

Chapter 3: Economic & Social Rights

3.1 Women's Rights in China

By Women's Rights Monitor, Anti-Discrimination Legal Aid Group, and CHRD

1. The Chinese government has made public pledges and taken some steps in legislation to protect women's rights and promote gender equality. In its bid for membership on the Human Rights Council in 2013, the government promised to eliminate gender discrimination in employment.¹ 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.² 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 concrete actions to reach the target.³ The World Economic Forum's Global Gender Gap Report in 2017 ranked China 100th in terms of gender inequality among 144 countries (1 = full equality).⁴
2. In this report, we assess the implementation of the 2013 UPR recommendations concerning women's rights, i.e., 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).⁵ China accepted all 11 recommendations and claimed that 5 of them had already been implemented (186.88, 92, 96, 97 & 98) and one of them was being implemented (186.177). We also report on concerning developments in the situation of women's rights in China since the 2013 UPR.

Weak laws & lack of effective measures to combat employment discrimination

3. China's legal framework for protecting women's right to equal pay for equal employment remains inadequate, and measures to effectively implement these laws have fallen far short. In responding to Bolivia (186.92) and Iceland's (186.177) 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.
4. In the Chinese Constitution, there is a provision 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.
5. The World Economic Forum's 2017 Gender Gap Report found that women in China earn 64 percent of what men earn, showing a small decrease in wage equality for similar work.⁸ The number went down 1% from 2015.⁹ 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
6. China's 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

7. Existing laws and regulations also fail to establish mechanisms to seek legal accountability from those who violate the laws. 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.
8. 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 relevant government department.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 several subsequent cases were ruled by courts in favor of the plaintiffs, the courts only penalized the employers with small fines.¹⁷ The light punishments are unlikely to deter employers in China from continuing discriminatory practices.
9. 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 taken concrete steps in implementing it.
10. 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

11. 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 took a step forward by adopting its first Anti-Domestic Violence Law in December 2015 and enacting it in March 2016 after decades of advocacy for such legislation by women's rights activists and academics.²⁵ One positive element is that the law clearly defines domestic violence to include mental abuse (Article 2). But the law has several serious flaws. Based on the assessment below, we consider that the UPR recommendation by Moldova (186.95) to adopt a comprehensive law for combatting domestic violence has been *partially implemented*.
12. The law sets out principles for preventing and combating violence, but it lacks operability and

does not provide effective protection for victims. The law makes it clear that “the state prohibits domestic violence in any form” (Article 3), establishing the state’s (not just families’ or society’s) responsibility and victims have a right to state protection from domestic violence. It expanded the scope to include psychological violence and cover unmarried cohabitants in the same household.²⁶ However, as Chinese women’s rights NGOs point out, the law does not explicitly mention sexual violence and does not cover LGBT relationships.²⁷ The law also does not cover estranged or divorced couples.

13. The Anti-Domestic Violence Law authorizes a set of measures to prevent, halt, or penalize perpetrators of, domestic violence, including personal safety protection orders and a written warning system aimed at protecting victims (Article 29). The first protection orders were issued in September 2016.²⁸ However, the law stipulates that the orders are enforced by the local courts and fails to recognize the collective responsibility and the role of police, medical facilities, legal aid, and residential or village self-governing bodies (Article 32).²⁹ The law also fails to prescribe clear, specific and operable procedures and legal responsibilities for the measure of mandatory reporting and advanced warning system. Penalty for violating the protective orders is also rather light (Article 34).³⁰
14. China’s law-enforcement officers and judicial personnel need training and the government need to allocate resources to build shelters.³¹ The report based on field work conducted in 2016-17 by several non-government women’s rights organizations in China found that, compared to the prevalence of domestic violence and serious needs by victims, there were very few shelters and consequently very few victims would seek shelter in the 1st year after the law went into effect and there was significant regional disparity.³²
15. The new law does not include measures recommended by treaty bodies. In 2014, CESCR recommended that China provide victims adequate access to shelters for immediate physical protection, legal aid and medical services.³³ Also in 2014, CEDAW 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.”³⁴

Population policy & defective laws fail to deter trafficking in women

16. 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. The government acknowledged the severity of this problem by announcing an Action Plan for Fighting Human Trafficking (2013-2020) in March 2013.³⁵ In 2014, CEDAW welcomed this Plan, but expressed concerns “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.”³⁶ In 2017, the US State Department’s annual report on trafficking in persons finds that “China is a source, destination, and transit country for men, women, and children subjected to forced labor and sex trafficking. China’s internal migrant population, estimated to exceed 180 million people, is vulnerable to trafficking,” and concludes that the Chinese government “does not fully meet the minimum standards for the elimination of trafficking and is not making significant efforts to do so.”³⁷
17. The Chinese government’s Action Plan for fighting trafficking fails to acknowledge a major consequence of the government’s birth control policy—severe gender imbalance, which has major impacts on the trafficking of females. A shortage of females in China’s demography in recent years, in relation 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 in general, as of January 2016—the existence of state-mandated restriction on the number of children still makes girls vulnerable to abandonment and trafficking. The State’s birth control policy has led to gender-selective abortion or abandonment of female infants and has deterred parents from

reporting cases of missing children to authorities for fear of penalties for breaking the birth control policy.³⁸ In 2017, China “remains the world’s lowest ranked country with regard to the gender gap in its sex ratio at birth,” according to the World Economic Forum’s 2017 Global Gender Gap Report.³⁹

18. Legislative changes made to China’s Criminal Law (CL) neither fully comply with international standards nor effectively combat human trafficking. Article 240 in the CL, which was revised in 2011,⁴⁰ 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 the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, to which China is a party, prohibits these types of human trafficking, indicating that China does not apply the international definition of human trafficking.⁴¹ Furthermore, while traffickers can and do face criminal punishment in China,⁴² purchasers of trafficked victims are not held legally accountable under this law.⁴³ The government reported fewer investigated trafficking cases and fewer convictions of traffickers in 2016 than in 2015.⁴⁴ However, such numbers are likely screwed due to China’s broader definition of human trafficking than the international definition, whereas the Chinese definition may include human smuggling, child abduction, forced marriage, and fraudulent adoptions.
19. The government did not provide sufficient data for assessing the number of victims its services assisted and to what extent the victims actually accessed any physical and psychological rehabilitation services, though the government claims that it had “accepted and already implemented” the UPR recommendation about access to such services by Mali (186.97). The Chinese government reported opening shelters for trafficking victims and multi-purpose shelters available, but it has not provided data on the number of women trafficking victims who have received any such “rehabilitative or legal services,” or the number of victims who have accessed shelters with such services. 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.⁴⁵

Suppression of civil society groups providing legal aid & other services to women

20. Counter to claims made by the government, China has not “supported non-governmental organizations or their efforts to provide legal aid services to women.”⁴⁶ The government reported its support to groups through a “public interest lottery legal aid fund,” but the State-run All China Women’s Federation selects groups to benefit from the funds.⁴⁷ In the past few years, Chinese authorities have shut down or harassed organizations that work independently to advocate women’s rights or provide services.⁴⁸ NGOs affected included those that provided services and advocated for rural women’s land rights, women’s political participation, and elimination of gender discrimination in education and the workplace.⁴⁹
21. Since 2014, the government has suppressed with greater intensity women’s rights advocates,⁵⁰ including female NGO personnel. In March 2015, authorities criminally detained five Chinese feminists and women’s rights activists who had planned to raise awareness about sexual harassment on public transportation by distributing stickers and pamphlets on March 8, International Women’s Day. The women—Li Tingting (李婷婷), Wang Man (王曼), Wei Tingting (韦婷婷), Wu Rongrong (武嵘嵘), and Zheng Churan (郑楚然)—were associated with independent groups focusing on women’s rights and LGBTQ rights. After a domestic and international outcry, the women were let go in early April 2015, on “bail awaiting further investigation.” The case of the “Five Feminists” marked a new level of government intolerance for groups working on women’s rights. Though bail conditions were lifted on these five activists in the spring of 2016, they have continued to be subjected to police surveillance and harassment,⁵¹ as have other women’s rights advocates.

22. At the same time, authorities raided the office of a group with which some of the women were affiliated—the Beijing Yirenping Center, a public health and anti-discrimination NGO, whose operations have since been drastically reduced. In May 2015, police forced the closure of the Weizhiming Women’s Center in Hangzhou. Weizhiming, which had run campaigns against gender discrimination in the labor market, violence against women, and sexual harassment on public transport.⁵²
23. Two new laws in China—the Charity Law (adopted March 2016) and the Overseas NGO Domestic Activities Management Law (adopted April 2016)—have placed severe limitations on the operations of Chinese NGOs, potentially including those that have provided legal aid and other services to victims of domestic violence or trafficking. The two laws have tightened rules about raising funding and seeking other forms of operational support, thus weakening or eliminating some groups’ capacities. Under the Charity Law, tighter restrictions on overseas funding of civil society groups have led to the closure of some legal aid institutions. Already under threat from authorities even before these laws went into effect, a Chinese foundation, which had provided travel funding for lawyers who provide legal aid, closed its doors in March 2016.⁵³

Failure to effectively promote women’s participation & leadership in political & public life

24. China has largely failed to “accelerate women’s full and equal participation in elected and appointed bodies,” and thus has not implemented such a recommendation by CEDAW (2014). Although the government said in its 2016 follow-up report to CEDAW that it has “actively implemented quotas and other temporary special measures in order to promote women’s participation in politics,”⁵⁴ the government has not promoted women’s participation and equal role in decision-making bodies. The government follow-up report stated that, in 2015, 51.9 percent of the people working for the national government were women, but it did not provide data and it is unclear how many of these women were in decision-making roles.
25. Since 2014, Chinese authorities have not amended laws to promote participation by women in legislative bodies at both national and local levels. In 2015, authorities revised China’s Election Law, which regulates people’s congress elections, but the relevant stipulations lack specific and measurable targets for women delegates. Instead, it states the vague goal that “[a]mong the deputies to the National People’s Congress and local people’s congresses at various levels, there shall be an *appropriate number* of women deputies, and the proportion thereof shall be *raised gradually*.”⁵⁵
26. Women remain seriously underrepresented, especially at the highest levels of CCP and government leadership, as China has consistently failed to meet the 30 percent goal for women’s political participation, which was set by States in the 1995 Beijing Declaration and Platform for Action and reiterated in China’s 2011-2020 Women’s Development Program.⁵⁶ As of August 2017, there are only two female heads of the 25 ministry-level agencies⁵⁷ and no women provincial-level CCP secretaries. There has never been a woman on the Communist Party Politburo Standing Committee (the highest-level of CCP decision making body). The current 25-member Party Politburo (the second-highest body) selected at the 19th CCP Congress has only one woman. The Central Committee (the third-highest body) has 204 members, only 9 of them are women, a decrease from ratio of female members on the previous Central Committee (8.8 percent).⁵⁸
27. Women are also underrepresented in China’s national-level legislative and advisory bodies. The percentage of women in the National People’s Congress (NPC) has hovered around 21 percent since the late 1970s, according to Chinese government data.⁵⁹ Currently, in the 12th NPC (2013-2018), women delegates hold 23.4 percent of the seats and 15.5 percent of the NPC Standing Committee positions. The percentage of women in the advisory body, the Chinese People’s Political Consultative Conference (CPPCC), is even lower; women hold just 17.8 percent of the total seats, and only 11.8 percent of the CPPCC Standing Committee positions.⁶⁰ Moreover, the

12th NPC's "decision" on representation⁶¹ merely states that the "proportion of women representatives" in the next NPC (2018-2023) "*will be higher* than in the previous National People's Congress."⁶²

28. At the local levels, female representation on village committees has been far below that of males, and official goals, set rather low, are still not met. China's Organizational Law on Villagers Committees stipulates that these committees "should" have women members, and that women "should" make up at least one-third of the total number of committee representatives.⁶³ Currently, the percentage of women in village committees falls short of these targets, and has not changed substantially since the early 1990s. According to government data, in 2014, the national average percentage of women on village committees was 22.8 percent, an increase of just 1.8 percent from 1993.⁶⁴ Reports by independent election watchers in China note that, in violation of the standards prescribed in law and policies, some village committees have no women representatives at all.⁶⁵ In China's most recent Human Rights Action Plan, issued in 2016, the government had pledged that, by 2020, female members "should" make up 10 percent or more of village committee chairpersons and 30 percent or more of the total number of committee members.⁶⁶ However, it is unclear what measures the government is taking to reach these targets.
29. In addition, the practice of women taking stereotypically gender-specific roles in public offices or political positions remains pervasive. As one CPPCC delegate once noted that women on village committees mostly focus on issues related to family planning.⁶⁷ Women tend to have large representation on urban neighborhood residential committees.⁶⁸ In 2014, women occupied 48.9 percent of positions in neighborhood residential committees.⁶⁹ However, the duties of these committees, such as mediating family disputes, watching out for local police, and carrying out government propaganda, are not politically significant, and committee members tend to be elderly retired women who receive small stipends from the government for serving on these committees.⁷⁰

Failure to promote & facilitate political participation & to protect rights of ethnic & religious minority women

Ethnic minority women's political participation

30. The Chinese government has not "safeguarded the rights of ethnic minority women to participate in and manage State and social affairs,"⁷¹ as it claimed that it did in its 2016 follow-up report to CEDAW. The government has failed to promote and facilitate the political participation of ethnic and religious minority women, and has thus not implemented the CEDAW's 2014 recommendation. In the Tibet Autonomous Region (TAR), authorities interfered with village and People's Congress elections on both political and religious grounds. For example, in 2014, CCP authorities in Ngari Prefecture drew up strict rules for eligibility for individuals to become village committee candidates. The provisions specified that candidates must be "politically trustworthy" (i.e., loyal to the CCP) and excluded individuals who had attended religious gatherings abroad organized by the Dalai Lama, or those who had "overseas connections" or even "communicated overseas."⁷² Moreover, Tibetan women face barriers to even becoming CCP cadres; according to an ethnic Tibetan activist interviewed, some villages with a high concentration of Tibetans do not have even one Tibetan woman serving as a Party cadre.⁷³
31. Ethnic minority women are severely underrepresented on the highest levels of CCP and government leadership in China's five ethnic minority autonomous regions. On the regional level, the Xinjiang Uyghur Autonomous Region (XUAR) and the Guangxi Zhuang Autonomous Region do not have a single ethnic minority female serving as a chairperson or vice chairperson, nor as a CCP secretary or vice secretary. The Inner Mongolia Autonomous Region has two ethnic Mongolian women in the regional government (of nine total chairs and vice chairs) and one ethnic Mongolian woman on its CCP Standing Committee (of 13 members). The Ningxia Hui Autonomous Regional Government has one ethnic Hui chairwomen (of eight total chairs and vice

chairs) and one ethnic Hui female vice secretary on its CCP Standing Committee (of 12 members). The TAR Government has one ethnic Tibetan women among its 14 total chairs and vice chairs.⁷⁴

32. The Chinese government did not provide information and it is difficult to assess the government's efforts, if any, to increase ethnic minority women's political participation. Specifically, the lack of data and transparency, including information about the results of local elections in China, makes it difficult to measure minority women's political participation.⁷⁵ While ethnic minority women are known to have been elected as local People's Congress representatives, researchers in China found that the government did not publicly release election results disaggregated by both candidates' ethnicity and gender. According to one researcher, academic studies in China focusing on local elections also do not include disaggregated data because of government opacity. Some observers believe that the apparent absence of public information may partly be due to the "political sensitivity" of ethnic minority issues, noting that even searching for such data could present personal risks.⁷⁶

Violations of religious & expression rights of ethnic minority women

33. The Chinese government has continued to deprive ethnic minority women's right to freedom of religion or belief, especially in the TAR (and other parts of western China) and in Xinjiang. On both regional and national levels, authorities have enacted laws and regulations that target religious freedoms on ethnic grounds. For example, though Article 27 of the National Security Law (July 2015) states that the government protects freedom of religion, the law also includes provisions on restricting and criminalizing religious or other spiritual practice, such as by "punishing the exploitation of religion to conduct illegal and criminal activities" and "maintaining the normal order of religious activities."⁷⁷
34. As part of the government's "anti-terror" propaganda campaign against "Islamic extremism" in the XUAR, officials across the region have standardized and expanded regulations on youth and children's participation in religious life, after rules had been previously enforced only in certain locations. Regulations promulgated in November 2016 allow police in Xinjiang to jail people for "encouraging" or "forcing" youth to take part in religious activities.⁷⁸ These rules supplement regulations put in place in specific prefectures in Xinjiang in October 2014, which already had restricted young Muslims' religious practices and prescribed detention for adults who brought Islamic religious materials home for their children.⁷⁹ In addition, China's Counter-Terrorism Law (adopted December 2015)⁸⁰ further criminalizes peaceful activities of Uyghurs and Tibetans by criminalizing members of these ethnic minorities on charges related to "terrorism."⁸¹
35. The government has subjected Muslim women, particularly in the XUAR, to legal restrictions on their religious practice and cultural customs. Regulations that went into effect on April 1, 2017, prohibit the "wearing or forcing others to wear full-face coverings."⁸² In Urumqi, officials had implemented a similar directive in 2015 to ban full-face and full-body coverings in all public places.⁸³ In March 2015, a Xinjiang court sentenced a woman in Kashgar City to two years in prison for wearing a face-covering veil.⁸⁴ International media reported in September 2017 that a Uyghur woman had received a 10-year prison sentence in Xinjiang, a punishment apparently related to an allegation that she encouraged fellow Muslim women to wear headscarves.⁸⁵
36. In addition, Muslim women face restricted freedom of movement both inside China and traveling abroad. China asserted that the government "has safeguarded the right of Muslim women to participate equally in pilgrimage activities."⁸⁶ But Muslim women's freedom of movement for such trips is still restricted, partly because pilgrimage trips are now organized, controlled and monitored by government authorities.⁸⁷ Since 2015, the Chinese government also has reportedly pressured governments of other countries, such as Thailand and Egypt, into forcibly deporting hundreds of Uyghurs to China. Many of these Uyghurs, including women and children, had left the country to seek asylum or refugee status in order to escape religious and ethnic persecution.⁸⁸

37. As the Chinese government has tightened its policing of free expression, including via online communications,⁸⁹ disseminating information about Islam via cyberspace can be grounds for criminal punishment. In one case, a Uyghur Muslim woman was detained in May 2017, for allegedly “sharing extreme religious ideology,” after she posted text and imagery on social media praising Allah.⁹⁰
38. In recent years, authorities have intensified CCP control over religious and political institutions in the TAR and other Tibetan areas. Government regulations have mandated that CCP authorities oversee and make decisions on the operations and administration of Tibetan Buddhist monasteries in order to protect “security” in Tibetan areas and achieve “harmony” in monasteries.⁹¹ This control system further impinges upon the rights of Tibetans to freedom of religion and association.⁹² By 2013, the government had placed tens of thousands of CCP cadres to villages, nunneries, and monasteries in the region.⁹³ CCP and government officials removed some ethnic Tibetans from management committees in nunneries and monasteries, replacing them with government and CCP appointees, and demanded that nuns and monks “demonstrate their support” for the CCP.⁹⁴ Since the summer of 2016, nuns have been among a large number of religious students and staff expelled by CCP authorities from Tibetan Buddhist academies and ordered to participate in “patriotic re-education.”⁹⁵
39. Chinese authorities have continued to detain and imprison Tibetan nuns and laywomen, with the majority of them persecuted in violation of their rights to freedom of religion and expression. According to data collected by a human rights NGO that focuses on ethnic Tibetans, at least 232 female Tibetans, including 133 nuns, were in detention centers or prisons, as of August 15, 2017.⁹⁶ Most have been charged with crimes related to “endangering state security,” “leaking state secrets,” and “intentional injury,” a charge tied to self-immolation. The government also criminalizes Tibetans’ mere possession of the Dalai Lama’s teachings or images, or for praying for his longevity.⁹⁷ In an example of how such acts are punished, two laywomen were among nine Tibetans given long prison sentences on December 6, 2016, reportedly in connection with a picnic held in July 2015 to celebrate the Dalai Lama’s birthday in Ngaba Tibetan and Qiang Autonomous Prefecture in Sichuan Province. The women, Bhonkho Kyi and Tarey Kyi, were sentenced to seven and eight years, respectively, convicted of “inciting separatism,” after they had been held incommunicado for months.⁹⁸

¹ 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.

² 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.

³ 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.

⁴ World Economic Forum, “The Global Gender Gap Report 2017, p. 11 http://www3.weforum.org/docs/WEF_GGGR_2017.pdf.

⁵ 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.

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 2017, p. 120
http://www3.weforum.org/docs/WEF_GGGR_2017.pdf.

⁹ 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>.

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/zwqk/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-ifxwevmc5124698.shtml?from=](http://gd.sina.com.cn/news/m/2016-09-22/detail-ifxwevmc5124698.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 women 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 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.
- ²⁶ 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.”
- ²⁷ “An Investigative Report on Anti-Domestic Violence Law Implementation,” 《反家庭暴力法》实施情况调研报告 Beijing Yuanzhong Gender Development Center, Beijing Weiping Women’s Organization, Beijing Tongyu, and Guangzhou New Media Feminism, March 15, 2017, <https://zhuanlan.zhihu.com/p/25781138> and https://mp.weixin.qq.com/s/s6wP1cNkS8VK7OGImwV_9Q 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.” *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.
- ²⁸ *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>;
- ²⁹ 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>.
- ³⁰ Depending on the seriousness, ranging from a small fine of no more than 1,000 RMB (approx. 150 USD) or a maximum 15-day detention. ADV Law, Art. 34.
- ³¹ 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.” *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>.
- ³² “An Investigative Report on Anti-Domestic Violence Law Implementation,” *ibid.*
- ³³ CESCR, Concluding observations on the second periodic report of China, including Hong Kong, China and Macao, para 27.
- ³⁴ CEDAW, Concluding observations on the combined seventh and eighth periodic reports of China, para. 27.

³⁵ 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/zwgc/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>.

³⁶ CEDAW, Concluding observations on the combined seventh and eighth periodic reports of China, para. 28.

³⁷ The US State Department, "2017 Trafficking in Persons Report," <https://www.state.gov/documents/organization/271341.pdf>, p. 126.

³⁸ 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/>.

³⁹ World Economic Forum, "Global Gender Gap Report (2017)" http://www3.weforum.org/docs/WEF_GGGR_2017.pdf, p. 17.

⁴⁰ 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.

⁴¹ 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>.

⁴² 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>.

⁴³ CHRD, Report Submitted to UN Committee on the Elimination of Discrimination Against Women – September 2014, paras. 16-17.

⁴⁴ According to the US Department of State, 2017 Trafficking in Persons Report, the government continued to provide some law enforcement data; it reported investigating 1,004 trafficking cases (1,414 in 2015) and convicting 1,756 traffickers (2,076 in 2015) in 2016.

⁴⁵ US Department of State, 2016 Trafficking in Persons Report, p. 132, <http://www.state.gov/documents/organization/258876.pdf>.

⁴⁶ CEDAW, Information received from China on follow-up to the concluding observations, January 10, 2017, para. 4.

⁴⁷ Jiamusi Women's Net, "All-China Women's Federation Legal Aid Action' Project Administrative Measures (Provisional)" ("中国妇女法律援助行动"项目管理办(暂行)) March 7, 2014, <http://www.jmsfnw.org/article/list/view/id/143>.

⁴⁸ RDN, "Announcement of Authorities' Forced Closure of Chinese Women's Rights NGO 'Zhongze Women's Legal Counseling Service Center'" (中国女权NGO“众泽妇女法律咨询服务中心”遭当局强迫宣告解散), January 29, 2016, <http://wqw2010.blogspot.com/2016/01/ngo.html>.

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- ⁵⁰ CHRDR, “UN Women: Press China to Protect, Not Persecute, Women Rights Defenders,” September 16, 2015, <https://www.nchrd.org/2015/09/un-women-press-china-to-protect-not-persecute-women-rights-defenders/>; CHRDR, “Help Free Chinese Women HRDs on International Women’s Day, March 8, 2016,” <https://www.nchrd.org/2016/03/help-free-chinese-women-hrds-on-international-womens-day/>.
- ⁵¹ CHRDR interview, June 2017. BBC, “China’s Feminist Movement: How Far Can They Go?” (中国女权运动: 她们还能走多远?), September 26, 2017, <http://www.bbc.com/zhongwen/simp/chinese-news-41406010>.
- ⁵² *The New York Times*, “China Raids Offices of Rights Group as Crackdown on Activism Continues,” March 26, 2015, <https://www.nytimes.com/2015/03/27/world/asia/china-raids-offices-of-rights-group-as-crackdown-on-activism-continues.html>.
- ⁵³ See, for example: Radio Free Asia (RFA), “First non-governmental legal fund announces cessation of operations after passage of China’s ‘Charity Law,’” (中国《慈善法》通过后首个民间法律基金宣布停止运行), March 18, 2016, <http://www.rfa.org/mandarin/yataibaodao/renquanfazhi/yf2-03182016100921.html>.
- ⁵⁴ CEDAW, Information received from China on follow-up to the concluding observations, January 10, 2017, item 3, para. 8.
- ⁵⁵ Election Law of the National People’s Congress and Local People’s Congresses at All Levels of the People’s Republic of China (授权发布: 中华人民共和国全国人民代表大会和地方各级人民代表大会选举法), (1979, amended 2015), http://news.xinhuanet.com/legal/2015-08/30/c_128180126.htm.
- ⁵⁶ United Nations Economic and Social Council, “United Nations Targets for Proportion of Women in Leadership and Decision-Making Positions” (Information Paper), <http://www.legco.gov.hk/vr02-03/english/panels/ha/papers/ha0314cb2-1636-1e.pdf>; China’s National Program for Women’s Development (2011-2020), <http://www.womenofchina.cn/womenofchina/html1/source/1502/998-1.htm>; National Bureau of Statistics, “2014 Statistical Report on the Implementation of ‘China’s National Program for Women’s Development (2011-2020)’” (2014年《中国妇女发展纲要(2011-2020年)》实施情况统计报告), November 27, 2015, Chap. 4 Sec. 4, http://www.stats.gov.cn/tjsj/zxfb/201511/t20151127_1282257.html.
- ⁵⁷ Ms. Li Bin (李斌) has been Director of the Health and Family Planning Commission since 2013, the year the body was created, and Ms. Hu Zejun (胡泽君), who took office in April 2017, is Auditor General of the Audit Commission. See: Central People’s Government of the People’s Republic of China (中华人民共和国中央人民政府), <http://www.gov.cn/guowuyuan/index.htm>.
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- ⁶² “Decision of the 5th Session of the 12th National People’s Congress on the Representation and Election of the 13th National People’s Congress” (第十二届全国人民代表大会第五次会议关于第十三届全国人民代表大会代表名额和选举问题的决定), March 15, 2017, http://www.npc.gov.cn/npc/xinwen/2017-03/15/content_2018912.htm.
- ⁶³ Articles 15, Organic Law on Villagers Committees of the People’s Republic of China (中华人民共和国村民委员会组织法), 2010 (amended), http://www.gov.cn/flfg/2010-10/28/content_1732986.htm. Article 9 in the Organic Law, promulgated in 1998, only set out that the committees “shall include an appropriate number of women” (see: http://www.npc.gov.cn/englishnpc/Law/2007-12/11/content_1383542.htm).
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(图) (之二), April 6, 2015, http://wqw2010.blogspot.ca/2015/04/2015_6.html; RDN, “China Election Monitor (2014), No. 63, Discrimination Against Women in Government-Led Election in Quanzhou County, Guilin City, Guangxi” (中国选举观察 (2014) 之六十三——广西桂林全州县政府指导的村官选举歧视妇女), February 15, 2015, http://wqw2010.blogspot.ca/2015/02/2014_15.html; RDN, “China Election Monitor (2014) No. 60, Discrimination Against Women in Government-Led Village Official Election in Ye County, Henan” (中国选举观察 (2014) 之六十——河南省叶县政府指导的村官选举歧视妇女), January 25, 2015, http://wqw2010.blogspot.ca/2015/01/2014_25.html.

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⁷⁰ New York Times, “Beijing’s Retirees Keep Eye Out for Trouble During Party Congress,” March 15, 2013, <http://www.nytimes.com/2013/03/16/world/asia/neighborhood-committees-keep-watch-over-beijing-during-peoples-congress.html>

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⁷² International Campaign for Tibet, “New conditions for Village Committees candidates exclude Tibetans who ‘secretly hold sympathy for the ‘Dalai Clique.’” September 25, 2014, <https://www.savetibet.org/new-conditions-for-village-committees-candidates-exclude-tibetans-who-secretly-hold-sympathy-for-the-dalai-clique/>.

⁷³ CHRD interview, May 2017.

⁷⁴ Research conducted by Chinese activists in 2017. The following is a fuller breakdown of regional-level CCP committee members and/or in government positions (chairpersons and vice chairpersons) in China’s five ethnic autonomous regions: *Xinjiang* - Standing Committee of the CCP 9th Session: 15 total members, no ethnic minority females; Committee Representatives of the CCP 8th Session: 26 total, no ethnic minority females; and Government: 10 total, no ethnic minority females; *TAR* - Standing Committee of CCP 9th Session: 16 total, no ethnic minority females; Committee Members of the CCP 9th Session: six total, no ethnic minority females; and Government: 14 total, one ethnic minority female (vice chair); *Inner Mongolia* - Standing Committee of the CCP 10th Session: 13 total, one ethnic minority female (vice secretary); and Government: nine total, two ethnic minority females; *Guangxi* - Standing Committee of the CCP 11th Session: 15 total, one ethnic minority female; Government: nine total, no ethnic minority females; *Ningxia* - Standing Committee of the CCP 12th Session: 12 total, one ethnic minority female; Government: eight total, one ethnic minority female.

⁷⁵ The Chinese government also did not provide relevant and specific data on ethnic minority women’s political participation in its January 2017 report submitted to the Committee on the Elimination of Racial Discrimination (CERD). The most recent instance of China providing any such data to a UN treaty body was in January 2012, in the government’s report to CEDAW, which included some totals and proportions of ethnic minority women in the NPC, CPPCC, and local governments, but only as of 2008-09. CEDAW, Combined Seventh and Eighth Periodic Report of States Parties – China, Consideration of Reports Submitted by States Parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, January 20, 2012, CEDAW/C/CHN/7-8, para. 132, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCHN%2f7-8&Lang=en.

⁷⁶ CHRD interviews, May 2017. In preparing this submission, researchers decided not to file requests to try to obtain disaggregated data on ethnic minority women’s representation. Such requests can be made through China’s Open Government Information (OGI) system, a State channel provided for citizens to seek data that has not been made public. The main reason requests were not filed is that applicants may be vulnerable to retaliation by authorities. Chinese citizens who have previously sought data through the OGI system, such as prior to China’s 2015 review by the Committee against Torture, were interrogated, harassed, and detained by police in retaliation. The risk of reprisal has only increased in China’s current political climate. For more information, see: CHRD, “NGO Mid-Term Assessment Report of China’s 2nd Universal Periodic Review,” pg. 63, November 2016.

⁷⁷ National Security Law of the People’s Republic of China, July 2015, http://news.xinhuanet.com/legal/2015-07/01/c_1115787801_3.htm. For a general analysis of current conditions for religious expression by Tibetans and Uyghurs, see: CHRD, “NGO Mid-Term Assessment Report of China’s 2nd Universal Periodic Review,” pgs. 49-52, November 2016.

⁷⁸ Sina.com, “Xinjiang introduces new regulations: parents prohibited from forcing children to participate in religion” (新疆出台新规: 禁止家长诱导强迫孩子参加宗教), October 13, 2016, <https://news.sina.cn/gn/2016-10-13/detail-ifxwvpaq1123464.d.html?vt=4&pos=108>; CHRD, *China Human Rights Briefing October 14-20, 2016*, <https://www.nchrd.org/2016/10/chrbr-anti-corruption-activist-imprisoned-police-put-down-mass-environmental-protests-in-xian-1014-20-2016/>.

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- ⁸⁹ CHRDR, “They Target My Human Rights Work as a Crime”: Annual Report on the Situation of Human Rights Defenders in China (2016), pgs. 13-14.
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- ⁹¹ China Tibet net, “Experts at Two Meetings: State Management of Tibetan Buddhist Temples Enter New Era” (两会专家谈：国家对藏传佛教寺庙的管理进入新时代), March 20, 2017, http://fo.ifeng.com/a/20170320/44557279_0.shtml?writingModule=1_29_18 This article said that, due to the implementation of such control, there had not been any anti-government Tibetan protests like those in March 2008.
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⁹⁶ TCHRD, “Political Prisoner Database,” (Email correspondence, August 2017), http://www.tchrd.org/tchrd_pdb/. Such totals have declined since October 2014, when the group had recorded 626 cases of detained Tibetan females, including 466 nuns and 160 laywomen. One reason for the decreases is that case information regarding ethnic Tibetans has become more difficult to obtain and confirm, due to the Chinese government’s elevated control of communication channels in Tibetan areas.

⁹⁷ TCHRD, “Tibetan woman, 20, detained in connection with Dalai Lama’s 80th birthday,” July 12, 2015, <http://tchrd.org/tibetan-woman-20-detained-in-connection-with-dalai-lamas-80th-birthday/>.

⁹⁸ TCHRD, “China jails Tibetans for celebrating Dalai Lama’s birthday: Nine Tibetans get varying terms of 5 to 14 years,” December 7, 2016, <http://tchrd.org/china-jails-tibetans-for-celebrating-dalai-lamas-birthday-ten-tibetans-get-varying-terms-of-6-to-14-years/>.

3.2 Discrimination Based on Sexual Orientation & Gender Identity

By Rainbow Project

1. The Chinese government has not made any substantive progress in law or practice towards ensuring Chinese citizens enjoy equal rights regardless of their sexual orientation or gender identity. This contradicts the Chinese government's claim that it had already implemented all three UPR recommendations made in the previous UPR on these issues (186.85, 186.89, 186.90). In accepting the UPR recommendations, China asserted that various existing laws ban discrimination, including the Labor Law.¹ However, current laws and regulations do not prohibit discrimination based on sexual orientation or gender identity.
2. Without legal protection for LGBTQ individuals, they remain vulnerable to systematic discrimination and violence, and are excluded from government services without recourse to justice. Due to the absence of legal protection prohibiting discrimination based on sexual orientation or gender identity, LGBTQ persons have faced challenges in seeking equal treatment in schools and workplaces, and in obtaining legal redress. According to a 2016 survey published by UNDP China, over half the of LGBTQ respondents had experienced discrimination based on their sexual orientation or gender identity.²

No marriage equality

3. Chinese authorities perpetuate discrimination against LGBTQ persons by denying marriage equality and equal protection under the law. In a landmark case from 2016, a Chinese court decided against a same-sex couple who wished to marry.³ The government's failure to legally protect the rights of LGBTQ individuals to equal marriage appears to run counter to public opinion. According to the 2016 UNDP survey, 85% of heterosexual respondents supported legalizing same-sex marriage, a figure that rose to 95% among LGBTQ individuals.⁴ Individuals in same-sex relationships also do not receive the same legal protections against violence that heterosexual couples enjoy. 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.⁵ 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."⁶ However, Chinese NGOs have publicly released ample evidence of violence in same-sex relationships and the need for legal protection.⁷ 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.

Involuntary "conversion therapies"

4. In China, private and public clinics and hospitals promote treatments to "correct" one's gender identity and sexual orientation through "conversion therapy," which often involves psychiatric therapy, aversion therapy, hormone therapy, drug treatment, and the use of electric shocks.⁸ In its 2015 Concluding Observations, the UN Committee against Torture (CAT) raised concerns over 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 a practice or legally guarantee the respect and integrity of LGBTQ persons.⁹ The Chinese government has to date taken no steps to outlaw "gay conversion therapy," and victims of this so-called "treatment" still have no access to legal recourse.
5. LGBTQ individuals have been involuntarily sent to psychiatric hospitals or clinics, often by family members, to undergo "treatment." Between 2016 and 2017, we have documented 169 allegations of forced conversion therapy, of which 49 government-run hospitals were involved. The individuals affected were subjected to electric shocks, forced medication, hypnosis, aversion therapy, and coercion. In July 2017, a Henan court found in favor of a man subjected to forced conversion therapy, ordering the clinic to pay 5,000 RMB (approx. USD \$790) in compensation

and issue a public apology.¹⁰ However, to date, the clinic has still not issued the court-ordered apology.

6. In another example from 2015, a gay man was involuntarily sent to a psychiatric hospital by his family because he wanted to divorce his wife.¹¹ 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 a mental perversion in the Chinese Classification of Medical Disorders (CCMD-3).¹² It is also a violation of China’s Mental Health Law, which prescribes comprehensive examination by qualified doctors and voluntary participation to receive psychological treatment.
7. In 2014, there were many reports of cases involving clinics and hospitals that subjected individuals to “gay conversion therapy” in cities around China, including 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.¹³

Discrimination & inequality in employment for LGBTQ persons

8. In 2015, the LGBTQ community celebrated language in the proposed “Employment Anti-Discrimination Law” (“proposal”), 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.¹⁴ If passed, it has the potential to be a legal breakthrough that could offer official protections for LGBT individuals in the workforce. However, there is no clear timeline for adopting this proposal as law. There is also no guarantee that the final version will include the stipulations regarding gender identity and sexual orientation, or that they will be implemented.
9. Discrimination against LGBTQ individuals in the workplace is widespread and officially endorsed due to the lack of legal recognition of gender diversity. According a 2013 survey of 2,161 LGBT individuals by Aibai Culture and Education Center, 38.5% of them were subjected to discrimination and unequal treatment in the workplace because of their gender identity or sexual orientation.¹⁵ A 2017 survey from UNDP found that 14% of the LGBTI respondents had been denied employment because of their sexual orientation or gender identity.¹⁶
10. 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 LGBTQ persons, since gender identity and sexual orientation are not listed as grounds for discrimination.¹⁷
11. The lack of legal protections for LGBTQ 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.¹⁸ 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.¹⁹ In 2015, a transgender person was fired because the employer feared the individual gave customers an impression of being “unfit.”²⁰ The victim brought the case to a labor arbitration committee in 2016, but they ruled in favor of the employer.²¹ The individual sued, and the court found that the victim had been illegally fired but not that discrimination played a role.²² 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 respective decisions by the court and the arbitration committee.

12. 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.²³ However, they may face difficulties when updating their gender identity on academic records or other documents.²⁴ Such inconsistency among identification documents may cause challenges for LGBTQ individuals in finding employment.²⁵ Furthermore, there are no signals from the government that these policies will be implemented nationally.

Discrimination in schools & universities

13. Homophobia and discrimination in educational institutions 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% of gender-nonconforming students were bullied, nearly 35% were verbally threatened, and almost all of them experienced some degree of depression afterwards.²⁶ Of the respondents in the 2016 UNDP survey, 40% of LGBT individuals said they had experienced discrimination at schools.²⁷
14. The measures taken by school authorities to suppress the growing visibility of LGBT students on campuses, along with the lack of awareness about 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.²⁸ Schools often restrict activities or events that promote gender diversity, and even repress signs of public LGBTQ presence on campus.²⁹ Among other forms of harassment against LGBTQ students, university officials in Guangdong Province in 2016 threatened to refuse to give a woman her diploma after she proposed to by her girlfriend on campus and photos of them were posted online.³⁰

Biased textbooks promote discrimination

15. Biased materials used in higher education course curricula exacerbate discrimination against LGBTQ individuals. Despite the 2001 removal of homosexuality and bisexuality from the classification of mental disorders, many textbooks continue to teach the opposite. According to a study we conducted in 2014, 40% of books used for psychology or mental health classes in colleges still referred to homosexuality as a form of sexual perversion. We also found that 50% of the materials included introductions to “conversion therapy.” Such textbooks were published as recently as 2013, and contained discriminatory and outdated information, including referring to homosexuals as the source for HIV/AIDS.
16. The lack of strong, enforceable anti-discrimination laws has contributed to the failure of China’s judicial system to protect the rights of LGBT individuals. In March 2017, the Beijing Municipal Higher People’s Court rejected an appeal by a lesbian college student who had lost a lawsuit over the ongoing use of discriminatory educational texts. She had sued the Ministry of Education, alleging the Ministry had failed to recall textbooks used for professional examinations and college curricula that still label homosexuality as a mental disorder and provided information on “conversion therapy.”³¹ A lawsuit filed in 2007 against a publisher for producing such textbooks is still pending, as no court has held a hearing. A local campaign, waged against China Renmin University Press, was successful, but only after a letter-writing campaign by the same student

who lost the above court case.³² In another case, a student filed a suit against Jinan University Press under consumer rights regulations—not on the basis of discrimination—arguing that textbooks don’t meet “quality requirements set out by Chinese law,” and thus violate rights. Two hearing dates have been cancelled in this case, which still has not been litigated.³³

¹ 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.

² United Nations Development Programme (UNDP) China, “Being LGBTI in China: A National Survey on Social Attitudes towards Sexual Orientation, Gender Identity, and Gender Expression,” May 16, 2016, p. 27, http://www.cn.undp.org/content/china/en/home/library/democratic_governance/being-lgbt-in-china.html.

³ *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.

⁴ UNDP China, “Being LGBTI in China: A National Survey on Social Attitudes towards Sexual Orientation, Gender Identity, and Gender Expression,” May 16, 2016, pp. 25, 28.

⁵ 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>.

⁶ *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.

⁷ Beijing Yuanzhong Gender Development Center, Beijing Weiping Women’s Organization, Beijing Tongyu, and Guangzhou New Media Feminism “An Investigative Report on Anti-Domestic Violence Law Implementation” (《反家庭暴力法》实施情况调研报告), March 15, 2017, <https://zhuanlan.zhihu.com/p/25781138>; 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>.

⁸ CHRD and Coalition of NGOs, “Information Submission to the UN Committee Against Torture for Consideration in List of Issues, February 2015,” <https://www.nchr.org/2015/02/chrd-information-submission-to-the-un-committee-against-torture-for-the-review-of-the-fifth-periodic-report-of-china-february-2015/>.

⁹ Committee against Torture, Concluding observations on the fifth periodic report of China, CAT/C/CHN/CO/5, February 2016, paras. 55-56.

¹⁰ Gerry Shih, “Man wins lawsuit in China over forced gay conversion therapy,” *Associated Press*, July 4, 2017, <https://apnews.com/4d9d955c9bfd401b93f28ef4e9ffa5f8>.

¹¹ 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.

¹² 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>.

¹³ CHRD and Coalition of NGOs, “Information Submission to the UN Committee Against Torture for Consideration in List of Issues, February 2015.”

¹⁴ 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 CHR), <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>.

¹⁵ 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>.

¹⁶ Out & Equal, “Only Five Percent of LGBTI Employees in China Feel Comfortable Coming Out at Work,” October 16, 2017, <http://outandequal.org/only-five-percent-of-lgbti-employees-in-china-feel-comfortable-coming-out-at-work/>.

¹⁷ 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.

¹⁸ 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>.

¹⁹ 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>.

²⁰ 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>.

²¹ Ibid.

²² Vanessa Piao, “Transgender Man Was Unfairly Fired, but Bias Not Proved, Chinese Court Says,” *New York Times*, January 2, 2017, <https://www.nytimes.com/2017/01/02/world/asia/china-transgender-lawsuit.html>.

²³ 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” (公民手术变性后变更户口登记性别项目), August 22, 2011, http://zwgk.gd.gov.cn/006940140/201108/t20110822_267369.html.

²⁴ 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.

²⁵ 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.

²⁶ 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.

²⁷ UNDP China, “Being LGBTI in China: A National Survey on Social Attitudes towards Sexual Orientation, Gender Identity, and Gender Expression,” May 16, 2016, p. 27.

²⁸ According to interviews conducted with the groups, they were not allowed to register on campus and currently there are no known open LGBT group allowed to register like other student groups.

²⁹ Prominent activist Ai Xiaoming was able to register a LGBT 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 LGBT 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=MzlwMjM4MTIxNA==&mid=2247483701&idx=1&sn=8f4392b3db1c94c084eb2c6fdb26288&chksm=96dec3c4a1a94ad29044166bc0a06dc9c13bdcf9b1036d324b06bada5a85a8e8291ed37099a7&scene=1&srcid=09198vt4EG0dwIKTBZwa0dYi#wechat_redirect.

³⁰ 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/>

³¹ *Caixin*, “Teaching Stigma About Homosexuals University Student Loses Appeal Against Ministry of Education” (教材疑污名化同性恋 大学女生告教育部二审败诉), March 6, 2017, <http://china.caixin.com/2017-03-06/101062813.html>; Natalie Thomas, “Chinese gay activist challenges homosexuality ‘disorder’ textbooks,” *Reuters*, September 12, 2016, <http://in.reuters.com/article/us-china-rights-textbook-idINKCN111174>.

³² Qian Jinghua, “China’s Homophobic Textbooks Turn Over a New Leaf,” *Sixth Tone*, April 24, 2017, <http://www.sixthtone.com/news/1000050/chinas-homophobic-textbooks-turn-over-a-new-leaf>.

³³ Katherine Tai, “Suing the homophobia out of China’s textbooks,” *Sup China*, January 23, 2018, <https://supchina.com/2018/01/23/suing-the-homophobia-out-of-chinas-textbooks/>.

3.3 Discrimination Against Rural Residents

By Law and Accountability Project and Legal Rights Education Initiative

1. China, a party to the International Covenant on Economic, Social and Cultural Rights since 2001, has often conflated achievements in economic development with progress in equal protection of social and economic rights. Recognizing China's achievements in economic development, the Special Rapporteur on Extreme Poverty and Human Rights also raised concerns about the high levels of inequality and the lack of meaningful accountability mechanisms for the full realization of economic rights in a report issued after his August 2016 visit in China.¹ The Committee on Economic, Social, and Cultural Rights (CESCR) expressed concern in 2014 over large disparities in living standards among different regions and between urban and rural areas.²
2. In this report, we find persistent discrimination against rural residents, a failure of the Chinese government to protect equal enjoyment of economic and social rights. In particular, the "household registration" system, which restricts access to medical care, pension, education, and employment opportunities, continues to sustain discriminatory policies and practices against rural residents.
3. During the 2013 UPR, China accepted all 29 recommendations concerning equal protection of basic social benefits and services for rural and urban residents: 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). These countries recommended China to strengthen the provision of public services and benefits for groups vulnerable to discrimination; alleviate rural-urban disparities; and combat poverty. However, our assessment shows that the government has only *partially implemented* 10 of these recommendations – 186.76, 97, 174, 182, 184, 186, 188, 192, 193 & 198, and it has *not implemented* the other 19.³

Limited reform of discriminatory "household registration" against rural migrants

4. A major pillar of the sustained and systemic discrimination in China against rural residents is the "household registration" (*hukou*) system. It strictly limits access to social services and social economic rights protection to registered residences in specific locations. The system discriminates against certain social groups, especially rural residents, by enforcing segregated legal registration of residents into either rural or urban households. An individual's household registration status determines his or her entitlement to government subsidies, social safety-net insurances or benefits, and public services.⁴
5. 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."⁵
6. Internal migrants—specifically, those who move from rural areas to cities for work—encounter acute discrimination under the household registration system. According to China's statistics bureau, in 2016, there were an estimated 281 million rural migrant workers, mostly working in manufacturing, construction, and service industries in urban areas.⁶ Migrant workers and their families face tremendous obstacles from obtaining permits for urban residency, which is required for them to gain access to government subsidized services and benefits provided exclusively to urban residents, including health care, education, housing, pension and employment opportunities.⁷

7. The large-scale forced eviction of migrant workers from Beijing in 2017 provided a window into China's rural-urban segregation and state-sanctioned discrimination against rural migrants. A deadly fire killed 19 migrants and their children on November 18, 2017. It set in motion a police-enforced mass eviction to throw out hundreds of thousand migrant workers from shantytown buildings into the freezing streets in the outskirts of Beijing.⁸ These workers now face eviction from urban centers, as unwanted "low-end population." Government authorities in cities like Beijing undertake "safety" campaigns to evict residents and demolish sub-standard buildings, but the government has failed to address the underlying causes that force people to live in such dangerous conditions.
8. Without access to subsidized housing, which is available to urban residents with jobs as civil servant or employees in state enterprises, migrant workers can't afford homes in mega cities where jobs are concentrated. About 60% of migrants in Chinese cities rent from private landlords as of 2016.⁹ Most of them end up in low-quality or poorly-constructed buildings that would not pass safety inspections. The migrants' living quarters tend to be overcrowded, noisy, in damp basements, with limited air flow and unhealthy sanitation facilities. A 2016 study found approximately 1 million people in Beijing live in underground apartments; and nearly 40% of all migrants live in accommodation between 5-15 square meters (50-160 square feet) in size.¹⁰
9. In 2015, CESCR expressed concerns 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."¹¹
10. The government has taken some limited steps towards reforming the *hukou* system. The State Council laid out guidelines in 2014 for some rural migrants to obtain urban household registration by 2020.¹² 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.¹³ This gap will persist beyond 2020 partly because the government is taking "gradual" approach; the policy will first be implemented in smaller cities, even though the vast majority of migrants work and live in mega municipalities.¹⁴ The State Council plan also does not guarantee that individuals, who have never obtained any *hukou* registration, urban or rural —mostly due to being born "out-of-quota" or out of wedlock in violation of family planning law—can ever get legally recognized residency status, meaning that such individuals will continue to be excluded from access to social security benefits and public services.¹⁵
11. A 2015 State Council regulation would allow 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 numerous other requirements, which involves paying huge fees.¹⁶
12. 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*.¹⁷ In such places, the criteria for obtaining urban residency registration is highly selective; registration is restricted to so-called "desirable" and "suitable" migrants, which excludes the majority of migrant workers.¹⁸

13. A proposed provision in the draft “Anti-Discrimination Employment Law”—to prohibit considering household registration status in recruitment and hiring—offers potentially positive changes to the discrimination against migrants workers.¹⁹ Though the proposal has been stagnant since 2008, there has been a new effort in 2016 to push it through the legislative process.²⁰ 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.
14. Considering these gradual but still inadequate measures, we conclude 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

15. 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.”²¹ 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.²² However, despite these claims of achievements, which are not independently verified, the system remains largely unchanged today and discriminatory against rural residents.

Medical insurance

16. 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.²³ 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.²⁴ 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.²⁵ Limited data released by the government in 2016 showed that Chinese employers largely failed to comply with China’s Labor Contract Law and Social Insurance Law in providing insurances to rural migrant workers such that these workers cannot afford to enroll in basic insurance programs.²⁶ By 2015, four years after the Social Insurance Law went into effect, on average, only 20 percent of migrant workers were 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.²⁷
17. In a move to narrow the gaps of urban residents with medical insurance and rural residents including migrants without medical insurance, in January 2016, the government announced the decision to create the “Unified Basic Medical Insurance System for Urban and Rural Residents.” This system could potentially provide equitable payment standards and scope of medical insurance coverage for all Chinese citizens.²⁸ It is too early to tell whether this system has been implemented successfully, but it would partially address the problem of systemic discrimination against rural residents in terms of the protection for their right to health.
18. As China’s aging 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. This general trend due to demographic changes has more serious consequences for rural residents and the urban poor. The new medical insurance system, which promised to merge the urban and rural divides under the previous system, could potentially shrink the widening insurance funding gap.²⁹

19. Chinese academics have pointed out that the new medical insurance system's efficacy hinges on several factors.³⁰ 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 extreme 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, often in other provinces, where they find work.

Inequitable pensions systems

20. 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 gaps in pensions and discrimination in the pension-system have persisted.

21. Jobs concentrated in urban China, such as those in the civil service or large privately-owned or state-run corporations, are those where employees receive higher government pensions and company contributions to retirement savings than jobs found in rural areas, such as small businesses or farming. Consequently, pensions for urban residents have been much larger than for those retired from farming or small businesses.

22. 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; civil servants 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.³¹

Income inequality & disparities in access to poverty relief

23. 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 a more important role in the country's economic growth. Consequently, many people have worked their way out of poverty. In this sense, the government has *partially implemented* recommendations by Mauritius (186.188) and Serbia (186.193), namely, to eradicate poverty and bridge rural-urban gaps.

24. China's main strategy to alleviate poverty—prioritizing rapid urbanization and industrial development in cities—has increased urban-rural income disparities. Vulnerable population groups (the elderly, children, persons with disability, women), most of them living in remote, rural, and ethnic minority regions, have been "left behind" by this economic growth, and are disproportionately affected by poverty.³² In March 2015, the Chinese Premier acknowledged that over 200 million Chinese—or about 15 percent of the country's total population – lived under the poverty line of \$1.90 USD per day, set in 2015 by the World Bank, while the official poverty line set by the Chinese government in 2011 seems to remain today at 2,300 RMB (USD \$363) per person per year, or about \$1 USD a day.³³ One estimate put the number of Chinese living under the official Chinese poverty line at 128 million in 2017.³⁴ According to government data, 30.46 million rural Chinese live under poverty by the end of 2017, and it is unclear, due to lack of available data, whether the "rural poor" includes rural migrant workers who live in cities, or how many urban Chinese live under poverty.³⁵

25. 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 a 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*).³⁶ 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).³⁷

26. The income disparity gap in China remains severe, even as the index of inequality in income distribution has gradually decreased from a peak level in 2008.³⁸ A Chinese official put China's Gini co-efficiency decrease from 0.474 in 2012 to 0.465 in 2016.³⁹ According to a 2013 World Bank report, China is among the 25 percent least equal countries in the world.⁴⁰ Government statistics released in 2017 showed that 20% of the population own more than 45% of the wealth in China, and urban residents' income per capital is 2.7 times that of rural residents.⁴¹

Double discrimination against members of rural ethnic minorities

27. 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. The household registration system has erected serious barriers for rural ethnic minorities to look for work in Han-majority cities in China's most developed eastern coastal regions, while at home there is a lack of opportunities and poverty is acute.
28. In one example, there is reportedly grinding poverty in the remote mountainous areas in southwest China that hold a significant concentration of the ethnic Yi minority.⁴² Compounded problems, such as neglected schools, lack of healthcare access, inadequate transportation infrastructure, underfunded relief programs, drug addiction, and drug trafficking, are both consequences of and contributors to extreme poverty in these areas.⁴³ State media rarely covers stories depicting such conditions. An independent Chinese journalist interviewed for this report told us that government officials prevented his team from reporting on conditions in the region.⁴⁴
29. The Chinese government has implemented discriminatory policies against ethnic Tibetans and Uyghurs by blocking members of these groups from obtaining employment opportunities in Han majority regions. For example, authorities issued instructions to companies to refuse job applicants who hold household registration in the autonomous regions of Tibet and Xinjiang.⁴⁵ 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.⁴⁶ Tibetans in the TAR continue to experience de-facto discrimination in obtaining civil servants jobs, as Tibetans are not allowed to take the civil service exam in the Tibetan language, and consequently some of them miss out on benefits and social security protections that come with such jobs.⁴⁷
30. In surveys conducted by a local group, some government agencies in the Xinjiang Autonomous Region specified that the advertised job openings were open only to persons of specific ethnicity. Some advertisements specified that only Han people could apply for public servant positions in national security, Internet surveillance, or government archives.⁴⁸ Xinjiang government job advertisements for positions in the public security sector specifically exclude anyone who opposed "unity of motherland" or participated in "ethnic separatist or unlawful religious activities."⁴⁹
31. China has therefore not implemented recommendations by Togo (74), Bhutan (75), Russia (183), Palestine (175), and Morocco (191), asking China to protect and raise the standard of living for the

most vulnerable and marginalized population groups in society, especially people living in remote rural ethnic minority areas.

Concerning disproportionality of rural & female suicide rates

32. 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 in China are far more likely to take their own lives than elderly urban residents. In the past two decades, the suicide rate of Chinese elderly increased five-fold in rural areas, according to one study conducted by Chinese academics.⁵⁰ Contributing factors are believed to include debilitating illnesses and anguish about life in rural desolation and destitution, as their family support structure collapsed due to their adult children's migration to cities for work.⁵¹
33. According to the World Health Organization's 2015 data, China remains the only country in the world where the female suicide rate is higher than male suicide rate, and media reported in 2016 that the overall suicide rate is four to five times higher in rural areas compared to urban ones.⁵² The WHO puts the 2015 overall suicide rate in China at 6.1 per 100,000 people (a drop compared to the rates in the 1990s); the male suicide rate was 8.7, the female rate was 11.5 per 100,000. A tragic case of this little-known reality made headlines in 2016 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.⁵³ Local government officials had reportedly stripped the mother of low-income subsidies in 2014 and the family apparently lacked any medical insurance.⁵⁴ Academics and observers contributed the causes to poverty, discrimination, social isolation, and impoverished spiritual life.⁵⁵

Government persecution of social-economic rights defenders

34. The Chinese government has never stopped persecuting social-economic rights defenders. In the past few years, the government has targeted defenders who advocated for labor rights, equal rights to education, housing, and health.
35. In late 2016, Guangdong authorities convicted four labor organizers at an NGO for assisting migrant workers to protect their rights through collect bargaining (since China bars workers from forming independent union). In November 2016, Hubei authorities detained Liu Feiyue (刘飞跃), director of Civil Rights & Livelihood Watch, an NGO focusing on advocating for equal social economic rights. Housing rights activists Ni Yulan (倪玉兰) and Jia Lingmin (贾灵敏), land rights activists Su Changlan (苏昌兰) and Zhou Decai (周德才), labor rights activists Liu Shaoming (刘少明) and Xing Shiku (邢世库), and disability rights activist Zhou Weilin (周维林) for example, have faced repeated harassment and persecution and some of them remain in prison.⁵⁶

¹ 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>.

² 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.

³ 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).

⁴ *People's Daily*, "NPC Standing Committee Member: Urban and Rural Hukou Have Over 60 Kinds of Unequal Benefits" (全国人大常委委员: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>.

⁵ CESCR, Concluding observations on the second periodic report of China, para. 14.

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- ⁶ China State Statistic Bureau, “2016 Investigation Report on Rural Migrant Labor” (2016 年农民工监测调查报告), April 28, 2017, http://www.stats.gov.cn/tjsj/zxfb/201704/t20170428_1489334.html.
- ⁷ 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/>.
- ⁸ CHRDR, From Forced Evictions of Migrant Workers to Abused Children: Violations of Social & Economic Rights in China Refute the “China Development Model,” December 7, 2017, <https://www.nchrd.org/2017/12/from-forced-evictions-of-migrant-workers-to-abused-children-violations-of-social-economic-rights-in-china-refute-the-china-development-model/>.
- ⁹ Chinese migrant workers earn an average salary of 3,275 RMB (\$495 USD) a month, while the average rent in Beijing is 4,350 RMB (\$650 USD) per month. Ibid, China State Statistical Bureau, “2016 Investigation Report on Rural Migrant Labor.”
- ¹⁰ Annette M. Kim, “The extreme primacy of location: Beijing's underground rental housing market,” *Cities*, Volume 52, March 2016, Pages 148-158. <https://www.sciencedirect.com/science/article/pii/S0264275115300196>.
- ¹¹ CESCR, Concluding observations on the second periodic report of China, paras. 15, 24.
- ¹² 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.
- ¹³ 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/gqrkpcgb/201104/t20110428_30327.html.
- ¹⁴ 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>.
- ¹⁵ 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/>.
- ¹⁶ 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.
- ¹⁷ Beijing People’s Government General Office, “Measures for Administration of Point-Accumulation Hukou in Beijing (Provisional)” (北京市积分落户管理办法(试行)), August 2016, <http://zhengce.beijing.gov.cn/library/192/33/50/46/438657/79206/>; For Shanghai permit holders, in addition to scoring at least 120 points, they must not have violated any national or municipal birth control policies. *People’s Daily*, “Differences in Point-Accumulation Systems: How to ‘Get Hukou’ in Beijing, Shanghai, Guangzhou, and Shenzhen?” (积分落户办法有差异: 怎样“落定”北上广深?), August 17, 2016, <http://politics.people.com.cn/n1/2016/0817/c1001-28642920.html>.
- ¹⁸ Beijing Municipal People’s Government General Office, “Measures for Administration of Point-Accumulation Hukou in Beijing (Provisional):” *People’s Daily*, “Differences in Point-Accumulation Systems: How to ‘Get Hukou’ in Beijing, Shanghai, Guangzhou, and Shenzhen?”.
- ¹⁹ 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 CHRDR), <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>.
- ²⁰ The proposal was submitted by National People’s Congress (NPC) representatives after initial consultation started in 2008, and has since been approved for further drafting and consultation with relevant departments. 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.
- ²¹ Information Office of the State Council of the People’s Republic of China, National Human Rights Action Plan (2012-2015), Chap. I Sec. 3, Chap. III, Sec. 4, <http://www.china-un.ch/eng/rqrd/jbhc/t953936.htm>.
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⁴⁴ Local officials blocked the team of reporters from entering the area and confiscated some of their equipment. Eventually, authorities allowed them to leave and returned their equipment only after the reporters, at the officials’ order, destroyed notes and photos from interviews they had conducted. Interview with a Chinese journalist, September 2016.

⁴⁵ CHRD, Report Submitted to UN Committee on Economic, Social and Cultural Rights, para. 7.

⁴⁶ 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.

⁴⁷ CHRD, Report Submitted to UN Committee on Economic, Social and Cultural Rights, paras. 13, 42.

⁴⁸ The survey collected 30 job advertisements in 2017 and found 7 specified requirements about ethnicity. For protecting their security, we keep the name of the group confidential.

⁴⁹ 2017 Xinjiang Uyghur Autonomous Region Public Exam Open to Society Test for Public Servants, Staff, People’s Police Brief Guide (2017 年新疆维吾尔自治区面向社会公开考试录用公务员、工作人员简章, 人民警察报考说明), <http://www.xjrs.gov.cn/zwgk/tzgg/201703/t8a4ac7025ad9f92b015ae6c70c050379.html>.

⁵⁰ An 80-year-old man in China today remains eight times more likely to take his own life than the average Chinese citizen. Those 80 and over are three times more prone to suicide than are Canadians the same age, and more likely to kill themselves than their counterparts in either Japan or Taiwan. Researchers at Wuhan University conducted a study of 40 villages in 11 provinces, and found that over the course of the past two decades, the rural-elderly suicide rate had risen from 100 per 100,000 to 500 per 100,000, and now stands at roughly 50 times that of the general population. Nathan Vanderklippe, “How China’s rural elderly are being left behind and taking their lives,” March 26, 2016, *Globe and Mail*, <http://www.theglobeandmail.com/news/world/how-chinas-rural-elderly-are-being-left-behind-and-taking-their-lives/article29179579/>.

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3.4 Rights of the Child

By Children's Rights Project, Labor Education Initiative, and CHRD

1. 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).¹
2. At the 2nd cycle of UPR, China accepted 27 recommendations concerning the right of the child: 186.56 (South Africa), 77 (Mauritius), 79 (United Arab Emirates), 80 (Ethiopia), 83 (Finland), 84 (Central African Republic), 86 (Mexico), 87 (Slovenia), 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). Of which China said it had "already implemented" three (186. 83, 96 & 98), and it did not accept two recommendations: 186.82 (Italy) and 94 (Canada).
3. In this report, we find that China has *partially implemented* recommendations 77, 79, 80, 94, 209, 214 & 215, and has *not implemented* the other 22 recommendations. We provide updates on these and other areas of developments concerning the rights of the child in China since 2014.
4. 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 offenders. 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 to hold law breakers accountable, and to establish an independent complaint and redress mechanism. Public education and awareness raising efforts are also lacking.
5. Around the same time as China's 2nd UPR, in 2013-14, the Committee on the Elimination of Discrimination against Women (CEDAW) and Committee on the Rights of the Child (CRC) 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.² 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.³ The government has made insufficient efforts for complying with these treaty bodies' recommendations.

Ineffective measures leaving children exposed to exploitation & violence

Child labor

6. Little data on child labor has been released by the government. Moreover, any official estimates of the numbers of child laborers would be distorted since the government defines "child" as anyone under the age of 16, while the international cutoff age is 18.⁴
7. In many poor rural and ethnic minority regions, children, particularly girls, are more susceptible to becoming child laborers, migrating to industrial cities, due to poverty, gender discrimination, and limited access to public services like education and state subsidies.⁵ Migrant children continued to work in Chinese factories.⁶ One report estimates that in one Eastern coastal city, where many garment factories are based, between 2012 and 2016, city government found 107 cases involving employing 211 child laborers.⁷ State media acknowledges that child labor

remains common all over the country.⁸ Child laborers mostly work in the garment, food processing, and phone assembling industries, working the same shifts and long hours as assigned to adult workers, in some cases, as long as 14-15 hours a day. State media reported in 2016 the arrest of a garment factory owner on suspicion of “forced labor” for employing seven children.⁹

8. Another area of concern is the continuing use of child labor under the “student internship” program. Employers who use “student interns” often give financial incentives to schools that provide the students, typically by giving a portion of students’ monthly salary as commission. As such, the welfare and interests of students are often neglected in such programs.¹⁰ Employers who exploit student interns often evade inspection by school authorities.¹¹ Government corruption is also a major factor that contributes to the lack of enforcement of regulations and law.¹² In April 2016, five government ministries jointly issued “Administrative Measures for Internships at Vocational Schools.”¹³ However, the measures lack clear and effective mechanisms for supervision, complaints, and redress.¹⁴
9. 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 (2012) punishes those who use children to do dangerous and hazardous work.¹⁵ However, China has no independent supervisory mechanisms that could ensure implementation of the law and credibly handle complaints. The government provides inadequate support to public education programs.
10. Government assistance for seeking redress 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 work. When some children were injured, they were threatened into not filing complaints or, if they filed reports, they were forced to accept unfair settlements.¹⁶ 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.¹⁷

Child trafficking

11. The Chinese government does not release the number of trafficked children. There are some media reports on cases where the government reportedly conducted rescue and prosecuted offenders. One State media reported, quoting the Ministry of Public Security, that police had successfully rescued 13,000 abducted children nationwide in 2014.¹⁸ Many factors have fuelled China’s market of buying and selling children, including decades of government enforcement of strict birth control policies, failure to change biased 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.¹⁹ Trafficked children are sold into forced labor, prostitution, forced marriages, adoption, or forced to engage in panhandling.
12. 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.²⁰ However, the Action Plan fails to set up concrete targets with specific timelines for implementation of these measures. It did not include any specific provisions to establish a nationwide data collection system to track human trafficking in the country, which is a key concern of CEDAW.²¹
13. Chinese law does not fully criminalize all forms of trafficking such as the facilitation of prostitution involving children younger than the age of 18.²² Some laws and regulations contain loopholes and ineffective punitive measures against suppliers and customers, which have allowed buyers, abductors, traffickers, and sellers of children, in some cases their parents, to abuse children

without criminal punishment. Prior to 2015, buyers of 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 added new stipulations that would give buyers a “light” punishment, though the consequences for buyers remains minor such that the law has little effect in deterring offenders.²³ Though the government had issued an opinion in 2010 that included a stipulation to hold parents criminally accountable for selling their own children, the opinion had a loophole that allowed parents to sell children without legal consequences if they were poor and did not intend to make a profit.²⁴ One media reported in 2015 that about 50 percent of all children in trafficking cases were sold by their parents.²⁵

Sexual abuse

14. The government has failed to take effective measures to protect children, especially young girls, from sexual abuse. The lack of government transparency has not helped raise public awareness. There is a lack of willingness to “[i]ncrease efforts to gather data on child abuse with the aim of supporting policy formulation process” (UPR recommendation by Italy, 186.82), which China rejected. Meanwhile, the government refused to disclose specific statistics of cases of sexual violence and rape against children to the CRC.²⁶ 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.²⁷
15. The November 2017 child sex abuse scandal at a Beijing kindergarten sparked outrage, prompting an investigation. But similar abuses took place in daycare in other parts of the country.²⁸ In a 2014 study for the World Health Organization, researchers found that approximately 25% of Chinese children have suffered some form of physical abuse and that almost 9% have suffered sexual abuse.²⁹ According to a government affiliated organization, “Girls’ Protection,” an estimate of 75% of all child sexual abuse cases take place in rural areas.³⁰ The group found 968 incidents of sexual assault of children reported in Chinese media from 2013-2015, involving 1,790 victims, most of whom were rural children.³¹
16. One major cause for the prevalence of child abuse traces back to China’s mass internal migration. The rural migrants earned too little to raise their children in the cities. Under China’s household registration system, rural migrants are treated as second-class citizens in Chinese cities, discriminated against in access to education, healthcare, housing and other social services. As such, many children remain in villages while their parents move to cities to work. China has an estimated 60 million “left-behind” children, one-fifth of the country’s children. State media reported that one-third of all rural children live apart from their parents.³² In 2013, CRC expressed concerns that, “due to the restrictive *hukou* policy, many migrant parents face the difficult choice of leaving their children behind.”³³ These “left behind” children have little parental protection and are extremely vulnerable to abuse. Their lack of parental support and care led to psychological and social problems including juvenile delinquency, poor academic performance, and suicide.³⁴
17. 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. Many rape cases tend to be reported and prosecuted as “child molestation” cases, where convicted offenders face maximum 5 years in prison. One report said that Chinese courts prosecuted 10,782 cases involving child molestation between 2013-16, while providing no number for child rape cases.³⁵
18. In one positive step in 2015, the Criminal Law, which previously prosecuted child sexual assault offenders under the crime of “prostituting minor girls,” was amended and suspect offenders will be prosecuted for “rape.”³⁶ But the Criminal law only punishes criminal suspects for rape of girls under the age of 14, excluding boys, and girls between the age of 15-17.³⁷

19. The government has tried to control public outrage by blocking information, silencing its critics, obstructing victims from seeking justice, and retaliating against women's rights activists and NGOs assisting efforts to hold alleged perpetrators accountable. Activists Ye Haiyan (叶海燕) and Shan Lihua (单利华), and human rights lawyer Wang Yu (王宇), have faced harassment and criminal prosecution after trying to draw public attention to the case of serial rape of school girls.³⁸ Several women's organizations that documented cases of child abuse have been shut down by authorities. One such group, Beijing Zhongze Women's Legal Counseling and Service Center, led the successful campaign to have the Criminal Law amended in 2015 to classify sexual abuse of children under the age of 14 as "rape" and not "underage prostitution." The government forced the NGO to shut down in 2016 over suspected ties to foreign groups.³⁹

Violence & neglect tied to birth-control policy & gender/disability discrimination

20. Under a new birth control regulation put into effect on January 1, 2016, the government relaxed the quota from one birth per married couple to two births, but couples who violate the new quota still face financial or administrative penalty.⁴⁰ Thus the state continues to restrict couples' reproductive freedom, and the loosened policy does not sufficiently help combat abuses against disabled children and girls due to entrenched social discrimination.
21. Under pressure from societal and policy biases toward women and persons with disabilities, some pregnant women resort to abortion of fetuses, or kill or abandon their disabled or female infants. It is difficult to obtain data on abandoned children disaggregated by gender or disability. One media reported that more than 300 children at one orphanage in a Southern city were waiting for adoption in February 2018, while 90% of them, living with some kind of disability, have little prospect of being adopted.⁴¹ China's Ministry of Civil Affairs reported that, by the end of 2016, there were about 460,000 orphans in China, 373,000 of them lived on their own and only 88,000 lived in orphanages.⁴²
22. Ultrasound tests, though illegal, continue to be available in under-regulated black market, for detecting the gender or possible birth defects of fetuses.⁴³ The government systematically denied that the more strict "one couple per birth" policy resulted in the deaths or abandonment of disabled children.⁴⁴ The CRC raised serious concerns in its 2013 review about "infanticide, particularly of girls and children with disabilities"⁴⁵ 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."⁴⁶
23. China has the world's most imbalanced sex ratio at birth, according to the World Economic Forum's 2015 Global Gender Gap report.⁴⁷ In responding to Canada's 2013 UPR recommendation to China on addressing the problem of 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."⁴⁸

Persistent under-registration of children

24. The Chinese government accepted the two UPR recommendations, by Mexico (86) and Slovenia (87), that called for ensuring the proper registration at birth of all boys and girls. However, the government has not implemented these recommendations. Some children in China still cannot get legally registered and, consequently, their entitlement to public services and government subsidies are striped off. Government policies on family planning and national laws continue to limit the number of births per married couple and maintain a system of fines and administrative punishment for out-of-quota children, which can lead parents to not register such children for fear of penalties. Children who have not been registered under the household registration (*hukou*) system have no claim to access basic social services, such as healthcare, education, housing and social security benefits, which also negatively affect their employment eligibility later in life.

25. 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.”⁴⁹ The Committee recommended the removal of all penalties and the abandonment of the *hukou* system.⁵⁰ CEDAW reiterated its recommendation to remove all barriers to the registration of children in its 2014 Concluding Observations.⁵¹
26. A 2015 study, reported in state media, estimated that, among the 13 million unregistered persons found in China’s most recent population census in 2010 (or 1% of the population), 50-60 percent of them had been born either as out-of-quota children, by unmarried women, or abandoned as babies.⁵² The welcomed government decision to relax the one-child policy in January 2016 should improve the chance for some children to be registered at birth. However, the government continues to enforce financial penalties—called “social maintenance fees”—for having children outside of the existing birth quota.⁵³ Parents face financial penalties for having more children than state-mandated quota or children born out of wedlock.⁵⁴ The fee is set by local governments and is, on average, three to six times the annual salary of the parents, and one-third of such families can’t afford to pay the fines.⁵⁵
27. In 2015, the State Council called for all Chinese to be registered and forbade local governments from setting pre-conditions for obtaining a *hukou*.⁵⁶ 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 problematic. Furthermore, it is unclear if individuals registering for a *hukou* would have to pay a fine for having out-of-quota children, thereby deterring parents from registering their children.⁵⁷ Some authorities announced a delink between registering for a *hukou* and paying the “social maintenance fee” after the State Council directive, but the government would still demand parents to pay the fee at some point and authorities could obtain court orders to enforce payments, if needed.⁵⁸

Unequal access to education for rural & migrants’ children

28. The Chinese government *partially implemented* Russia (209) and South Sudan’s (215) recommendations to increase resources for education in rural areas. China 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.”⁵⁹ However, the government has *not implemented* recommendations 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.”⁶⁰ Nor did it implement South Sudan’s recommendation to “better the conditions of urban schools, especially in the poor neighborhoods” (216).
29. 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. According to the last government census, there are approximately 261 million rural migrants working in urban areas.⁶¹ Because their *hukou* remains attached to their rural residency, their children do not have equal access to government subsidized public school education in cities.
30. While laws exist in China to protect the rights of migrant children to education, there is also a lack of clarity and mechanism for enforcement. China’s 2006 Compulsory Education Law stipulated nine-year compulsory education for all children.⁶² Under Article 12 of the law, migrant children are entitled to schooling of “equal conditions” in their place of residence, but local authorities are given the power over enacting the regulations.⁶³ 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),⁶⁴ local government bureaus of education must guarantee and provide the required compulsory education for migrant children. However, the regulations do not specify which government agencies are responsible to enforce the regulations or to penalize violators. Despite a “non-discrimination” provision in its 2012 Law on Protection of Minors to protect children’s right to education,⁶⁵ migrant children still face discrimination in enjoying equal access to basic education.

31. One major obstacle to protecting this basic human right has been inadequate funding budgeted by the government. The government systematically allocates more resources for schools in urban areas than in rural areas. As a direct outcome of the government’s low funding allocation, 50 percent of rural primary schools closed between 2000 to 2010, making education less accessible for rural children.⁶⁶ Due to severe shortage of resources for education in poor rural regions, schools in these places charge high fees for different services and school materials, creating an undue financial burden for poor families and causing high drop-outs rates.
32. The Ministry of Education targeted a reduction within 3-5 years of primary school dropout rate within 0.6% and middle school dropout rate within 1.8% in 2014.⁶⁷ According to one study conducted by Chinese scholars between 2007 and 2013 in four provinces, published in 2016, the estimated rates of middle school dropout in rural areas ranged from 17.6% to 31%. This study found that the combined dropout rate for rural middle school, high school and professional middle schools were as high as 63%. In poor rural areas, 51.2% - 53.5% of children do not attend high school or professional middle schools, while the rate of urban kids who went to high school was 90%.⁶⁸
33. 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 low spending resulted in “sharp inequities in public resource allocations” for “the implementation of children’s rights” to education.⁶⁹ 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.⁷⁰ 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.”⁷¹
34. 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 enrol.⁷² 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*.⁷³
35. Confronting these problems, parents of migrant children and civil society groups have experimented with opening private or community schools for these children. The “migrant schools” cannot obtain state funding, face severe shortage of resources and qualified teachers, and are often housed in unsafe buildings. Authorities often shut down migrant schools due to failed safety inspections of the buildings or licensing issues.⁷⁴ The government took 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 denied equal access to public education.⁷⁵ 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.”⁷⁶

36. In recent years, the government has taken some steps to tackle unequal access to education by improving funding.⁷⁷ However, the government has not created the necessary mechanisms, as called for by CRC, to “monitor and evaluate the efficacy, adequacy and equitability of the distribution of resources across provinces, prefectures and counties in mainland China.”⁷⁸
37. In inadequately providing for education for rural “left behind” and migrant children, the government has fallen short of achieving protections outlined in its National Human Rights Action Plan (2016-2020), namely that China “will focus efforts to guarantee equal right to compulsory education for children of migrant workers in places they migrated to, improve education service system for left-behind children.”⁷⁹ In the past 3 years, urban centers have erected tremendous obstacles to keep out rural migrants through tough measures on obtaining housing and residential permits. In Beijing, the government’s 2017 “Resolve Improvement and Push Promotion” of city management project meant that most migrant schools have been demolished after government inspectors designated them as safety hazards, leaving hundreds of thousands of migrant children out of schools.⁸⁰ In Shanghai, the government placed onerous requirements on migrants for obtaining residential permits, deterring many parents from enrolling their children in schools where such permits are required.⁸¹

¹ 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.

² 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.

³ 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.

⁴ CRC raised this concern in its 2013 review. CRC/C/CHN/CO/3-4, October 2013, para. 85.

⁵ 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” (大凉山童工的另一人生), January 26, 2014, http://epaper.yynet.com/html/2014-01/26/content_38001.htm?div=-1.

⁶ Labor activists imbedded in a garment factory in Jiangsu province publicized some video footage online, taken secretly, showing migrant children, as young as 15, working there. “Footage of Changshou Child Labor Industry: Squeezed Youth 实拍常熟童工产业：被榨尽的青春”, November 2016. http://www.zyjjq.com/n/content_1122_35136.html.

⁷ *Beijing Youth News*, “Changshou Child Laborers ‘Dropping School Investigation:’ Visiting Teacher Threatened by Students with a Sickle(1)” (常熟童工”辍学调查：老师家访遭学生持镰刀威胁(1)), November 30, <http://news.china.com/socialgd/10000169/20161130/30057870.html>.

⁸ *New Beijing News*, “Garment Capital ‘Selling Child Labor’ Shames Rule of Law Society” (服装之都“倒卖童工”是法治社会之耻), November 22, 2016, <http://news.china.com/domesticgd/10000159/20161122/23911055.html>.

⁹ *Xinhua*, “Employing Child Laborers, Restricting Freedom, Beating, Zhejiang Sock Factory Owner Arrested on Suspicion of forced labo” (雇佣童工、限制自由、殴打 浙江一袜子作坊老板涉嫌强迫劳动被批捕), August 8, 2016. http://www.zj.xinhuanet.com/zjNewsman/20160808/3356367_c.html.

¹⁰ *Beijing Youth Daily*, “Interns ‘Sold’ To Factories” (被“卖”进工厂的实习学生), September 25, 2016, http://epaper.yynet.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.

¹¹ 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>.

¹² 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.oeeee.com/epaper/1/html/2014-08/01/content_3288982.htm?div=-1.

¹³ 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>.

¹⁴ 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.

¹⁵ Article 244a, Criminal Law of the People’s Republic of China, 1979, amended 2012, <https://www.cecc.gov/resources/legal-provisions/criminal-law-of-the-peoples-republic-of-china>.

¹⁶ 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. Authors interviews with NGO, 2016.

¹⁷ 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/s916zociw68qaf5.html?vid=d01959jby4u>.

¹⁸ *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.

¹⁹ 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: 气温回暖儿童失踪率增大), *Caijing*, March 25, 2016, http://www.caijingmobile.com/political/2016/03/25/257035_1_0.html. A state media report in 2015 noted the trend of more left-behind children becoming street children. 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.

²⁰ 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.

²¹ CEDAW, Concluding observations on the combined seventh and eighth periodic reports of China, para. 20.

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- ²² The US State Department, “2017 Trafficking in Persons Report,” <https://www.state.gov/documents/organization/271341.pdf>.
- ²³ 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>.
- ²⁴ 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.
- ²⁵ 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>.
- ²⁶ 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.
- ²⁷ CRC, Concluding observations on the combined third and fourth periodic reports of China, paras. 15-16.
- ²⁸ “Jilin Siping Honghuanglan Daycare Child Abuse Case Civil Lawsuit Verdict Announced” (吉林四平红黄蓝幼儿园虐童案民事诉讼宣判), November 25, 2017, <http://news.china.com/socialgd/10000169/20171125/31718967.html>.
- ²⁹ Bulletin of the World Health Organization, “The burden of child maltreatment in China: a systematic review,” March 1, 2015, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4371492/>.
- ³⁰ “Girls’ Protection 2016 Investigative Report on Child Sex Assault Prevention Education” (“女童保护”2016年儿童防性侵教育调查报告), March 3, 2017, http://gongyi.ifeng.com/a/20170303/44550261_0.shtml.
- ³¹ *Xinhua*, “Foundation bids to shine a light on child abuse,” June 3, 2016, <https://www.shine.cn/archive/nation/Foundation-bids-to-shine-a-light-on-child-abuse/shdaily.shtml>.
- ³² “One-third of rural children left behind by parents: report,” *Global Times*, July 24, 2017, <http://www.globaltimes.cn/content/1057820.shtml>.
- ³³ CRC, Concluding observations on the combined third and fourth periodic reports of China, para. 48.
- ³⁴ 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.
- ³⁵ *Huaxi Doushibao*, “Hunan Man Raped 14 Girls in Two Years, Execution Carried out” (湖南一男子两年强奸 14 名幼女被执行死刑), June 1, 2017, <http://news.163.com/17/0601/14/CLRP4B1H00018AOR.html>.
- ³⁶ 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/zd gz/201508/t20150830_103811.shtml.
- ³⁷ PRC Criminal Law, Article 236.
- ³⁸ 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/>; *Variety*, “Film Review: ‘Hooligan Sparrow’”, July 22, 2016, <http://variety.com/2016/film/reviews/hooligan-sparrow-review-1201820676/>.
- ³⁹ “Compensation for the Mental Suffering of Rape Victims and Rape and Prostitution Laws relating to Minors: A Comparative Study,” Reuters, December 2, 2013, <http://www.trust.org/publications/i/?id=1f16a695-7353-42a5-ac18-5fb1524a2f3c>; “Women’s legal aid center in Beijing closed,” *Global Times*, February 2, 2016, <http://www.globaltimes.cn/content/966852.shtml>.
- ⁴⁰ *Xinhua News Agency*, “China to ease one-child policy,” November 15, 2013, http://news.xinhuanet.com/english/china/2013-11/15/c_132891920.htm.
- ⁴¹ *Jing Bao*, “Almost New Year, How Are ‘the Children Waiting for Adoption’ at Shenzhen Orphanage?” (快过年了, 深圳福利院那些“等待被认领的孩子们”还好吗?) February 3, 2018, <http://news.sina.com.cn/o/2018-02-03/doc-ifyremfz4366500.shtml>.

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- ⁴² Ministry of Civil Affairs of PRC, “2016 Social Service Development Statistics Public Report” (2016 年社会服务发展统计公报), August 3, 2017, <http://www.mca.gov.cn/article/sj/tjgb/201708/20170800005382.shtml>.
- ⁴³ 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.nchr.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/>.
- ⁴⁴ 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).
- ⁴⁵ CRC, Concluding observations on the combined third and fourth periodic reports of China, para. 33.
- ⁴⁶ *Ibid.*, para. 52.
- ⁴⁷ World Economic Forum, The Global Gender Gap Report 2015 – China, <http://reports.weforum.org/global-gender-gap-report-2015/>.
- ⁴⁸ United Nations Population Fund, “Gender-Biased Sex Selection-Overview,” July 29, 2016, <http://www.unfpa.org/gender-biased-sex-selection>.
- ⁴⁹ CRC, Concluding observations on the combined third and fourth periodic reports of China, CRC/C/CHN/CO/3-4, para. 39 (b).
- ⁵⁰ *Ibid.*, paras. 39-40.
- ⁵¹ CEDAW, Concluding observations on the combined seventh and eighth periodic reports of China, para. 39 (b).
- ⁵² *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; CCTV, “Nationwide 13 Million People Have No Hukou, Mostly Due to Birth Quota Violations, 1/3 Can’t Afford Fines” (全国 1300 万人无户口多因超生 超 1/3 交不起计生罚款) January 16, 2016, <http://www.chinanews.com/gn/2016/01-16/7718900.shtml>.
- ⁵³ 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.
- ⁵⁴ 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.
- ⁵⁵ 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>; CCTV, “Nationwide 13 Million People Have No Hukou, Mostly Due to Birth Quota Violations, 1/3 Can’t Afford Fines,” January 16, 2016, <http://www.chinanews.com/gn/2016/01-16/7718900.shtml>.
- ⁵⁶ 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>.
- ⁵⁷ 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>.
- ⁵⁸ 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>; CCTV, “Nationwide 13 Million People Have No Hukou, Mostly Due to Birth Quota Violations, 1/3 Can’t Afford Fines,” January 16, 2016.

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- ⁵⁹ 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.
- ⁶⁰ This is *poor* recommendation, as it pre-supposes the government is already attaching great importance to the issue, and does not give an actionable goal to be implemented.
- ⁶¹ 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).
- ⁶² 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.
- ⁶³ 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.
- ⁶⁴ 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.
- ⁶⁵ 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.
- ⁶⁶ 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>.
- ⁶⁷ *People’s Daily*, “Ministry of Education: Primary School Dropout Rate Shall Be Lower than 0.6% and Middle School Dropout Rate To Be Controlled under 1.8%” (教育部：小学辍学率要低于 0.6% 初中控制在 1.8%以下), February 17, 2014, <http://www.wxjy.com.cn/Item/54835.aspx>.
- ⁶⁸ Shi Yuejiang, Ma Yue, et al. *Discovering Rural China*, “China Rural Middle School Dropout Investigation” (中国农村中学辍学调查), March 2, 2016, <http://www.zgxcfx.com/nongcunwanxiang/81993.html>
- ⁶⁹ 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.
- ⁷⁰ CRC, Concluding observations on the combined third and fourth periodic reports of China, para. 75.
- ⁷¹ 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.
- ⁷² 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.
- ⁷³ *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>.
- ⁷⁴ CHR, “‘Flowers of the Country’: Mistreated and Abused: A Report on Violations of the Rights of the Child in China,” August 2013.
- ⁷⁵ CHR, Portrait of a Defender – Xu Zhiyong (许志永), <https://www.nchrd.org/2013/10/prisoner-of-conscience-xu-zhiyong/>.
- ⁷⁶ 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.

⁷⁷ 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.

⁷⁸ CRC, Concluding observations on the combined third and fourth periodic reports of China, para. 14 (b).

⁷⁹ Information Office of the State Council of the People’s Republic of China, National Human Rights Action Plan (2016-2020), Chapter 1, Section 6, September 29, 2016, http://www.xinhuanet.com/politics/2016-09/29/c_129305934.htm.

⁸⁰ *Caijing Magazine*, “Beijing Migrant School Faces Demolition, Migrant Children’s Schooling Becomes Problematic” (北京一民工子弟学校面临拆迁 民工子女上学成难题), August 26, 2017, <http://news.163.com/17/0826/15/CSPC6O590001899N.html>.

⁸¹ Xi Yinghong, “Migrant Children Have No School to Attend, Migrant Schools Cannot Recruit Students: ‘Forcing out of Education’ Is a Bad Trick” (流动儿童无学上、民工学校招不到人: “教育赶人”是个昏招), October 25, 2016, <http://view.news.qq.com/original/intouchtoday/n3689.html>.

3.5 Disability Rights

By CHRD (last updated 2016)

1. 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.¹ 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.² 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.³ According to statistics from the government body China Disabled Person's Federation (CDPF), the rate of disabled persons who found new work has been falling since 2013.⁴ 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.⁵
2. The Chinese Constitution includes an article on supporting disabled persons (Article 45).⁶ 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

3. 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 12 recommendations that China accepted have been *partially implemented*.⁷
4. 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.⁸ 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.⁹ Unfortunately, the proposed amendments also promote further development of the parallel, segregated school system for disabled children.
5. 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.”¹⁰ 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.¹¹ In September 2015, the Ministry of Education released a test version of new “Standards for Special Education Teaching Professionals,”¹² 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.”¹³

Failures to meet international standards in law & practice

6. 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.”¹⁴ 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.¹⁵

7. 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,¹⁶ the “Standards for Civil Service Recruitment Examination (provisional)” require all applicants to undertake a physical examination.¹⁷ 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.¹⁸ 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.”¹⁹
8. While the Convention requires State parties to “ensure an inclusive education system at all levels,”²⁰ a sentiment echoed in Costa Rica’s recommendation, the Chinese government has continued to promote segregated special schools for children with disabilities.²¹ 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.²² 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.²³ 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.²⁴
9. 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.”²⁵
10. 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, 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.²⁶ 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.²⁷ 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 CDFP in implementing the Convention.²⁸

11. 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.²⁹
12. China's birth control policies have contributed to the persistence of abandoned disabled children, a problem raised in Uruguay's UPR recommendation 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.³⁰ In October 2015, the government relaxed its "one child" policy and allowed couples to have two children.³¹ 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.³² 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.³³ According to Chinese government statistics from 2014, only 4.38 percent of disabled children are orphans raised by their non-birth families.³⁴ 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.³⁵
13. 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."³⁶ However, the government has not repealed any such legal provisions since that time.

¹ 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.

² 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.

³ 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.

⁴ 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.cdpe.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.

⁵ CHRDR, Report Submitted to UN Committee on the Elimination of Discrimination Against Women, September 2014, paras. 29, 34, <https://www.nchrd.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.nchrd.org/2014/09/appendix-4-to-chrd-and-coalition-of-ngos-report-submitted-to-cedaw-october-2014/>.

⁶ 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.

⁷ 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.

⁸ “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.

⁹ Ibid.

¹⁰ 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.

¹¹ CHRDR interview, 2016.

¹² “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.

¹³ 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.

¹⁴ “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

¹⁵ 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.

¹⁶ Article 19 of the Employment Promotion Law and Article 38 of the LPDP.

¹⁷ “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>.

¹⁸ 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 sexual transmitted diseases.

¹⁹ 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.

²⁰ Article 24, International Convention on the Rights of Persons with Disabilities, 2008.

²¹ 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>.

²² 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.

²³ “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.

²⁴ HRW, “As Long as They Let Us Stay in Class: Barriers to Education for Persons with Disabilities in China.”

²⁵ CRPD, Concluding observations on the initial report of China, paras. 35-36.

²⁶ 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>.

²⁷ The government claimed the CDPF “represented persons with disabilities” makes 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.cdpcf.org.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.”

²⁸ 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.

²⁹ CHR, “Police Detain Two Rights Advocates as NGO Crackdown Intensifies,” June 15, 2015, <https://www.nchrd.org/2015/06/police-detain-two-rights-advocates-as-ngo-crackdown-intensifies/>; see also CHR 2013, 2014, and 2015 Annual Reports. CHR, “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/>; CHR, ““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/>; CHR, ““Too Risky to Call Ourselves Defenders”: CHR 2015 Annual Report on the Situation of Human Rights Defenders in China,” <https://www.nchrd.org/2016/02/too-risky-to-call-ourselves-defenders-chrds-2015-annual-report-on-the-situation-of-human-rights-defenders-in-china/>.

³⁰ CRPD, Concluding observations on the initial report of China, paras. 14-15.

³¹ *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.

³² *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>.

³³ CHR interview, 2016.

³⁴ At the end of 2015, the National Bureau of Statistics released 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.

³⁵ 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>.

³⁶ 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).