



HUMAN
RIGHTS
WATCH

THE COSTS OF INTERNATIONAL ADVOCACY

China's Interference in United Nations Human Rights Mechanisms



The Costs of International Advocacy

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Summary

In January 2017, President Xi Jinping of the People’s Republic of China gave a keynote speech at the Palais des Nations of the United Nations in Geneva. Although world leaders regularly give addresses there, few other occasions have seen the UN impose restrictions such as those instituted on this occasion: before Xi’s arrival, UN officials closed parking lots and meeting rooms, and sent home early many of the office’s approximately 3,000 staff. The UN also barred nongovernmental organizations (NGOs) from attending the speech.

Just a few months later, in April, security officials at the UN headquarters in New York City ejected from the premises, Dolkun Isa, an ethnic Uyghur rights activist originally from China. Isa, who was accredited as an NGO participant, was attending a forum on indigenous issues when UN security confronted him and ordered him out of the building. No explanation was provided. Human Rights Watch queries to the UN spokesperson’s office elicited no substantive information about the incident.

The UN’s handling of these situations points to larger concerns about the treatment and protection of human rights activists critical of China as they seek to participate in UN human rights mechanisms—intended to protect the rights of all—and about China’s attempts to thwart UN scrutiny of its own human rights record.

As a UN member state and party to several international human rights treaties, China engages with the UN human rights system. It is a member of the Human Rights Council (the “Council”), participates in reviews of its treaty compliance, allows some UN independent human rights experts to visit China, and joins in assessments of its human rights record and those of other countries as part of the Council’s Universal Periodic Review (UPR) process.

Even as it engages with UN human rights institutions, however, China has worked consistently and often aggressively to silence criticism of its human rights record before UN bodies and has taken actions aimed at weakening some of the central mechanisms available in those institutions to advance rights. Because of China’s growing international influence, the stakes of such interventions go beyond how China’s own human rights record is addressed at the UN and pose a longer-term challenge to the integrity of the system as a whole.

Chinese officials have harassed activists, primarily those from China, by photographing and filming them on UN premises in violation of UN rules, and restricting their travel to Geneva. China has used its membership on the Economic and Social Council's (ECOSOC) NGO Committee to block NGOs critical of China from being granted UN accreditation, and it has sought to blacklist accredited activists to bar their attendance. Behind the scenes, Chinese diplomats, in violation of UN rules, have contacted UN staff and experts on treaty bodies and special procedures (independent experts focusing on specific human rights issues), including behavior that at times has amounted to harassment and intimidation.

In a particularly egregious case in 2013, authorities in China detained activist Cao Shunli after she urged the Chinese government to consult with civil society in drafting China's second Universal Periodic Review, and tried to travel to Geneva to participate in trainings on the Human Rights Council. After Cao became gravely ill in detention and died, the Chinese delegation in Geneva in March 2014 blocked a moment of silence called for by NGOs at the Council.

China has also repeatedly sought to block or weaken UN resolutions on civil society, human rights defenders, and peaceful protests, including when they do not directly concern policy and practice in China. And it has pushed back against efforts to strengthen some of the key mechanisms available at the UN to advance human rights, notably country-specific resolutions on grave situations like North Korea and Syria, and efforts to strengthen treaty body reviews.

Many of these actions are directly at cross-purposes with UN efforts to improve its human rights system, such as strengthening the treaty bodies and better protecting activists from reprisals for their UN activities. China's opposition to a larger civil society role is also at odds with the position of Secretary-General António Guterres, who in Geneva in February 2017 stated: "The Council's growing engagement with civil society strengthens so much of your work – and is especially vital at a time when civil society space is shrinking in so many places."¹

¹ United Nations, "UN Secretary-General António Guterres, Remarks to the Human Rights Council," February 27, 2017, <https://www.un.org/sg/en/content/sg/speeches/2017-02-27/secretary-generals-human-rights-council-remarks> (accessed August 24, 2017).

While UN officials have at times pushed back against improper Chinese pressure or steadfastly ignored it, in other instances, they have capitulated, as illustrated by the Dolkun Isa case, or have soft-pedaled their concerns, presumably to avoid confrontation with China.

China is not alone in playing a negative human rights role at the UN but, as with all other countries, it should be expected to cooperate and constructively engage with UN institutions. When its actions are in bad faith, it should publicly be held to account.

This report documents interventions by China at the UN that hinder UN efforts to improve human rights in China and around the world. In that sense, it is a case study of how a powerful member state works within the UN system to undermine its ability to strengthen global compliance with international human rights norms. It also examines UN responses to date, offering detailed recommendations on what UN officials and institutions can do to better protect civil society participation at the UN and safeguard the integrity of the UN human rights system.

The United Nations plays a crucial role in holding governments to their international human rights obligations and helping to protect human rights. Central elements of this work include fact-finding and investigative visits by UN experts, deliberations in the Human Rights Council, and review of state compliance with human rights treaties.

Recent Chinese efforts to spearhead UN initiatives, such as presidential statements and resolutions at the Human Rights Council, foreshadow a more active, prominent role for China in the future. Coming at a time when the domestic human rights situation in China has been rapidly deteriorating, a more active Chinese role at the Council gives rise to concern about the ways it will exercise its power. Taken individually, many of China's actions against NGOs might be viewed as an annoyance or an irritant. But taken together, they amount to what appears to be a systematic attempt to subvert the ability of the UN human rights system to confront abuses in China and beyond.

Indeed, there is reason to fear that China will push through initiatives that reflect not merely its own domestic sensitivities but that rollback rights protections more broadly.

One small example is its refusal to include language affirming the vital role of civil society in a 2015 Council resolution on public health.

The dangers to human rights posed by an assertive China at the UN are likely to increase as the rights situation in China under President Xi worsens. Human rights defenders in China have decreasing space safe from intimidation, harassment, arbitrary detention, and a Communist Party-controlled legal system. And China has not ratified critical optional protocols to treaties that seek to ensure wider protection for the rights of individuals. This in turn underscores the importance of guarding the UN as a place where civil society activists from China can safely engage the UN system.

As a powerful Permanent Five member of the UN Security Council, China has particular weight on the Human Rights Council. It has played an influential role, together with other members of the self-proclaimed “Like-Minded Group”—many of whom have poor human rights records—in opposing all country-specific resolutions to address the most serious human rights situations, except those critical of Israel, and in attempting to weaken the UN mechanisms themselves.

China’s efforts to subvert the UN human rights system also need to be scrutinized because they have been adopted by other countries. China should not become a model for others that hope to hobble or obstruct UN human rights bodies.

Unless the UN and concerned governments can halt such efforts to manipulate or weaken UN human rights mechanisms, the UN’s ability to help protect rights around the globe is at risk not only in Geneva. The fate of the human rights mechanisms will be felt throughout the UN system more generally with respect to human rights issues before the Security Council or General Assembly, or with specialized agencies such as the UN High Commissioner for Refugees or the UN Development Program.

During UN peacekeeping budget consultations this year, for example, China sought to slash funding for UN human rights officers stationed in UN missions. These human rights officers play a vital role in monitoring, investigating, and reporting on alleged human rights abuses in the world’s most dangerous places.

The UN is facing challenges from powerful governments; ensuring that the human rights mechanisms remain robust is more important than ever.

To that end, Human Rights Watch urges the following:

- The Chinese government should end its campaign of harassment against NGOs, including by allowing them to freely interact with UN mechanisms without fear of reprisals;
- The United Nations, the Human Rights Council, and the Office of the High Commissioner for Human Rights should bolster protection of NGOs and civil society activists, ensure all cases of state reprisals are investigated and addressed, and encourage competitive elections to the Human Rights Council;
- The Economic and Social Council should reform the Committee on NGOs, providing clear guidance that NGO applications are to be assessed objectively on the criteria set out in ECOSOC resolution 1996/31; and
- The treaty bodies and special procedures should promptly report to the relevant UN body any attempts at political interference by member state delegates or their agents.

Detailed recommendations are set forth at the end of this report.

Methodology

This report is based on research conducted between May 2016 and March 2017, including in Geneva during the 32nd Session of the Human Rights Council in June 2016. Human Rights Watch conducted 55 interviews, including 20 with UN officials and experts, 15 with foreign diplomats, and 20 with civil society representatives, all of whom have direct knowledge of China’s actions regarding UN human rights mechanisms. Approximately half of these interviews were conducted in person, half via Skype, and several over email. In order to protect those with whom we spoke to from reprisals—a concern expressed by several interviewees—in most cases their names and the location of the interview have been excluded from the body of the report and replaced with descriptive titles such as “diplomat” and “UN expert.”

Many of those interviewed were identified through referrals, information from news reports, and events observed via webcasts of Human Rights Council sessions. Not everyone we approached for an interview agreed to speak with us, particularly diplomats from countries outside North America and Europe.

Human Rights Watch wrote to China’s Foreign Ministry with the concerns raised in this report (see appendix) and sought to communicate with Chinese diplomats, but no replies were received by time of publication.

Information from interviews has been supplemented by additional desk research through the review and analysis of official UN records, reports, and archives as well as UN webcasts of Human Rights Council sessions and treaty body reviews. News reporting, NGO news releases, and statements published by the Chinese government were also consulted.

Human Rights Watch also consulted staff at multiple UN offices, including the Executive Office of the Secretary General, the Office of the High Commissioner for Human Rights, the Department of Economic and Social Affairs, the Economic and Social Council, the Human Rights Council, Special Procedures of the Human Rights Council, and treaty bodies, among others.

Background

UN Human Rights Mechanisms

For six decades, the UN Commission on Human Rights, established in 1946, and its successor the Human Rights Council (the “Council”), created in 2006, have been the leading inter-state forums for advancing human rights. UN member states at the General Assembly have adopted human rights treaties and, through the Commission and Council, established the system of special procedures comprised of international experts. In 1993, the General Assembly created the Office of the High Commissioner for Human Rights (OHCHR), now comprising more than 1000 staff, which is charged with coordinating human rights throughout the UN system, conducting education and implementation activities, and supporting the treaty bodies and special procedures. The high commissioner for human rights serves as the UN’s top official with an explicit mandate to promote and protect human rights around the world.

The core human rights treaties have relevant committees or treaty bodies composed of independent experts to interpret the treaty and monitor compliance. They review state reports and conduct periodic reviews during which state representatives appear before the committee. One disadvantage of the treaty bodies is that they can only review states that have ratified the corresponding convention.²

Complementing the treaty bodies are independent experts who serve as special rapporteurs and in working groups that form the UN’s system of special procedures. These experts conduct country visits, send urgent appeals to states, spotlight human rights problems, and issue reports. There are 13 country-specific special procedures, and 43 thematic ones that cover a wide range of human rights. An advantage of the special procedures is that they are not limited to monitoring only states that have ratified

² The core human rights treaties and related instruments include: the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Optional Protocol to the Convention against Torture; the Convention on the Rights of the Child, the International Convention on the Rights of Migrant Workers, the Convention on the Rights of Persons with Disabilities; and the International Convention for the Protection of All Persons from Enforced Disappearance. China has ratified all of the above treaties except for the ICCPR, which it has signed, the Optional Protocol against Torture, the Convention on Migrant Workers, and the Convention against Enforced Disappearance.

particular conventions. Still, they rely on state cooperation for country visits or to respond to an urgent appeal.

NGOs augment the work of the UN human rights mechanisms. As former High Commissioner for Human Rights Navi Pillay put it:

One cannot overestimate the contribution that civil society has made towards the development of international human rights standards....

Today, civil society's views, practical knowledge and scholarship are as crucial to the human rights movement as ever in the pursuit of justice and equality for all.³

In June 2018, the UN High Commissioner for Human Rights will present a report identifying both best practices and challenges that civil society organizations face when engaging with regional and international organizations, including UN bodies, agencies, funds and programs.

NGOs play a vital role throughout the UN human rights system. In the Council, for example, they draw attention to issues of concern through written statements, oral interventions, and organizing side events. They also provide reporting and supplementary information to the treaty bodies and special procedures. To facilitate—but in practice often to hinder—civil society participation, member states created an NGO Committee under the Economic and Social Council (ECOSOC) to recommend civil society organizations for accreditation through an application process. The NGO Committee, which includes China and a number of allied countries, has frequently acted to keep legitimate NGOs out of the UN system.

China and the United Nations

Since the Human Rights Council replaced the Commission on Human Rights in 2006, the People's Republic of China (PRC) has continuously held membership with the exception of a required one-year hiatus in 2013. China's current membership term lasts until 2019. China has generally directed its energies in the Council toward shielding itself from human

³ UN Economic and Social Council, "Working with ECOSOC: An NGO's Guide to Consultative Status," September 2011, <http://csonet.org/content/documents/Brochure.pdf> (accessed August 24, 2017), p.18.

rights scrutiny, opposing country-specific resolutions, and defending concepts such as national sovereignty at the expense of international human rights monitoring. However, there are indications that China may be moving from playing a modest role to a more active one as it has begun to spearhead statements by the Council president and resolutions on public health and other issues. At the June 2017 Council session, China proposed a resolution asserting the importance of development in human rights; it was adopted by a vote of 30 to 13.⁴

Within the Human Rights Council, China often advances its positions as part of a group of countries that refer to themselves as the Like-Minded Group (LMG), an amorphous group that has usually included Algeria, Bangladesh, Belarus, Bhutan, China, Cuba, Egypt, India, Indonesia, Iran, Malaysia, Myanmar, Nepal, Pakistan, the Philippines, Russia, Sri Lanka, Sudan, Syria, Venezuela, Vietnam, and Zimbabwe. These countries have demonstrated political solidarity in the Council and have worked together to weaken the universality of human rights standards and resist the Council's ability to adopt country-specific approaches. They have shielded repressive governments from scrutiny by filling speakers' lists with promoters of these countries' human rights records during Universal Periodic Reviews, and giving uncritical statements from friendly governments and Government-Organized NGOs (GONGOs). Because other LMG countries often take vocal positions, China has been able to maintain a low profile in the Council by signing onto LMG positions and letting other countries take a more assertive posture. As one diplomat noted, in the Council, Chinese diplomats "don't take the leadership. They have others to play this game.... Other actors are in charge of the dirty work."⁵

China and UN Human Rights Mechanisms

While China engages with UN human rights mechanisms, it is often obstructionist. It has restricted special procedure access by creating obstacles that leave most requests for visits in limbo. It appears to allow visits primarily by independent experts on topics that it sees as nonthreatening. It has also attempted to interfere with other special procedure

⁴ OHCHR, "Human Rights Council concludes thirty-fifth session after adopting 35 resolutions, a decision and a Presidential Statement," News and Events, June 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21802&LangID=E> (accessed August 24, 2017).

⁵ Human Rights Watch Skype interview with diplomat, March 14, 2017.

visits, seeking to block civil society from meeting with the experts. And it has worked with Like-Minded Group countries against many rights-friendly initiatives.

China has chosen only to interact with certain treaty bodies while eschewing others. China signed the International Covenant on Civil and Political Rights (ICCPR) in 1998 but has never ratified it. The government has dropped mention of ratifying the ICCPR in its most recent White Paper and rejected the Universal Periodic Review recommendation that it set a timetable for ratification. There is no indication that China will ratify other major human rights treaties to which it is not a party, such as the Convention against Enforced Disappearance, in the foreseeable future.

China's interactions with the special procedures have shown similar signs of cooperation in some areas marred by resistance in key elements of the UN human rights system. For example, although the Chinese government accepted visits by the special procedures for food, debt, discrimination against women, and extreme poverty over the last 15 years, it has rejected 12 other visits, especially visits by rapporteurs charged with protecting various civil and political rights, and for over a decade has been unwilling to accept a visit by the UN high commissioner for human rights. This pattern indicates that the government has been willing to accept visits from the special procedures only when it expects a relatively positive review.

China's Domestic Human Rights Situation

China's efforts to limit international human rights monitoring and diminish NGO access to the UN mirror its domestic repression of human rights defenders and civil society organizations as it attempts to stifle criticism and shrink space for civil society. At home, China's leaders have maintained tight political control, a one-party authoritarian system, and severe restrictions on human rights. This growing repression in China heightens the importance of the UN as a resource for Chinese human rights activists, and the importance of making sure that independent members of civil society from China have access to international human rights mechanisms.

Chinese Communist Party General Secretary and President Xi Jinping has orchestrated increased repression since his rise to power in 2012 through a crackdown on lawyers and activists engaging in rights protection work and through the passage of a spate of

repressive laws.⁶ Xi's crackdown on the *weiquan*, or "rights defense," movement began in July 2015 and has since affected over 300 individuals who have been questioned, summoned, forbidden to leave the country, held under house arrest, placed under residential surveillance, criminally detained, or arrested.⁷ The government has sought to discredit domestic human rights defenders, portraying them as criminals and subversives. Chinese authorities have further limited the capacity of civil society by ordering the closure of numerous NGOs and the arbitrary arrest, detention, and prosecution of their staff.⁸

The government has also used legislation to increase state power to silence activists, denying them their right to freedom of expression under the guise of protecting national security. In April 2016, the Chinese government passed the Foreign NGO Management Law, which subjects foreign NGOs operating in China to police oversight and creates unprecedented legal justification for the police to interrogate employees, search their documents, and seal or seize their facilities and assets.⁹ Together, the July 2015 National Security Law and December 2015 Counterterrorism Law use vague definitions of state security and terrorism that criminalize peaceful dissent. Furthermore, the November 2014 Counterespionage Law and the November 2016 Cybersecurity Law increase the government's surveillance capabilities and erode citizens' privacy. These new laws are part of the Chinese government's growing efforts to crush peaceful dissent, freedom of expression, and freedom of association by framing them as threats to national security. As Special Rapporteur for Extreme Poverty Philip Alston said:

The unfortunate trend that I have seen [in China] is that there are now a number of initiatives that have been taken which are coming together in what I term a pincer movement.... What we see is a dramatically shrinking space for civil society actions which would want to facilitate a discussion of

⁶ "China: On '709' Anniversary, Legal Crackdown Continues," Human Rights Watch news release, June 7, 2017, <https://www.hrw.org/news/2017/07/07/china-709-anniversary-legal-crackdown-continues>; Human Rights Watch, *World Report 2016* (New York: Human Rights Watch, 2016), China chapter, <https://www.hrw.org/world-report/2017/country-chapters/china-and-tibet>.

⁷ "China: Don't Legalize Incommunicado Detentions," Human Rights Watch news release, March 12, 2012, <https://www.hrw.org/news/2012/03/12/china-dont-legalize-incommunicado-detentions>; China Human Rights Lawyers Concern Group, "[709 Crackdown] Latest data and development of cases as of 1800 4 July 2016," July 4, 2016, <http://chrlawyers.hk/en/content/%E2%80%98709-crackdown%E2%80%99-latest-data-and-development-cases-1800-4-july-2016> (accessed July 24, 2016).

⁸ "China: New Law Escalates Repression of Groups," Human Rights Watch news release, April 28, 2016, <https://www.hrw.org/news/2016/04/28/china-new-law-escalates-repression-groups>.

⁹ Ibid.

government policies with a view to trying to adjust or adapt them rather than simply accepting what has been determined from the top.¹⁰

Chinese government repression has not been limited to the territory of China, and the government has acted to cut off domestic rights activists from international expertise and support, not just via the Foreign NGO Management Law mentioned above, but also by seeking to weaken civil society participation in the UN.

¹⁰ William Ide, “China Gives Not So Warm Welcome to UN Envoy,” Voice of America, August 24, 2016, <https://www.voanews.com/a/china-gives-not-so-warm-welcome-to-un-envoy/3478643.html> (accessed August 24, 2017).

Obstruction of NGO Participation

The whole UN machinery tries to make space for civil society while the PRC machinery works the other way, trying to shrink space for NGOs.

—United Nations official, June 2016

When you speak of human rights defenders, the Chinese government doesn't like the conversation....They come up with all these issues that the human rights defenders are not really human rights defenders, they have been sold to foreign powers, they carry out ... policy in a way that is contradicting the government.

—Treaty body expert, January 2017

The United Nations has repeatedly underscored the importance of strengthening relations with NGOs and has established rules to facilitate their participation. The 2005 World Summit Outcome document affirmed this when member states announced:

We welcome the positive contributions of the private sector and civil society, including non-governmental organizations, in the promotion and implementation of development and human rights programmes and stress the importance of their continued engagement with Governments, the United Nations and other international organizations in these key areas.¹¹

ECOSOC's NGO Guide to Consultative Status affirms that NGOs with consultative status can: attend international conferences and events; make written and oral statements at these events; organize side events; and enter UN premises and have opportunities to network and lobby. The General Assembly resolution creating the Human Rights Council acknowledges that “non-governmental organizations play an important role at the national, regional and international levels, in the promotion and protection of human rights” and decides that the Council shall “work in close cooperation in the field of human rights with Governments, regional organizations, national human rights institutions and

¹¹ United Nations General Assembly, 60th session, 2005 World Summit Outcome Document, October 24, 2005, A/RES/60/1.

civil society.”¹² ECOSOC’s guide for NGOs notes that as observers, NGOs are able, among other things, to attend and observe most Council proceedings, make oral and written statements to the Council, participate in debates, interactive dialogues, and the Universal Periodic Review, and hold “parallel events” on Council-related work.¹³

The Chinese government has attempted to obstruct civil society participation at the UN, particularly of members of civil society organizations coming from China and individuals the government perceives as potential critics. The government’s tactics include restricting Chinese civil society activists from departing the country, intimidating and harassing activists on UN premises, hindering NGO advocacy efforts, and presenting the UN with lists of particular individuals who should be blocked from participation in UN events, including Human Rights Council sessions.

Restrictions on Travel and Detention

In numerous reported incidents, Chinese officials have prevented civil society activists from leaving the country when authorities suspected that the individuals were traveling to engage in international advocacy, particularly at the United Nations. Chinese authorities have confiscated passports, refused to issue passports, detained individuals at the airport, and even exercised pressure on activists through intimidation of family members.¹⁴ According to a human rights defender, “If they realize that you intend to participate in some UN activity, they will keep your passport for ... three weeks to keep you from leaving.”¹⁵ These arbitrary restrictions, along with the crackdown on civil society within China, have dramatically diminished independent activists’ ability to participate in international human rights forums. As an expert on China’s human rights activists noted:

As of May 2016, we’re in this situation where essentially there has been something like a blanket travel ban on an estimated ... 200 plus human rights leaders ... [for a] wide range of people—high profile, low profile—who

¹² United Nations General Assembly, 60th session, Resolution adopted by the General Assembly, March 15, 2006, A/RES/60/251, PP7 and OP5(h).

¹³ UN Economic and Social Council, “Working with ECOSOC: An NGO’s Guide to Consultative Status,” p. 18; The Universal Periodic Review is a process by which the Human Rights Council reviews the human rights records of all UN member states once every four years.

¹⁴ Sophie Richardson, “Clipping a Sparrow’s Wings in China,” commentary, Human Rights Watch Dispatch, July 15, 2014, <https://www.hrw.org/news/2014/07/15/dispatches-clipping-sparrows-wings-china>.

¹⁵ Human Rights Watch interview with civil society activist, June 15, 2016.

have tried to leave and haven't been able to.... The idea of them leaving China to go participate in one of the review mechanisms—I don't think it would be possible.... There are plenty of ... [human rights defenders who] are very important and influential in the human rights scene who wouldn't ever get to Geneva because they wouldn't be able to travel.¹⁶

Those who have been able to leave have often had to obscure their final destination or make their travel to Geneva part of a longer, multi-destination trip. One human rights activist described her successful attempt at departing the country: "At the airport, the police saw my visa for Switzerland and questioned me a lot of questions about it.... I said that I was touring many countries in Europe."¹⁷

Some individuals who have attempted to travel to participate in UN human rights-related activities have not only been stopped at the airport in China, but have also been subjected to detention, torture, and harassment. Cao Shunli, a long-time rights activist, was detained on September 14, 2013 at the Beijing airport on her way to Geneva to participate in a training on UN human rights mechanisms and to observe the Human Rights Council, and was then mistreated and denied medical care. Only when she fell into a coma in February 2014 did prison officials transfer her to a Beijing hospital. Police then focused on pressuring her family to accept medical parole for her, so that she would not die in custody. Police also took into custody at least five of Cao's supporters who went to visit her in the hospital while she was in critical condition.¹⁸

One Chinese human rights defender said, "Cao Shunli is not a special case. The Chinese government always tries to silence all the people who want to criticize publicly the Chinese government."¹⁹

Chinese police also targeted Chen Jianfang, another activist seeking to travel to the same September 2013 training and Human Rights Council session as Cao. Chinese authorities intercepted Chen at the airport and temporarily detained her. Although she was released,

¹⁶ Human Rights Watch interview with civil society actor, May 30, 2016.

¹⁷ Human Rights Watch interview with civil society actor, June 16, 2016.

¹⁸ "China: Government Should Account for Activist's Detention, Death," Human Rights Watch news release, September 14, 2015, <https://www.hrw.org/news/2015/09/14/china-government-should-account-activists-detention-death>.

¹⁹ Human Rights Watch Skype interview with civil society activist, August 16, 2017.

Shanghai police monitored and interrogated her, and she was then taken from her mother’s home in September 2014 and detained.²⁰

Similarly, Chinese authorities detained Peng Lanlan, an activist who drew attention to China’s refusal to consult NGOs in the preparation of China’s Universal Periodic Review report. She was detained in 2012 for one year on the charge of “obstructing official business” and reportedly tortured in prison.

These cases have not gone unnoticed by other members of China’s civil society. A Chinese human rights activist said, “cases like Cao’s create a deterrent effect—we know the costs of international advocacy.”²¹

Reprisals Against Chinese Activists

Even those civil society activists who manage to travel to the United Nations in Geneva often face reprisals upon return to China. As a human rights defender explained, “Upon going back, they are going to take me and they are going to interrogate me.”²² This sentiment was shared by another activist who had traveled to Geneva:

Sometimes I am scared about what might happen when I go back. The other cases create a chilling effect for the rest of us. If I am detained I think about who would take care of my small child. I think there is a 50 percent chance that I will have problems when I return to China. There is a lot of risk in this work but it is important to engage in international advocacy.²³

Aside from the fear of arbitrary detention, pressure is also exerted through employers and family members. A human rights defender reported that “the policemen visited my house. My family. My wife ... she had been invited by her boss and her boss’s boss for tea,” which is a euphemism for being questioned by Chinese police.²⁴ Another activist noted that

²⁰ Chinese Human Rights Defenders, “Individuals Detained in Mainland China for Supporting Hong Kong Pro-Democracy Protests,” October 19, 2014, <https://www.nchrd.org/2014/10/individuals-detained-in-mainland-china-for-supporting-hong-kong-pro-democracy-protests/> (accessed August 24, 2017).

²¹ Human Rights Watch interview with civil society activist, June 16, 2016.

²² Human Rights Watch interview with civil society activist, June 15, 2016.

²³ Human Rights Watch interview with civil society actor, June 16, 2016.

²⁴ Human Rights Watch interview with civil society actor, June 15, 2016.

retribution could come in many forms, and Chinese authorities could “threaten your family, or your whole village, or whomever you are connected to.”²⁵

These activists’ fears are not unwarranted. A number of human rights defenders have suffered reprisals for engaging with international human rights mechanisms, including traveling to Geneva to attend the Human Rights Council sessions and even meeting with UN human rights experts. Since November 2016, human rights lawyer Jiang Tianyong has been detained and held incommunicado with his relatives and lawyers being denied access or information. There were concerns that Jiang was forcibly disappeared in part for speaking with Philip Alston, the special rapporteur on extreme poverty, who visited China in August 2016. Alston said he was “deeply concerned that Jiang’s disappearance has occurred, at least in part, in reprisal for his cooperation with the UN during my visit to China.”²⁶ Another non-Chinese activist who works on human rights issues in China noted, “I think there are different tactics that are employed, and ... if you look at the overall effect that silencing might have on ... activists, I think that China is very much up there with some of the worst.”²⁷

Intimidation on UN Premises

Even on the grounds of Geneva’s Palais des Nations or at UN headquarters in New York City, activists working on China are not safe from government intimidation, harassment, and surveillance. Individuals affiliated with China’s permanent mission, Chinese GONGOs, and Chinese state media engage in intimidating photographing and filming of activists.

For example, on April 26, 2017, Dolkun Isa—a well-known activist who campaigns from Germany on behalf of ethnic Uyghurs, a community that the Chinese government has long repressed—was attending a forum on indigenous issues at the UN headquarters. Although he was fully accredited to participate in the gathering, Isa said that after leaving proceedings in Conference Room 4, he was confronted by UN security in the hallway who told him to leave the premises immediately. He was given no reason for this, and although

²⁵ Human Rights Watch interview with civil society actor, June 16, 2016.

²⁶ OHCHR, “UN experts urge China to investigate disappearance of human rights lawyer Jiang Tianyong,” December 6, 2016, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20987&LangID=E> (accessed August 24, 2017).

²⁷ Human Rights Watch Skype interview with civil society actor, January 31, 2017.

his accreditation remained valid, he was not allowed to re-enter the building later that day or when the forum resumed on April 28.²⁸

When Human Rights Watch sought an explanation, the UN spokesperson's office provided no substantive information or expression of concern:

The Secretariat has no role in granting or withdrawing the consultative status of NGOs. Once an NGO is granted consultative status, its representatives may participate in the relevant United Nations meetings and conferences by registering with the Secretariat. Once registration is complete, the Secretariat issues an individual badge to each representative, which is subject to applicable UN regulations and rules, procedures and policies, including those related to the safety and security of UN premises. I have no further information about the individual case but I do know that the decision did not impact the consultative status of the NGO in the Permanent Forum on Indigenous Issues.²⁹

In addition to Isa's case, Ti-Anna Wang, the daughter of detained human rights activist Wang Bingzhang, was aggressively photographed at the March 2014 Human Rights Council session by a Chinese individual affiliated with the China Association for Preservation and Development of Tibetan Culture, a GONGO staffed by people who have both government and party roles.³⁰ The individual took pictures of Wang as well as the screen of her laptop computer and her belongings during the Human Rights Council session to accept China's Universal Periodic Review report.

Tibetan monk Golog Jigme, who attended the March 2015 session of the Human Rights Council, was in the café of the Palais des Nations with other activists when Chinese diplomat Zhang Yaojun took photos of him. Zhang claimed that he was merely

²⁸ "China's Rights Abuses Infect UN," Human Rights Watch news release, May 23, 2017, <https://www.hrw.org/news/2017/05/23/chinas-rights-abuses-infect-un>.

²⁹ Human Rights Watch email correspondence with United Nations spokesperson, May 11, 2017.

³⁰ Congressional Executive Commission on China, "Forum on Tibetan Cultural Preservation Upholds Party Development Policy," November 3, 2006, <http://www.cecc.gov/publications/commission-analysis/forum-on-tibetan-cultural-preservation-upholds-party-development> (accessed August 24, 2017); Liu Yandong, the honorary president of the China Association for the Preservation and Development of Tibetan Culture, also heads the United Front Work Department and is a vice chairman of the Chinese People's Political Consultative Conference.

photographing the scenery. These intimidation tactics are not restricted to Chinese activists, and representatives of US and European-based NGOs report similar harassment. A European-based human rights activist with several years' experience in Geneva recounted China's 2013 Universal Periodic Review:

[It] was really the first time where there was a concerted group, like a coalition effort with the aim of having a big presence ... so there was a lot of taking photos, and there was filming. I remember distinctly being in a meeting.... We were filmed meeting with the diplomats, and that was all very awkward as the diplomats obviously got very, very worried.... We were filmed with the camera quite obviously pointing at our faces.³¹

A European-based Tibetan activist described a similar experience, reporting that a Chinese reporter also took photos of her. She said:

I am certain that she was filming us, because it was the end of the day and there weren't that many people. And it was just pretty blatant, how the camera was pointed at us. And we did actually call the security, and as soon as we called ... I guess she could sense we were calling security, because we were trying to make eye contact and make it known that we didn't like it.³²

A similar incident, detailed in "China's Engagement with Treaty Bodies" below, occurred during China's 2015 review before the UN Committee against Torture.

In several instances, civil society activists felt that the UN did not have adequate resources or procedures in place to protect them from intimidation tactics or at least keep records of these incidents. One activist described the UN Security Unit's response as indifferent: "Where is this person? They're not here anymore? Yes, you're right that it's not allowed, but we can't do anything."³³ Another activist said, "We never did report ... these incidents ... probably because we just didn't know who to [report it] to ... who was

³¹ Human Rights Watch Skype interview with civil society activist, February 1, 2017.

³² Human Rights Watch interview with civil society actor, June 16, 2016.

³³ Human Rights Watch interview with civil society actor, June 16, 2016.

responsible.”³⁴ Even when UN security were able to approach the person who had taken intimidating photos, their actions did not always ease the fears and concerns of the activists. As Wang recounted,

By the time the security guards were involved, [the GONGO representative photographing her] had taken off the badge, and when we asked the security what his name was, they wouldn’t tell us.³⁵

Wang’s experience further suggests that UN security might be indifferent to the significance of inappropriate filming and photography, viewing it as merely impolite rather than an extension of authoritarian control at the United Nations. She noted that, “I would ... come to the conclusion that they didn’t take this kind of infraction ... this kind of behavior very seriously.... I think they thought of [the photo-taking] as very disrespectful and improper, but not dangerous.”³⁶ In several instances, even when they were reported to UN security, it was unclear whether UN security took any steps to deter such practices.³⁷

Months later, the GONGO representative who photographed her was seen on the UN premises again. It is unclear whether the UN Security Unit has established procedures for monitoring and potentially restricting access for individuals who intimidate civil society activists. A representative of the UN Security Unit refused a Human Rights Watch interview request and we were otherwise unable to obtain information on any relevant Security Unit procedures.

These tactics and the UN security’s inadequate response leave activists from China feeling uneasy even on UN premises. According to one Chinese human rights activist, “I believe ... they keep tracking the Chinese participants here [in Geneva].”³⁸ Another activist said:

I try to be careful, I am careful about speaking publicly here. I feel especially wary of people who look like they might be associated with the

³⁴ Human Rights Watch interview with civil society activist, January 31, 2017.

³⁵ Human Rights Watch Skype interview with Ti-Anna Wang, January 24, 2017.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Human Rights Watch interview with civil society actor, June 15, 2016.

Chinese government and will check a room for Chinese people so I can avoid them, and if they come near me I try to cover my badge.³⁹

For activists who have often suffered years of harassment, detention, and surveillance at home, these experiences can be especially threatening. It also damages the credibility of the United Nations, leaving activists with a sense of Chinese government control and intimidation even on UN premises. For example, Golog Jigme, who was photographed by Chinese diplomat Zhang Yaojun during the Human Rights Council March 2015 session, had been jailed three times by Chinese authorities, and suffered physical torture and mental trauma in Chinese prison before escaping from a Chinese detention center in 2012. He went into hiding in the mountains before fleeing across the border to India and finally receiving asylum in Switzerland. A US-based human rights defender reflecting on these government actions said:

In a way, it is worse [since 2013]. Worse in the sense that activists who are invited are less willing to go, or even to participate in the preparations [for the Human Rights Council]. It's worse that they're very afraid to speak a little more publicly while they are in Geneva. And also it is very frightening for them to go back.⁴⁰

Obstruction of NGO Advocacy at the UN

Some Chinese diplomats vigorously try to obstruct NGO advocacy efforts and to hinder civil society access to UN officials and foreign diplomats. Along these lines, the Chinese mission urges UN staff and foreign diplomats not to meet with certain human rights activists. According to a UK-based activist:

There have been times when we've met with diplomats ... and they would say, "Oh! You guys! You're the ones that China has been telling us not to meet." Apparently the [Chinese] mission had been visiting lots of other missions to tell them that they shouldn't be meeting with us.⁴¹

³⁹ Human Rights Watch interview with civil society actor, June 16, 2016.

⁴⁰ Human Rights Watch interview with civil society actor, August 26, 2016

⁴¹ Human Rights Watch Skype interview with civil society actor, January 31, 2017.

As reported by a UN official, the Chinese government also “bullies us and tries to tell us not to take certain meetings with activists.”⁴²

In some instances, even when an accredited NGO representative merely referred to the work of a non-accredited NGO in their statement, the PRC objected. During China’s UPR consideration on March 20, 2014, China’s Permanent Representative to the United Nations in Geneva, Wu Hailong, objected to an accredited NGO simply mentioning the names of two other NGOs without consultative status. He interrupted the Paris-based International Federation for Human Rights (FIDH), stating:

Mr. President, if I didn’t hear it wrongly, I heard more than one organization’s name mentioned just now when he [the representative of FIDH] was speaking. In addition to that organization whose name you mentioned [FIDH], the other two organizations do not, *do not* have consultative status with ECOSOC, and they’re not on the list of our speakers either. This is a very evident violation of the rules of procedure of the Council.... I request you, Mr. President, to abolish the status of being a speaker on the list if there is a violator there.⁴³

After a procedural debate, the Secretariat ultimately ruled that accredited NGOs are allowed to mention non-accredited organizations in their statements, as this is a common and well-established practice. However, in such cases, only the names of the accredited organizations will be recorded in the session’s official report.⁴⁴

The use of procedural mechanisms to obstruct UN proceedings is not a novel tactic, and China is hardly alone in this regard. But China’s procedural obstructionism cannot be seen as an exceptional response to a particular situation, but rather a considered strategy of undermining NGO participation at the UN. Those presiding over UN meetings, including the president of the Human Rights Council, have a responsibility to member states and NGOs not to allow China or other countries to block proceedings in bad faith.

⁴² Human Rights Watch interview with UN official, June 15, 2016.

⁴³ “China, UPR Report Consideration - 41st Meeting, 25th Regular Session Human Rights Council,” webcast, *UN Web TV*, March 20, 2014, <http://webtv.un.org/meetings-events/human-rights-council/regular-sessions/25th-session/watch/china-upr-report-consideration-41st-meeting-25th-regular-session-human-rights-council/3369309459001> (accessed August 24, 2017); [emphasis added].

⁴⁴ Ibid.

The Chinese government has protested the participation of particular NGOs, particularly prominent ones working on Uyghur and Tibetan issues.

Prior to Human Rights Council sessions and other UN events, including treaty body reviews and human rights forums, China regularly seeks to restrict the participation of such NGOs by submitting to the UN a list of individuals it portrays as security threats, requesting that the United Nations inform the Chinese mission in Geneva if any of these individuals are accredited as NGO participants for the upcoming Council session. A UN official said that prior to “every [Council] session China uses security arguments to ask to know whether a certain NGO delegation will get accredited to the HRC. They [have] nearly always used this tactic.”⁴⁵ Another UN official stated: “PRC delegates are very clear, and regularly and systematically challenge NGO participation. We receive a representation from the PRC on specific individuals who should not be allowed to attend and inquiring if they are accredited.”⁴⁶ While a few other countries have made similar requests, another UN official observed:

The majority of requests for lists on NGOs comes from China, probably around 95 percent. And not just before the Council sessions. China sends this “hit list” to New York as well and has sought to block particular civil

September 9, 2013

Dear Sir/Madam,

As for the last session, we received a query from the Chinese mission as to whether specific individuals have been accredited to participate. The following individuals for whom you have requested accreditation are included in the list of names:

[names withheld]

We wanted to assure you that we do not consider these individuals to pose any form of security threat, and so they will be accredited as usual. However, we are required to respond to the Chinese mission's request by confirming that they are accredited.

We take all reprisals, threats and attempts to limit participation of NGOs extremely seriously, so please do contact us immediately if any further issues arise. I have copied my colleague, [name of OHCHR contact], in case you would like to request that information on this request from the Chinese delegation be included in the Secretary General's report on reprisals.

[name of the HRC secretariat officer]

⁴⁵ Human Rights Watch interview with UN official, June 24, 2016.

⁴⁶ Human Rights Watch interview with UN official, June 24, 2016.

society participants from the Minority Forum. They request confirmation if any of those people are accredited as NGO participants. Nonstop.⁴⁷

The UN official added that “China is exercising pressure in the run-up to the Forum on Human Rights, Democracy and the Rule of Law scheduled to take place in a couple of weeks [in November 2016]. China is requesting the names of potential accredited participants to the forum.”⁴⁸

China has used this practice prior to other UN human rights events, including treaty body reviews, in an attempt to restrict civil society access. According to a UN official:

The PRC attempts to exclude some participants from contact with the treaty body. China presents lists of people that should not participate in the meetings, calling them a threat to the country.⁴⁹

A diplomat noted that Chinese officials caused “a lot of fuss around one of the CAT [Committee Against Torture] reviews where they were trying to stop people coming, and then trying to ask for lists. I think they did it with the CRPD [Disability Rights Convention] as well.... They wanted to know who was coming and ... just trying to make security feel under pressure, and general bad behavior.”⁵⁰

Another UN official said that in the lead-up to the Forum for Minorities,

China was one of the few countries that even before, already, pushed really very hard to try to limit participation of certain NGOs, citing concerns that “these people are terrorists” and so on and so forth for certain organizations that had signed up to participate. So China, even before the forum actually took place, reached out several times to the office in writing, in person, and by phone ... then during the actual Forum for Minorities, China and other countries were extremely disruptive and raising points of order all the time,

⁴⁷ Human Rights Watch interview with UN official, June 15, 2016.

⁴⁸ Human Rights Watch interview with UN official, June 15, 2016.

⁴⁹ Human Rights Watch interview with UN official, June 22, 2016.

⁵⁰ Human Rights Watch interview with diplomat, June 14, 2016.

which were not really points of order, but basically complaints about certain NGOs being allowed to participate and take the floor.⁵¹

While the UN reviews the names to ensure that none of the individuals is suspected of having terrorist ties, according to a UN official it has never been the case that there has been a terrorist on the Chinese list and as a result the UN has not blocked the names of any individuals on the list presented by China.⁵² Some interlocutors suggested that UN officials respond to such requests by informing Chinese officials if any individuals on their list are planning on attending the upcoming Human Rights Council session or confirming their accreditation. However, in an August 2017 response to questions posed by Human Rights Watch, the High Commissioner for Human Rights assured Human Rights Watch that “no other information is transmitted to the State” beyond the conclusion that “there is no evidence to back up the allegations.” They also inform the NGO providing the credentials for the individuals that the Chinese permanent mission has inquired about their credential status and offer them the option of including the details of this inquiry in the Secretary-General’s report on reprisals. The text box above provides an example of this type of communication from the United Nations.

China’s practice not only demonstrates an effort to block certain activists from the United Nations, but could also potentially put individuals at risk.

Barriers to Contact Between International and Domestic Activists

The Chinese government actions outlined above have damaged linkages between international and domestic activists, and have cut off some domestic Chinese activists from the resources, expertise, and other benefits that the UN human rights system offers. According to a Chinese human rights defender:

Chinese officials do their best to cut off the human rights defender to connect with outside world, no matter [if] it's UN activity or just [an] international NGO, or just anything.... [The] Chinese government's master

⁵¹ Human Rights Watch Skype interview with UN official, March 17, 2017.

⁵² Human Rights Watch interview with UN official, June 24, 2016.

plan appears to be to try to cut off connections between Chinese civil society with international community.⁵³

Some human rights activists who have been detained report that interrogation questions have focused in particular on their international ties, such as contact with UN mechanisms. For example, one Chinese activist noted, “When I was in prison, I went through long questioning, day to night, and the Chinese security officials asked a lot of questions about foreign NGOs, and links with international organizations. They seemed very concerned with international ties.”⁵⁴

Such pressure tactics succeed in some cases in keeping domestic activists from participating in the UN human rights system or coordinating with international NGOs, making it less likely UN human rights institutions will receive inputs from domestic sources to guide their work on China, including domestic sources with information about the current situation in China. This is particularly important because China’s Ministry of Foreign Affairs resists consulting with independent NGOs in the preparation of its UN human rights reporting. For example, CESCR member Shin pointed out that “the sample of ‘nearly 20 national-level non-governmental organizations’ consulted in the preparation of the current report was tiny for a country the size of China.” Therefore, “she urged the State party to consult NGOs and civil society more widely prior to reporting and to extend and enhance NGO engagement in general.”⁵⁵ Yet, as a member of another treaty body noted:

The wealth of information that we received from alternative [non-government] sources was very, very useful, and we also had dialogue with the NGOs that managed to get to Geneva. We heard about ... I think the number was five lawyers ... that were denied exit from China. They were denied to leave in the airport as far as we understood, and that was [because] the authorities ... wanted to prevent these lawyers from contributing to the hearing.⁵⁶

⁵³ Human Rights Watch interview with civil society actor, June 15, 2016.

⁵⁴ Human Rights Watch interview with civil society actor, June 16, 2016.

⁵⁵ CESCR, “Summary record of the 17th meeting,” May 16, 2014, E/C.12/2014/SR.17, para 24.

⁵⁶ Human Rights Watch Skype interview with UN expert, October 5, 2016.

China's practices also hinder domestic human rights activists from employing UN human rights mechanisms and standards as part of their work. As an expert on China's domestic human rights activists noted, "in some ways the UN and its institutions, treaty mechanisms ... are sort of astoundingly absent from much of that work.⁵⁷" Similarly, a Chinese human rights activist said that "because [the] Chinese government is so skilled in manipulating international human rights mechanisms, I think the influence of [UN human rights mechanisms] is limited."⁵⁸ One expert who has worked with human rights defenders from China and on international human rights norms said that:

Of course, China having opted out of practically all of the individual mechanisms for submitting complaints means that when lawyers take a look at these standards, I think that they don't see much of an opportunity for using the UN beyond a source of norms. And then ... some poor individuals do not get to participate in the review mechanisms.... Those reviews are important, no doubt—but I think that the main actors in those reviews are not domestic civil society in China as I see it, but much more the international civil society groups that focus on China.⁵⁹

Case Study: Aggressive Lobbying in Response to Nobel Laureate Event Featuring the Dalai Lama

As part of its efforts to silence the Dalai Lama, the spiritual and political leader of Tibetans, China seeks to deny him access to the United Nations. At the 31st session of the Human Rights Council in March 2016, China used its influence within the UN to interfere with a side-event panel featuring Nobel Peace Prize laureates, which included the Dalai Lama. China objected to the event, lobbied the UN and select member states not to support it, and discouraged delegations from attending.

The panel, hosted by the US and Canada and originally scheduled to take place at the Palais de Nations, was entitled "Nobel Laureates on Human Rights—A View from Civil Society," and included the Dalai Lama, Yemeni journalist Tawakkol Karman, and Iranian lawyer and human

⁵⁷ Human Rights Watch interview with civil society actor, May 30, 2016.

⁵⁸ Human Rights Watch Skype interview with civil society actor, August 16, 2017.

⁵⁹ Human Rights Watch interview with civil society actor, May 30, 2016.

rights activist Leila Alikarami. However, according to several sources, China lobbied the UN at the highest levels to bar the event due to the presence of the Dalai Lama, making “a series of threats regarding financial contributions [to the UN] and other calamities.”⁶⁰

A person involved in the planning of the event recounted: “Suddenly, one day the PRC got wind of this event and began to give pressure which was exercised at every level, including the OHCHR, and even in New York to the secretary-general not to have the meeting. The PRC was trying to obstruct the meeting.”⁶¹ The host countries were also aggressively pressured to cancel the event. One diplomat said that China formally contacted their government three times: once in Geneva, once at UN headquarters in New York, and once even in the government’s executive branch at the highest levels.⁶² As a result of Chinese pressure and deep concern about the repercussions for UN funding, the host countries ultimately moved to an alternative location outside the UN premises, at the Graduate Institute of International and Development Studies in Geneva.

Even after the event was moved, China continued to try to block the event, pressuring the Swiss government not to allow it to take place. Prior to the event, the director of the Graduate Institute commented that the venue was experiencing “pressures ... being applied from various sides.”⁶³ China’s Permanent Mission to Geneva also issued a *note verbale*, a formal diplomatic letter, to the permanent missions of all UN member states, UN agencies, and relevant international organizations that urged all parties “not to attend the ... event, nor meet the 14th Dalai Lama and his clique” because the presence of the Dalai Lama on the panel “violate[d] the sovereignty and territorial integrity of China” due to his “activities to split China under the pretext of religion.” A UN official noted that to many of the recipients, the *note verbale* actually drew more attention to the event, and that UN officials and diplomats “should be able to decide for themselves which events to attend.”⁶⁴

⁶⁰ Human Rights Watch Skype interview with diplomat, January 30, 2017.

⁶¹ Human Rights Watch interview with civil society actor, June 21, 2016.

⁶² Human Rights Watch Skype interview with diplomat, January 30, 2017.

⁶³ Stephanie Nebehay, “China urges diplomats and U.N. to boycott Dalai Lama in Geneva,” Reuters, March 10, 2016, <http://uk.reuters.com/article/china-un-dalailama-boycott-idUKKCN0WC1KW> (accessed August 24, 2017).

⁶⁴ Human Rights Watch interview with UN official, June 24, 2016.



中华人民共和国常驻联合国日内瓦办事处和瑞士其他国际组织代表团

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No. GJ/25/2016

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Permanent Missions of all Member States to the United Nations Office at Geneva, UN agencies and relevant international organizations and has the honor to draw the latter's attention to an event of grave concern to China.

Two delegations will hold a panel discussion on the so-called Nobel Laureates on Human Rights, as a side event of the UN Human Rights Council's 31st session at Maison de la Paix on March 11, 2016. The 14th Dalai Lama has been invited as one of the panelists to attend the event.

The 14th Dalai Lama is a political exile who has long been engaged in activities to split China under the pretext of religion. The 14th Dalai Lama and his clique have never ceased activities to seek the independence of Tibet, which is an inalienable part of the Chinese territory. Inviting the 14th Dalai Lama to the aforementioned event violates the sovereignty and territorial integrity of China, in contravention of the purposes and principles of the UN Charter. China resolutely opposes the 14th Dalai Lama's separatist activities in whatever capacity and in whatever name in any country, organization or event.

In this regard, the Permanent Mission of China kindly requests the Permanent Missions of all Member States, UN agencies and relevant International Organizations not to attend the above-mentioned event, nor meet the 14th Dalai Lama and his clique.

Permanent Missions of UN Member States, UN agencies and relevant international organizations

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Permanent Missions of all Member States to the United Nations Office at Geneva, UN agencies and relevant international organizations the assurances of its highest consideration.

Geneva, 8 March 2016

Manipulation of the ECOSOC NGO Accreditation Process

During our application process, China was one of the biggest bullies on the Committee ... but they often didn't have to do official blocking, all that they had to do was to put forward a question and work with other countries, including Pakistan, Sudan and Cuba, to block our application.

—Civil society activist, May 2016

China is among a group of countries that have used their position on the Economic and Social Council Committee on NGOs to obstruct the applications of some NGOs seeking consultative status, typically NGOs whose mission focuses on holding governments accountable, acting as watchdogs, or promoting human rights. The NGO Committee is comprised of 19 member states elected to four-year terms by the ECOSOC based on equitable geographical representation. There are no membership criteria for states sitting on the NGO Committee and states can stand for election repeatedly, enabling some of them, including China, to remain on the committee for extended periods of time.

The NGO Committee was established through ECOSOC resolution 1996/31 with a mandate to consider NGO applications for accreditation. According to its guide for NGOs, the NGO must have the following as minimum requirements: work that is relevant to ECOSOC; transparent and democratic decision-making mechanisms and a democratically adopted constitution; an established headquarters with an executive officer; two years of work prior to applying; the authority to speak for its members; a representative structure; appropriate mechanisms for accountability; and financial statements, including contributions and other support, and expenses, direct or indirect, that it can provide the committee.⁶⁵

While most NGO applications are routinely approved by consensus, the applications of some NGOs working on issues deemed sensitive have been held up in the NGO Committee for years. Because the committee authority is to make recommendations to ECOSOC on NGO applications, some NGOs have resorted to requesting that a friendly state call for a

⁶⁵ UN Economic and Social Council, *Working with ECOSOC: An NGO's Guide to Consultative Status*, <http://csonet.org/content/documents/Brochure.pdf> (United Nations: New York, 2011).

vote in ECOSOC. In a number of cases, ECOSOC has granted consultative status to the NGO even though this contradicted the committee’s recommendation.

China has not only targeted organizations working on human rights issues, but has also insisted that all NGOs conform to China’s position that Tibet and Taiwan are sovereign Chinese territory.

As a result of the politicization of the process, certain NGOs are restricted in their ability to participate in UN sessions, offer statements, sponsor events, or gain entry to UN premises. Child Rights International Network (CRIN), a London-based NGO whose application has been deferred since 2010 and remains in limbo, pointedly notes that the NGO Committee enables states to “select their own jury at the UN.”⁶⁶ In the case of the respected NY-based Committee to Protect Journalists, the NGO Committee deferred a decision on its application for UN accreditation seven times over the course of four years in part because of objections from China. The situation was not resolved until 2016, when the United States objected and called for a full ECOSOC vote.⁶⁷

Obstruction of NGO Applications for ECOSOC Status

China has been one of the most active countries in using its position on the NGO Committee to bar NGOs from gaining consultative status. It has done so in part by putting forward repetitive, politically motivated, and at times, inappropriate questions. In practice, when a question—even a very mundane or general question—is asked, the NGO’s application can be deferred until the next session, which is typically two to seven months later. As a result, a number of NGO applications have been deferred for years as committee members continue to pose questions, even repeating previous questions. Several international NGOs singled out China as leading the charge in blocking their applications. A religious freedom NGO that received several questions from China noted that its application was deferred for seven years due to repeated questioning and more than 80 questions by a handful of NGO Committee members, including China.

⁶⁶ Child Rights International Network, “What is ECOSOC Status,” 2017, <https://www.crin.org/en/home/campaigns/transparency/ecosoc/what-ecosoc-status>.

⁶⁷ Committee to Protect Journalists, “UN committee grants CPJ accreditation,” July 25, 2016, <https://cpj.org/2016/07/un-committee-grants-cpj-accreditation.php>.

The experience of the Children’s Rights Network highlights China’s strategies to deny certain NGOs ECOSOC status. CRIN applied for consultative status in 2010 as soon as it met the criterion of being in existence for two years, but its application was repeatedly deferred as its representatives faced 10 rounds of questions from the committee, including a number of political questions that were asked repeatedly. Of the 19 questions CRIN received from the committee, eight concerned China, including terminology and views on Tibet and Taiwan. China’s questions have not been related to CRIN’s contribution to children’s rights or its organizational health, and it has not merely asked questions but at times has advised CRIN to change material on its website or provide written assurances.

For example, CRIN’s fifth round of questions in January 2013 included the following:

1. Please do the necessary corrections in the organization’s website and publications in order to align to United Nations terminology when referring to the Tibet Autonomous Region of China.
2. Please provide a written commitment to respect United Nations terminology when referring to certain regions of China.
3. Please provide what position the organization has with regards to the question of Tibet.⁶⁸

At one point, the NGO Committee informed CRIN that, “Your website contains articles containing reference to Tibet which do not use the correct UN terminology (Tibet autonomous region of China). Please correct those mistakes.” (China’s insistence on the use of “UN terminology” may be a strategy to pressure NGOs to accept its position that Tibet and Taiwan are a part of China and to prevent NGOs that might be sympathetic to those regions’ calls for self-determination from expressing those views.) In its responses, CRIN agreed to refer to Tibet as an autonomous region of China as well as providing assurances that it respects the principles of sovereignty and territorial integrity as outlined in the UN Charter. However, despite these assurances, China persisted in posing repetitive questions in April 2013, November 2013, and again in May 2014. The April 2014 communication from the NGO Committee included the following question on Tibet and language indicating that the question came from the Chinese delegation:

⁶⁸ Children Rights International Network, “Background,” 2017, <https://www.crin.org/en/home/campaigns/transparency/ecosoc-less-politics-more-human-rights/crin-ecosoc/background> (accessed August 24, 2017).

From China: This Committee still finds problems in the organisation's website with respect to United Nations terminology in relation to the issue of Tibet. Kindly do the necessary corrections.⁶⁹

As CRIN's representative explained after China expressed its concerns with the terminology, "We changed it.... And we responded to the other questions. Then it came up again, and again, and again. And China kept asking the same question ... we would answer the same, but they would just not ... they were not satisfied with the answers ... they would not budge."⁷⁰ After their third deferral, when CRIN's representative appeared in person before the committee, CRIN still "got the same question from China, and [I] responded politely: Of course we respect your territorial integrity ... we made every effort to correct the terminology where we got it wrong."⁷¹ Despite this response, CRIN then received further questions from the committee, which again deferred their application.

Although CRIN changed the terminology on the main part of its website to align with China's insistence on terminology that affirms Tibet as a part of China, CRIN explained to the Chinese delegation that the website serves as a repository of NGO reports on children's rights around the world and contained reports from other NGOs. Because those reports were not

Example of NGO Committee Communications to CRIN

[24 May 2014]

Dear NGO representative:

I wish to inform you that the Committee on Non-Governmental Organizations reviewed your application during its 2014 Resumed Session, being held from 19 to 28 May 2014.

Upon its review, the Committee requested the following clarifications from your organization:

- 1) Your website contains articles containing reference to Tibet which do not use the correct UN terminology (Tibet autonomous region of China). Please correct those mistakes.

Kindly provide your response as soon as possible in order to allow the Committee to reconsider your application for ECOSOC consultative status.

IMPORTANT: Please respond to the above question(s), in English or French, by using the following link:
<http://www.un.org/ecosoc/ngo/contact> Choose the "2014 Resumed Session" category to upload your response.

With kind regards,
Andrei Abramov
Chief, DESA NGO Branch
United Nations

⁶⁹ Ibid.

⁷⁰ Human Rights Watch interview with Veronica Yates, CRIN Executive Director, June 1, 2016.

⁷¹ Ibid.

produced by CRIN, CRIN could not alter them, so CRIN offered to add a disclaimer to its website clarifying that the terminology used in the reports was not necessarily endorsed by CRIN. During a meeting with the Chinese delegation in New York, CRIN was told it could propose adding a disclaimer on the website for Beijing to consider, but it was unlikely that it would be acceptable.⁷²

CRIN's experience is not unique; other NGOs face similar PRC questioning. According to another human rights NGO:

The PRC was the main country blocking our application. When I sat down to meet with the PRC delegation they raised objections to the information we had on our website about prisoner of conscience Liu Xiaobo. The Chinese delegates also asked inappropriate questions that could have jeopardized people, such as the sources of information, particularly in-country sources.⁷³

Even after this NGO removed some documentation on Liu's case from its website, the Chinese delegation continued to resist the NGO's application, inquiring about issues including its sources of information on human rights cases, which could put people in China at risk for reprisals. Moreover, during the session, according to one activist, "After China put forward a question on sovereignty and non-interference, some like-minded countries repeated different versions of China's question. It almost felt like the other countries got their talking points from China."⁷⁴

Another NGO reported similar obstructionist behavior by China, specifically noting that:

At every session, we got asked for information, frequently info we had previously provided, about the extent of our activities in China and India [they did not have activities in India], whether we received NED [US National Endowment for Democracy] funding, to resubmit our budget.... The questions were repetitive and often came the night before (like 10 p.m.) or

⁷² Ibid.

⁷³ Human Rights Watch interview with civil society actor, May 27, 2016.

⁷⁴ Human Rights Watch interview with civil society actor, May 27, 2016.

even the day after the deadline for responses, so each time we were not put on the agenda for discussion at that session.⁷⁵

Another human rights NGO said that, “China was probably one of the leading countries questioning our work,” and had asked that organization “to provide information about partners in China” as well as “our position on Taiwan.” In this case, China also approached other countries to build opposition to this NGO’s work. This NGO representative noted that the Chinese mission:

Reportedly did active lobbying against us as well.... [We heard] from some other countries that they had already been approached by China, and China had basically asked them to vote against us. And for many of the missions who I met, I felt that they were not really so concerned about our work, but for many the key question was what countries were opposing our case. And when I said, China is, for example, several of the countries would respond that “Oh, that makes it very, very difficult for us to support you.”⁷⁶

As noted above, China has been especially insistent in questioning NGOs, including Human Rights Watch, about their views on Tibet and Taiwan. Even NGOs whose work was not focused on China, Tibet, or Taiwan were subjected to such questions. The following examples are illustrative:

The representative of China said the website incorrectly identified Taiwan as a country and he hoped the group would clarify its position on Taiwan and correct that information according to United Nations rules.⁷⁷

—Engineers Without Borders, January 2016

⁷⁵ Human Rights Watch interview via email correspondence with civil society actor, February 5, 2017.

⁷⁶ Human Rights Watch Skype interview with civil society actor, April 4, 2017.

⁷⁷ Economic and Social Committee on NGOs, “Non-Governmental Organizations Committee Recommends Special Consultative Status for 26 Entities, Defers Action on 57 Others,” NGO Committee Session, January 27, 2016.

The representative of China noted that ‘Taiwan’ was listed as a country on the organization’s website, and asked for correction.⁷⁸

—Child Soldiers International, January 2016

The representative of China noted that Tibet was listed as a country on its website, asking the organization to clarify its position on that issue.⁷⁹

—Action Against Hunger, May 2016

One organization with members from different countries, including from Taiwan, was told that it had to change the reference to Taiwan on its website to “Taiwan, Province of China.” An NGO representative who observed these proceedings noted that the extent to which China pursued this line of questioning was sometimes so extreme that even small NGOs whose work has little relationship to China could face these kinds of questions. She stated: “There was a Coptic solidarity organization under review [at the NGO Committee meeting in January 2017], and China asked them a question about their position on Taiwan and Tibet.... This Coptic solidarity organization is very unlikely to have anything to do with China.”⁸⁰

China has even subjected non-political NGOs, including universities, to detailed but seemingly irrelevant questions, which has had the effect of delaying consideration of their application for six months at a time, leaving their applications in limbo for years.

As noted above, in some cases China and other countries have posed new questions in subsequent sessions even after the NGO applicant had responded to questions from previous sessions. For example, during the January 2016 session, the Aspen Institute was asked by the Chinese representative “how the organization selected tomorrow’s leaders.”⁸¹ The following month, the PRC asked the Institute to “explain its channels of income” even though the written application already included its answers to questions on income sources, including specific questions on membership dues, contributions from members, funding from governments, funding from international organizations, funding

⁷⁸ Economic and Social Committee on NGOs, “Concluding First Week of 2016 Session, Committee on Non-Governmental Organizations Reviews 404 New Quadrennial Reports, Defers Action on 52 Entities,” NGO Committee Session, January 29, 2016.

⁷⁹Economic and Social Committee on NGOs, “Committee on Non-Governmental Organizations Grants Applications of 61 Groups for Special Status with Economic and Social Council, Defers Action on 47,” NGO Committee Session, May 23, 2016.

⁸⁰ Human Rights Watch Skype interview with civil society actor, April 4, 2017.

⁸¹ Economic and Social Committee on NGOs, “Non-Governmental Organizations Committee Recommends Special Consultative Status for 15 Entities, Postpones Action on 53, in Fourth Day of Session,” NGO Committee Session, January 28, 2016.

from the private sector, income from other NGOs, and income generated from contracts and other sources, such as philanthropic contributions.⁸²

In February 2015, the Chinese representative asked James Madison University “about the organization’s work implementation and about future plans for the organization’s ‘comprehensive goals.’”⁸³ A year later, the PRC again put forward a question that again delayed consideration of the NGO’s application. In May 2016, James Madison University was asked by the PRC “for further information about the activities undertaken by the organization in the Asia-Pacific region.”⁸⁴

China, along with other countries, has also adopted this line of questioning when NGO representatives appear in person before the NGO Committee. According to an NGO representative who appeared before the committee:

Appearing in person to answer questions before the committee was worse than going to court, like being brow-beaten, and there were a huge variety of questions, including ones from China and other states about their NGO partners in that country as well as our sources of information in country. Some of the questions were threatening and the answers confidential.”⁸⁵

China also forced some organizations to take a stance on Taiwan and Tibet, even when those organizations indicated that as non-political entities they preferred not to take a stance. For example, in January 2016, China asked the Trustees of the University of Pennsylvania for clarification on the organization’s position on Tibet. When the institution’s representative appeared in person during the following session, China asked its stance on Tibet:

The representative of the Trustees of the University of Pennsylvania said her organization worked for literacy and equality. The representative of China

⁸² United Nations, “Presenting Draft Report, NGO Committee Grants Special Consultative Status to Six Entities, Postpones Action on 35 Others,” February 3, 2016, <https://www.un.org/press/en/2016/ecosoc6738.doc.htm> (accessed August 24, 2017).

⁸³ Economic and Social Committee on NGOs, “Continuing Its Regular Session, Committee on Non-Governmental Organizations Recommends Status for 3 Entities, Defers Action on 25 Others,” NGO Committee Session, February 2, 2015.

⁸⁴ Economic and Social Committee on NGOs, “Committee on Non-Governmental Organizations, in Recorded Vote, Defers Action on Journalist Group’s Application for Special Consultative Status,” NGO Committee Session, May 2016.

⁸⁵ Human Rights Watch interview with civil society actor, May 27, 2016.

requested that the organization provide additional clarification on its stance on Tibet. In response, the organization's representative said that as an academic institution it did not take a political stance. The representative of China said the all non-governmental organizations must respect the sovereignty and territorial integrity of every country as outlined in the United Nations Charter. He therefore requested written clarification addressing where the organization stood on Tibet. The Committee then decided to postpone its consideration of the organization.⁸⁶

Some Chinese NGOs that appear to have ties to the Chinese government or whose goals are closely aligned with the Chinese Communist Party appear to have enjoyed smoother application processes. For example, both the China Foundation for Peace and Development and the China Women's Development Foundation were granted ECOSOC consultative status at the very first meeting of the NGO Committee following their respective applications, with no deferrals and no questions on file in either the final reports or UN reporting on those meetings. Both organizations appear to have connections to the Chinese government: The China Foundation for Peace and Development (CFPD), which was granted consultative status in February 2014, is led by Sun Jiazheng, who has also served in prominent positions within the Chinese Communist Party in the past, most notably as the vice chairman of the 11th National Committee of the Chinese People's Political Consultative Conference from 2008-2013.

The CFPD's activities align with Chinese government priorities. For example, CFPD's "Friends of the Silk Road" program focuses on the countries involved in China's One Belt, One Road policy.⁸⁷ The China Women's Development Foundation, which was granted consultative status in 2016, also has government ties via its founding organization and business supervisor, the All-China Women's Federation, which is one of a handful of national "mass organizations" run by the Communist Party to further the party's control over ordinary people.

⁸⁶ Economic and Social Committee on NGOs, "Non-Governmental Organizations Committee Recommends 19 Groups for Consultative Status, Postpones Action on 66 in Third Day of Session," NGO Committee Session, May 25, 2016.

⁸⁷ China Foundation for Development, "Friends of the Silk Road," <http://www.cfpd.org.cn/English.aspx> (accessed August 24, 2017).

China has also tried to limit the transparency of the NGO Committee, including resisting voting so that it and other countries are not on record as opposing an application and also proposing that countries be able to block applications anonymously. In February 2015, China proposed that UN reporting not identify the name of the member state making objections or raising questions about an NGO’s application.⁸⁸ Although the proposal was eventually retracted by the Chinese delegation, this push for anonymous disapproval demonstrates a desire to conceal its actions on the committee. In April 2017, ECOSOC passed a resolution introduced by Chile, Mexico, and Uruguay on improving the working methods of the NGO Committee by instituting webcasting, which will enhance transparency. China did not support the proposal to introduce webcasting, called for a vote on the resolution, and then abstained.⁸⁹

Misuse of Authority to Review NGO Reports

China, along with other Like-Minded Countries, at times abuses the NGO Committee’s authority to review reports from ECOSOC-accredited NGOs, putting forward numerous questions not for elucidation but as a form of obstructionism. NGOs are required to submit a report to the committee every four years, and a number of NGOs have received questions from the committee that primarily pertain to China. For example, in response to its report, the Society of Threatened Peoples (STP), an NGO based in Germany, received five rounds of questions from the Committee, including a high number of questions pertaining to China.⁹⁰ Initially, in September 2012, the NGO Committee queried STP with the following questions:

1. In your report, you mention that in 2003 you were invited to participate in a round table conference to promote human rights dialogue in China. Please explain which organization invited you to participate.
2. Did you make any statements there? If so, can you provide a copy of the statement(s)?
3. You also mention that in 2004 in Geneva you participated in a round table discussion on Best Practices in Promoting Human Rights in China, as well as in

⁸⁸ Economic and Social Committee on NGOs, “Continuing Its Regular Session, Committee on Non-Governmental Organizations Recommends Status for 3 Entities, Defers Action on 25 Others,” NGO Committee Session, February 2, 2015.

⁸⁹ See: <http://www.ishr.ch/news/ecosoc-victory-transparency-not-due-process>

⁹⁰ Human Rights Watch Skype interview with civil society actor, January 19, 2017.

side events. Please provide information about the statements you made at the roundtable and the side events.

4. Please also provide us with information about the participants in these events.

Even after submitting responses, STP received further questions in February 2013 on its work on China:

1. In your reports for the 2001 to 2004 period you make references to several events such as roundtable dialogues. However, there were no Chinese participants at these events. Please explain if you have any cooperation with China. Kindly provide your response as soon as possible in order to allow the Committee to reconsider your application for ECOSOC consultative status.

In June 2013, STP received another query that raised concerns that the Chinese government was seeking information on groups it deemed hostile to China.

1. From the information in your quadrennial report for the 2001 to 2004 period it seems that your organization has repeatedly invited elements against China to participate in the Human Rights Committee and the Human Rights Council. Please explain your position with regard to Tibet, Autonomous Region of China and Taiwan, Province of China. We would appreciate receiving your response to the questions raised by the Committee before its 2014 regular session to be held from 21 to 30 January 2014.

Sample Correspondence from the NGO Committee to STP

16 July 2015: "I wish to inform you that the Committee on Non-Governmental Organizations reviewed your quadrennial report at its 2015 Resumed Session, held from 26 May to 3 June 2015.

Upon its review, the Committee requested the following clarifications from your organization: 1) The organization produced several reports and carried out numerous activities in China. Please explain how the NGO is able to obtain accurate and objective information about China when, in accordance to the response provided to this Committee on 28 May 2015, the organization states that it has no cooperation with this country. Kindly provide your response as soon as possible in order to allow the Committee to reconsider your report at its 2016 Regular Session. Please remember that just as questions are asked on behalf of the Committee on NGOs, your response should be addressed to the Committee, rather than to individual Member States delegations."

STP again received a very similar question in June 2016 asking STP to elaborate on its position on Tibet.

China has also used these tactics with other NGOs. During the January 29, 2016 session of the NGO Committee, China asked the International Service for Human Rights, an organization established in 1984, in response to its 2011-2014 quadrennial report, to clarify its position on Tibet and Xinjiang.⁹¹ In 2017, the NGO Committee responded to the International Humanist and Ethical Union's (IHEU) report by deferring acceptance and requesting that IHEU update all references to Taiwan to "Taiwan, Province of China."⁹² According to a civil society activist with a different NGO:

The NGO Committee says it's a question on behalf of all members on the NGO Committee, but it's pretty clear where the questions originate from, which is from China. And sometimes they are a little bit hostile.... We constantly fear that if we don't answer the questions from the members of the NGO Committee, we might get in trouble. I'm not sure what we would have to do to be stripped of status, but we try to be as correct as possible, and try to answer all these questions even though we disagree with the premise of the question.⁹³

Just as the Chinese government has censored speech and expression at home, it is also effectively censoring NGOs and trying to prevent critical views from being presented at the United Nations. By establishing political tests for NGOs that require them to hew to the Chinese position on Tibet, Xinjiang, Taiwan, and other issues, China is compelling NGOs to self-censor and seeking to prevent those unwilling to accept the Chinese party line from participating at the UN.

The same NGO representative who appeared in person before the Committee stated:

But of course, the way ECOSOC [accreditation] works is that you only have your five minutes, but then you can't actually respond to the accusations. So, the whole process is just outrageous. It's like a Kafka kind of courtroom ...⁹⁴

⁹¹ Economic and Social Committee on NGOs, "Concluding First Week of 2016 Session, Committee on Non-Governmental Organizations Reviews 404 New Quadrennial Reports, Defers Action on 52 Entities," NGO Committee Session, January 29, 2016.

⁹² International Humanist and Ethical Union, "A note on United Nations terminology on the IHEU website," <http://iheu.org/about/about-iheu/note-united-nations-terminology-iheu-website/> (accessed August 24, 2017).

⁹³ Human Rights Watch Skype interview with civil society actor, January 19, 2017.

⁹⁴ Human Rights Watch interview with civil society actor, June 2, 2016.

China's Engagement with Treaty Bodies

China also made an aggressive attempt to exercise control and manipulation over the Committee chair and vice chairs, and used aggressive language and tone when interacting with the treaty body staff.

—UN official, June 2016

The Chinese government conscientiously implements its treaty obligations, has participated in implementation reviews by treaty bodies in a sincere, cooperative and responsible spirit and has maintained good communication and dialogue with all human rights treat bodies.⁹⁵

—Chinese Mission to the UN, October 2016

China, as a party to a number of human rights treaties, has engaged with various treaty bodies. However, it too often has attempted to manipulate review processes, has had inappropriate contact with UN officials and treaty body experts, and has interfered with the participation of civil society organizations.

The UN's primary way of overseeing compliance with human rights treaties is by reviewing periodic reporting from governments that are usually due every two to six years depending on the treaty body in question, and then conducting an in-person examination that includes questions from the treaty body members, who are independent experts.

In recent years the Chinese government has participated in reviews of its own record by the Committee Against Torture (CAT) in 2015, the Convention on the Elimination of Discrimination against Women (CEDAW) in 2014, the Convention on Economic, Social and Cultural Rights (ICESCR) in 2014, the Convention on the Rights of the Child (CRC) in 2013, and the Convention on the Rights of Persons with Disabilities (CRPD) in 2012. The analysis in this section is based on these reviews.⁹⁶

⁹⁵ Permanent Mission of the People's Republic of China to the UN, "Statement by Ms SHANG Chenglin of the Chinese Delegation at the General Discussion on the Implementation of Human Rights Instruments at the Third Committee of the 71st Session of the General Assembly," October 18, 2016, <http://www.china-un.org/eng/hyyfy/t1407107.htm> (accessed August 24, 2017).

⁹⁶ China was overdue in reporting to the Committee on the Elimination of Racial Discrimination, and submitted its late report in March 2017 with its previous report being submitted in 2009.

China's actions before the treaty bodies have varied considerably. In some cases, China has been described as taking its reviews before the committees seriously and engaging earnestly without significant problems, while in other cases the Chinese delegation's actions have been described as marred by bullying, harassment, and interference.

Incidents of harassment or manipulation appear driven by China's desire to deter criticism. As one UN expert observed, "First and foremost, I think it's fair to say that China regards it as important to look good—to get a good report from a number of United Nations committees."⁹⁷

One treaty body member said, "China overall did cooperate in a good manner during the ... review. ... China did not push back against the committee more than other countries usually do."⁹⁸ A member of another body also described China's engagement positively, noting, "There was no sense of aggressiveness or any kind of preconceived ideas on the part of the delegation."⁹⁹ And China is often described as preparing for and participating in its reviews in a serious, thorough manner. This conduct should be acknowledged and encouraged across all of China's reviews.

Inappropriate Contact with Treaty Body Members and UN Staff

In 2012, the UN established guidelines on the independence and impartiality of treaty body members, including efforts to avoid lobbying or other forms of influence and pressure from member states.¹⁰⁰ These guidelines prohibit contact between expert members of treaty bodies and governments prior to the review of the state in question, which is often interpreted as the period between the pre-session meeting and the actual hearing.¹⁰¹ A treaty body member explained: "We've made more formal rules ... and we've said that we should not interact with the government between the pre-session and the session. And the pre-session is around eight months before the session."¹⁰²

⁹⁷ Human Rights Watch Skype interview with UN expert, August 17, 2016.

⁹⁸ Human Rights Watch interview via email correspondence with UN expert, August 15, 2016.

⁹⁹ Human Rights Watch Skype interview with UN expert, January 3, 2017.

¹⁰⁰ Addis Ababa Guidelines. See also http://www.ohchr.org/Documents/Publications/HR_PUB_15_2_TB%20Handbook_EN.pdf.

¹⁰¹ Ibid.

¹⁰² Human Rights Watch Skype interview with UN expert, December 20, 2016.

UN officials told Human Rights Watch that some Chinese diplomats have repeatedly violated these guidelines and inappropriately approached UN officials and treaty body experts who review state reports and conduct the in-person examination of state parties' adherence to the treaty or examine state compliance with treaty obligations. Sometimes they simply ask to meet and sometimes they offer meals or trips to China.

At least half a dozen UN experts told Human Rights Watch they were offered invitations to dinner or trips to China that appeared intended to sway their views on China, either by giving the Chinese government an opportunity to present its views directly or to positively influence that individual's views of China, and thereby obtain more favorable treatment during the review. A UN official said:

Through consulates and embassies China approached treaty body committee members in their home countries and in some cases invited them to dinner or a trip to China, which interferes with the independence of the committee.... The PRC made overtures to the committee members, including invitations to dinner. And in one case, a committee member thought they were just having dinner with the Chinese committee member but arrived at dinner to find a large group of Chinese officials.¹⁰³

Other UN experts and officials reported similar Chinese practices, including one who said:

My understanding from various members of the committee ... was that they were approached by Chinese officials to explain their position to them....The Chinese consul general ... did ask to see me, and I explained that I didn't think there was much to talk about, and we never did meet.¹⁰⁴

Another UN committee member said that Chinese officials:

Did try to make contact with members in advance ... and we have been quite careful to say that we are not able to meet them and talk to them.... One of those working at the embassy in [the capital] contacted me and

¹⁰³ Human Rights Watch interview with UN official, June 22, 2016.

¹⁰⁴ Human Rights Watch Skype interview with UN expert, August 17, 2016.

wanted to meet with me.... But I know that other members were contacted and said no to have a meeting, and maybe others again were contacted and said yes, but made it just a formal conversation somehow. Because we may meet and tell them about the process and things like that, but ... of course, close to the dialogue, we should not meet with representatives of the states to discuss the situation.¹⁰⁵

One UN expert said:

I was invited to China before the review—implicitly at the expense of the Chinese government. I think so were two other members of the committee, and of course we declined politely ... My feeling was that it was an attempt to ... seek good press and sort of get more positively adjusted or calibrated to the review. And, of course, that is unacceptable, so we are meticulous about our independence in the committee.¹⁰⁶

Another UN expert described her interactions with Chinese officials:

I was contacted by the [Chinese] embassy here.... And then when this woman from the embassy approached me, she asked me about the work of the committee. And then suddenly it hit me that it was because China was upcoming for the dialogue.... And she said to me, did I have any opinion on the report of China?¹⁰⁷

Still another UN expert described an attempt at providing gifts: “In another meeting ... [Chinese diplomats] gave the secretary, the chair, the country rapporteur and me presents.... We took them but said we would hand them over to the [UN] because we weren’t allowed to take them.¹⁰⁸

¹⁰⁵ Human Rights Watch Skype interview with UN expert, December 20, 2016.

¹⁰⁶ Human Rights Watch Skype interview with UN expert, October 5, 2016.

¹⁰⁷ Human Rights Watch Skype interview with UN expert, January 3, 2017.

¹⁰⁸ Human Rights Watch interview with UN expert, March 22, 2017.

With at least one treaty body, these overtures have reached the level of harassment and intimidation. Chinese representatives repeatedly visited or contacted UN staff and committee members in ways they found threatening. According to a UN official, prior to her treaty body's review:

The PRC contacted the committee [secretariat] almost daily for two weeks, applying pressure. We received frequent calls, visits and messages, and daily visits from Chinese officials that were at times aggressive. Sometimes they asked inappropriate personal, staffing or career issues.... This contact from the PRC was elaborate and frequent ... I felt the intention was to demoralize and create fear.¹⁰⁹

Another person familiar with this treaty body described similar Chinese actions, noting:

China was very insecure. They wanted to use the review to whitewash mechanisms for their human rights record. In the lead up to the review, the secretary was exhausted because there were hundreds of emails from the Chinese government.¹¹⁰

Another treaty body expert also said Chinese officials had been aggressive, saying:

During a conversation with PRC officials, when I mentioned that I thought our job was to mention violations when they occur, suddenly the tone changed, and they talked about their contacts with terrorism and law enforcement officials in my country, which felt like an intimidation tactic. They complained about my work to the UN and harassed me in other ways. It was a shocking experience. It was the first time I experienced such behavior.¹¹¹

¹⁰⁹ Human Rights Watch interview with UN official, June 22, 2016. Corroborated by Human Rights Watch Skype interview with UN expert, August 17, 2016.

¹¹⁰ Human Rights Watch Skype interview with UN expert, August 17, 2016.

¹¹¹ Human Rights Watch interview with UN expert, March 22, 2017.

Obstruction of Civil Society Participation

As it has done at Human Rights Council sessions, as described in the previous chapter of this report, the Chinese government has attempted to block the participation of civil society activists in treaty body reviews by urging various UN offices not to allow particular individuals to participate, attempting to interfere with the submission of information from civil society organizations, and taking unauthorized photographs of civil society participants during at least one treaty body review. Indeed, China has attempted to impede civil society participation in all five of China's treaty body reviews over the last five years.

These efforts contravene the UN's position that civil society has a valuable role to play in human rights monitoring processes. As High Commissioner Zeid said:

The work done by OHCHR, by the Special Procedures, by Treaty Bodies, this Council itself, and indeed, by Member States, could never be achieved without the greater efforts of civil society actors. We need their continuing support and contributions to realise progress. I encourage the Council to strengthen its constructive engagement with civil society actors, and to ensure that their voices can be raised safely without reprisals.¹¹²

At one of the treaty body reviews, the Chinese mission presented the UN Secretariat with a list of individuals from the civil society sector whom it determined should not be allowed to attend. According to a UN official:

China went a step further than most states and pointed out individuals belonging to some Tibetan and Xinjiang groups and portrayed them as having enmity against the country and very dangerous and who should not attend.¹¹³

¹¹² OHCHR, "Press briefing notes on Iraq, Lebanon /Tunisia / Jordan and Uzbekistan," September 8, 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14998>, (accessed August 24, 2017); [emphasis in original].

¹¹³ Human Rights Watch interview with UN official, June 22, 2016.

Another person familiar with the matter said that:

The Chinese mission demanded that we give them all the names of the accredited NGOs. But we didn't give the names so they were very unhappy and didn't agree with our working methods.¹¹⁴

According to UN officials, the UN's position is to be as inclusive as possible, and when UN checks did not find any of the individuals to have terrorist ties or other probable cause for exclusion, the UN secretariat did not block their participation.¹¹⁵

To protect civil society participants and encourage their participation, the treaty bodies do not tell state parties which NGOs have been accredited, do not limit participation to ECOSOC accredited NGOs, and provide channels, including briefings and written submissions, for NGOs to provide information confidentially to the treaty body.¹¹⁶ As one UN official described:

Treaty bodies handle accreditations separately, and there is no requirement as to ECOSOC status.... Any person from civil society can actually submit information to the committee.... That said, obviously they can also request information to be considered confidential, which means that it will not be posted on the website, and the committee members can actually take information from there, but will not mention the source. In addition, with regard to accreditations, it is a general practice in our division that this information is confidential and is never, never shared with the state parties.... Because we need to have a confidential space for civil society organizations.¹¹⁷

¹¹⁴ Human Rights Watch interview with UN expert, March 22, 2017.

¹¹⁵ Human Rights Watch Skype interview with UN official, January 12, 2017.

¹¹⁶ Human Rights Watch Skype interview with UN expert, December 20, 2016.

¹¹⁷ Human Rights Watch Skype interview with UN official, January 12, 2017.

Another official said:

The information that we received from alternative sources was very, very useful, and we also had dialogue with the NGOs that managed to get to Geneva.... We had a very constructive meeting with the NGOs. It was kept in a place outside Palais Wilson for security reasons.... I think the NGOs were more comfortable speaking to us in a place that was not announced.¹¹⁸

Although these precautions limit transparency, they protect NGOs from state reprisal.

China often cites security concerns when it seeks to restrict civil society participation. A committee member said that before a recent session:

The Chinese said that they did not like certain persons being present in the room—they felt frightened.... My position was, “I don’t have any control over that. They’re accredited by the United Nations.” My understanding is, however, that they asked people higher than me, “Could there be a security guard to make sure that no one was injured?” ... And in fact, at the hearing, the security guard was there in the corner.¹¹⁹

Another person recounted that the Chinese mission:

Demanded that we take all kinds of security measures that we had never seen before. They wanted security in the room. They demanded that we have high security that included people being bodily searched. They were making a point. It was intimidation. It would have been intimidating for the NGOs. They threatened that if there was no special protection there would be no dialogue.¹²⁰

¹¹⁸ Human Rights Watch Skype interview with UN official, October 5, 2016.

¹¹⁹ Human Rights Watch Skype interview with UN expert, August 17, 2016.

¹²⁰ Human Rights Watch interview with UN expert, March 22, 2017.

At China's November 2015 CAT hearing, NGO participants reported that the Chinese member of the committee engaged in unauthorized photography of the civil society section of the room. Two accounts describe this incident:

It was toward the end of the treaty body review and he got up from the other side of the room, walked around the outer perimeter of the room to get near the observers and me and NGO area and he took photos of all of us.¹²¹

And there's a Chinese [individual].... And he was sitting at his desk—I mean, we're all on the one side of the room—and he had a camera, just his arm like this, and he was snapping photos of the whole group of people. And of course, they are not allowed to do that, but it's just so brazen and so obvious that he's doing that, and I can't believe that he thinks that's okay.¹²²

A UN official also corroborated the NGO reports, saying that, "It's true, he was there, and he was taking some pictures. And a member of civil society organizations came to the podium and raised this issue with us. And so, the Secretariat of the Committee ... mentioned that he could not do that, and he stopped."¹²³ While it is not clear that the CAT member's photographing of activists was intended to be intimidating, several NGOs viewed it that way.

Another UN-affiliated individual said that "I ... understand if NGOs that feel maybe targeted by their own government, that they don't feel that photos of their presence before CAT is according to their best interests."¹²⁴

Most of the treaty body members Human Rights Watch spoke with expressed concerns with Chinese government restrictions on the ability of domestic Chinese activists to engage in advocacy. According to the UN reporting on states' cooperation with the UN released in August 2016:

¹²¹ Human Rights Watch interview with civil society actor, June 22, 2016.

¹²² Human Rights Watch interview with civil society actor, June 20, 2016.

¹²³ Human Rights Watch Skype interview with UN official, January 12, 2017.

¹²⁴ Human Rights Watch Skype interview with UN expert, October 5, 2016.

The Committee against Torture expressed concerns at allegations of intimidation and reprisals against several human rights defenders for their engagement with the Committee. Reportedly, seven Chinese human rights defenders, who had intended to travel to Geneva to attend the Committee's consideration of the report of China, had been threatened by the Chinese authorities with negative professional consequences. Moreover, those who had defied the authorities' orders had reportedly been detained on the grounds that their participation could "endanger national security."¹²⁵

Similar difficulties were reported by the Committee on the Elimination of Discrimination against Women (CEDAW), such as censorship of NGO reporting to committee, fear of reprisals for interaction with CEDAW, and travel restrictions on those seeking to engage with the committee. According to a UN report on states' cooperation with the UN released in August 2015:

The Committee also expressed concern at reports of travel restrictions imposed on at least one woman human rights activist [from China] who intended to brief the Committee.... When requested to comment on these concerns during the consideration of the report, a member of the delegation of China stated that the Government welcomed the efforts of non-governmental and civil society organizations to promote women's rights and that they were not subject to reprisals of any kind for their work.¹²⁶

China's review by the Committee on Economic, Social, and Cultural Rights ended with a similar acknowledgement of obstacles to civil society participation:

He [the chair] nevertheless wished to emphasize one particular point of concern as the dialogue drew to a close. The Committee had received all

¹²⁵ Human Rights Council, "Annual report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights," A/HRC/33/19, (2016), para. 22.

¹²⁶ Human Rights Council, "Annual report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights," A/HRC/30/29, (2015), para. 17.

too many reports of restrictions on the work of human rights defenders and lawyers, and of retaliation against them.¹²⁷

As a UN expert put it about one review:

I know there were some issues with some people who could not come. I know that some NGOs wanted to come and then either they were not given a visa, or some sort of obstacle kept them from coming. So that is a given. And the environment for NGOs to work in China is a restrictive environment.¹²⁸

As a result of these tactics a UN official noted that Chinese domestic NGOs were largely absent from the review. A committee member said, “The room was full of people ... but also because of the fact that domestic activists are not allowed to travel freely, there were lots of representatives from NGOs, but NGOs working on Chinese issues from abroad.”¹²⁹

In tandem with these efforts to block civil society attendance, the Chinese government has attempted to influence civil society written submissions to the treaty body, thus limiting additional information that can augment the reporting from the state. The following problems were reported by three different treaty bodies:

- The Chinese government “tried to exercise control over the treaty body procedures, including written civil society contributions submitted to the treaty body.”¹³⁰
- “I am quite certain that some of the [civil society] reports we received [from China] were sort of orchestrated or indirectly supported by the government.”¹³¹
- The committee was “concerned about allegations that some reports that were submitted to the Committee by NGOs were censored by [Chinese authorities] and that some NGO representatives who submitted reports to the Committee fear reprisals by the State party as a result of their participation in the review of the State party’s report.”¹³²

¹²⁷ UN Committee on Economic, Social and Cultural Rights, Summary Record of the 18th Meeting, E/C.12/2014.SR.18, (2014), para. 68.

¹²⁸ Human Rights Watch Skype interview with UN expert, January 3, 2017.

¹²⁹ Human Rights Watch Skype interview with UN expert, January 3, 2017.

¹³⁰ Human Rights Watch interview with UN official, June 22, 2016.

¹³¹ Human Rights Watch Skype interview with UN expert, October 5, 2016.

¹³² Human Rights Watch interview via email correspondence with UN expert, August 15, 2016.

An NGO participant reported that: “The PRC also brought a large delegation that crowded out space for NGOs physically and gave a show of strength.”¹³³ A person attending the review said that “Countries usually bring between 10 to 15 delegates but China brought 50 people, a huge delegation.”¹³⁴

Resistance to Established Treaty Body Practices

The Chinese government has also sought to alter established treaty body arrangements. In one case, Chinese authorities objected to the appointment of more than one rapporteur for its review even though committee rules allow for two rapporteurs. The committee’s initial decision to appoint two rapporteurs was motivated by the complexity of China’s review, which included not only mainland China, but also Hong Kong and Macau. However, according to two knowledgeable sources, the committee ultimately relented to the Chinese demand and reduced the arrangement to one rapporteur. A person familiar with the incident said that the day after one of the rapporteurs told a Chinese official that the role of the treaty body experts was to point out violations when they occur, the Chinese delegation asked the UN to insist that the person not be allowed to serve as rapporteur for China’s upcoming review.¹³⁵

The Chinese government, which extensively censors the internet and access to virtual private networks (VPN) inside China, has also at times fought the filming of treaty body reviews and making them available via the internet. As a treaty body expert said:

A number of countries—Russia, and in my understanding, China—they said [they] did not like the treaty body committees putting the dialogues on the internet.... China’s position that it should not have its [review] broadcast was one that was shared by a number of countries. It wasn’t simply China doing that on its own. China, however, was very strident in not wishing to be on the internet.¹³⁶

¹³³ Human Rights Watch Skype interview with civil society actor, February 1, 2017.

¹³⁴ Human Rights Watch interview with UN expert, March 22, 2017.

¹³⁵ Human Rights Watch interview with UN expert, March 22, 2017.

¹³⁶ Human Rights Watch Skype interview with UN expert, August 17, 2016.

In at least two instances, China resisted webcasting of the treaty body review. A person familiar with one of the treaty bodies said that “China was against any webcasting, but that they eventually asked for their own news agency to be allowed to film.”¹³⁷ However, as a UN official noted:

It’s been a while now [that] the treaty bodies have included webcasting into their sessions.... There has been no exception.... And the reason that the committee is always mentioning that in every session is that the sessions are public, and they want to reach as many people as possible.¹³⁸

China’s initial objection to the webcasting of the treaty body review could seem incongruous with their later request that the Chinese government news agency, Xinhua, be authorized to film the review as well. China’s request to allow Xinhua to film heightens concerns that this would be done in part to film civil society participants.

Unwillingness to Provide Information

China often fails to respond to treaty body requests for information and also withholds relevant information from civil society groups, citing unsubstantiated state secrets concerns. One treaty body expert member said:

A lot of replies [from China] were simply not given. A lot of replies to the questions provided were either evaded or they were denied, referring to state secrets. And we had a large number of questions that in terms of statistics—in terms of [number of] complaints, executions, investigations, etc.—that were never replied to, or at least not replied in a satisfactory manner.¹³⁹

The committees on torture, children, and disabilities all issued concluding observations that point out that they did not have access to crucial data due to objections by the Chinese government. These objections prevented them from fully assessing Chinese compliance with the relevant conventions and hindered their ability make a full range of

¹³⁷ Human Rights Watch interview with UN expert, March 22, 2017.

¹³⁸ Human Rights Watch Skype interview with UN official, January 12, 2017.

¹³⁹ Human Rights Watch Skype interview with UN expert, October 5, 2016.

recommendations.¹⁴⁰ For example, in its concluding observations, the Committee against Torture, stated that it “remains seriously concerned at the State Party’s failure to provide information on 24 out of the 26 Tibetan cases mentioned in the list of issues.”¹⁴¹

Additionally, the information that China has sent to the UN has at times been improperly kept from NGOs. For example, the NGO Chinese Human Rights Defenders reported that dozens of activists sent over 100 requests via China’s Open Government Information (OGI) system for access to data submitted by China to the UN in the lead-up to its CAT review in 2015. Although the activists filed their requests through the OGI system, which they have a right to do under Chinese law, their requests were denied and at least four of the activists faced reprisals. The authorities questioned activist Shen Aibin repeatedly, and detained activists Yu Chunxiang, Wei Kaizhen, and Wu Yufen for “creating a disturbance” while they were in Beijing to submit information requests after having previously done so in Shanghai.¹⁴²

In the preparation of its treaty body reports and in fulfilling the obligations of the treaty body conventions, China has done little to consult with NGOs. For example, the Committee on Economic, Social and Cultural Rights (CESCR) member Shin said that “the sample of ‘nearly 20 national-level non-governmental organizations’ consulted in the preparation of the current report was tiny for a country the size of China.” Therefore, “she urged the State party to consult NGOs and civil society more widely prior to reporting and to extend and enhance NGO engagement in general.”¹⁴³

In its concluding observations in 2012, the CRPD noted, “The Committee is concerned at the overall absence of independent bodies and organizations of persons with disabilities systematically involved in the process of implementing the Convention.”¹⁴⁴ The committee

¹⁴⁰ CRC, “Concluding observations on the combined third and fourth periodic reports of China, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013),” CRC/C/CHN/CO/3-4, October 29, 2013, para 15-16; CRPD, “Concluding observations on the initial report of China, adopted by the Committee at its eighth session (17–28 September 2012),” CRPD/C/CHN/CO/1, October 15, 2012, paras. 47-48.

¹⁴¹ CAT, “Concluding observations on the fifth periodic report of China,” CAT/C/CHN/CO/5, February 3, 2016, para. 40.

¹⁴² Chinese Human Rights Defenders, “Chinese Government Refuses to Disclose Data on Torture for UN Review, Citizens Face Reprisals for Seeking Information,” October 29, 2015, <https://www.nchrd.org/2015/10/chinese-government-refuses-to-disclose-data-on-torture-for-un-review-citizens-face-reprisals-for-seeking-information-1022-29-2015/> (accessed August 24, 2017).

¹⁴³ UN Committee on Economic, Social and Cultural Rights, “Summary record of the 17th meeting,” E/C.12/2014/SR.17 (2014), para. 24.

¹⁴⁴ CRPD, “Concluding observations on the initial report of China, adopted by the Committee at its eighth session (17–28 September 2012),” CRPD/C/CHN/CO/1, October 15, 2012, para. 49.

expressed alarm that the only official representative of persons with disabilities in China was the China Disabled Persons' Federation—not an independent NGO, but a GONGO.

China also has appeared threatened by direct contact between NGOs and the treaty bodies, especially efforts to provide the treaty bodies with information. For example, a treaty body expert said after treaty body members met with a prominent Chinese human rights defender and received information from a domestic Chinese NGO that detailed evidence of human rights abuses, “The Chinese mission requested a meeting and protested that we had met with terrorists. I suspect that we were surveilled and that they somehow monitored my computer, which contained the files from the Chinese domestic civil society organization.”¹⁴⁵

Challenges to Treaty Body Authority

China has on occasion adopted positions that seek to diminish the treaty bodies role and contest their authority, including opposing UN reforms that would strengthen the treaty bodies, resisting UN guidelines to protect citizens who communicate with treaty bodies from reprisals, and attacking the integrity of treaty body members when the government disputes their findings.¹⁴⁶

China worked at cross-purposes with UN efforts to strengthen the treaty body system, a process spearheaded by then-High Commissioner for Human Rights Navi Pillay starting in 2009, the first effort in 50 years to fortify the human rights treaty body system. In its intervention, the Chinese government generally sought to shift authority from the treaty bodies to state parties, which in some instances would have undermined the monitoring and compliance authority of the treaty bodies.

China also accused some of the treaty bodies without basis of using inaccurate information. In response to the Concluding Observations of the Committee on the Rights of the Child following China's review, the Chinese government,

¹⁴⁵ Human Rights Watch interview with UN expert, March 22, 2017. The individual interviewed provided examples of China revealing awareness of information that would only have been available if the individual were surveilled or if China had access to private emails.

¹⁴⁶ “China Pushes to Cut UN Human Rights Posts,” Human Rights Watch news release, June 7, 2017, <https://www.hrw.org/news/2017/06/07/china-pushes-cut-un-human-rights-posts>.

Noted ... with regret that there are accounts in the Concluding Observations that do not square with the facts. Some are based on unverified information, some lack necessary analysis and statistical support and some are exaggerations, thus failing to give a real picture of China's implementation of the Convention in relevant areas.¹⁴⁷

And in response to the CRC Committee's expression of concern regarding the rights of Tibetan children, including the committee's focus on the government's failure to address the underlying grievances of Tibetans, China responded that, "This is a gross distortion of facts. Self-immolations have been schemed, incited, organized and staged by the Dalai clique behind the scenes. Those who committed self-immolations embarked on a road of no return as a result of deception and intimidation."¹⁴⁸

China also took a number of positions that denigrated the role of civil society in UN human rights mechanisms. Just as it did in response to the special procedures reliance on some civil society reporting, China complained about the use of civil society reporting by the treaty bodies. In its response to the UN questionnaire on the strengthening process, China emphasized that treaty body deliberations and conclusions "must be based on State party reports" and "must not cite unverified, unofficial information."¹⁴⁹ Further, China sought to place limits on the ability to use information gathered from civil society organizations, specifying that "Information from NGOs is only provided for reference during the committee's deliberations; unless the country under review has given its consent, such information should not be made public on committee websites or distributed by committees to the public in some other form."¹⁵⁰

China also contested the adoption of the San Jose Guidelines, adopted by treaty body chairs and designed to protect civil society representatives from reprisals. These

¹⁴⁷ "Comments of the Chinese government about the Concluding Observations of the Combined 3rd and 4th Periodic Reports of China Adopted by the CRC Committee at its 64th Session," http://www.hrichina.org/sites/default/files/china_rebuttal_to_co_int_crc_cob_chn_16291_e.pdf.

¹⁴⁸ PRC written response. Beginning in March 2011, more than one hundred Tibetans set themselves alight in an apparent protest against restrictions on basic freedoms and punitive security measures. See among others, <https://www.hrw.org/news/2011/11/07/china-address-causes-tibet-self-immolations>.

¹⁴⁹ OHCHR, "Views of the Chinese Government regarding the human rights treaty body strengthening process," HRC/NONE/2011/184 (2011).

¹⁵⁰ OHCHR, "Views of the Chinese Government regarding the human rights treaty body strengthening process," (2011).

guidelines, which were adopted by the treaty bodies in June 2014, set out procedures available to the treaty bodies to respond to acts of intimidation or reprisals against individuals or groups who cooperated with the committees. In particular, the guidelines, which were initiated by the chairs of the treaty bodies, established monitoring and reporting requirements, and created a focal point mechanism to ensure sufficient attention is brought to bear on governments that harass and threaten citizens who seek to assist the treaty bodies. Despite the recognized need for these guidelines, China contested them, and responded:

China is of the view that the primary responsibility for protecting individuals from intimidation and reprisals lies with each State party as it concerns the State party's treaty obligations. Therefore, such guidelines should be formulated through consultations involving States parties and treaty bodies, instead of being unilaterally decided by the meeting of the chairs of treaty bodies. Moreover, there are inconsistencies between parts of the Guidelines, and the provisions of the treaties concerned. Full consultation with States parties on the Guidelines is therefore necessary to take on board their inputs. It is inappropriate to disseminate and implement the Guidelines before a consensus is reached.¹⁵¹

In March 2016, at the Human Rights Council, China raised the concern that:

The Treaty Bodies for their part should generally respect the mandate of the treaties and refrain from imposing additional burdens on state parties. We would like to reiterate our objection and concerns to the unilateral move by the chairperson of the conference of treaty bodies in adopting the San Jose guidelines on reprisals.¹⁵²

¹⁵¹ Permanent Mission of the People's Republic of China to the UN, "Statement by Mr. Liang Heng of Chinese Delegation at the Third Committee of the 70th Session of the GA under Agenda Item Implementation of human rights instruments," November 5, 2015, <http://www.china-un.org/eng/lhghyywj/t1312398.htm> (accessed August 24, 2017).

¹⁵² "Annual Report - 28th Meeting, 31st Regular Session Human Rights Council," webcast, *UN Web TV*, March 10, 2016, <http://webtv.un.org/search/id-contd-annual-report-28th-meeting-31st-regular-session-human-rights-council/4796743029001/?term=&lan=english&page=817> (accessed August 24, 2017).

China also called into question the authority of the treaty bodies and the integrity of committee members in several instances. China showed resistance to CAT: “Regrettably, the Committee members designated as country rapporteurs, displaying a strong bias against China, paid no heed to the facts and disregarded the detailed and accurate information and thorough explanations provided by the Chinese Government.”¹⁵³

China seems compelled both to attack the treaty bodies and to act in ways that suggest it believes that treaty body scrutiny of its record can be easily brushed aside. One of the committee members participating in China’s review under the Convention against Torture recounted China’s unabashed defense of its use of interrogation (“tiger”) chairs, stating that:

Sadly, the interrogation chairs are present in all police stations where people are being interrogated when they are suspected of a crime. And they are fixated in hands and feet, and they can sit there with no time limitation. Meaning, that for instance, no access to toilet, or no access to move around, which is clearly borrowing or even transgressing the method of torture.

And apparently the delegation—I was surprised—they were not even ashamed about it. They acknowledged that this interrogation chair existed, and their argument, which was even more surprising, was that it is to prevent escape—which is ridiculous, from a police station—or suicide—which is also ridiculous in a situation where you have a number of police officers or interrogators interrogating a suspect.

So in that sense, I was surprised by the blatant acknowledgment of this and the arguments for the chair and its necessity, and no need for time limitation. I would have thought that any government would have been ashamed or tried to deny it, or say, “Well, we’ll do something about it, because obviously it’s in conflict with the convention, etc.” But they didn’t.¹⁵⁴

¹⁵³ CAT, “Consideration of Reports Submitted By States Parties Under Article 19 of the Convention, Comments by the Government of the People’s Republic of China* to the concluding observations and recommendations of the Committee against Torture (CAT/C/CHN/CO/4),” December 17, 2008, CAT/C/CHN/CO/4/Add.1.

¹⁵⁴ Human Rights Watch Skype interview with UN expert, October 5, 2016.

China's Engagement with Special Procedures and OHCHR

China has maintained sound cooperation with the Office of the High Commissioner for Human Rights (OHCHR) and the special procedures.

—PRC Mission, November 2013

China keeps bullying us, saying, 'Don't do that,' 'Don't do this,' or 'We urge you not to do this.'

—UN official, June 2016

As with other parts of the UN human rights system, China's record of cooperation with the special procedures (independent expert rapporteurs and working groups on particular human rights issues) often falls short of its stated positions. China's willingness to accept some visits is marred by its refusal to allow others, as well as its interference with the work of the OHCHR and the special procedures.

Over the last 15 years, although the Chinese government accepted visits by the special procedures for food, debt, discrimination against women, and extreme poverty, it has rejected 12 other visits, especially visits by rapporteurs charged with reporting on civil and political rights, and for over a decade has been unwilling to accept a visit by the UN high commissioner for human rights.¹⁵⁵

While China is described as generally responsive to special procedure communications on individual cases of concern, its responses are generally limited to claiming the special procedure's facts are wrong, reiterating that the individual is guilty of specific charges, and asserting that the case in question is being handled according to law.

¹⁵⁵ "VI. Fulfillment of Obligations to International Human Rights Conventions, and International Exchanges and Cooperation in the Field of Human Rights," June 2016, http://www.china.org.cn/government/whitepaper/2016-06/14/content_38663571.htm.

Limited Acceptance of Visits by the Special Procedures and the High Commissioner for Human Rights

The country visits and resulting reports of the special procedures are an important part of the UN human rights system, which otherwise relies primarily on reports produced by states. As UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein has pointed out, the special procedures “are the eyes and ears of this Council.”¹⁵⁶

Over the last 15 years, China has accepted only four special procedure visits while denying access to the mandates for Human Rights Defenders, Peaceful Assembly and Association, Freedom of Opinion and Expression, Management and Disposal of Hazardous Waste, Torture, Drinking Water and Sanitation, Minority Issues, Independence of Judges and Lawyers, Adequate Housing, Right to Privacy, Physical and Mental Health, and Enforced or Involuntary Disappearances.

The Chinese government appears to cherry-pick the special rapporteurs that it allows to visit, favoring the special procedures which it deems are more likely to produce relatively positive reviews while avoiding those mandates that reflect its most severe human rights problems. For example, a UN expert commenting on China’s receptivity to the UN Working Group on Discrimination against Women in Law and in Practice pointed out that “China is quite proud of its record on women’s rights … the concept of equality in China and the level of policy … [the idea that] women [hold up] half the sky.”¹⁵⁷

For visits by special procedures that China is resistant to, the government disregards requests, delays its responses, or draws out negotiations over the visit in question. As a UN official noted, “China comes up with reasons why the timing is not convenient or prolongs negotiations. These often seem like excuses or squabbling over semantics.”¹⁵⁸ As captured by the table below, China has a number of outstanding visits despite repeated requests.

¹⁵⁶ OHCHR, “Opening Statement by Zeid Ra'ad Al Hussein United Nations High Commissioner for Human Rights at the Human Rights Council 27th Session,” <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14998&LangID=E>, September 8, 2014.

¹⁵⁷ Human Rights Watch Skype interview with UN expert, August 2, 2016.

¹⁵⁸ Human Rights Watch interview with UN official/expert, June 23, 2016.

Status of Requested Visits

Procedure Name	Time of Request (s)
Special Rapporteur on the situation of Human Rights Defenders	Requested 2005, Reminder 2008, Reminder 2015
Special Rapporteur on the rights to freedom of peaceful assembly and of association	Requested 2011, Reminder 2013
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression	Requested 2015
Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes	Requested 2014
Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	Requested 2015, Reminder requested for 2017
Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation	Requested 2010
Special Rapporteur on Minority Issues	Requested for 2009, Reminder 2011, Requested 2015
Special Rapporteur on the Independence of Judges and Lawyers	Requested 2011, Reminder 2013, Reminder 2014, Reminder 2015
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context	Requested for 2008, Requested 2014, Reminder 2015
Working Group on Enforced or Involuntary Disappearances	Requested 2013, Reminder 2013, Reminder 2014
Special Rapporteur on the Right to Privacy	Requested for 2017
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health	Requested 2006, Invited but postponed 2015
Special Rapporteur on extrajudicial, summary or arbitrary executions	Requested 2005, Reminder 2008
Special Rapporteur on the adverse effects of toxic and dangerous products and human rights	Requested 2005
Special Rapporteur on the promotion and protection of human rights while countering terrorism	Requested 2017

China has also rebuffed requests from numerous UN high commissioners for human rights to visit the country. Over the last 20 years, China has allowed only two high commissioners to visit: Mary Robinson in 1998, and Louise Arbour in 2005. Such visits represent an opportunity for the high commissioner, the UN's highest ranking human rights official, to investigate China's domestic situation, meet with government officials, and engage with civil society. Arbour's successors have continued to press China for access. During her time as high commissioner from 2008 until 2014, Navi Pillay pursued an invitation to China, but discussions over a visit were prolonged without resolution by the Chinese government. Like his predecessor, current High Commissioner Zeid has asked China to allow him to conduct a visit, particularly seeking access to the Tibetan Autonomous Region. Yet, three years into his term, the Chinese leadership continues to delay following through on its promise to allow him to visit.

Restrictions on Special Procedure Access to China

The UN's terms of reference for special procedure visits specifies that governments should guarantee the following: "Freedom of movement in any part of the country ... freedom of inquiry ... private contacts with representatives of civil society ... confidential and unsupervised contact with witnesses and other private persons ... access to all prisons ... [and] full access to all documentary materials relevant to the mandate."¹⁵⁹

Although China has accepted some visits by special procedures and made government officials accessible to UN experts and staff during their visits, over the last decade the government also has interfered with some of the visits, by restricting access to nongovernmental representatives and monitoring UN mandate-holders and their staff during the visits. The government has appeared determined to ensure control over the visits, including whom the special rapporteurs meet with and what topics are discussed. The government has been especially restrictive in permitting the independent experts free access to civil society activists or allowing them to travel without government supervision.

¹⁵⁹ OHCHR, "Revised Terms of Reference for country visits by Special Procedures mandate holders of the United Nations Human Rights Council (based on Appendix V, E/CN.4/1998/45)," June 2016, <http://www.ohchr.org/Documents/HRBodies/SP/ToRs2016.pdf>.

In contrast to the controls placed on meetings with civil society representatives, the government generally provides good access to government officials. A UN expert said:

In the mornings, we meet country officials. The government decides whom we will meet, and they let us meet very high-level. They introduced us. We were with director generals of ministries, with the deputy director of the foreign ministry. I mean, it's a 1.3 billion population country, and we have been on missions to much smaller countries where we have not been given access to such high-level officials. And all the officials we met were extremely well informed, and when we asked for information which we didn't have, they acquired [it] for us.¹⁶⁰

This superficially cooperative behavior appears to ensure that experts hear a great deal about the Chinese authorities' perspectives but little if anything from truly independent voices.

In some cases, the Chinese government has interfered with the visits in ways that hindered the work of the independent monitors. China does not recognize the special procedure working methods and terms of reference as authoritative documents because these were drafted by UN experts and the Chinese government emphasizes that UN member states have the authority to establish rules and procedures, contending that these guidelines "are not official documents adopted by the Human Rights Council."¹⁶¹

During at least two of the four visits completed over the last decade, Chinese government officials accompanied UN experts and staff on their visits with civil society activists and during side visits to other parts of the country.¹⁶² Chinese officials have defended this approach by stating that special procedure trips are official visits, meaning that the Chinese government is the host and the special procedure mandate-holder and staff are guests of the government. Consequently, the Chinese government insists that it should manage the itinerary and accompany UN officials and experts throughout the trip. As a person associated with a special rapporteur mission to China explained:

¹⁶⁰ Human Rights Watch Skype interview with UN expert, March 8, 2017.

¹⁶¹ Human Rights Watch interview with UN expert, March 22, 2017.

¹⁶² Human Rights Watch Skype interview with UN expert, March 8, 2017; Human Rights Watch Skype interview with UN expert, January 4, 2017.

The main starting point is the position expressed by the government, which is that a visit by a special rapporteur is an official visit, as a guest of the government. And ... it is the government that is then responsible for every aspect of the visit.... Therefore there should be no contacts which are not either official or officially approved. And that meant that any private contacts were not supposed to take place, and that if the rapporteur did want to meet with others, he should notify the government accordingly.... But the Chinese were quite persistent in repeating their understanding of what a mission is all about, and so we simply agreed to disagree on that point.¹⁶³

Another UN expert recalled the inability of their delegation to travel independently due to government restrictions:

We traveled ... and the government, they travel with us when we're traveling outside of Beijing. And so, that was one of the negotiating areas, I think, that was rather... tough, and at the end, it really was not possible to just be traveling on our own, they wanted to be with us.¹⁶⁴

Not only did Chinese officials accompany this delegation on side visits to cities outside Beijing, but they also insisted on attending the afternoon visits to civil society organizations, such as service-provision centers. This expert recounted that during a visit to a civil society organization providing services, “they were there with us ... but once we’re in the center, we want to know how it works, and who accesses it, and all that, so it was less of a problem.... So they were there, basically, as observers.”¹⁶⁵ The government’s response to complaints about being accompanied by government officials has been that “the country has a responsibility for the safety and security of the team, and that therefore, they don’t feel comfortable letting the mandate holder and the team just to move around in case something happens to them. Because they have the responsibility for their safety and security.”¹⁶⁶

¹⁶³ Human Rights Watch Skype interview with UN expert, January 4, 2017.

¹⁶⁴ Human Rights Watch Skype interview with UN expert, March 8, 2017.

¹⁶⁵ Human Rights Watch Skype interview with UN expert, March 8, 2017.

¹⁶⁶ Human Rights Watch Skype interview with UN official, March 17, 2017.

As noted above, China's insistence on an official presence at the civil society meetings breaches the terms of reference for the special procedures. This principle was underscored by an expert serving on one of the special procedures, who explained, "we decide who we see in the afternoons ... civil society. And the government officials in every country are not to accompany us, because they are not allowed to discover who we are meeting."¹⁶⁷ When Chinese officials have not been able to insert themselves in private meetings between special procedures and civil society activists, the government has complained about the use of "non-validated" data as a means to criticize or challenge the findings in special procedure reporting. According to this UN expert, "Obviously, we do not divulge names of civil society people who we talk to. And the one complaint that the Chinese had against us in the Human Rights Council was that we had used non-validated data, which they couldn't check up on because they didn't know the sources."¹⁶⁸

A UN expert said that during his visit he received strong pushback from the Chinese government prior to the release of the end-of-mission statement. It is routine practice to give the government the courtesy of reviewing the statement prior to release. He said that in response to the draft,

I was summoned to the Foreign Affairs Ministry, where I was told that the end-of-mission statement I intended to present the following morning was not acceptable.... Some concerns could easily be met ... but others more sensitive, such as naming Chinese citizens subjected to harassment for their activism. I refused to change the draft statement on those points, despite more or less explicit threats that they would be forced to publicly dissociate themselves from the statement and deny the allegations.... They gave up after a couple of hours ...¹⁶⁹

China has only allowed special procedure visits on issues where authorities think there has been progress and improvement, so its efforts to manipulate special procedures while they are in the country seem particularly counterproductive. In his end of mission statement, Special Rapporteur Philip Alston, while criticizing some of China's policies on

¹⁶⁷ Human Rights Watch Skype interview with UN expert, August 2, 2016

¹⁶⁸ Human Rights Watch Skype interview with UN expert, August 2, 2016.

¹⁶⁹ Human Rights Watch interview via email correspondence with UN expert, March 30, 2017.

poverty, remarked that “China’s achievements in alleviating extreme poverty in recent years, and in meeting highly ambitious targets for improving social well-being, have been extraordinary.”¹⁷⁰ Yet, as detailed below, Alston’s country visit was marred by Chinese interference at almost every stage, which his report noted. The Working Group on the Discrimination Against Women in Law and in Practice also had a number of positive things to say about China in its visit report, including:

In the past 30 years, China has undergone impressive and successive cycles of reform, resulting in an exceptionally swift growth in GDP, an admirable reduction in the poverty rate between 1981 and 2009 and a notable rise in its human development index. China has made remarkable progress in achieving nearly half of the Millennium Development Goals by the end of 2013 and has surpassed one target aimed at promoting gender equality, namely increasing the level of education for girls.¹⁷¹

Case Study: August 2016 Visit by the Special Rapporteur for Extreme Poverty and Human Rights

The August 2016 visit by Special Rapporteur Philip Alston highlights some of the problems experienced by UN experts visiting China, especially Chinese government efforts to monitor the visit and control the special rapporteur’s meetings and schedule, including access to NGOs. Alston described his trip as a highly “choreographed visit,” characterized by limited cooperation from the Chinese government.¹⁷²

Government interference resulted in problems during the preparation and duration of the visit. For example, the government withheld issuing visas to Alston until 24 hours before the visit and exercised a high degree of control over the planning related to the rapporteur’s meetings and schedule. A person familiar with the visit commenting on the delayed visas explained that:

¹⁷⁰ OHCHR, “China: ‘Poverty alleviation needs to be accompanied by accountability’ – UN expert on extreme poverty and human rights,” August 23, 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20404&LangID=E>.

¹⁷¹ 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, para. 5.

¹⁷² Philip Alston, press conference, Beijing, China, August 23, 2016. The original link to this press conference is no longer active. See also <https://www.nytimes.com/2016/08/24/world/asia/china-un-human-rights-philip-alston.html?mcubz=1>.

It's just sending the message that at any stage, the mission could be called off. Because until the visa is issued, nothing is final. And so, if you don't cooperate, if you don't show that you are doing things their way, then there is a risk that the mission will be cancelled.¹⁷³

During the planning phase, the negotiations over the itinerary, and particularly the meetings, were also contentious. A person familiar with the visit said, “They took out some of the authorities that the special rapporteur would like to have met with, and they inserted others.... They moved around the order of meetings [which] led to immense travel time being inserted between individual meetings.”¹⁷⁴ Aside from the inconvenience caused by the ordering of meetings, a person familiar with the visit noted that Alston was denied access to civil society activists:

It was clearly understood by all of the academics ... contacted that no meeting could take place unless it was approved by the government, and in the great majority of cases, the government did not then arrange the meetings that were requested with scholars. And what was particularly disappointing was that a number of the scholars were technical experts who don't have any particular political role or political agenda—so, experts on rural development or on health care or whatever. And even those efforts to meet with those people did not succeed because the government was not prepared to facilitate in the way that it should have.¹⁷⁵

In addition, Chinese officials followed Alston and the UN staff accompanying him throughout their visit, preventing them from having unsupervised access to civil society. At his Beijing press conference Alston said, “We were consistently followed wherever we went by security officials—supposedly incognito.... And of course, that is inappropriate and also somewhat intimidating, or would be intimidating for others.”¹⁷⁶ In Yunnan Province, one of the delegation’s side visits, this meant that:

¹⁷³ Human Rights Watch Skype interview with UN expert, January 4, 2017.

¹⁷⁴ Human Rights Watch Skype interview with UN expert, January 4, 2017.

¹⁷⁵ Human Rights Watch Skype interview with UN official, January 4, 2017.

¹⁷⁶ Philip Alston, press conference, Beijing, China, August 23, 2016. The original link to this press conference is no longer active. See also <https://www.nytimes.com/2016/08/24/world/asia/china-un-human-rights-philip-alston.html?mcubz=1>.

The government didn't ... cooperate in enabling us to meet with local NGOs or ... with anyone other than government-approved and very closely government-linked entities. And the actual program was not provided to me until I arrived in Yunnan. And it turned out that the program was entirely unproductive.... In terms of a visit to a model village which was basically a tourist village. In terms of very carefully orchestrated visit to particular projects and so on, which were utterly unrepresentative and shed no light at all....¹⁷⁷

Chinese officials also prevented at least one Chinese citizen from meeting with Alston and they also appear to have punished a human rights lawyer for meeting with the special rapporteur. For example, when Alston met with wives of 709 lawyers, the group of lawyers detained in the crackdown which began on July 9, 2015, "one of the wives who attempted to join the meeting was followed from home and detained at the entrance to the UN building and taken to a police station.... three of the wives were subsequently significantly harassed in a systemic way."¹⁷⁸ In addition, the UN noted their concern that Jiang Tianyong, a lawyer who met with Alston, was detained in connection with the meeting. Jiang was detained in November 2016 and subsequently charged with "inciting subversion of state power."

Cursory Responses to Special Procedure Communications

While China is generally responsive to communications from the special procedures regarding cases of specific individuals, its replies are often cursory, limited to stating that the individual is guilty of criminal behavior and that the case is being handled according to Chinese law. A number of special procedure mandate holders, to their credit, have used urgent appeals and news releases to highlight the severe crackdown against independent civil society and human rights defenders.

For the special procedures on human rights defenders, freedom of expression, freedom of association and assembly, and arbitrary detention, China has received between 6 and 10 inquiries on cases of concern annually since 2012, among the highest number among UN members. Said a UN official: "There are a lot of China cases, and they are usually very well

¹⁷⁷ Philip Alston, press conference, Beijing, China, August 23, 2016. The original link to this press conference is no longer active. See also <https://www.nytimes.com/2016/08/24/world/asia/china-un-human-rights-philip-alston.html?mcubz=1>.

¹⁷⁸ Human Rights Watch Skype interview with UN expert, January 4, 2017.

documented” by civil society groups.¹⁷⁹ A UN official observed that “[the Chinese] don’t ignore the communications. They engage, they call, so they are concerned about how they are perceived in terms of cooperation with special procedures.”¹⁸⁰

Replies to communications are important, because these communications are the special procedures’ channel to intervene with the government directly on cases of high concern and are based on reporting reviewed by the special procedures. In a number of instances, the special procedures intend that their letter to the government might halt a human rights abuse or obtain freedom for a prisoner arbitrarily detained.

Most of China’s replies are not substantial and do not lead to meaningful outcomes. A UN official said: “China is defensive. China’s responses assert that they are handling the case based on law and order, and that this person is in prison for whatever reason.”¹⁸¹ For example, multiple special procedures sent three joint communications regarding Cao Shunli, asking how China’s legal basis for her arrest was compatible with international standards, whether she had access to independent counsel and medical professionals, and what steps China had taken to ensure civil society participation in the country’s UPR, among other issues.¹⁸² China did not reply to the third communication, and in response to the second merely reiterated its version of events without answering most of the special procedures’ questions:

¹⁷⁹ Human Rights Watch interview with UN expert, June 24, 2016.

¹⁸⁰ Human Rights Watch Skype interview with UN expert, March 17, 2017.

¹⁸¹ Human Rights Watch interview with UN official/expert, June 23, 2016.

¹⁸² UN Human Rights Council, “Communications report of Special Procedures, Communications sent, 1 June to 30 November 2013; Replies received, 1 August 2013 to 31 January 2014,” A/HRC/25/74, February 24, 2014, http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A_HRC_25_74_ENG.DOC, p. 43, p. 99, and p. 122; UN Special Procedures of the Human Rights Council, “Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders,” UA G/SO 217/1 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) CHN 11/2013, October 1, 2013, <https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=15470>; UN Special Procedures of the Human Rights Council, “Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders,” UA G/SO 214 (67-17) Assembly & Association (2010-1) Health (2002-7) G/SO 214 (107-9) G/SO 214 (53-24) CHN 13/2013, November 14, 2013, <https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=13155>; UN Special Procedures of the Human Rights Council, “Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders,” UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) Health (2002-7) G/SO 214 (107-9) G/SO 214 (53-24) CHN 2/2014, March 4, 2014, <https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=13988>.

Cao Shunli is a woman of 52 years of age. On the 14th of September 2013, she was detained by the Beijing Public Security Bureau on the criminal charge of disturbing public, social and administrative order. On the 21st of October 2013, a warrant for Cao's arrest was issued by the People's Prosecutor of Chao Yang District, Beijing Municipality on the charge of the crime of provocation. On the 26th of November 2013, this case was handed over by the public security organ to the People's Prosecutor, Chao Yang District, Beijing Municipality for further review and prosecution. After Cao's detention on the criminal charge and subsequent to her arrest, her family was duly informed in accordance with the regulations in force. During her detention period, Cao had access to medical care as provided by the detention center. According to the medical assessment doctors made, no serious liver disease was diagnosed.¹⁸³

In July 2015, six special procedures sent a joint communication concerning reports that "Since 9 July 2015, more than 140 lawyers and other persons associated to their work [in China were] ... allegedly ... arrested and detained – some incommunicado – or summoned and questioned by the police, or ... disappeared in unknown circumstances throughout the country."¹⁸⁴ The special procedures asked China to explain how the arrests were compatible with Chinese law and international standards on the right to freedom and security, the protection of lawyers' independence, information on those disappeared, and measures taken to find and protect them, among other issues. In response, the Chinese government failed to reply to most of these concerns, stating instead its justifications for some of the detentions:

Zhou Shifeng, the director of the Beijing Fengrui Law Firm, and others organized a succession of plots promoting dozens of attacks on public

¹⁸³ Response letter from the Chinese government, January 24, 2014, [https://spdb.ohchr.org/hrdb/25th/China_24.01.14_\(11.2013_13.2013\)_trans.pdf](https://spdb.ohchr.org/hrdb/25th/China_24.01.14_(11.2013_13.2013)_trans.pdf).

¹⁸⁴ OHCHR, "Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on the rights to freedom of peaceful assembly and of association," UA CHN 6/2015, July 15, 2015, [https://spdb.ohchr.org/hrdb/31st/Public_-_UA_China_15.07.15_\(6.2015\).pdf](https://spdb.ohchr.org/hrdb/31st/Public_-_UA_China_15.07.15_(6.2015).pdf), para. 3.

security, prosecutorial and judicial bodies and gathered crowds in public places to create a disturbance and block traffic. With Zhou Shifeng as leader, this band of lawyers also incited web users to harass government employees with telephone calls and to threaten, insult and slander judges and public security officers in the performance of their duties. Behind the Beijing Fengrui Law Firm was a network of lawyers, behind-the-scenes plotters and “interviewers” with their own agendas ... Zhou Shifeng and the other lawyers used the law as a front, conspicuously operating and swindling people over an extended period, fomenting trouble and instigating problems, far exceeding the legally established scope of a lawyer’s work.¹⁸⁵

Special Rapporteur for Freedom of Expression David Kaye said, “China is responsive ... [but] they usually disagree with what we’re alleging.”¹⁸⁶ China’s superficial responses, such as referring to legislation and echoing previous statements about the criminality of the individual, led another UN official to offer a more directly negative assessment. He said: “The Chinese government is certainly forthright in communicating its disagreement ... particularly its rejection of allegation letters and so on that are sent.”¹⁸⁷

Pushbacks Against Human Rights Scrutiny

China has often responded to attention from various parts of the UN human rights system, such as the high commissioner and the special procedures, by aggressively challenging the integrity of the UN and complaining about officials in the high commissioner’s office.

In response to the government’s crackdown on civil society groups and human rights defenders, the OHCHR and the special procedures have issued at least 14 news releases urging China to address its human rights situation. Chinese officials have replied by suggesting the special procedures or the high commissioner are overstepping their mandates or not acting in good faith.

¹⁸⁵ Permanent Mission of the People’s Republic of China, response letter from the Chinese government to the special procedures, No. GJ/103/2015, October 13, 2015, <https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gld=48363> (accessed August 24, 2017).

¹⁸⁶ Human Rights Watch interview with David Kaye, June 16, 2016.

¹⁸⁷ Human Rights Watch Skype interview with UN official, January 4, 2017.

In August 2016, a government spokesperson responded to a joint statement from the special procedures on political prisoner Yang Maodong's deteriorating health, labeling this expression of concern as "gross interference in China's domestic affairs and judicial sovereignty and China is resolutely opposed to it." Hua Chunying, the Ministry of Foreign Affairs spokesperson, called the UN experts' comments "irresponsible" and "based on false information."¹⁸⁸ In response to the call by Special Rapporteur Philip Alston, for China to release lawyer Jiang Tianyong, Chinese diplomat Jiang said: "The special rapporteur referenced certain human rights defenders in his report and in so doing he has overstepped his mandate and meddled with China's judicial sovereignty."¹⁸⁹ Alston rejected these claims, indicating that this case and the UN's expressions of concern were well within his mandate and are appropriate forms of UN human rights monitoring.

China has at times called on the OHCHR to tell special procedures to soften their criticism, refusing to acknowledge that OHCHR does not interfere with special procedures' work because it would infringe on their independence.¹⁹⁰ The special procedures' independence means that China's complaints to the OHCHR do not directly affect the special procedures work.

China has persisted, however, in making complaints without regard to the independence of these experts. "China is not happy when we mention them publicly, and they do react," said an independent expert.¹⁹¹ Another UN official said that China's responses were not necessarily destructive: "We did a press release on the detention—the mass arrest of lawyers last year ... they weren't pleased with that, and they responded ... they like dialogue. Quiet dialogue."¹⁹² Another UN official acknowledged China's preference for more discreet forms of communication:

They do not appreciate [public attention], and I do get calls complaining about press releases, either because they follow very closely the time a

¹⁸⁸ "China opposes UN experts' call for release of jailed activist," *Financial Express*, August 11, 2016, <http://www.financialexpress.com/world-news/china-opposes-un-experts-call-for-release-of-jailed-activist/344321/> (accessed August 24, 2017).

¹⁸⁹ Stephanie Nebbehay, "China accuses U.N. rights envoy of 'meddling' in its judiciary," *Reuters*, June 8, 2017, <https://www.reuters.com/article/us-china-un-rights-idUSKBN18Z23V> (accessed August 24, 2017).

¹⁹⁰ Human Rights Watch interview with UN expert, June 24, 2016.

¹⁹¹ Human Rights Watch interview with UN expert, June 23, 2016.

¹⁹² Human rights Watch interview with UN expert, June 24, 2016.

communication is sent—let's say we sent a communication to them and there is a press release the following day on the same case, saying “Well we didn't even have the time to respond to you, and then you come out with a press release already.” But that is already in the working methods of the special procedures—that if a case is serious enough, urgent enough, they can actually come out with a press release quickly.¹⁹³

China often publicly challenges the legitimacy of the findings of special procedures who express concern or draw attention to human rights abuses in China. For example, in response to a report on fundamentalism issued by the special rapporteur on the rights to freedom of peaceful assembly and of association, which expressed concern regarding political, cultural, and national fundamentalism fostered by China's one-party rule, the Chinese government asserted:

The Special Rapporteur is attacking the political system of China. This is against the purposes and principles of the UN Charter and the principle of objectivity that must be observed by Special Rapporteurs. This is overstepping his mandate and is a serious interference in the internal affairs of China. The characterization of the minority policy in China is quite unfounded and irresponsible.¹⁹⁴

At times, China's challenges have been more severe. During the Interactive Dialogue with the high commissioner for human rights at the Third Committee of the 71st General Assembly in October 2016, China questioned Zeid's commitment to the UN Charter after he spoke at an award ceremony honoring Ilham Tohti, an activist and scholar who was sentenced to life in prison for his efforts to advocate for the rights of Uyghurs in China:

First, the High Commissioner and OHCHR, as part of the United Nations Secretariat, should set an example in abiding by the UN Charter and respecting the sovereignty and territorial integrity of member States.

¹⁹³ Human Rights Watch Skype interview with UN official, March 17, 2017.

¹⁹⁴ “SR on Education & SR on Peaceful Assembly - 15th Meeting 32nd Regular Session of Human Rights Council,” webcast, *UN Web TV*, June 17, 2016, <http://webtv.un.org/search/clustered-id-contd-sr-on-education-sr-on-peaceful-assembly-15th-meeting-32nd-regular-session-of-human-rights-council/4945197450001/?term=2016-06-17&sort=date&page=2#> (accessed August 24, 2017).

However, it is most regrettable that not long ago the High Commissioner for Human Rights conferred an award to a criminal who committed the crime of secession and that OHCHR employed a separatist who continued to advocate his separatist ideas and engage in separatist activities after joining the Office. One cannot help but wonder if the High Commissioner and OHCHR abide by the UN Charter, if the High Commissioner and OHCHR support and condone secessionist criminals, or what measures the High Commissioner is prepared to take to win the trust of the Member States?¹⁹⁵

¹⁹⁵ Permanent Mission of the People's Republic of China to the UN, "Statement by Counsellor Yao Shaojun During the Interactive Dialogue with the High Commissioner for Human Rights at the Third Committee of the 71st General Assembly," October 19, 2016, <http://www.china-un.org/eng/gdxw/t1407355.htm> (accessed March 31, 2017).

China and the Human Rights Council

A small number of countries have brought up recommendations that are inconsistent with facts. China is firmly against this. For instance, some countries have said that China should abolish arbitrary and extrajudicial detention and stop harassing human rights activists. There is no arbitrary or extrajudicial detention in China, nor has anybody protecting human rights, in the framework of law, been harassed. Recommendations of this kind simply do not comply with facts.¹⁹⁶

—Chinese diplomat, March 2014

When they act extraterritorially ... it's not only a human rights violation ... it's eroding the international rule-based order.... From our vantage point, this was too critical not to say something.

—Non-Chinese diplomat posted to the UN referring to Chinese efforts to prevent a March 2016 joint statement at the Human Rights Council on China's arrests and detentions of activists, January 2017

China has used its position on the Human Rights Council to shield itself from human rights scrutiny and has sought along with like-minded countries to counter rights-friendly initiatives, especially country-specific reports on human rights violations. While China has generally been described as adopting a low profile in the Human Rights Council, it has gone beyond what less powerful countries are able to do to guard itself against negative human rights attention or inquiry, using its global economic and political influence to marshal the support it needs to do so.

As one Western diplomat said, “China’s first objective was to kill any attempt to have a resolution on China.”¹⁹⁷ In keeping with its longstanding position on human rights and international law, China has repeatedly asserted that international scrutiny is an unwarranted interference with national sovereignty.

¹⁹⁶ UN Web TV, “China, UPR Report Consideration - 41st Meeting, 25th Regular Session Human Rights Council,” webcast, 2014, <http://webtv.un.org/meetings-events/human-rights-council/regular-sessions/25th-session/watch/china-upr-report-consideration-41st-meeting-25th-regular-session-human-rights-council/3369309459001> (accessed August 24, 2017).

¹⁹⁷ Human Rights Watch Skype interview with diplomat, February 16, 2017.

Opposition to Discussion of China's Human Rights Record

Chinese diplomats in Geneva concentrate on deflecting human rights attention from China at the United Nations, such as critical statements by other countries or UN experts, and use a variety of techniques to achieve this goal, including economic and political pressure on other governments. A diplomat said that when there was an attempt to focus on China in the Council, “you have seen the Chinese machinery, not only in Geneva, but also in capital. And they immediately were very clear [they wanted to halt discussion of its record].”¹⁹⁸ China tries to pressure a broad range of countries, though its influence is stronger among smaller, non-Western states, and the kind of leverage it applies varies.

One primary way China marshals support from developing countries is by strategically positioning itself as a champion of developing countries and supporting issues of interest to these other states, particularly those belonging to the Like-Minded Group, defending them in the Council when they receive specific attention. Chinese diplomats are then able to appeal to developing countries’ solidarity. As an ambassador explained, there is a process of mutual defense no matter how severe the human rights abuses:

If there is an issue of importance to China, the rest of the room would rally behind China, and so on ... because “today is for me, tomorrow is for you.” The issue becomes secondary. The primary, the driver, is political solidarity, so “I support you, because you will support me tomorrow on whatever issue I want you to support me.”¹⁹⁹

For example, during China’s 2013 Universal Periodic Review, Cuba commented that it “appreciated measures against criminal activities [China’s crackdown on dissent] and encouraged China to continue defending its right to sovereignty.”²⁰⁰ In turn, during Cuba’s UPR, “China congratulated Cuba on its achievements in the field of human rights. China called on the relevant country to remove the [US] embargo, which violated the human rights of Cubans.”²⁰¹ In 2009, Cuba’s recommendation appeared aimed at giving cover to

¹⁹⁸ Human Rights Watch Skype interview with diplomat, January 26, 2017.

¹⁹⁹ Human Rights Watch Skype interview with diplomat, March 14, 2017.

²⁰⁰ UN Human Rights Council, “Report of the Working Group on the Universal Periodic Review, China (including Hong Kong, China and Macao, China),” A/HRC/25/5, December 4, 2013.

²⁰¹ UN Human Rights Council, “Report of the Working Group on the Universal Periodic Review, Cuba,” A/HRC/24/16, July 8, 2013, para. 113.

Chinese rights violations; it encouraged China to act “in strict compliance of law, to avoid the impunity for people who are qualifying themselves as human rights defenders with the objective of attacking the interests of the state and the people of China.”²⁰²

Despite China’s persecution of its Tibetan population, in 2013 Pakistan and Uzbekistan offered recommendations that effectively supported further government repression. Pakistan recommended “strengthening of efforts to take action against criminals who instigate, intimidate or help others to commit self-immolations.” Uzbekistan recommended that China “step up measures to bring to justice persons who instigate others to commit acts of self-immolation.”²⁰³

The Chinese government often reciprocates by praising the human rights records of countries that have been supportive of China. At the same time, the government, like other major powers at the UN, seeks to exert economic and political pressure on countries to obtain its goals. Smaller less well-off countries are typically the targets, although Western countries are not immune. A developing-world diplomat said, “But the little countries like us and others are really under pressure of the lobbying of China. And when you decide to take an action [in the Council], you have to deal also with the reaction.”²⁰⁴ Another diplomat said:

Then you have a general, omnipresent support of China [for the] concerns or expectations of developing countries in general....Then you have Chinese presence, both political, and in many cases economical—throughout the developing world. They have become major players in several countries in Africa and Latin America as well ... and the biggest buyer of commodities for many years has been China. So it's a major trading partner for the South.... So it's not surprising that they will come and support China.²⁰⁵

²⁰² UN Human Rights Council, “Report of the Working Group on the Universal Periodic Review, China,” A/HRC/11/25*, May 29, 2009, para. 46.

²⁰³ UN Human Rights Council, “Report of the Working Group on the Universal Periodic Review, China (including Hong Kong, China and Macao, China),” A/HRC/25/5, para. 186, recommendations 237 and 238.

²⁰⁴ Human Rights Watch Skype interview with diplomat, January 26, 2017.

²⁰⁵ Human Rights Watch Skype interview with diplomat, March 14, 2017.

Several diplomats told Human Rights Watch that Chinese officials use access to its domestic market and capital, but also its development assistance, to shield itself from criticism. According to a diplomat from Europe, “There are African countries who are heavily dependent on Chinese assistance, and who would not dare to say one word of criticism against China. There the colleagues are under strict instructions from their African capitals.”²⁰⁶ Another diplomat said, “There are African countries, for example, where Chinese influence is quite big. Sometimes you just don’t want to upset an important partner.”²⁰⁷ An African diplomat largely corroborated this assessment: “The PRC might say that [not shielding China from human rights attention] will damage the relationship. The PRC ambassador might even approach the president in country to complain.... They might threaten to withdraw aid.”²⁰⁸

China’s threats of punitive action, such as shutting out a country from the Chinese market or subjecting it to a diplomatic freeze—long a staple of China’s international interactions in other spheres—result in some delegations on the Council, even from Western countries, choosing to tone down or dispense with criticism rather than face China’s ire.

In March 2016, when the US mission organized a joint statement that it delivered at the Council highlighting human rights problems in China, including the extraterritorial arrest of booksellers from Hong Kong, some delegations apparently declined to sign the statement to avoid potential fall-out in their bilateral relationships with China. The joint statement included 12 countries: Australia, Denmark, Finland, Germany, Iceland, Ireland, Japan, the Netherlands, Norway, Sweden, the United Kingdom, and the US. Some of the other countries that did not sign shied away from being associated with this statement out of concern about blowback from China as a result of public, multilateral pressure. For example, one diplomat from a government that had previously criticized human rights abuses in China said that he was “disappointed” when his government “decided not to join the joint statement to preemptively avoid retribution” since they had an upcoming high-level trip with China that their diplomats did not want derailed.²⁰⁹ In June 2017, the European Union—for the first time since the Council’s establishment in 2006—failed to

²⁰⁶ Human Rights Watch interview with diplomat, February 7, 2017.

²⁰⁷ Human Rights Watch interview with diplomat, June 22, 2016.

²⁰⁸ Human Rights Watch interview with diplomat, June 22, 2016.

²⁰⁹ Human Rights Watch interview with diplomat, June 24, 2016.

deliver an Item 4 statement on China at the Council due to an unwillingness by Greece to include a critique of China’s human rights situation.²¹⁰

China has also appeared to reward countries that turn away from using public human rights pressure. A diplomat whose country engages in bilateral human rights dialogues with China said that some observers thought that the Chinese government gave the “approval for the date for the next human rights dialogue [with our country] ... like a cookie,” agreeing to a date only when the other government in question has refrained from issuing public human rights criticisms.²¹¹ In some cases, China has lobbied to preempt the joint statement or at least convince some countries to withdraw their support, including by citing trade deals. A diplomat whose country resisted Chinese pressure said:

And they lobbied against [the joint statement]. When the new countries were in the market to sign up, they started lobbying. They lobbied us as well ... in capital ... so that diplomats [in our capital] say, “What are you doing in Geneva when we’ve got this commercial deal? Don’t mess this up for us.” We were fully expecting it. You don’t go into these things [with China] expecting not to [experience] ... veiled threats and angry posturing.²¹²

This diplomat explained that China lobbies in Beijing or in the country’s capital because “that’s where the threat is going to be taken the most seriously, and where the interest in what goes on [in Geneva at the Human Rights Council] is going to be the lowest.”²¹³

After the joint statement on human rights in China was delivered by US Ambassador Keith Harper, China forcefully reacted by accusing the sponsors of political motives and reflexively criticizing the US, rather than engaging with the substance of the joint statement.

While no country is immune from scrutiny of its human rights record, the Human Rights Council cannot be an effective inter-governmental body if countries respond to a human rights critique by attacking those raising concerns for also having human rights problems.

²¹⁰ The Human Rights Council has a fixed agenda each session. Statements under agenda item 4 address “human rights situations that require the Council’s attention.”

²¹¹ Human Rights Watch interview with diplomat, June 22, 2016.

²¹² Human Rights Watch interview with diplomat, June 14, 2016.

²¹³ Human Rights Watch interview with diplomat, June 14, 2016.

China has not shied away from country-specific rebukes when it does not like the criticism it is receiving from other countries. And China is among a number of countries that claim to oppose all country-specific resolutions yet have repeatedly supported country-specific action on Israel.

A Western diplomat whose country joined the joint statement said that China “didn’t like it, so we were, I think like all the other countries who signed it … demarched after that … in capital.”²¹⁴ Another diplomat noted, “Other delegations mentioned that the PRC tried to link [joint statement support] with trade and other opportunities being harmed.”²¹⁵

Although China has at times retaliated as it did with Norway after the imprisoned Chinese dissident Liu Xiaobo was awarded the Nobel Peace Prize, by some accounts China has been inconsistent in following through on its threats to Human Rights Council members in response to criticism at the Council.²¹⁶ A diplomat who informally polled delegates whose countries signed the joint statement said: “No one suffered any meaningful consequences, except perhaps a delayed bilateral human rights dialogue, which is not a huge loss.”²¹⁷ Moreover, although China suspended most high-level political contact with Norway because of the Peace Prize, its trade remains unharmed and in 2015 bilateral trade reached a record high. Regardless of the consequences, another diplomat noted that in determining whether to take action:

It’s a hard calculus. They’ve caused us a lot of difficulties with a very complicated multifaceted relationship. We’ve got to weigh whether or not this is going to have the impact that we want.... It was absolutely worth it.... Their horrible human rights violations ... especially when they act extraterritorially ... it’s not only a human rights violation ...it’s eroding the international rule-based order ... From our vantage point, this was too critical not to say something.²¹⁸

²¹⁴ Human Rights Watch Skype interview with diplomat, August 29, 2016.

²¹⁵ Human Rights Watch interview with diplomat, June 24, 2016.

²¹⁶ Although the Norwegian government has no control over the decisions made by the independent Norwegian Nobel Committee, the Chinese government curtailed diplomatic relations with Norway following the awarding of the 2010 prize.

²¹⁷ Human Rights Watch interview with diplomat, November 15, 2016.

²¹⁸ Human Rights Watch Skype interview with diplomat, January 30, 2017.

Opposition to Country-Specific Human Rights Council Action

China has long argued against country-specific action at the Human Rights Council, even for the worst abusers of human rights. China has instead exhorted a preference for cooperation and dialogue over what it terms “confrontation.” It has worked to dissuade Council members from taking country-specific action, whether through the appointment of country-specific special procedures or special sessions, and it regularly opposes resolutions focused on a particular country, as it has done on Iran, North Korea, Belarus, Syria, and Eritrea.²¹⁹

China is not alone in this: some other Council members, typically countries with poor human rights records, have also opposed addressing human rights violations in particular countries (other than Israel) over the years. But doing away with country-specific scrutiny would undermine the work of the Council. It would also render toothless its mandate, which requires it to address “situations of violations of human rights, including gross and systematic violations.”²²⁰

The gravity of the situation in Syria was such that in his first report to the Council in September 2014, High Commissioner Zeid stated: “In Syria, more than 190,000 identified persons were killed between March 2011 and April this year.... According to UNHRC, more than 3 million Syrians have fled their country and 6.5 million more are internally displaced: in other words, almost half the people in Syria have fled their homes.”²²¹ Zeid concluded that “this ancient civilisation has devolved into a slaughterhouse, where children are tortured in front of their parents or executed in public, amid wanton killing and destruction.” But at the June 2016 session of the Council, China spoke against a resolution on Syria, stating:

China has a clear-cut position regarding country specific human rights situations. We have all along advocated constructive dialogue and cooperation in addressing differences in the human rights area. We are

²¹⁹ On voted resolutions, such as Belarus and Syria, China has consistently voted against, although the resolutions on North Korea and Eritrea have been adopted without a vote.

²²⁰ UN Human Rights Council, “Resolution adopted by the General Assembly, Human Rights Council,” Resolution 60/251, A/RES/60/251, OP3.

²²¹ OHCHR, “Opening Statement by Zeid Ra’ad Al Hussein United Nations High Commissioner for Human Rights at the Human Rights Council 27th Session,” September 8, 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14998> (accessed March 28, 2017).

opposed in the human rights area to public pressuring and imposition of external inquiry mechanism. China seeks no selfish gain on the Syria issue.... Regrettably, L.9 [the resolution on Syria] exerts one-sided pressure on one party and is flawed by serious lack of balance.²²²

In October 2016, China was among a minority of countries that voted against the resolution on Syria that drew attention to atrocities in the city of Aleppo.

Efforts to Weaken Key Human Rights Resolutions

China, along with other countries, especially those belonging to the Like-Minded Group, has tried to prevent the passage of initiatives that seek to create more robust protections for individual rights, particularly those related to civil and political rights and initiatives that establish special procedures or guidelines that strengthen protection mechanisms. As noted above the presence of a number of countries sharing China's views enables it to avoid negative publicity by strategically positioning itself as simply supporting the views of other countries. A diplomat explained: "China does not want to be in a position of voting against a resolution on internet freedom. It doesn't want to be in a position to vote against freedom of expression or freedom of association.... And so it does a few things.... It works through proxies who have less to lose...."²²³ Another diplomat framed it similarly, stating, "they are low profile ... in the sense that they don't take the leadership. They have others play this game.... Other actors are in charge of the dirty work."²²⁴

Even when China tries to work on less controversial initiatives at the Council, such as a statement on public health, its resistance to strengthening the UN human rights system in particular directions, such as by opposing a more robust role for civil society, affects its leadership on these issues.²²⁵ A diplomat described the Council presidential statement that China spearheaded on public health:

²²² UN Web TV, "A/HRC/32/L.9 Vote Item:4 - 45th Meeting 32nd Regular Session of Human Rights Council," webcast, 2016, <http://webtv.un.org/search/ahrc32l.9-vote-item4-45th-meeting-32nd-regular-session-of-human-rights-council/5017591639001/?term=2016-07-01&lan=english&sort=date&page=3>, (accessed August 24, 2017).

²²³ Human Rights Watch Skype interview with diplomat, January 30, 2017.

²²⁴ Human Rights Watch Skype interview with diplomat, January 26, 2017.

²²⁵ Ambassador Fu Cong on behalf of a Cross-regional Group of States, "Joint Statement on Capacity Building in Public Health to Promote the Right to Health, Item 3 General Debate of HRC31," March 11, 2016; UN Human Rights Council, "Statement by the President, Promoting the right of everyone to the enjoyment of the

So we thought that's really a good thing to have civil society language in that text ... [and with other countries] sat down together in this room to get their agreement on the inclusion of the stronger language on civil society, because they had something in it, but we wanted something stronger. And then ... it didn't work out. And we were surprised that China just blocked it.²²⁶

China, along with other countries, has also resisted passage of resolutions specifically on human rights defenders, such as the one sponsored by Norway in 2016, an annual resolution that had normally been adopted by consensus.

A UN official said:

I remember the Human Rights Defenders resolution well because it turned into a complete knock-down, drag-out fight during the adoptions phase of the session.... China stated their position on that resolution though the Russian Federation was driving the opposition toward it.²²⁷

According to another diplomat regarding renewal of the mandate of the special rapporteur on human rights defenders:

[I]t was really a well-coordinated effort on behalf of the Like-Minded Group ... China was very much a part of that. And a number of countries coming into the room, making it very difficult for us to renew the mandate ... And China was very much a part of that group and co-sponsoring the amendments. And they were quite active in the room as well.... It was ... the counselor in charge of human rights, and also the embassy secretaries that were quite active in the room in terms of proposing new language to weaken the text.

So they took the floor during negotiations to introduce possible new language there ... [and on China's role in the General Assembly]. We

highest attainable standard of physical and mental health by enhancing capacity-building in public health against pandemics," August 25, 2017, A/HRC/PRST/30/2.

²²⁶ Human Rights Watch interview with diplomat, June 22, 2016.

²²⁷ Human Rights Watch Skype interview with UN expert, February 16, 2017.

introduced the concept of releasing all detained human rights defenders into the resolution in New York, which made it a bit stronger than previous ones in that sense. And that came up for a vote, and also the one at the Human Rights Council now was voted. And both of the resolutions were taken to a vote by...I think, in New York, it was explicitly China and Russia. In Geneva, it was Russia, but strongly supported by other countries, including China.²²⁸

This opposition to specific resolutions on human rights defenders reflects not just China's views on human rights defenders at the Council, but seemingly any resolution that even references the role of human rights defenders. For example, when a resolution on the Elimination of Discrimination against Women came up at the June 2016 session, China co-sponsored several hostile amendments and then disassociated itself from the resolution, asserting that it was concerned about the use of the term "human rights defenders" because "there is no clear and consistent definition of human rights defenders based on intergovernmental negotiations" and that the Council "should not promote such a controversial concept."²²⁹ Wang Yi, a member of the Chinese delegation, made a similar statement on behalf of China in response to the passage of the resolution on Violence against Women at the same Council session. She said:

China believes that there is no clear and uniform definition of human rights defenders, which is negotiated by governments. Such a controversial concept must not be imposed. Everyone enjoys equal rights and fundamental freedoms. However, no one should use the banner of human rights defenders to enjoy special rights or special legal status.²³⁰

A Western diplomat said:

China still tries to voice their concerns during the negotiations ... for example the term of human rights defenders, it seemed to them like

²²⁸ Human Rights Watch Skype interview with a diplomat, August 29, 2016.

²²⁹ "A/HRC/32/L.7/Rev.1 Vote Item:3 - 42nd Meeting 32nd Regular Session of Human Rights Council," webcast, *UN Web TV*, June 30, 2016, <http://webtv.un.org/search/ahrc32l.7rev.1-vote-item3-42nd-meeting-32nd-regular-session-of-human-rights-council/5009164460001/?term=2016-06-30&sort=date&page=3#> (accessed August 24, 2017).

²³⁰ Ibid.

creating new rights for a new group of people that's not defined that clearly, they reject it. So yesterday there was an informal meeting on business and human rights, where ... some countries wanted to introduce some [language on] human rights defenders, because they are important actors of course when it comes to business responsibility regarding human rights. And China was in the informal meeting and had a statement against that.²³¹

China also supported attempts to strip references to female human rights defenders from resolutions on violence against women and discrimination against women at the June 2017 Council session.

While the term “human rights defenders” does not have a universally agreed-upon meaning, it is the subject of a UN declaration, the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,” a title that is frequently abbreviated by the UN to the “Declaration on Human Rights Defenders.” The declaration was adopted by the UN General Assembly in 1998.²³²

Manipulation of the Universal Periodic Review Process

China cites the existence of the Universal Periodic Review (UPR) process in its criticism of the use of country-specific attention, emphasizing that with this mechanism, country-specific actions are unnecessary. A diplomat said that Chinese officials “state that instead [of country-specific action], Item 4 should be about constructive dialogue, and that instead of naming and shaming, the UPR process is preferable since it is universal.” Yet, as noted previously, China relies on friendly countries to offer positive comments during the UPR to drown out the negative ones, and recruits GONGOs and other country delegations to speak in favor of China.

A diplomat said that when China’s UPR comes up, “China will call all its friends, and the room is full. So, then you have to share the time. I remember that the UPR on China ... we

²³¹ Human Rights Watch interview with a diplomat, June 22, 2016.

²³² UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, G.A. res.53/144, annex, 53 U.N. GAOR Supp., U.N. Doc. U.N. Doc. A/RES/53/144 (1999), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/PDF/N9977089.pdf?OpenElement>.

had 51 seconds.”²³³ Another diplomat noted that when other Like-Minded Group countries are reviewed, the Chinese delegation “will find some development, some changes, that they would praise ... they will make sure that they will use their slot to praise the progress taking place in that particular country.”²³⁴

For example, during Egypt’s UPR in November 2014, which occurred in the midst of Egypt’s grave human rights crisis, China mainly praised Egypt for its human rights record. China used its speaking time to commend the measures Egypt had “taken to ensure the rights of its people, notably the right to employment.” China only had two recommendations to offer during the review: to strengthen women’s rights in all areas of public life and to continue the training of law enforcement officers; the human rights disaster unfolding in Egypt otherwise went unmentioned.²³⁵ This mutual defense distorts the UPR process, and weakens it as a tool to bring to global attention serious human rights violations.

Case Study: Silence Speaks Volumes – China Uses Its Influence to Block a Moment of Silence for Cao Shunli

China’s growing economic and political influence has allowed the country to shield itself from human rights scrutiny. Nowhere was this more evident than in its handling of a civil society effort at the UN to observe a moment of silence for Cao Shunli, a human rights activist who died in Chinese police custody. Cao, who had urged the Chinese government to consult with civil society activists in the drafting of China’s UPR report, was detained in September 2013 at the Beijing airport en route to Geneva to participate in human rights training and observe the Human Rights Council session. After months of being detained incommunicado without access to proper medical care, she died on March 14, 2014, shortly before China’s UPR report was to be adopted at the Council’s 25th session. The International Service for Human Rights (ISHR), an NGO based in Geneva, planned to use its speaking time at the Council to observe a moment of silence for Cao.

When China learned of ISHR’s plans for a moment of silence, Chinese diplomats sought to delay the NGO speaking time until the next day. China’s delegation then began lobbying to

²³³ Human Rights Watch Skype interview with a diplomat, February 16, 2017.

²³⁴ Human Rights Watch Skype interview with diplomat, March 14, 2017.

²³⁵“Egypt - 20th Session of Universal Periodic Review,” webcast, *UN Web TV*, November 5, 2014, <http://webtv.un.org/watch/egypt-20th-session-of-universal-periodic-review/3876287212001> (accessed August 24, 2017).

block the moment of silence by “working the room,” pressuring delegations not to allow a moment of silence and began reaching out to countries in their capitals to reinforce the importance of the vote.²³⁶ Overnight, according to several diplomatic sources, China also actively lobbied members of the Council not to allow the moment of silence. A diplomat recalled that “overnight they [China] did all this lobbying in capitals and possibly Geneva,” but the diplomat’s government did not cave in under pressure because they “felt that it [the moment of silence] was a really important demonstration of support for Cao Shunli and civil society in China.”²³⁷ This source further recounted, “I can’t remember what it was they threatened for us. But they said to us: ‘There will be very serious consequences if you don’t vote the right way.’ And I communicated that to [my capital] and they said, ‘Yes, they always say there are going to be serious consequences.’”²³⁸ Another delegate confirmed being similarly approached by the Chinese delegation:

They requested a meeting with myself ... to urgently discuss what they posed as a very serious issue and a threat to the procedures of the Human Rights Council. And we set up a meeting for the following day, and they actually flew somebody in—a very high-level person in from Beijing, overnight—to put pressure on countries to not allow the NGO to be able to call for this moment of silence.... The impression was that this person was there specifically to put pressure on countries not to allow this moment of silence to take place ... [With our delegation] they tried to present it in a way that it was a breach of protocol. That only states had a right to call for a moment of silence [and] this was an inappropriate use of an NGO’s allotted time.... Then they sort of threatened. They said, “Well, this will have serious repercussions for how China engages with [your country] throughout the UN system....”²³⁹

This delegate recalled little actual Chinese follow-through on its threats. Another country delegate said: “I remember the situation, for us, in this minute of silence, because we were lobbied very hard by the Chinese.... It was a dilemma for us.”²⁴⁰ Commenting on China’s lobbying, another diplomat stated that, “they were just going to lobby everybody in

²³⁶ Human Rights Watch interview with diplomat, November 4, 2016.

²³⁷ Human Rights Watch interview with diplomat, June 14, 2016.

²³⁸ Human Rights Watch interview with diplomat, June 14, 2016.

²³⁹ Human Rights Watch Skype interview with diplomat, November 9, 2017.

²⁴⁰ Human Rights Watch Skype interview with diplomat, January 26, 2017.

capitals and make sure that there was no ... no movement on their part. They weren't going to give any ground.... Basically, they went as senior as they could overnight and threatened whoever they could, and they were very aggressive [in] ... every capital.”²⁴¹

Some countries did not support the moment of silence due to their concerns about China's response and potential repercussions. A diplomat said:

The whole Like-Minded Group, plus a few others that joined the group somewhat by abstaining because their estimation was that this issue is particularly close to China, even if you are not a member of the Like-Minded Group, you don't want to mess with China ... there was a lot of speculation on what would be the reaction of China.²⁴²

When the session resumed on March 20, 2014, Chinese diplomats interrupted ISHR's statement using a point of order, insisting that paragraph 41 of Resolution 5/1, the resolution that established the Council, states that stakeholders should only make general comments, and that the moment of silence therefore contravened the Council's rules. This resulted in a 50-minute episode with several countries belonging to the Western European and Others Group speaking in support of ISHR, and other countries, including a number of LMG countries, championing the Chinese position. A diplomat commenting on the debate said: “During the debate other countries repeated China's talking points. It seemed like it was coordinated.”²⁴³ Ireland defended the NGOs' right to be silent, asserting that “silence speaks volumes.” The Council president recommended that he be able to consult with the Human Rights Council Bureau, which is comprised of the Council president and regional vice-presidents, and that the Council continue with the next NGO speaker. According to several sources, the Council president had discussed this with China beforehand and believed that they had agreed to this compromise, which was intended to save China some embarrassment but preserve the right of NGOs to freely express themselves.

²⁴¹ Human Rights Watch interview with diplomat, June 14, 2016.

²⁴² Human Rights watch interview with diplomat, March 14, 2017.

²⁴³ Human Rights Watch interview with diplomat, June 22, 2016.

However, Chinese diplomats continued to interrupt the proceedings, insisting that even allowing the Bureau to consult on the matter would “set a dangerous precedent.” As a diplomat recalled:

But to everyone’s surprise, China categorically refused to accept any movement, any opening.... I’ve never seen Chinese diplomats participate in the debate so vividly and so furiously as when the question came up. And I recall even that colleagues who had contacts to them ... told me that they had strict instructions from Beijing to avoid any discussions of this kind.²⁴⁴

An ambassador at the Council session observed that when the vote was called, he noticed China’s “big delegation” begin to approach other delegations. He noted that “you could see movement in the room, around the room” as Chinese diplomats tried to secure votes.²⁴⁵

In the end, China swayed sufficient countries to vote against the president’s proposal to discuss the matter with the Bureau. Of the 47 Council members, 45 were present and the voting was 13 in favor, 20 against, and 12 abstaining.²⁴⁶ It was the first time in the history of the Council that a president’s ruling had been challenged and put to a vote. When voting occurred in the plenary of the Human Rights Council on March 20, a few delegations expressed regret or apologized to a number of people in the civil society section of the Council who stood silently holding Cao’s photo.

China’s next UPR is set to take place in 2018.

²⁴⁴ Human Rights Watch Skype interview with diplomat, February 7, 2017.

²⁴⁵ Human Rights Watch Skype interview with diplomat, January 26, 2017.

²⁴⁶ “China, UPR Report Consideration - 41st Meeting, 25th Regular Session Human Rights Council;” Human Rights Voices, “UPR of China Destroys Credibility of UN ‘Human Rights’ Council,” March 20, 2014, <http://www.humanrightsvoices.org/site/documents/?d=12013> (accessed August 24, 2017).

Recommendations

Many of the recommendations for United Nations reforms set out below would be unnecessary if the government of China, like the vast majority of UN member states, participated in UN human rights mechanisms without improperly interfering in the activities of other countries, nongovernmental organizations, and civil society activists. For the UN to fulfill its role under the UN Charter, participants to the international body need to be secure from threats, intimidation, and violations of their rights. However, the Chinese government, instead of curtailing its abusive actions, has in recent years increased and expanded them.

China's next Universal Periodic Review, slated for 2018, is an opportunity for China to come forward with steps it has taken to address human rights abuses within China and interference with human rights mechanisms at the UN—and to better comply with the rules and spirit of the United Nations.

The United Nations is already taking steps that if effective would protect civil society space and challenge reprisals against those who seek to engage with it. In September 2017, the assistant secretary-general for human rights, Andrew Gilmour, will present a report detailing the UN's efforts to put an end to reprisals for cooperation with the UN and is expected to include information about these cases, action taken, responses received, in the annex to his report unless there is "no prevailing reason related to security or confidentiality."²⁴⁷ The UN also recently created an email address, reprisals@ohchr.org, to provide a confidential channel for civil society organizations to submit information about reprisals. Both the assistant secretary-general, who is tasked as the focal point on reprisals, and the special procedures have launched dedicated websites to provide groups under pressure from governments with the information.

In addition to the recommendations below, several practices already adopted by the UN should be strengthened, including: facilitating the remote or online participation of activists who face domestic restrictions, and facilitating participation of a broad and

²⁴⁷ Response letter to Human Rights Watch from United Nations High Commissioner for Human Rights Zeid Ra'ad Al Hussein, August 30, 2017.

diverse range of NGOs. Moreover, UN member state initiatives, such as the successful ECOSOC resolution on improving the working methods of the Committee on NGOs, including webcasting of the committee's open sessions, should be expanded into a more sustained campaign to reform the committee's practices.

To the Government of the People's Republic of China

- End the harsh crackdown on civil society, especially by ensuring that civil society activists are able to engage freely with UN human rights mechanisms by ending travel restrictions and reprisals.
- Investigate the death of Cao Shunli, prosecute any wrongdoing, and submit the findings of the inquiry to the Human Rights Council.
- Facilitate the work of special procedures by issuing standing invitations; by allowing special procedures to travel and hold meetings freely during visits, independent of government interference; and by providing substantive responses to special procedure communications on human rights cases.
- Invite and facilitate an official Office of the High Commissioner for Human Rights mission to China, including giving permission for the high commissioner to visit all regions of the country, including Tibet and Xinjiang.
- Increase engagement with treaty bodies by responding to follow-up requests for information, and sending high-level delegations to treaty body reviews to encourage substantive dialogue and commitment to address the issues raised.
- Ratify the remaining core human rights treaties including the International Covenant on Civil and Political Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the International Convention for the Protection of All Persons from Enforced Disappearance.
- Participate in Human Rights Council candidate pledging events.

To the United Nations, the Human Rights Council, and the Office of the High Commissioner for Human Rights

Civil Society Protection and Action Against Reprisals

- Bolster protection of nongovernmental organizations and the safe participation of civil society activists, including by:

- working with the UN Department of Safety and Security (“UN Security”) to develop procedures to better protect NGOs and activists from state harassment;
 - creating an NGO liaison within UN Security who is charged with ensuring NGOs are protected; and
 - providing training for security officers on state harassment of NGOs and activists, and the importance of maintaining confidentiality of individual civil society activists in their dealings with delegations.
- Take steps to ensure NGO activists are protected against inappropriate or threatening use of recording, photographing, and filming by states or their agents during treaty body reviews, Human Rights Council sessions, and other forums, and seek to ensure that filming is not used for reprisal.
- Review, in consultation with NGOs, procedures for responding to state requests for information on civil society participants accredited to any UN event, with a view to minimizing any risk of threats, intimidations, or reprisals,
- Use public advocacy to follow-up and challenge cases of reprisals, where appropriate and with the consent of the affected civil society member, and leverage newly created focal point on reprisals in the assistant secretary-general’s office develop a comprehensive and rapid response procedure that functions across the UN for cases of state intimidation and reprisals and provides updates to affected civil society members on the status of their cases.
- Ensure that all cases of state reprisals are investigated and addressed and, if not satisfactorily resolved, publicly brought to the Human Rights Council’s attention for its consideration and appropriate action.

Strengthening Membership Standards

- Encourage competitive elections to the Human Rights Council, in which there are more candidates than vacancies in each region, encourage participation by all candidates in public pledging events to bring greater scrutiny on state compliance with international human rights standards, and call on General Assembly member states to cast their votes in accordance with the human rights-based criteria set out in GA resolution 60/251.

- Encourage Human Rights Council members to fulfill their membership obligations to cooperate with the Council and its mechanisms, including by responding promptly to special procedure requests for country visits.
- Monitor incidents of inappropriate restrictions on special procedure access, and the lobbying or harassing of independent experts serving on treaty bodies and as special procedures; when such practices occur, communicate that they are improper and should cease immediately.

Human Rights Up Front

- The Secretary-General and UN country team should expand upon the Human Rights Up Front agenda in and with China, assist in the UPR across China, and stress in discussions with the Chinese government human rights as a key pillar of the UN.

Economic and Social Council (ECOSOC)

- ECOSOC member states, in cooperation with the presidency of ECOSOC, the Executive Office of the Secretary-General, and other relevant UN departments, should reform the Committee on NGOs, providing clear guidance that NGO applications are to be assessed objectively on the criteria set out in ECOSOC resolution 1996/31; questions irrelevant to these criteria, or that have already been raised and addressed should be ruled out of order. ECOSOC should also promote prompt decision-making by the Committee on recommendations whether or not to accredit applicant NGOs so that ECOSOC may make a final determination within a reasonable timeframe.
- Competitive elections for seats on the Committee on NGOs should be encouraged, and states committed to supporting diverse civil society participation at the UN should present their candidacies.
- Members of the Committee on NGOs should have term limits and should be required to be off the committee for a specific period after serving the maximum agreed terms.
- Members of the Committee on NGOs should promote swift decisions on individual NGO applications.

Treaty Bodies and Special Procedures

- Members of treaty bodies and special procedures should promptly report to the relevant UN body any attempts at political interference by member state delegates or their agents.
- Increase dissemination of practical information for civil society groups on engaging with treaty bodies and special procedures, including information on maximizing participant safety, overcoming travel restrictions, and seeking action against reprisals.
- Ensure that any actions by a state under consideration to restrict civil society participation at the UN are addressed, including publicly as part of the relevant review.
- Improve the ability of special procedures to communicate with civil society groups by making available methods of information exchange not subject to censorship and surveillance.
- Do not let harassment of human rights defenders by a country deter independent experts from publishing relevant information and joint press releases on the country.
- Protect the ability of special procedures to meet confidentially with civil society activists.
- Insist upon adherence to the Terms of Reference for Fact-Finding Missions by special rapporteurs/representatives, which provides that the missions should not be subject to state control.
- All treaty bodies should adopt procedures that will eventually result in the examination of country situations even if the country in question has delayed the state report for many years to avoid review.

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Appendix I: Human Rights Watch Letter to Chinese Foreign Minister Wang Yi

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July 31, 2017

Wang Yi
Foreign Minister
Ministry of Foreign Affairs
No. 2, Chaoyangmen Nandajie,
Chaoyang District, Beijing, 100701
People's Republic of China
Tel: +86 10 6596 1114
Fax: +86 10 6559 1516



HRW.org

Re: China's involvement in United Nations human rights mechanisms

Dear Minister Wang,

Human Rights Watch is an independent nongovernmental organization that monitors human rights in more than 90 countries around the world. We are currently preparing a report on China's influence on United Nations human rights mechanisms. The report focuses on the extent to which China is complying with or undermining the human rights mechanisms, including treaty bodies and the Universal Periodic Review, as well as alleged efforts to obstruct independent Chinese civil society organizations from participating in those mechanisms.

We would appreciate your responses to the questions below, as well as any additional information you wish to provide us on this issue, so that they can be reflected in our report. Human Rights Watch strives to ensure the accuracy of our research and look forward to your response. Considering our publishing schedule, we would appreciate receiving your response by August 21, 2017, sent to me by email at richars@hrw.org or by fax to 1-202-612-4333.

Thank you for your attention to this matter, and we look forward to hearing from you.

Sincerely,

AMSTERDAM · BEIRUT · BERLIN · BRUSSELS · CHICAGO · GENEVA · JOHANNESBURG · LONDON · LOS ANGELES · MOSCOW · NAIROBI · NEW YORK · PARIS · SAN FRANCISCO · SÃO PAULO · SYDNEY · TOKYO · TORONTO · WASHINGTON · ZÜRICH



Sophie Richardson
China Director
Human Rights Watch

Questions:

1. Human Rights research found that your government has on numerous occasions sought to prevent independent civil society groups and activists from China from engaging with UN human rights mechanisms. Please comment.
2. Human Rights research found that your government has repeatedly inquired of the Office of the UN High Commissioner for Human Rights about the participation and accreditation of Chinese citizens and others focused on China at UN Human Rights Council sessions. What does your government do with such information?
3. What was China's response to concerns raised by successive Presidents of the Human Rights Council regarding the death of Chinese human rights advocate Cao Shunli in March 2014?
4. Has the Chinese government declined to issue passports to independent Chinese activists seeking to interact with UN human rights mechanisms? If so, in what circumstances, and why?
5. Did the Chinese government request the specific arrangements that the UN put in place for President Xi's January 2017 speech at the UN complex in Geneva, including restricting access by nongovernmental organizations?
6. Does the Foreign Ministry instruct or otherwise encourage its diplomats in Geneva and New York to photograph without permission individuals engaging with UN mechanisms? If so, why? If not, what steps are in place to discourage such conduct?
7. Does China use its position on the ECOSOC NGO committee to block accreditation of organizations critical of the Chinese government? Why does China ask the same questions of the same organization at multiple sessions, particularly when the question has been answered? Why does China not pursue a similar approach with organizations that appear affiliated with the government?

8. Does the Foreign Ministry instruct or otherwise encourage diplomats to have contact with treaty body staff in a manner that violates UN guidelines? If so, why? If not, what steps are in place to discourage such conduct?
9. Why has your government not issued standing invitations to many Special Procedures mandate holders? Why does the government prevent Special Procedures from travelling independently and meet freely with organizations or people of interest to them in China?
10. Will your government allow independent organizations across the country to participate in the development of China's 2018 Universal Periodic Review (UPR) report? What steps will your government take to prevent officials from harassing, intimidating, or prosecuting individuals who try to offer critical assessments of China's human rights record as part of the UPR process?

Appendix II: Human Rights Watch Letter to the Executive Office of the Secretary-General

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August 3, 2017

Re: China and UN Human Rights Mechanisms

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HRW.org

To the Executive Office of the Secretary-General,

We at Human Rights Watch are currently preparing a report on efforts by the government of China to undermine key United Nations human rights mechanisms. The report examines the extent of improper Chinese government interference with civil society organizations, including voices critical of China, UN special procedures and treaty bodies, and entities such as the UN Human Rights Council.

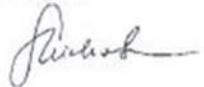
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Once the report is published my colleagues and I would look forward to your feedback and ideas about improving the ability of civil society organizations to participate in the activities and work of the United Nations.

Thank you for your attention to this matter, and we look forward to hearing from you.

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Sincerely,



Sophie Richardson
China Director
Human Rights Watch

QUESTIONS FOR THE EXECUTIVE OFFICE OF THE SECRETARY-GENERAL

1. What human rights issues have been raised with China by the Secretary-General or other UN officials in the Executive Office of the Secretary-General since January 1, 2017, and how has the EOSG followed up on those issues with China?
2. How would you assess the implementation of Human Rights Up Front with respect to China? Has it been effective?
3. Is the UN considering any specific new measures to better protect civil society activists from harassment while participating in UN human rights mechanisms on UN premises? If so, what specific types of measures?
4. In the case of the April 2017 removal from the UN compound of accredited Uyghur activist Dolkun Isa, has the Executive Office of the Secretary-General taken any steps to investigate or follow up on the civil society complaint sent to the Secretary-General's office? Has the Assistant Secretary General with responsibility for reprisals taken up Isa's case? Were concerns about his removal raised with the Chinese delegation? What role did the Department of Economic and Social Affairs, led by senior Chinese diplomat Wu Hongbo, and specifically the NGO Branch, play in the decision to remove Isa?

Appendix III: Response Letter from the Executive Office of the Secretary-General

30 August 2017

(1) What human rights issues have been raised with China by the Secretary-General or other UN officials in the Executive Office of the Secretary-General since January 1, 2017, and how has the EOSG followed up on those issues with China?

(2) How would you assess the implementation of Human Rights Up Front with respect to China? Has it been effective?

The Secretary-General undertakes both private and public diplomacy on human rights issues. This is a key area of priority for the Secretary-General who has on a number of occasions, notably in his remarks to both the Human Rights Council and to the Security Council earlier this year, underscored that the protection and promotion of human rights is the most important tool for prevention. Human Rights-related issues are being regularly reviewed at the Executive Committee's meetings, chaired by the Secretary-General.

The Secretary-General has full confidence in the Office of the High Commissioner for Human Rights (OHCHR) and fully supports the Office's engagement on country-specific human rights concerns.

The Secretary-General has reiterated his commitment to Human Rights up Front, including through a recent letter to all United Nations staff. The Initiative is central to the Secretary-General's vision of fostering an integrated cross-pillar approach that sees sustainable development, peace and security and human rights efforts joined up to prioritize prevention and identify constructive system-wide entry points to react earlier, and more effectively, to human rights concerns.

EOSG continues to identify constructive entry points to address human rights issues, including within the framework of the Sustainable Development Goals (SDGs). We look forward to our continued cooperation with leading civil society organizations such as

Human Rights Watch and to your suggestions on possible points of collaboration.

(3) Is the UN considering any specific new measures to better protect civil society activists from harassment while participating in UN human rights mechanisms on UN premises? If so, what specific types of measures?

(4) In the case of the April 2017 removal from the UN compound of accredited Uyghur activist Dolkun Isa, has the Executive Office of the Secretary-General taken any steps to investigate or follow up on the civil society complaint sent to the Secretary-General's office? Has the Assistant Secretary General with responsibility for reprisals taken up Isa's case? Were concerns about his removal raised with the Chinese delegation? What role did the Department of Economic and Social Affairs, led by senior Chinese diplomat Wu Hongbo, and specifically the NGO Branch, play in the decision to remove Isa?

The Secretary-General has been emphatic that Member States must ensure that human rights defenders are able to engage with the United Nations without fear of reprisal. Acts of intimidation and reprisals against those seeking to cooperate or having cooperated with the United Nations are unacceptable.

The upcoming report of the Secretary-General to the thirty-sixth session of the Human Rights Council on Cooperation with the United Nations, its representatives and mechanisms in the field of human rights (pursuant to Human Rights Council resolution 12/2) will highlight recent developments within the United Nations system on the issue of reprisals and present the activities and efforts of the system to address intimidation and reprisals against those seeking to cooperate - or having cooperated - with the United Nations, its representatives and mechanisms on human rights.

Moreover, as this is a system-wide endeavor, the Office of the High Commissioner for Human Rights (OHCHR) will be best placed to provide further input on the measures adopted by the various human rights mechanisms to this end.

As far as the case of Mr Isa is concerned, EOSG is fully aware of the situation. A well-established procedure, incorporating the necessary safeguards, is in place to address such incidents should they arise in the future.

Appendix IV: Human Rights Watch Letter to the Office of the United Nations High Commissioner for Human Rights (OHCHR)

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Joel Motley, Co-Chair

July 31, 2017

High Commissioner Zeid Ra'ad Al Hussein
Office of the UN High Commissioner for Human Rights
Palais Wilson
52 rue des Pâquis
CH-1202 Geneva, Switzerland



Re: China's involvement in United Nations human rights mechanisms

Dear High Commissioner Zeid,

Human Rights Watch is an independent nongovernmental organization that monitors and reports on human rights in more than 90 countries around the world. We are currently preparing a report on efforts by the government of China to undermine key United Nations human rights mechanisms. The report examines the extent of improper Chinese government interference with civil society organizations, including voices critical of China, UN special procedures and treaty bodies, and entities such as the UN Human Rights Council.

We would appreciate your responses to the questions below, as well as any additional information you wish to provide us on this issue, so that they can be reflected in our report. Human Rights Watch strives to ensure the accuracy of our research and looks forward to your response. In light of our plan to publish the report in early September, we would appreciate receiving your response by August 21, 2017, sent to me by email at richars@hrw.org or by fax at 1-202-612-4333.

Once the report is published my colleagues and I would look forward to your feedback and ideas about improving the ability of civil society organizations to participate in the activities and work of the United Nations.

Thank you for your attention to this matter, and we look forward to hearing from you.

Sincerely,

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Sophie Richardson
China Director
Human Rights Watch

Questions:

1. Please clarify the process by and timetable on which the Office receives and responds to requests for information from governments about individuals accredited to a particular session of the Human Rights Council.
2. What measures has your office taken or is considering taking to better protect civil society activists from harassment and intimidation by member states while participating in UN human rights mechanisms. Would you support the creation of an NGO liaison within the UN security units that is responsible for protecting NGO representatives at the UN from such harassment and intimidation?
3. What mechanisms exist for special procedures mandate holders to report harassment or intimidation by states under consideration? What measures has your office taken or is considering with respect to member states that seek to undermine special procedure visits, such as detailed by Special Rapporteur on extreme poverty Philip Alston during his August 2016 visit to China?
4. Building on your report to the 35th session of the Human Rights Council in June 2017, what steps should be taken to better systematize discussion of persistent non-cooperation or obstruction by member states?
5. Please describe the process by which the Assistant Secretary General will investigate and respond to complaints of alleged reprisals by governments against civil society groups at the UN. What steps are being taken to publicize the process for submitting complaints of reprisals. What steps will your office take regarding countries alleged to have committed reprisals or that provide an unsatisfactory response to such allegations?

Appendix V: Response Letter from the Office of the United Nations High Commissioner for Human Rights (OHCHR)



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND
www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

REFERENCE:

30 August 2017

Dear Ms. Richardson,

I write to thank you for your letter dated 31 July 2017, informing us about the upcoming release of a Human Rights Watch report on China's engagement with UN human rights mechanisms.

Protecting, sustaining and expanding civil society space is a core part of OHCHR's activities. My Office shares information, lessons learned and best practices with civil society actors and human rights defenders; builds their capacities and provides practical tools; facilitates civil society engagement with United Nations human rights mechanisms; and fosters dialogue between State actors and civil society.

Practical examples of protecting and promoting civil society space are illustrated in my report on the civil society space (A/HRC/32/20), submitted to the June 2016 Human Rights Council session. In that document, we have articulated practical recommendations for the creation and maintenance of a safe and enabling environment for civil society summarized along the following five broad areas: (1) a supportive legal framework and effective access to justice; (2) a conducive public and political environment; (3) access to information; (4) participation in policy development, planning and decision-making; and (5) long-term support and resources for civil society.

In turn, I would be very interested in Human Rights Watch's concrete recommendations about improving the ability of civil society actors to cooperate with UN human rights mechanisms.

With regard to the specific questions you have asked, please find attached some thoughts and feedback in the attached annex.

Yours sincerely,

Zeid Ra'ad Al Hussein
High Commissioner for Human Rights

Ms. Sophie Richardson
China Director
Human Rights Watch
1630 Connecticut Ave NW, Suite 500
Washington, DC 2009
United States of America

Annex

Question 1:

Prior to regular sessions of the Human Rights Council, the Secretariat often receives communications from States, including from the People's Republic of China, listing some individuals who according to their information plan to attend or may be attending sessions of the Human Rights Council and who may represent possible threats to the United Nations. The Secretariat transmits these requests to the Safety and Security Service of the United Nations Office at Geneva, who are responsible for the security of all participants of the Human Rights Council sessions at the Palais des Nations, for their assessment. Once UNOG has assessed that there is no evidence to back up the allegations, the Secretariat of the Human Right Council informs the concerned State of this conclusion. No other information is transmitted to the State. The individuals referred to in the communications from the State are free to seek accreditation and/or attend the sessions of the Council should they wish to do so.

Question 2:

There exists active cooperation and coordination between the United Nations Office in Geneva (NGO Liaison and Security) and OHCHR to prevent and address cases of intimidation, harassment or reprisals against civil society representatives engaging with the human rights mechanisms in Geneva.

On this note, the Human Rights Council in its resolution 32/31 of 20 July 2016, requested OHCHR to "prepare a report compiling information on the procedures and practices in respect of civil society involvement with regional and international organizations, including United Nations bodies, agencies, funds and programmes, and the contribution of civil society to their work and challenges and best practices, and in that regard to continue to engage with and seek input from those organizations and entities, as well as the views of States, national human rights institutions, civil society and other stakeholders." This report will be submitted to the thirty-eighth session of the Human Rights Council in June 2018, for further consideration.

Question 3:

Human Rights Council special procedures mandate-holders have regularly raised serious concerns about acts of intimidation and reprisal against those cooperating with the United Nations in the field of human rights, in particular with special procedures. Individuals and groups have experienced different forms of reprisals while cooperating with special procedures, such as harassment, including inside United Nations premises, smear campaigns, threats against the life of individuals and their family, arbitrary arrest, (*incommunicado*) detention and prosecution on the basis of false charges, as well as physical attacks and even killings. The majority of such cases involved alleged acts of intimidation and reprisal for cooperation with mandate holders in relation to their country visits and communications procedure.

OHCHR supports Special Procedures in all aspects of their work and provides assistance in cases of alleged acts of intimidation and reprisals for cooperation with them. Information about these cases is systematically shared with OHCHR and appropriate action is taken in consultation with the mandate holders concerned. OHCHR's field presences play a crucial role in this context, in particular in following up on the situation in countries visited by mandate holders.

Various initiatives have been developed with special procedures to address these cases, including raising systematically reported cases of reprisals with the State concerned and when necessary with the President of the Human Rights Council, or with the High Commissioner for Human Rights. Mandate holders have also used communications, public statements, press releases, official reports or meetings with various stakeholders to express their grave concern for all acts of intimidation and reprisal. These cases are also reflected in the report of the Secretary-General on "Cooperation with the United Nations, its representatives and mechanisms in the field of human rights" that OHCHR prepares annually.

The Coordination Committee of Special Procedures regularly raises this issue, in particular with the President of the Human Rights Council, with the Secretary-General and with OHCHR. Furthermore, the issue of reprisals has been systematically discussed during the annual meetings of Special Procedures. In 2015, OHCHR assisted Special Procedures in developing a coordinated response to any act of intimidation and reprisals. Special Procedures adopted standard operating procedures outlining steps to be taken to enhance their response when faced with cases of intimidation and reprisals and established a focal point within the Coordination Committee. A section on reprisals is now systematically included in the annual report of Special Procedures presented at the March session of the Human Rights Council. A dedicated webpage on reprisals against those cooperating with Special Procedures has also been developed and explains the actions of the mechanisms in this context:

<http://www.ohchr.org/EN/HRBodies/SP/Pages/Actsofintimidationandreprisal.aspx>

Special Procedures also cooperate closely with the Assistant Secretary-General for Human Rights in his capacity as United Nations senior official to put an end to reprisals for cooperation with the United Nations as elaborated further below.

Question 4:

The High Commissioner for Human Rights and OHCHR are committed to keeping the discussion on non-cooperation or obstruction alive and dynamic, and to maintaining regular interaction with Member States both bilaterally and at times publicly. In the High Commissioner's update to the thirty-fifth session of the Human Rights Council in June 2017, he pledged that he would expand this discussion at a coming session of the Council.

As stated in the High Commissioner's address to the Human Rights Council in June 2017, OHCHR is determined to do everything in its capacity to ensure full implementation of recommendations from all human rights mechanisms, including, in the third round of the Universal Periodic Review, through suggesting lines of action. OHCHR will continue to engage with the United Nations Country Teams, with the Human Rights Council's Presidency and others to ensure that recommendations feed into their work.

Question 5:

Situations where the Assistant Secretary-General for Human Rights has taken action in his capacity as United Nations senior official to put an end to reprisals for cooperation with the United Nations – and where there is no prevailing reason related to security or confidentiality – will be mentioned in the annual report of the Secretary-General on “Cooperation with the United Nations, its representatives and mechanisms in the field of human rights.” The Assistant Secretary-General, Mr. Andrew Gilmour, will present this year’s report to the thirty-sixth session of the Human Rights Council, likely on 20 September 2017. Additional information on cases and action taken, responses received, or lack thereof, by concerned Governments will be described in the annex to the report.

The Assistant Secretary-General has raised specific urgent cases, persistent patterns of intimidation and reprisals, situations where action by other actors has not produced any tangible change, and other incidents that occurred at United Nations headquarters and during field visits. He has addressed specific situations and individual cases with Member States both through intergovernmental fora and quiet diplomacy with concerned Governments, including with Permanent Missions in New York. He has also raised concerns about intimidation and reprisals at the Human Rights Council, the Security Council and the Peacebuilding Commission.

In rolling out the activities of this new function as senior official, the Assistant Secretary-General is seeking to ensure direct engagement with Member States to discuss specific cases of concern. At this stage of the mandate, and in view of certain sensitivities, it is considered by the Office that a non-public approach is preferable. A more public approach, including through statements, could be pursued at a later stage if deemed necessary.

Follow up to cases mentioned in the annual report of the Secretary-General and in other contexts will be a priority in the coming months, whether through addressing cases in writing, in bilateral meetings, or during country visits.

Additionally, to ensure visibility and accessibility of the designated mandate on intimidation and reprisals and the work of the United Nations human rights mechanisms in this regard, a dedicated website was launched in June 2017, including information on how to submit information to relevant bodies. Special Procedures have also launched their own page on this issue. A specific email address has been created (reprisals@ohchr.org) to which civil society organizations and victims and their family members can submit information on acts of intimidation and reprisals. It is important to note that the Assistant Secretary-General will only raise a case upon receiving clear indications of informed consent by the individual concerned or his representative.

Finally, in July 2017, a video (see “UN Official leads efforts on intimidation and reprisals against those helping the UN on human rights”) was posted on the OHCHR website, which briefly describes the mandate and role of the Assistant Secretary-General and publicizes the designated email address. These various efforts to globally raise the visibility of the mandate are essential to empower affected individuals to come forward and share their concerns.

Appendix VI: Human Rights Watch Letter to the Chair of Treaty Bodies

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July 31, 2017

Ms. Virginia Bras Gomes
Chairwoman
United Nations Treaty Bodies
Palais Wilson
52 rue des Pâquis
CH-1201 Geneva, Switzerland

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HRW.org

Re: China's involvement in United Nations human rights mechanisms

Dear Chairwoman Gomes,

Human Rights Watch is an independent nongovernmental organization that monitors and reports on human rights in more than 90 countries around the world. We are currently preparing a report on efforts by the government of China to undermine key United Nations human rights mechanisms. The report examines the extent of improper Chinese government interference with civil society organizations, including voices critical of China, UN special procedures and treaty bodies, and entities such as the UN Human Rights Council.

We would appreciate your responses to the questions below, as well as any additional information you wish to provide us on this issue, so that they can be reflected in our report. Human Rights Watch strives to ensure the accuracy of our research and looks forward to your response. In light of our plan to publish the report in early September, we would appreciate receiving your response by August 21, 2017, sent to me by email at richars@hrw.org or by fax at 1-202-612-4333.

Once the report is published my colleagues and I would look forward to your feedback and ideas about improving the ability of civil society organizations to participate in the activities and work of the United Nations.

Thank you for your attention to this matter, and we look forward to hearing from you.

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Sincerely,



Sophie Richardson
China Director
Human Rights Watch

Questions:

1. What measures are in place or are being considered to improve the ability of nongovernmental organizations and civil society activists to submit information to the treaty bodies without harassment, intimidation, or other forms of reprisal by the state party under review?
2. What measures are in place or are being considered to support NGOs and civil society activists who have been harassed or intimidated by member states or obstructed from participating in the work of the treaty body? What steps are taken with respect to the member states who commit such actions?

Appendix VII: Response Letter from the Chair of Treaty Bodies

Dear Ms. Richardson,

I wish to acknowledge with thanks receipt of your letter dated 31 July 2017.

As you are aware, the human rights treaty bodies take very seriously the issue of reprisals against any stakeholders cooperating with them. For this reason the Chairpersons of all treaty bodies endorsed in 2015 the Guidelines against Intimidation or Reprisals (“San José Guidelines”).

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=HRI/MC/2015/6&Lang=en.

These Guidelines provide measures for each treaty body to take action when necessary in order to prevent and protect persons from reprisals in the context of its own work but also within the larger United Nations framework to protect individuals and groups from reprisals when cooperating with the organization. Every year, the Annual meeting of Treaty Bodies' Chairpersons includes a standard item in its program of work on the update of the implementation of the San José Guidelines.

The human rights treaty bodies enormously value the long-standing contribution of civil society organizations to their work. In fact, we are fully convinced that we would not be able to fully discharge our functions without the systematic cooperation of CSOs. We have made all efforts to ensure that there is no negative interference with this cooperation and we can assure you we will continue to do so.

I thank you for your kind interest in the work of the human rights treaty bodies and for all your support.

Yours sincerely,
Virgínia Brás Gomes
Técnica Superior



Direção-Geral da
Segurança Social

Gabinete Diretor-Geral
Chair UN Committee on Economic, Social and Cultural Rights
Virginia.B.Gomes@seg-social.pt
Largo do Rato, 1 - 1269-144 - Lisboa
Tel: (+351) 21 595 29 90 | Voip: 32005 | Fax: (+351) 21 595 29 92

Se recebeu esta mensagem por engano, por favor avise o remetente e elimine-a de imediato.
Antes de imprimir pense na sua responsabilidade e compromisso com o MEIO AMBIENTE.

Appendix VIII: Human Rights Watch Letter to the Economic and Social Council (ECOSOC)

350 Fifth Avenue, 34th Floor
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Fax: 212-736-1300; 917-591-3452

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Joel Motley, *Co-Chair*

July 31, 2017

Mr Navid Hanif
Director, Office for ECOSOC Support and Coordination
Department of Economic and Social Affairs
United Nations Secretariat Building
405 East 42nd Street
New York, NY 10017, USA



HRW.org

CC:
Ms. Leslie Wade
Chief, ECOSOC and Interorganizational Cooperation Branch
Office for ECOSOC Support and Coordination
Department of Economic and Social Affairs

Mr. Alberto Padova
Officer-in-Charge, NGO Branch
Office for ECOSOC Support and Coordination
Department of Economic and Social Affairs

Re: China's involvement in United Nations human rights mechanisms

Dear Director Hanif,

Human Rights Watch is an independent nongovernmental organization that monitors and reports on human rights in more than 90 countries around the world. We are currently preparing a report on efforts by the government of China to undermine key United Nations human rights mechanisms. The report examines the extent of improper Chinese government interference with civil society organizations, including voices critical of China, UN special procedures and treaty bodies, and entities such as the UN Human Rights Council.

We would appreciate your responses to the questions below, as well as any additional information you wish to provide us on this issue, so that they can be reflected in our report. Human Rights Watch strives to ensure the accuracy of our research and looks forward to your response. In light of our plan to publish the report in early September, we would appreciate

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receiving your response by August 21, 2017, sent to me by email at richars@hrw.org or by fax at 1-202-612-4333.

Once the report is published my colleagues and I would look forward to your feedback and ideas about improving the ability of civil society organizations to participate in the activities and work of the United Nations.

Thank you for your attention to this matter, and we look forward to hearing from you.

Sincerely,



Sophie Richardson
China Director
Human Rights Watch

Questions:

1. As you know, there has long been a problem with legitimate NGOs struggling to get UN accreditation and being in a kind of limbo for years. What measures have you taken or are considering regarding tactics used by some UN member states on the Committee on Non-Governmental Organizations (NGOs) to block or stall the accreditation of legitimate NGOs?
2. How can ECOSOC and its members best ensure that accreditation applications are considered objectively on their merits and not deferred repeatedly for improper reasons?

Appendix IX: Human Rights Watch Letter to the President of the Human Rights Council

350 Fifth Avenue, 34th Floor
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Shayna Bauchner, Associate
Daniel Lee, Associate
Seashia Yang, Associate

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Dinah PoKempner, General Counsel
James Ross, Legal & Policy Director
Hassan Elmasry, Co-Chair
Joel Motley, Co-Chair

July 31, 2017

Ambassador Joaquin Alexander Maza Martelli
President of the Human Rights Council



HRW.org

Re: China's involvement in United Nations human rights mechanisms

Dear Ambassador Maza Martelli,

Human Rights Watch is an independent nongovernmental organization that monitors and reports on human rights in more than 90 countries around the world. We are currently preparing a report on efforts by the government of China to undermine key United Nations human rights mechanisms. The report examines the extent of improper Chinese government interference with civil society organizations, including voices critical of China, UN special procedures and treaty bodies, and entities such as the UN Human Rights Council.

We would appreciate your responses to the questions below, as well as any additional information you wish to provide us on this issue, so that they can be reflected in our report. Human Rights Watch strives to ensure the accuracy of our research and looks forward to your response. In light of our plan to publish the report in early September, we would appreciate receiving your response by August 21, 2017, sent to me by email at richars@hrw.org or by fax at 1-202-612-4333.

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Thank you for your attention to this matter, and we look forward to hearing from you.

Sincerely,

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Sophie Richardson
China Director
Human Rights Watch

To the President of the Human Rights Council:

1. What measures does your office take to address reprisals by member states against nongovernmental organizations and civil rights activists seeking to engage in the work of the Human Rights Council?
2. What steps has your office taken to ensure that China adequately accounts for the March 2014 death of Cao Shunli, who was prevented from taking part in a training related to China's Universal Periodic Review?
3. What steps does your office take if a member state fails to provide an adequate response to a concern regarding an alleged reprisal?
4. What further measures is your office considering to better protect human rights defenders from possible government reprisals?

Appendix X: Human Rights Watch Letter to the UN Coordination Committee of Special Procedures

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James Ross, Legal & Policy Director
Hassan Elmasry, Co-Chair
Joel Motley, Co-Chair

July 31, 2017

Special Rapporteur Yanghee Lee
Chairwoman
United Nations Coordination Committee of Special Procedures
Palais Wilson
52 rue des Pâquis
CH-1201 Geneva, Switzerland

HUMAN
RIGHTS
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HRW.org

Re: China's involvement in United Nations human rights mechanisms

Dear Special Rapporteur Lee,

Human Rights Watch is an independent nongovernmental organization that monitors and reports on human rights in more than 90 countries around the world. We are currently preparing a report on efforts by the government of China to undermine key United Nations human rights mechanisms. The report examines the extent of improper Chinese government interference with civil society organizations, including voices critical of China, UN special procedures and treaty bodies, and entities such as the UN Human Rights Council.

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Sincerely,



Sophie Richardson
China Director
Human Rights Watch

Questions:

1. What mechanisms exist for Special Procedures mandate holders to report harassment or intimidation by member states with which they interact, or in the course of country visits?
2. What measures are you adopting or considering to address cases of persistent non-cooperation by member states with Special Procedures?

Appendix XI: Response Letter from the UN Coordination Committee of Special Procedures



COORDINATION COMMITTEE OF SPECIAL PROCEDURES
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND
www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

31 August 2017

Dear Ms. Richardson,

I would like to thank you for your letter addressed to my predecessor, Ms. Yanghee Lee, to whom I have the honour to succeed as Chairperson of the Coordination Committee of Special Procedures as of July 2017.

Given the centrality of cooperation and engagement for our mandates, special procedures cannot accept that those who cooperate with them are subject to reprisals or intimidation for doing so. Combating this phenomenon has been a priority for special procedures for years and several actions have been taken.

Special procedures have consistently raised their concerns about this unacceptable practice individually and as a system. In this context, special procedures not only address allegations of acts of intimidation and reprisal in relation to cooperation with them but with the wider United Nations system, its representatives and mechanisms in the field of human rights. They also address issues related to ensuring access to the United Nations, and raised concerns concerning the role played by the Committee on Non-Governmental Organizations in this context.

The Manual of Operations of Special Procedures contains several provisions related to reprisals (http://www.ohchr.org/Documents/HRBodies/SP/Manual_Operations2008.pdf, paragraphs 27, 35 and 65). In addition, as a result of the growing attention given to this phenomenon and the increasing instances of intimidation and reprisals observed by mandate holders, they agreed during their 22nd Annual Meeting, held in June 2015, to consolidate and enhance special procedures' response to this unacceptable practice by establishing a coherent framework for action, the main points of which can be found on a dedicated webpage (<http://www.ohchr.org/EN/HRBodies/SP/Pages/Actsofintimidationandreprisal.aspx>).

Mandate holders have used communications, public statements, press releases, reports and meetings with various stakeholders to express their grave concern at all such acts. For example, in 2016, special procedures addressed 61 such communications to 45 States and one non-State actor. In addition, some of these cases were followed by press releases in which mandate holders expressed their serious concerns over such practices. Cases addressed publicly by mandate holders are also included in the annual report of the Secretary-General on cooperation with the UN, its representatives and mechanisms in the field of human rights presented to the Human Rights Council (see latest report A/HRC/33/19).

In accordance with the modalities for an enhanced response to reprisals adopted in 2015, a member of the Coordination Committee is tasked to consistently look at the matter and allegations of reprisals are systematically raised with all concerned. This year again a focal point will be designated among the members of the new Coordination Committee.



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The issue of intimidation and reprisals is systematically included in the agenda of the Annual meeting of special procedures and the focal point of the Coordination Committee present an overview of actions taken on cases of reprisal against those cooperating with special procedures and other United Nations and regional human rights mechanisms. A dedicated section on reprisals is also systematically included in the annual report of special procedures presented every year in March to the Human Rights Council. In presenting the latest report in March this year, my predecessor stated that acts of intimidation and reprisal remained undoubtedly of the most serious concern to mandate holders, and that such acts should be seen as not only aimed at preventing or stopping anyone from cooperating with them, but as an attack against the special procedures system as a whole.

In addition a dedicated webpage has been developed highlighting how special procedures deal with this issue.

(<http://www.ohchr.org/EN/HRBodies/SP/Pages/Actsofintimidationandreprisal.aspx>).

In 2016, mandate holders have also decided to update the terms of reference for country visits by mandate holders adopted in 1998, given that some of the terms were no longer in use, and to reflect developments since 1998 (see A/HRC/34/34/Add.1, chap. XIV or <http://www.ohchr.org/EN/HRBodies/SP/Pages/TermsOfReference.aspx>). These modifications also relate to reprisals.

The Coordination Committee, in consultation with the mandate holders concerned, also raises cases of reprisal as appropriate with various stakeholders, including the Secretary-General, the High Commissioner, the President of the Human Rights Council and civil society. After calling for this move for a long time, special procedures are also particularly happy that the Assistant Secretary-General for human rights has been designated to lead the UN efforts in this regard and are cooperating closely with him.

With regard to the second question, persistent non-cooperation by Member States with special procedures is also a long-standing concern. This concern is underscored by mandate holders in various ways. For example, this was the subject of our joint statement on the occasion of the Human Rights Day in 2013. This is also a challenge that successive Chairpersons of the Coordination Committee have raised with the Council when presenting the annual report of special procedures. Last March, my predecessor stressed in particular that non-cooperation by States is still a serious and continued challenge. Some States don't cooperate at all while others choose to cooperate only with a selected few. This is a serious impediment to our ability to fulfil our mandates. Unfortunately such lack of cooperation does not necessarily come with consequences for the States concerned. Non-cooperation with human rights mechanisms should not remain unnoticed and the Council should look more closely into this issue and assist mandate holders in getting full cooperation from all States. This is also an issue that mandate holders regularly raise with States during the exchange of views with them during each of our Annual Meeting.

In this context initiatives such as the June statement of the High Commissioner to the Human Rights Council in which he highlighted cases of non- or selective cooperation with the UN human rights machinery are welcomed.



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Our revamped annual report also contains information on the level of cooperation by States, including country visits, countries that have never been visited by a mandate holder, the response rate to communication per country, etc. Each mandate holder also draws public attention in their reports or other means to their requests to States and responses received. The webpages related to special procedures on the OHCHR website also contains useful information on cooperation such as pending requests for visits disaggregated by States.

I would like to stress the responsibility of the Human Rights Council in this context. The Council and Member States have established our mandates to assess their human rights situation and assist them in improving it. They therefore have the corresponding responsibility to respect our legitimacy, to cooperate with us fully and give due consideration to our recommendations. The Council should therefore find a more systematic way to address cases of non- or selective cooperation. This is in line with the Code of Conduct of Special Procedures which urges all States to cooperate with, and assist, the special procedures in the performance of their tasks and to provide all information in a timely manner, as well as respond to communications transmitted to them by the special procedures without undue delay. The resolution establishing the Council also highlights particular obligations of members of the Council in this regard.

The Committee has also a role to play in addressing cases of selective or persistent non-cooperation by States, including by raising the issue consistently with the President of the Human Rights Council, the High Commissioner and representatives of States. The current Committee will continue to look at ways to address this issue in a more systematic manner.

The capacity to engage with all concerned, be they State representatives, civil society, academic, regional bodies or other UN entities, is one of the added values of mandate holders. In doing so we offer to all stakeholders the unique opportunity to share their point of view and help us in making a fair assessment of the situation. For this to happen, full and unhindered cooperation with special procedures is necessary.

Sincerely yours,

Catalina Devandas Aguilar
Chairperson of the Coordination Committee of the Special Procedures

Ms. Sophie Richardson
China Director,
Human Rights Watch
1630 Connecticut Ave NW, Suite 500
Washington, DC 2009, United States of America



THE COSTS OF INTERNATIONAL ADVOCACY

China’s Interference in United Nations Human Rights Mechanisms

The Chinese government shows no sign of ending its crackdown on independent human rights activism at home, but is also increasingly seeking to limit activists’ interactions with United Nations human rights mechanisms—now some of the only means of redress available to people from China.

China has worked consistently and often aggressively to silence criticism of its human rights record before UN bodies and has taken actions aimed at weakening some of the central mechanisms available in those institutions to advance rights. Because of China’s growing international influence, the stakes of such interventions go beyond how China’s own human rights record is addressed at the UN and pose a longer-term challenge to the integrity of the system as a whole.

The Costs of International Advocacy: China’s Interference in United Nations Human Rights Mechanisms details how Chinese officials have blocked activists from working with UN officials, and have harassed, intimidated, and even threatened some UN officials, experts, and advisers. The Chinese government has also manipulated the process by which nongovernmental organizations are accredited to participate at the UN, sidelining those it sees as critics.

In some instances, the UN has resisted China’s pressure; in other cases, it has capitulated and allowed accredited activists to be removed from UN premises or changed review procedures for China. Taken together, China’s tactics risk undermining the integrity of the UN’s global architecture for human rights protection.

(above) Main entrance to UN Palais des Nations in Geneva, Switzerland, August 24, 2017.

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(front cover) Chinese President Xi Jinping delivers a speech in the Palais des Nations at the United Nations in Geneva, January 18, 2017.
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