org/2015/11/joint-civil-society-report-submitted-to-un-committee-against-torture-october-2015>.

²⁹ For instance, the 2013 Mental Health Law does not guarantee the rights of persons with disability in accordance with international human rights law, as Brazil recommended China to do (186.100). See Sections 2.4 and 3.4.

³⁰ We consider this recommendation to be “poor,” because it is impossible to assess whether the government has “considered” doing this due to lack of government transparency.

³¹ Azerbaijan problematically recommended China “continue” what it has not engaged in— “constructive and cooperative dialogue with the UN human rights system” (186.63). Kenya (64) and Nigeria (65) made similarly *poor* recommendations.

³² HRC resolution 16/21 reaffirmed the obligation of States to cooperate with the Special Procedures. It also reaffirmed the principles of cooperation, transparency and accountability and the role of the system of Special Procedures in enhancing the capacity of the Human Rights Council to address human rights situations. UN Human Rights Council, Resolution 16/21 - Review of the work and functioning of the Human Rights Council, A/HRC/RES/16/21, April 2011.

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- ³³ As of September 25, 2018, 118 Member States and 1 non-Member Observer State have extended standing invitations to thematic special procedures. UN Human Rights Office of the High Commissioner for Human Rights (OHCHR), Standing Invitations, <http://spinternet.ohchr.org/Layouts/SpecialProceduresInternet/StandingInvitations.aspx>.
- ³⁴ Click on the China flag symbol to see a list of SPs' requests and reminders. OHCHR, View Country visits of Special Procedures of the Human Rights Council since 1998, <http://spinternet.ohchr.org/Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en>.
- ³⁵ UN Human Rights Council, "Report of the Working Group on the issue of discrimination against women in law and in practice - Mission to China," A/HRC/26/39/Add.2., June 2014.
- ³⁶ UN Human Rights Council, "Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights on his mission to China," A/HRC/60/31/Add.1, March 2016.
- ³⁷ 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>.
- ³⁸ 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 2014.
- ³⁹ Ben Blanchard, "U.N. rights envoy says Chinese authorities interfered with his work," *Reuters*, August 23, 2016, <http://uk.reuters.com/article/uk-china-un-rights-idUKKCN10Y186>.
- ⁴⁰ CHRD, Portrait of a Defender – Jiang Tianyong, <https://www.nchrd.org/2017/02/jiang-tianyong/>; OHCHR, "China: UN experts condemn jailing of human rights lawyer Jiang Tianyong," November 23, 2017, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=22437>.
- ⁴¹ As of September 25, 2018. The outstanding visits are from: 1) SR on freedom of religion (requested & accepted 2003, reminder 2005), 2) SR on extrajudicial, summary or arbitrary executions (requested 2005, reminder 2008, 2009), 3) SR on human rights defenders (requested 2005, reminder 2008, 2015), 4) SR on toxic waste (requested 2005, reminder 2014, 2017, 2018), 5) SR on housing (requested 2008, reminder 2014, 2015), 6) SR on minority issues (requested 2009, reminder 2009, 2010, 2015, 2018), 7) SR on water and sanitation (requested 2010, reminder 2013), 8) SR on freedom of assembly (requested 2011, reminder 2013, 2017), 9) SR on independence of judges (requested 2011, reminder 2013, 2014, 2015), 10) WG on disappearances (requested 2013, reminder 2013, 2014, 2018), 11) SR on health (requested & accepted 2015), 12) SR on torture (requested 2015, reminder 2017), 13) SR on freedom of expression (requested 2015, reminder 2018), 14) SR on privacy (requested 2016), 15) WG on business enterprises (requested 2017), 16) SR on human rights and counter terrorism (requested 2017), 17) WG on people of African Descent (requested 2017). See: OHCHR, Country visits of Special Procedures of the Human Rights Council since 1998, <http://spinternet.ohchr.org/Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en>.
- ⁴² SPs sent 60 communications to the Chinese government since November 1, 2013, of which China replied to 43, a reply rate of 72%. See, OHCHR, Communication report and search, <https://spcommreports.ohchr.org/>. The average reply rate among UN Member States for 2017 was 68%.
- ⁴³ CHRD interviews 2015, 2016.
- ⁴⁴ Special Procedures Communication Database, Communication from Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders – Yu Wensheng, March 6, 2018, China, JUA, CHN 5/2018, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23655>.
- ⁴⁵ Special Procedures Communication Database, translated reply from the Chinese government, March 15, 2018, <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=84626>.
- ⁴⁶ This lack of cooperation precedes the 2013 UPR. In concluding its 2009 review, the Committee on the Elimination of Racial Discrimination (CERD) stated that it "regrets that the State party did not provide more detailed information on illiteracy among different minority groups and the measures taken by the State party to target those groups that are most affected," and "notes the lack of information on complaints of racial discrimination and the absence of court cases regarding racial discrimination," which constitutes a failure to observe Articles 6 and 4 of the treaty. Committee on the Elimination of Racial Discrimination, Concluding observations on the tenth to thirteenth periodic reports of China, CERD/C/CHN/CO/10-13, September 2009, paras. 23, 26.
- ⁴⁷ This lack of cooperation precedes the 2013 UPR. For example, the Committee on the Rights of Persons with Disabilities (CRPD), in concluding its 2012 review, noted China's lack of compliance to Article 31 of the treaty and that it "takes note that disaggregated appropriate information, including statistical and research data which enables the state party to formulate and implement policies to give effect to the Convention is often not available due to laws and regulations on guarding state's secrets as revised in 2010. CRPD "recommends [China] to review the secrecy laws and appropriately revise them so that information on

issues and problems regarding the implementation of the Convention – e.g. the number of sterilized women with disabilities or the number of involuntary commitments to institutions- can be publicly discussed. The Committee reminds the state party that this information should be accessible to persons with disabilities.” Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of China, CRPD/C/CHN/CO/1, October 2012, paras. 47, 48.

⁴⁸ 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. 15-16,

⁴⁹ *Ibid.*, paras. 15-16,

⁵⁰ Committee on Economic, Social, and Cultural Rights (CESCR), Concluding observations on the second periodic report of China, E/C.12/CHN/CO/2, June 2014 para. 61.

⁵¹ Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of China, CEDAW/C/CHN/CO/7-8, November 2014, paras. 20-21

⁵² Committee against Torture (CAT), Concluding observations on the fifth periodic report of China, CAT/C/CHN/CO/5, February 2016, paras. 30-31.

⁵³ Committee on the Elimination of Racial Discrimination, Concluding Observations on the combined fourteenth to seventeenth periodic reports of China including Hong Kong, China and Macao, China, August 30, 2018, CERD/C/CHN/CO/14-17.

⁵⁴ *Xinhua News Agency*, “Ministry of Foreign Affairs: Resolutely Oppose UN HRC Special Procedures Expressing Irresponsible Speech Involving China” (外交部：坚决反对联合国人权理事会特别机制发表的不负责任的涉华言论) August 11, 2016, <http://m.apdnews.com/XinHuaNews/465370.html>.

⁵⁵ The chart is based on data provided by the UN WGAD (unless referenced otherwise). UN Working Group on Arbitrary Detention, Opinions adopted by the Working Group on Arbitrary Detention, 1992-present, <http://www.ohchr.org/EN/Issues/Detention/Pages/OpinionsadoptedbytheWGAD.aspx>.

⁵⁶ See CAT, Concluding observations on the fourth periodic report of China, CAT/C/CHN/CO/4, December 2008, para. 21 and CAT, Concluding observations on the fifth periodic report of China, para. 54.

⁵⁷ See CAT, Concluding observations on the fourth periodic report of China, paras. 15 and 44, and CAT, Concluding observations on the fifth periodic report of China, paras. 6, 31, 36, 37.

⁵⁸ See CSECR, Concluding observations on the first periodic report of China, E/C.12/1/Add.107, May 2005, para. 46. and CESCR, Concluding observations on the second periodic report of China, para. 15.