

Civil Society Report Submitted to

The United Nations Committee on Economic, Social and Cultural Rights

**For its 3rd periodic review of
the People's Republic of China**

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Joint Submission by (1) The Network of Chinese Human Rights Defenders (CHRD), a coalition of Chinese and international human rights non-governmental organizations, which is dedicated to the promotion of human rights through peaceful efforts to push for democratic and rule of law reforms and to strengthen grassroots activism in China, and (2) Rights Defense Network (RDN), a China-based NGO, which monitors and disseminates news about human rights developments. For the protection and security of its staff, specific identification information has been withheld.

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Executive Summary

1. The Chinese government's replies to the UN Committee on Economic, Social and Cultural Rights' List of Issues (LOI) in relation to its State party report (E/C.12/CHN/3) currently under review, are, with only a few exceptions, inadequate, misleading, irrelevant and utterly divorced from reality (see (E/C.12/CHN/RQ/3)). In this report, The Network of Chinese Human Rights Defenders (CHRD) and Rights Defense Network (RDN) will focus on two overarching human rights issues —among many— that are necessary for the realization of

economic, social and cultural (ESC) rights for all people in China: (1) the ability of the judicial system to act independently and impartially, without interference from the Chinese government or the Chinese Communist Party (“the Party”) in ESC and other human rights cases; and (2) the promotion and protection of enabling rights and civil society space for human rights defenders (HRDs) and lawyers to carry out their work. This lack of space for civil society has negatively impacted HRDs working on housing rights, land rights, labor rights, business and human rights, women’s rights, cultural rights, LGBTQI+ rights, and many other areas.

2. Unfortunately, since the Committee’s previous review of China’s implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 2014, the situation for HRDs and lawyers and the people they represent in ESC rights cases has deteriorated drastically, and the judiciary has become just another organ the State and Party uses to do its bidding, to silence critics, and suppress efforts to hold the government and the Party to account.

3. In short, even more so now than in 2014, the Chinese government deprives citizens of any safe and effective avenues to advocate for their rights under the ICESCR.

Lack of Independence and Impartiality of the Judiciary

4. In CESCR’s List of Issues to the State party, the Committee asked, “Please provide information on: (a) The legislative and administrative measures taken to guarantee the full independence and impartiality of the judiciary.”¹ In its reply, China stated, “The Constitution stipulates that people’s courts and people’s procuratorates exercise judicial power independently in accordance with the law.”²

5. However, this reply is deeply misleading: by deliberate design, the judiciary in China remains neither independent nor impartial, and the Party, rather than taking measures to guarantee judicial independence, has further entrenched its position over the legal system.

6. Since the last review by the Committee, the Party has taken steps to ensure it controls the judiciary and has explicitly signaled its hostility towards the concept of judicial independence on numerous occasions. For example, in October 2014, the Party’s Central Committee held its Fourth Plenum to discuss its vision of “ruling the country according to the law” and issued a Decision addressing some major questions on governing the country according to law, which served as a blueprint for China’s legal, judicial, and prosecutorial bodies to enact changes that, in fact, have further undermined the rule of law in China.³ Most importantly, the Decision rejected the concept of an impartial or independent force within China’s legal system, and it instead re-emphasized the Party’s supreme leadership over and above any law, legal or judicial processes.

¹ Committee on Economic, Social and Cultural Rights (CESCR), “List of issues in relation to the third periodic report of China” (hereinafter “LOI”), 7 April 2021, E/C.12/CHN/Q/3, para. 2 (a).

² Replies of China to the list of issues in relation to its third periodic report, May 11, 2022, E/C.12/CHN/RQ/3, para. 2.

³ *China Copyright and Media*, CCP Central Committee Decision concerning Several Major Issues in Comprehensively Advancing Governance According to Law, October 18, 2014, <https://www.chinalawtranslate.com/en/fourth-plenum-decision/>.

7. In 2017, then-President of the Supreme People’s Court Zhou Qiang rejected the principle of judicial independence in a speech,⁴ and similar sentiments have become commonplace among senior Party leaders. The Party’s attack on constitutionalism, including judicial independence, was perhaps best showcased in an internal Party document that was leaked to the press, known as “Document Number 9.” In the classified document, which was circulated widely among Party elites but later leaked to the press, “constitutional democracy,” “independent judiciaries,” and “universal values,” a synonym for human rights, were singled out as “false ideological trends” to be rejected.⁵

8. The Chinese government has prosecuted Chinese citizens who advocate for constitutional governance and rule of law, including judicial independence. A few notable cases since 2014 illustrate this common practice:

- (a) The government detained **Yang Maodong** (pen name [Guo Feixiong](#)) on August 8, 2013 and sentenced him to six years in prison on November 27, 2015.⁶ Though the court convicted him of the charges of “gathering a crowd to disrupt order of a public place” and “picking quarrels and provoking troubles,” the “evidence” used against him included organizing a rally in front of the newspaper *Southern Weekend*, where the editorial team was being purged by newly appointed Communist Party censors after it had attempted to run an editorial in favor of Western-style constitutionalism, implying a separation of powers.⁷ The government’s crackdown on a newspaper once known for its investigative journalism and edgy opinion proved to be an important milestone in the first year of Xi Jinping’s reign.⁸ Authorities detained Mr. Yang again in December 2021, and the government prosecutors indicted him by citing his website where he discussed constitutionalism as the main “evidence” for the charge against him of “inciting subversion of state power.” Yang Maodong has been the subject of eight urgent appeals by UN experts over the years.⁹
- (b) The government detained prominent legal advocates **Ding Jiayi** and **Xu Zhiyong** on December 26, 2019 and February 15, 2020, respectively, after they attended a private gathering of civil society advocates in the coastal city of Xiamen in December of 2019. They were then held in prolonged incommunicado detention, which the UN Working Group on Arbitrary Detention found to be “arbitrary.”¹⁰ In August 2021, Ding Jiayi and Xu Zhiyong were indicted. The prosecution’s case against Ding Jiayi and Xu Zhiyong demonstrated how the government has criminalized freedom of speech, freedom of association, and peaceful advocacy for an independent and impartial legal system.¹¹ Specifically, the main points raised by the prosecution related to Ding and Xu’s involvement with the “New Citizens

⁴ Global Voices, “China’s Top Judge Warns Against the ‘Threat’ of Judicial Independence,” January 20, 2017, <https://globalvoices.org/2017/01/20/chinas-top-judge-warns-against-the-threat-of-judicial-independence/>.

⁵ China File, Document 9: A ChinaFile Translation, November 8, 2013, <https://www.chinafile.com/document-9-chinafile-translation>.

⁶ Please note: all hyperlinks in the text go to relevant items on CHRD’s website: <https://www.nchrd.org>.

⁷ Helen Gao, “A Press Renaissance? The Legacy of China’s ‘Southern Weekend,’” *The Atlantic*, January 11, 2013, <https://www.theatlantic.com/international/archive/2013/01/a-press-renaissance-the-legacy-of-chinas-southern-weekend/267081/>.

⁸ China Media Project, “Why Southern Weekly?,” February 18, 2013, <https://chinamediaproject.org/2013/02/18/why-southern-weekly/>.

⁹ AL CHN 2/2022, February 3, 2022,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27049>.

¹⁰ WGAD, Opinion No. 82/2020 and Opinion No. 30/2021.

¹¹ China Change, “Indictment of Citizens Movement Advocate Ding Jiayi — A Full

Translation,” <https://chinachange.org/2021/10/06/indictment-of-citizens-movement-advocate-ding-jiayi-a-full-translation/> ;

China Change, “Indictment of Citizens Movement Advocate Xu Zhiyong — A Full

Translation,” <https://chinachange.org/2021/10/06/indictment-of-citizens-movement-advocate-xu-zhiyong-a-full-translation/>

Movement,” which had attempted to popularize a new form of civic engagement, encouraging citizens to build community and take practical steps to address issues like educational disparities related to *hukou* discrimination (see section Article 2, paras. 24-25, below).¹² The government accused the two of pushing for a “transition to constitutionalism.” Xu and Ding were put on trial in secret on June 22, 2022 and June 24, 2022, respectively.¹³ As of January 15, 2023, no verdict had issued. Both Ding Jiayi and Xu Zhiyong remain in detention.

CHRD and RDN urge the Committee to ask the State party to release all detainees or prisoners who advocated for judicial independence and rule of law reforms and cease its persecution of law reform advocates and lawyers.

The Committee should reiterate its previous recommendation to the State party that it should take all necessary legislative and administrative measures to guarantee the full independence and impartiality of the judiciary.¹⁴

Intimidation of Lawyers Who Take up Cases of Violations of ESC Rights

9. In the LOI, the Committee asked the Chinese government about allegations that the government has used legislation relating to the legal profession to intimidate lawyers and law firms who have taken on cases relating to violations of ESC rights.¹⁵ In its reply, the Chinese government stated: “There is no so-called ‘intimidation’.”¹⁶ But just one year after the Committee issued its Concluding Observations on the review of China’s second periodic report regarding its implementation of the Covenant (in 2014), the Chinese government launched an assault on China’s human rights lawyers.¹⁷

10. Starting on July 9, 2015, the Chinese government launched an unprecedented nationwide crackdown on human rights lawyers. In the next few months, police interrogated and detained over 300 lawyers and paralegal assistants and raided three law firms. Dozens of lawyers and legal assistants and activists were detained, and 15 were eventually convicted.¹⁸ These lawyers and law firms were involved in defending criminally prosecuted human rights defenders of ESC rights and defenders of the cultural rights of ethnic minorities.

11. Since 2015, the government has continued to intimidate lawyers and law firms who take up cases involving violations of ESC rights. According to research compiled by CHRD for this submission:

- 20 human rights lawyers had their law licenses cancelled;
- 4 human rights lawyers were unable to renew their law licenses;

¹² Eva Pils, “From Independent Lawyer Groups to Civic Opposition: The Case of China’s New Citizen Movement,” http://blog.hawaii.edu/aplpj/files/2018/01/APLPJ_19.1_Pils.pdf.

¹³ CHRD, “China: Release Xu Zhiyong and Ding Jiayi Ahead of UN Anti-Torture Day,” June 16, 2022, <https://www.nchrd.org/2022/06/china-release-xu-zhiyong-and-ding-jiaxi-ahead-of-un-anti-torture-day/>.

¹⁴ Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China 13 June 2014, E/C.12/CHN/CO/2, para. 10.

¹⁵ CESCR, LOI—China, E/C.12/CHN/Q/3, para. 4.

¹⁶ Replies of China to the list of issues in relation to its third periodic report, May 11, 2022, E/C.12/CHN/RQ/3, para. 4.

¹⁷ CHRD, “Too Risky to Call Ourselves Defenders”: CHRD Annual Report on the Situation of Human Rights Defenders in China (2015), February 15, 2016, <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/>.

¹⁸ CHRD, “Individuals Affected by July 9 Crackdown on Rights Lawyers,” July 13, 2015 (last updated January 28, 2019), <https://www.nchrd.org/2015/07/individuals-affected-by-july-10-crackdown-on-rights-lawyers/>.

- 4 human rights lawyers did not pass the “political appraisal” needed to obtain a law license;
- 18 human rights lawyers were forced to leave their law firms, often due to official pressure on the law firm, and then were unable to find another law firm willing to hire them due to their previous history of taking on cases that involved human rights abuses.

12. Thus, in total, the Chinese government has, without any legitimate basis, forced at least 46 lawyers out of law practice since 2015. Although this may seem to be a relatively small number relative to the size of China’s legal community and general population, it is important to stress that due to the government’s tight control over the legal profession, there are only a limited number of lawyers willing to take on “sensitive cases,” including ESC rights.

13. Among those who lost their law licenses:

- **Liu Zhengqing** had his law license revoked on December 25, 2018.¹⁹ Liu was accused of using words that endangered national security and maliciously slandered others in the defense of a Falun Gong religious practitioner and in the defense of **Zhang Haitao**, an ethnic Han man who had expressed sympathy online for Uyghurs facing human rights violations and who was subsequently sentenced to 19 years in prison.²⁰ Liu had also been accused of having breached rules in a detention center where his client **Huang Qi** (see para. 17) was held.²¹
- **Chang Weiping** had his law license cancelled on January 13, 2020.²² Chang had previously taken on pioneering cases of gender discrimination,²³ such as that of Gao Xiao, a female chef who won a lawsuit against a restaurant who would not hire her after restricting their potential applicants to males only.²⁴
- **Lin Qilei** had his law license revoked by the Beijing Municipal Bureau of Justice in 2021. Lin had represented Tibetans, members of the “Hong Kong 12,” activists who were intercepted at sea by China’s Coast Guard while trying to escape from Hong Kong and who were subsequently detained in mainland China.²⁵ Lin had also defended human rights and democracy activists, like the aforementioned **Guo Feixiong** and **Qin Yongmin**, who was the founder and leader of China Human Rights Watch and used social media to advocate for the rights of victims of housing, land, and health human rights violations.

14. The Chinese government has also adopted regulatory measures to restrict lawyers from doing their job in representing victims of ESC rights violations or defending persecuted defenders of ESC rights. In 2016, the Ministry of Justice issued the “Administrative Measure

¹⁹ A copy of that decision is available on Twitter (in Chinese) at:

<https://twitter.com/CHRDnet/status/1077528891802054658?s=20&t=upmLENq0R2wmmMGOxRHQVg>

²⁰ Gerry Shih, “China’s crackdown on Uyghurs spreads to even mild critics,” AP, December 20, 2017,

<https://apnews.com/article/ap-top-news-international-news-social-media-tx-state-wire-china-7b8cfc93570f4afba2496d232ce09ce8>.

²¹ Radio Free Asia, “China Probes Outspoken Rights Lawyer Defending Ailing Sichuan Activist,” October 17, 2018,

<https://www.rfa.org/english/news/china/defending-10172018145309.html>.

²² CHRD Communiqué Alleging the Enforced Disappearance and Arbitrary Detention of lawyer Chang Weiping – October 30, 2020, <https://www.nchrd.org/2020/11/chrd-communicue-alleging-the-enforced-disappearance-and-arbitrary-detention-of-lawyer-chang-weiping-october-30-2020/>.

²³ Radio Free Asia, “One of China’s Feminist Five Denied Permission to Leave China Over 2015 Detention,” August 24, 2017, <https://www.rfa.org/english/news/china/feminist-studies-08242017131509.html>.

²⁴ Wang Lianzhang, “Restaurant To Serve Feminist Chef Apology, Court Orders,” Sixth Tone, September 21, 2016,

<https://www.sixthtone.com/news/1358/restaurant-to-serve-feminist-chef-apology%2C-court-orders>

²⁵ CHRD, “New Wave of Persecution Against Chinese Human Rights Lawyers Must Sound the Alarm,” December 6, 2021, <https://www.nchrd.org/2021/12/new-wave-of-persecution-against-chinese-human-rights-lawyers-must-sound-the-alarm/>.

for Law Firms” which systematically undermined law firms’ independence while institutionalizing Chinese authorities’ own mechanisms of control. The Measures made the Party’s presence and leadership role in law firms’ decision-making mandatory. Article 4 stipulates that law firms must “strengthen Party-building,” “establish Party organizations,” “support Party activities,” and “perfect Party organs’ participation in the strategic decision-making of law firms.” Article 3 requires law firms to “support the leadership of the Chinese Communist Party.”²⁶

15. On October 15, 2021, the government-run All-China Lawyers Association issued rules titled “The All-China Lawyers Association Rules on Prohibiting the Hying of Cases in Violation of Rules,”²⁷ which restrict many of the methods lawyers use to draw attention to police or judicial officials’ misconduct involving their clients.²⁸

CHRD and RDN ask the Committee to urge the Chinese government to protect the independence of lawyers and reinstate the licenses of lawyers whose law licenses were taken away by government officials because they took on human rights cases, including cases involving ESC rights.

Restrictive and Intimidating Environment for ESC Rights Defenders

16. In its LOI the Committee asked China, “Please also provide information on the measures taken to provide an enabling environment for human rights defenders to advocate and promote economic, social and cultural rights, particularly for ethnic minority groups, migrants and workers.”²⁹ Since the last review, the environment for human rights defenders has become entirely restrictive. The government has shut down the space for independent civil society and carried out a series of campaigns to harass and punish labor organizers, workers’ rights activists, and other defenders of ESC rights.³⁰

17. To illustrate the Chinese government’s intimidation and persecution of human rights defenders who advocate for, and promote economic, social, and cultural rights, in some cases for ethnic minority groups, migrants and workers, we are providing the Committee a list of detained or jailed or forcibly disappeared defenders from 2021-2022, below:³¹

- **Zhou Weilin**, a labor rights activist and citizen journalist with RDN who regularly reported on labor issues and demanded protection of workers with disabilities, was sentenced to three

²⁶ See CHRD, “[CHRB] Revised Measures on Law Firms Further Curb Independence of Chinese Lawyers (9/21-10/3, 2016),” <https://www.nchrd.org/2016/10/chrb-revised-measures-on-law-firms-further-curb-independence-of-chinese-lawyers-921-103-2016/>.

²⁷ China Law Translate, “All-China Lawyers Association Rules on Prohibiting the Hying of Cases in Violation of Rules,” October 20, 2021, <https://www.chinalawtranslate.com/en/lawyers-speech/>.

²⁸ CHRD analyzed how these rules could negatively impact lawyers, see CHRD, “New Wave of Persecution Against Chinese Human Rights Lawyers Must Sound the Alarm,” December 6, 2021, <https://www.nchrd.org/2021/12/new-wave-of-persecution-against-chinese-human-rights-lawyers-must-sound-the-alarm/>.

²⁹ Committee on Economic, Social and Cultural Rights, “List of issues in relation to the third periodic report of China”, 7 April 2021, E/C.12/CHN/Q/3, para. 4.

³⁰ See, e.g., “Defending Rights in a ‘No Rights Zone’: Annual Report on the Situation of Human Rights Defenders in China (2018),” February 21, 2019, <https://www.nchrd.org/2019/02/2018-hrd-report/>; and the ESC defenders profiled in CHRD’s most recent annual report “Zero Tolerance for Human Rights Defenders in the Year of “Zero COVID”: Annual Report on the Situation of Human Rights Defenders in China (2021)”, March 7, 2022, <https://www.nchrd.org/2022/03/zero-tolerance-for-human-rights-defenders-in-the-year-of-zero-covid-annual-report-on-the-situation-of-human-rights-defenders-in-china-2021/>.

³¹ We acknowledge, however, that given the vastness of China and extreme censorship of human rights issues, this list inevitably leaves out many defenders whose plights have gone undocumented.

and a half years on the charge of “picking quarrels and provoking trouble.” Zhou was himself a worker with a disability due to a workplace injury.

- [Chen Guojiang](#), a labor organizer and delivery worker, was detained in February 2021 in Beijing. Chen, a popular organizer on social media, was outspoken about the precarious working conditions of frontline delivery workers in Chinese cities and had called for delivery workers to boycott companies that allegedly withheld bonus pay for workers who could not meet high demands.³² Chen was subsequently detained on the charge of “picking quarrels and provoking trouble.” On January 3, 2022, Chen was seen in a video leaving prison.³³
- [Li Yufeng](#), a housing rights defender, is serving a 4-year sentence on the charge of “picking quarrels and provoking trouble.” Her sentence in 2017 was also connected to her longstanding petitioning as a victim of a forced eviction and her solidarity with other housing rights activists.
- [Chen Jianfang](#), a land and housing rights defender, was sentenced to three years on the charge of “inciting subversion of state power” in 2021 for her role in fighting forced eviction and providing support to other housing/land rights activists.
- [Zhang Zhan](#), a citizen journalist who reported on the COVID-19 pandemic from Wuhan, urging the government to protect health rights, is serving a 4-year prison sentence with life-threatening health conditions. She was sentenced in 2020 on the charge of “picking quarrels and provoking trouble.”
- [Fang Bin](#), a citizen journalist who reported from Wuhan and posted videos about the COVID outbreak, had gone missing since being detained by police in early 2020. In November 2021, however, a report emerged indicating he might be in a detention center awaiting trial.³⁴
- [He Fangmei](#), a health rights defender, was forcibly disappeared for nearly two years. She went missing after staging a protest in front of China’s National Health Commission in Beijing as China started to launch its COVID-19 vaccination drive in October 2020. He Fangmei went on trial in secret sometime during the spring of 2022, and the details are unclear. RDN reported that during the trial, although He Fangmei has difficulty hearing due to a disability and needs people to speak loudly or she must use lip reading to understand, the court would not provide her with written documents and only would allow her to listen to the trial. During the trial, she dismissed her government appointed lawyer and submitted 50 pages of her own written defense statement.
- [Wang Jianbing](#) was taken away by authorities in September 2021 in Guangzhou. Wang is an activist who worked to help workers suffering from the lung disease pneumoconiosis and other occupational illnesses. An arrest notice was sent to Wang’s family in October 2021 saying he was arrested on the charge of “inciting subversion of state power.”
- [Huang Xueqin](#) was detained by authorities in September 2021 in Guangzhou along with Wang Jianbing. Huang, a former journalist and prominent feminist, was one of the leaders of

³² Karl Hu, “China: Leader of Delivery Riders Alliance Detained, Solidarity Movement Repressed,” April 15, 2021, <https://labornotes.org/2021/04/china-leader-delivery-riders-alliance-detained-solidarity-movement-repressed>.

³³ See video at: <https://twitter.com/CHRDnet/status/1478004851674132484?s=20>.

³⁴ IFJ, “China: Businessman and journalist Fang Bin remains in detention,” November 30, 2021, <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/china-businessman-and-journalist-fang-bin-remains-in-detention.html>.

China's #MeToo movement.³⁵ She is facing the charge of “inciting subversion of state power.”

- **Huang Qi**, (mentioned above, para. 13) a citizen journalist who had run a grassroots group *64 Tianwang*, dedicated to publicizing human rights abuses, including those involving housing, land, health, education rights, remains in prison as of mid-January 2023. In 2019, Chinese authorities sentenced Huang to 12 years in prison on the charge of intentionally leaking state secrets” and “illegally providing state secrets to foreign entities.”
- **Cheng Yuan, Liu Yongze and Wu Gejianxiong**, staff members of the NGO Changsha Funeng, were detained in 2019 and sentenced in a secret trial to five years, two years, and three years imprisonment, respectively. Changsha Funeng sought to prevent discrimination and strengthen protections for individuals living with disabilities and with HIV/AIDS and other communicable diseases. Liu and Wu were released after serving their full terms.
- **Li Qiaochu**, a labor rights activist who had participated in campaigns for workers’ union rights and migrant laborers’ rights, and a leading voice in China’s #MeToo movement, was taken away from her Beijing home by police in February 2021. The direct cause of her detention appeared to be an act of state retaliation against her efforts to expose incidents of torture inflicted upon Ding Jiayi and Xu Zhiyong, mentioned above (para. 8). She was eventually charged with “inciting subversion of state power.”
- **Gheytratjan Osman**, a professor of Uyghur language and literature at Xinjiang University, was taken away in 2018 and sentenced to 10 years for “separatism,” although the legal details of his case remain unclear. Gheytratjan Osman was apparently jailed on the grounds that he “rejected national culture,” attended a seminar on Turkic studies in Turkey in 2008 and gave “excessive” praise of Uyghur culture in his writings, which “inculcated separatist ideology in generations of Uyghur students.” Gheytratjan Osman published more than 30 books and 200 scholarly articles on the Uyghur language, literature, and folklore.
- **Qeyum Muhammad**, an actor and associate professor at the Xinjiang Arts Institute, was taken away in 2019 according to staff from the school. The staff did not know the reason he was taken away or where he was being held. According to Radio Free Asia, Qeyum Muhammad had taught young Uyghur performers and comedians, and thus contributed to passing on Uyghur culture to younger generations.³⁶
- **Gō Sherab Gyatso**, an eminent Tibetan Buddhist scholar and educator, was sentenced to 10 years on the charge of “inciting separatism,” the Tibetan Centre for Human Rights and Democracy (TCHRD) learned in 2021. He was originally detained in October 2020 and was a victim of enforced disappearance for five months.³⁷

We recommend that the Committee urge the Chinese government to recognize the role of civil society organizations and human rights defenders in promoting ESC rights, and to prohibit any reprisals against individuals and organizations promoting ESC rights.

Delegitimizing Human Rights Defenders and Arbitrarily Defining Human Rights

³⁵ Javier C. Hernandez, “China Releases #MeToo Activist Who Covered Hong Kong Protests,” *The New York Times*, <https://www.nytimes.com/2020/01/17/world/asia/china-metoo-huang-xueqin.html>; Wu Huizhong, “China’s crackdown on #MeToo movement extends far beyond tennis star Peng Shuai,” AP, November 14, 2021, <https://www.pbs.org/newshour/world/china-crackdown-on-metoo-movement-extends-far-beyond-tennis-star-peng-shuai>

³⁶ Radio Free Asia, “Uyghur Actor Confirmed Detained in China’s Xinjiang,” August 9, 2021, <https://www.rfa.org/english/news/uyghur/qeyum-muhammad-08092021113024.html>.

³⁷ TCHRD, “Eminent Tibetan scholar Gō Sherab Gyatso sentenced to ten years in prison,” December 13, 2021, <https://tchrd.org/eminent-tibetan-scholar-go-sherab-gyatso-sentenced-to-ten-years-in-prison/>.

18. Regarding the Committee’s question in the LOI about what guidelines the government has developed to determine which rights activities are legitimate and which are subversive activities operating “under the banner” of “safeguarding rights,”³⁸ unfortunately, there are no clear interpretative “guidelines,” since the Party can unilaterally determine who is operating in good faith and who is operating “under the banner” of a cause it wishes to discredit. The government has taken moves to limit the ability of researchers to empirically assess criminal verdicts to analyze such trends. In 2021, it was widely reported that the government had removed many “sensitive” cases from China Judgements Online, a government website that had at one point hoped to publicly and transparently store almost all of the verdicts issued by Chinese courts and operate on “the principle of complete openness.”³⁹

19. It is important to recount the ruling Chinese Communist Party’s ideology on human rights, which dictates laws and policies. The General Secretary of the Chinese Communist Party, Xi Jinping, has urged Party members to “promote the correct human rights view.” This “view”, the “Contemporary Chinese Human Rights View,” has been authoritatively expounded upon in the People’s Daily, the Party-controlled state media, and does not take implementation of China’s human rights obligations as its core priority, but rather it takes “maintaining the Communist Party leadership” as its core priority.⁴⁰ It implicitly rejects the notion of human rights being universal and inalienable, indivisible, interdependent and interrelated and posits the “right to survival” and the as the “basic human right” and “People’s happiness” as the “most important.”

CHRD and RDN recommends that the Committee urge the Chinese government to state that human rights are universal and inalienable; indivisible; interdependent and interrelated. Relatedly, the Committee should express concern about the delegitimization of rights holders based on arbitrary criteria.

Human Rights Due Diligence

20. With respect to the Committee’s question on human rights due diligence,⁴¹ the Chinese government responded by saying, “The Guidelines for the Compliance Management of Enterprises’ Overseas Operations have been issued and implemented, clarifying the basic norms and specific requirements for the operations of enterprises overseas, and giving full consideration to requirements in such areas as protection of labour rights as well as data and privacy.”⁴²

21. However, The Guidelines for the Compliance Management of Enterprises’ Overseas Operations do not specifically reference the UN Guiding Principles on Business and Human Rights (UNGPs), nor do they lay out a human rights due diligence process.⁴³ At times, the

³⁸ CESCR, E/C.12/CHN/Q/3, para. 4.

³⁹ Luo Jiajun, “Verdicts from China’s Courts Used to Be Accessible Online. Now They’re Disappearing,” ChinaFile, February 1, 2022, <https://www.chinafile.com/reporting-opinion/viewpoint/verdicts-chinas-courts-used-be-accessible-online-now-theyre-disappearing>.

⁴⁰ People’s Daily, “Promote the Correct Human Rights View (Deeply Study Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era), June 21, 2022, <http://theory.people.com.cn/n1/2022/0621/c40531-32451694.html>. (Chinese)

⁴¹ Committee on Economic, Social and Cultural Rights, List of issues in relation to the third periodic report of China, April 7, 2021, E/C.12/CHN/Q/3, para. 5.

⁴² Replies of China to the list of issues in relation to its third periodic report, May 11, 2022, E/C.12/CHN/RQ/3, para. 5.

⁴³ The Guidelines for the Compliance Management of Enterprises’ Overseas Operations are available here (Chinese): <https://www.ndrc.gov.cn/xxgk/zcfb/tz/201812/W020190905514236483349.pdf>.

Chinese government has attempted to give the impression at the UN that business and human rights due diligence is required by Chinese law, such as at the last UPR session in 2018.⁴⁴ To date, however, no Chinese laws or regulations place mandatory human rights due diligence requirements on Chinese companies.

22. This lack of genuine concern for the UNGPs and human rights due diligence in the regulatory framework governing Chinese enterprises' overseas operations is mirrored domestically as well: the Chinese government has made it increasingly difficult to conduct human rights due diligence in China or gain insight from watchdog civil society groups and HRDs on the ground, due to the overhaul of civil society organizations and persecution of human rights defenders. For example, in May 2017, the Chinese government criminally detained three undercover investigators who were looking into labor conditions at a factory that supplied shoes for Ivanka Trump's shoe line.⁴⁵ The labor investigators were connected with China Labor Watch, a US-based NGO, which had frequently conducted supply chain investigations in China with an aim of putting pressure on brands to improve their compliance with labor laws and human rights.

23. The Chinese government has denied allegations of forced labor in the Xinjiang Uyghur Autonomous Region (XUAR), while at the same time, the government has made it nearly impossible for businesses to engage in human rights due diligence or allow outside actors to assess such claims. Shenzhen Verite, a firm affiliated with the US non-profit Verite that is involved in labor compliance issues for businesses, conducted a non-public evaluation of the issue of forced labor in Xinjiang. Authorities raided their office in April 2021, detained some staff members, and closed down the office.⁴⁶ According to a non-profit organization that works with businesses in improving their human rights and environmental performance, whose representative spoke to CHRD in 2020 but who wishes to remain anonymous, the group would not initiate work related to Xinjiang due to the perceived risk level and known examples of intimidation and harassment in the industry.⁴⁷ CHRD is also aware of another instance of a foreign national conducting due diligence in the XUAR who was detained.⁴⁸ In 2020, *The Wall Street Journal* reported that five independent auditing firms felt they could no longer operate in the XUAR, in part due to the heightened sense of risk to employees engaging in due diligence.⁴⁹

We recommend that the Committee urge China to enact legislation to require Chinese companies to engage in human rights due diligence according to the UNGPs. The Committee should ask the State party to ensure that businesses, auditors, and

⁴⁴ Human Rights Council, Report of the Working Group on the Universal Periodic Review: Addendum, 15 February 2019, UN Doc A/HRC/40/6/Add.1, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/041/01/PDF/G1904101.pdf?OpenElement>

⁴⁵ Amnesty International, "Urgent Action: Activists Detained for Shoe Factory Research," June 9, 2017, <https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA1764672017ENGLISH.pdf>.

⁴⁶ Lingling Wei, Eva Xiao, Trefor Moss, "China Closes U.S. Auditor as Tensions Mount Over Forced Labor Allegations," *The Wall Street Journal*, August 19, 2021, https://www.wsj.com/articles/china-closes-u-s-auditor-as-tensions-mount-over-forced-labor-allegations-11629390253?reflink=desktopwebshare_twitter.

⁴⁷ Conversation with CHRD researcher in June 2020.

⁴⁸ Conversation with CHRD researcher in October 2020.

⁴⁹ Eva Xiao, "Auditors to Stop Inspecting Factories in China's Xinjiang Despite Forced-Labor Concerns," *The Wall Street Journal*, September 21, 2020, <https://www.wsj.com/articles/auditors-say-they-no-longer-will-inspect-labor-conditions-at-xinjiang-factories-11600697706>.

multistakeholder entities engaging in human rights due diligence in China do not face retaliation.

Select Issues relating to the general provisions of the Covenant (arts. 1- 15)

Article 2: Discrimination

24. The Committee has called for comprehensive anti-discrimination legislation.⁵⁰ However, this has not happened. Common forms of discrimination remain, including: discrimination against rural migrants, people with disabilities, LGBTQI+ individuals, and others persists without sufficient attention.

25. Discrimination against rural migrants. Despite the Committee’s longstanding concerns on this issue, China’s *hukou* (household registration) system continues to perpetuate discrimination based on social origin or a person’s “urban” or “rural” residential registration status.

26. During the COVID-19 pandemic, some workers, particularly internal migrants, were forced to work in “closed-loop” systems, where, in order to minimize the spread of COVID-19 infection, workers were not allowed to leave their workplaces and dormitory areas. They therefore, lived, worked, ate, and slept at their workplaces. Most notably, in November 2022, production at Foxconn’s largest factory in Henan was interrupted by workers fleeing on foot from the restrictive lockdowns after an outbreak of COVID occurred at the factory.⁵¹ This Foxconn factory, which usually has 200,000 workers who make and assemble parts for Apple, had instituted a “closed-loop system” to prevent COVID outbreaks. This system prevents workers from leaving the factory and the dormitory compound. Workers related on social media how they had to jump over metal gates to escape the lockdown, revealing conditions that raise concerns about possible forced labor and labor rights violations inside this Foxconn facility.⁵² There was also a protest at another Apple supplier in May of 2022 over low wages and basic living conditions in a closed-loop production arrangement.⁵³

27. Discrimination against persons with disabilities. In its previous review of China in 2014, the Committee urged China to “...enhance its efforts to promote effectively the integration of persons with disabilities...”⁵⁴ As CHRD [highlighted](#) in a submission to the Committee on the Rights of Persons with Disabilities (CRPD) in June 2022, while certainly some improvements have been made for persons with disabilities in recent years, the crucial input of persons with disabilities in contributing to positive change has been sorely lacking.⁵⁵

⁵⁰ CESCR, Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China, 13 June 2014, E/C.12/CHN/CO/2, para. 14.

⁵¹ William Yang, “China: Foxconn workers take big risks to flee COVID lockdown,” DW, November 1, 2022, <https://www.dw.com/en/china-foxconn-workers-take-big-risks-to-flee-covid-lockdown/a-63614470?fbclid=IwAR0hWT0pRSj45-TKwjcisLZIIOcliVO3Xjk3XrhuJpGiG8NQLdmo5CF7TqE>.

⁵² Asian Labour Review, “Human life means nothing (to them): A Chinese worker’s account of fleeing Foxconn,” November 1, 2022, https://labourreview.org/human-life-means-nothing-to-them/?fbclid=IwAR0XbLKGQB_Uhw70qcCKn_4VPRuP9kT5UJXQ2vjFAzPNLIS6yXa2HIMLYhY.

⁵³ China Labour Bulletin, “Pandemic prevention measures lead to variety of worker protests,” June 16, 2022, <https://clb.org.hk/content/pandemic-prevention-measures-lead-variety-worker-protests>.

⁵⁴ CESCR, Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China, 13 June 2014, E/C.12/CHN/CO/2, para. 18.

⁵⁵ CHRD, “Civil Society Report Submitted to The Committee on the Rights of Persons with Disabilities,” June 7, 2022, paras. 4-17.

The government has tightened the space for civil society by restricting the rights to freedom of association and freedom of expression, and while not specific to the disability rights community, this tightening has indeed affected the space left for advocacy: two organizations that had worked on advocacy for persons with disabilities (Changsha Funeng and Yirenping) were shut down and other writers and citizen journalists who focused on disability rights were detained. And for those who had been taken away by police, detained, or who had been to prison, many persons with disabilities had experienced discrimination, violence, and particular punishments that exploited their status as persons with disabilities, such as taking away wheelchairs as a source of punishment.

28. In its Concluding Observations on its review of China, the CRPD noted as a principal area of concern the “continuing pressure on civil society organizations for their advocacy work on the rights of persons with disabilities.”⁵⁶

29. Discrimination against LGBTQI+ individuals. In response to the Committee’s question in the LOI regarding anti-discrimination as it relates to LGBTQI+ people,⁵⁷ the Chinese government’s response was simply “(A) description of the relevant anti-discrimination legislation was provided in the response to question 1.”⁵⁸ However, this answer did not address the question about discrimination against LGBTQI+ individuals. First, the state party’s response in question 1 – regarding applicability of the Covenant to the domestic order – does not mention the LGBTQI+ community. In fact, in China, members of the LGBTQ+ community continue to face restrictions on their rights, and during the period in question, advocacy for greater rights for the LGBTQI+ community have only been further constrained. There is currently no right to same sex marriage in China. Anti-discrimination provisions in China’s labor laws do not cover LGBTQI+ individuals. Adoption of children is limited to heterosexual couples.

30. Meanwhile, the state has limited the space for advocating for the rights of the LGBTQI+ community, and even engaging in non-political social solidarity. On July 6, 2021, nearly 20 WeChat accounts of university students LGBTQI+ and gender studies groups were suddenly shut down.⁵⁹ In November 2021, LGBTQ Rights Advocacy China, an NGO with operations nationwide, was forced to shut down due to government pressure.⁶⁰

We urge the Committee to reiterate its recommendation that the state enact comprehensive anti-discrimination legislation that protects rural residents, people with disabilities or pre-existing health statuses, ethnic minorities, LGBTQI+ individuals, women, and others.

Article 3: Equal rights of men and women

⁵⁶ Committee on the Rights of Persons with Disabilities, Concluding observations on the combined second and third periodic reports of China, 10 October 2022, CRPD/C/CHN/CO/2-3, para 8(b).

⁵⁷ CESCR, E/C.12/CHN/Q/3, para. 12.

⁵⁸ CESCR, Replies of China to the list of issues in relation to its third periodic report, May 11, 2022, E/C.12/CHN/RQ/3, para. 12.

⁵⁹ “Red Vs are after China’s queer community,” Protocol, July 12, 2021, <https://www.protocol.com/china/china-wechat-delete-lgbt-accounts>.

⁶⁰ Huizhong Wu, “China LGBT rights group shuts down amid hostile environment,” AP, November 5, 2021, <https://apnews.com/article/technology-china-media-social-media-taiwan-348cab147964f24ccf83907403d4c84a>

31. Despite apparent progress over the past 15 years in making sexual harassment nominally illegal in China,⁶¹ sexual harassment remains commonplace. An academic study from 2021 that reviewed 100 legal cases involving sexual harassment found that victims of sexual harassment were unable to gain significant compensation or redress through litigation, although accused perpetrators were sometimes punished or fired.⁶²

32. The experience of Zhou Xiaoxuan (also known as Xianzi), whose high-profile #MeToo case brought to public awareness the entrenched problem of sexual harassment in the workplace, illuminates the problem. Zhou, then an intern, in 2018 accused a former state-run TV presenter of groping and forcibly kissing her in 2014. However, she lost her court case in 2021 due to “insufficient” evidence.⁶³ Zhou said the judges did not allow her to present supporting evidence, such as video footage and police notes taken from her parents. Discussion of the landmark case was widely censored on Weibo, China’s Twitter-like platform.⁶⁴ She also lost her appeal in 2022 because of “insufficient” evidence.⁶⁵

33. In March 2015, on the eve of International Women’s Day, Chinese police in Beijing, Guangzhou, and Hangzhou rounded up at least 10 women’s rights activists, who were planning a public event to draw attention to sexual harassment on public transit. Five of them—[Wu Rongrong](#), [Li Tingting](#), [Zheng Churan](#), [Wei Tingting](#), and [Wang Man](#)—were later criminally detained on the charge of “picking quarrels and provoking troubles,” while the others were let go. The “[Feminist Five](#),” as they came to be known, were in the forefront of fighting against workplace discrimination, domestic violence, and advocating for gender equality in higher education and LGBTQI+ rights. They were eventually released but subjected to surveillance and restrictions afterwards.⁶⁶

We urge the Committee to recommend that the Chinese government adopt necessary implementing measures to ensure that laws and regulations with respect to sexual harassment are effectively implemented. The government should also stop all harassment and persecution of feminists and others promoting women’s equality, and end censorship of discussion of these and related issues.

Article 8: Trade union rights

34. The All-China Federation of Trade Unions (ACFTU) remains the only government body running labor affairs in the country. ACFTU branch offices in the factories are controlled by

⁶¹ This includes the 2007 Employment Promotion Law, which stipulated that workers would not be subjected to discrimination based on sex, ethnicity, or religious belief; China’s Civil Code, which went into effect on January 1, 2021, which contains a provision that imposes liabilities for perpetrators of sexual harassment; and the PRC Law on the Protection of the Rights and Interests of Women, which was revised on October 31, 2022, and requires employers to take a series of measures to prevent sexual harassment.

⁶² Aaron Halegua, “Workplace Gender-Based Violence and Harassment in China: Harmonizing Domestic Law and Practice With International Standards,” Global Labor Justice - International Labor Rights Forum (GLJ-ILRF) and U.S.-Asia Law Institute (USALI), 2021, <https://static1.squarespace.com/static/55d21ffee4b0d22e803fdca1/t/60d0edd0f10e7a0a8e77ea8d/1624305105382/Halegua%2C+Workplace+GBVH+in+China+-+FINAL+%282021.06.21%29.pdf>

⁶³ Chris Buckley and Elsie Chen, “China #MeToo Figure Vows to Appeal After Losing Landmark Case,” *The New York Times*, September 14, 2021, <https://www.nytimes.com/2021/09/15/world/asia/china-zhou-xiaoxuan-metoo.html>

⁶⁴ “Weibo is muzzling users for discussing a landmark #MeToo case,” Protocol, September 16, 2021, <https://www.protocol.com/china/china-weibo-metoo-account-suspension>.

⁶⁵ Vincent Ni, “Woman at centre of China #MeToo case vows not to give up after appeal rejected,” *The Guardian*, August 10, 2021, https://www.theguardian.com/world/2022/aug/10/chinese-court-rejects-sexual-harassment-case-appeal-zhou-xiaoxuan-metoo?utm_source=newsletter&utm_medium=email&utm_campaign=newsletter_axioschina&stream=china

⁶⁶ Radio Free Asia, “Chinese Police Step Up Pressure on Feminist Five,” September 23, 2015, <https://www.nchrd.org/2015/10/chinese-police-step-up-pressure-on-feminist-five/>.

the Communist Party committees and function as part of the factory management and they do not represent the interests of workers, nor protect their rights. China Labour Bulletin, a Hong Kong-based labor rights NGO, analyzed 102 strikes and other workers disputes across China in 2022 with the aim of assessing the ACFTU's effectiveness and found that local ACFTU branch employees were only aware of the disputes in 40% of cases, and only positively intervened for workers in 28 of the 102 cases, or 27%.⁶⁷

35. Starting from roughly 2015, the government tightened its control over labor groups and targeted labor activists and organizers. For example:

- In December 2015, police detained labor activist [Zeng Feiyang](#) during a series of coordinated raids targeting labor organizers in Guangdong Province. Zeng was the director at the Panyu Migrant Workers Documentation Service Center in Guangzhou, an organization that had helped pioneer the practice of worker-led collective bargaining, and helped workers receive an estimated 200 million yuan in wages in arrears and social insurance benefits from 2011 to 2015.⁶⁸ Two of Zeng's colleagues – [Zhu Xiaomei](#), and [Tang Huanxing](#) – were also taken away and sentenced.⁶⁹
- Government officials used arbitrary detention and enforced disappearance to punish and coerce into silence young university students who joined labor rights protests in southern China in 2018, including the woman human rights defender and #MeToo activist [Yue Xin](#).
- In January 2019, Shenzhen police detained five labor NGO workers. They were held for 15 months on the charge of “gathering a crowd to disrupt social order” before being released.⁷⁰
- Also in January 2019, authorities targeted citizen journalist activists trying to draw attention to labor rights abuses. [Three activists](#), Ke Chengbing, Wei Zhili, and Yang Zhengjun, who ran an online independent media platform called “iLabour” were placed in “residential surveillance at a designated location” (RSDL), a form of incommunicado detention. The detentions were in retaliation for their efforts to support migrant workers sickened with pneumoconiosis, which they contracted while working in construction in Shenzhen for the past two decades.
- [Chen Guojiang](#), a labor organizer and delivery worker, was detained on February 25, 2021, in Beijing (as mentioned above, para. 13).

CHRD and RDN urge the Committee to reiterate its recommendations to allow workers to join independent trade unions and to have the right to strike.⁷¹ The government should immediately stop its persecution of all labor organizers.

Articles 13-14: Right to Education

⁶⁷ CLB, “Reimagining Workers’ Rights in China,” March 2022, https://clb.org.hk/sites/default/files/CLB_Reimagining_Workers_Rights_in_China_March_2022.pdf.

⁶⁸ CLB, “Guangdong labour activists detained without trial for nine months,” September 1, 2016, <https://clb.org.hk/content/guangdong-labour-activists-detained-without-trial-nine-months>.

⁶⁹ AFP, “China labor activists sentenced for helping workers in wage dispute,” September 27, 2016, <https://www.theguardian.com/world/2016/sep/27/china-labor-activists-sentenced-for-helping-workers-in-wage-dispute>.

⁷⁰ CLB, “Five labour activists released after 15 months in detention,” May 9, 2020, <https://www.clb.org.hk/content/five-labour-activists-released-after-15-months-detention>.

⁷¹ CESCR, Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China 13 June 2014, E/C.12/CHN/CO/2, para. 23.

36. The Committee asked the state party to provide information on “measures taken to ensure academic freedom and its impact.” The Chinese government has continued to tighten the space for academic freedom. Since the last CESCR review, universities in China have been frequently subjected to investigations for violating Communist Party regulations by the Central Commission for Discipline Inspection (CCDI), the Party’s feared anti-corruption and ideology watchdog.⁷² Universities have been told to ban books that encourage “Western values.”⁷³

We recommend that the Committee urge the Chinese government to respect the right to freedom of expression, the rights to freedom of association and assembly, particularly in the manner in which these rights intersect with academic life. Ideological policing of universities should end.

Article 15: Persecution of Citizen Journalists Involved in ESC Rights

37. The Committee asked China to “...indicate the measures taken...to ensure the free exchange of ideas and information online without interference to further their enjoyment of Covenant rights.”⁷⁴ While the government answered the question by citing increases in broadband use,⁷⁵ the government did not address the issue of freedom of exchange of ideas and any restrictions on this right, in all likelihood, because the government runs the world’s largest censorship system.⁷⁶

38. In this environment of extreme censorship, citizen journalists who used the Internet to disseminate information related to ESC rights, and civil society organizations that used social media to report news and publicize findings of investigations, have been subjected to several reprisals and criminal prosecution, for example:

- **Huang Qi**, (mentioned above, para. 17).
- **Liu Feiyue**, who had founded the website Civil Rights and Livelihood Watch, which focused on human rights news stories on marginalized social groups – victims of land/housing rights and health rights violations and persecuted citizens who seek redress and justice. Mr. Liu was released upon completing a five-year term in November 2021.
- **Qin Yongmin** (mentioned above, para. 13).

CHRD and RDN recommend that the Committee urge the Chinese government to release ESC defenders who used the Internet to popularize rights issues. More generally, we urge the Committee to ask the government to end its censorship system.

⁷² Radio Free Asia, “China’s Top Universities Get Poor Grades For Party Propaganda,” September 7, 2021, <https://www.rfa.org/english/news/china/grades-09072021134539.html>.

⁷³ Andrea Chen and Zhang Pinghui, “Chinese universities ordered to ban textbooks that promote Western values,” SCMP, January 30, 2015, <https://www.scmp.com/news/china/article/1695524/chinese-universities-instructed-ban-textbooks-promote-western-values>.

⁷⁴ Committee on Economic, Social and Cultural Rights, List of issues in relation to the third periodic report of China, April 7, 2021, E/C.12/CHN/Q/3, para. 31.

⁷⁵ Replies of China to the list of issues in relation to its third periodic report, May 11, 2022, E/C.12/CHN/RQ/3, para. 31.

⁷⁶ Elizabeth Economy, “The Great firewall of China: Xi Jinping’s internet shutdown,” *The Guardian*, June 29, 2018, <https://www.theguardian.com/news/2018/jun/29/the-great-firewall-of-china-xi-jinpings-internet-shutdown>,