Joint Submission for the UPR of the People's Republic of China by PEN International, Independent Chinese PEN Centre, PEN America and PEN Tibet

For consideration at the 31st session of the Working Group in November 2018

Executive Summary

1. The submitting organisations welcome the opportunity to contribute to the third cycle of the Universal Periodic Review (UPR) of the People's Republic of China (PRC). This submission focuses on compliance with international human rights obligations with respect to freedom of expression, in particular concerns relating to:

- **Primary legislation restricting freedom of expression**
- **Freedom of Expression online**
- **Linguistic rights**
- **The treatment of writers and publishers**

Recommendations are provided following each section.

Overview

2. During its last review in 2013, the PRC received 24 recommendations regarding freedom of expression and freedom of the press.[1] The Chinese government "accepted" 13 of the UPR recommendations concerning freedom of expression, including Internet use, and freedom of the press but has only partially implemented one—on continuing "the spread of Internet connections through the rural areas."[2] We consider three of the "accepted" recommendations inappropriate, since they express unprincipled support for government control of expression and information on the Internet.[3] China has not implemented any of the eleven recommendations that it did not accept.

3. Instead, the government has enacted a series of restrictive laws and pursued policies that gravely violate the right to freedom of expression, particularly targeting journalists and civil society. The coalition finds large discrepancies between the Chinese government's promises under the 2013 UPR and its actions related to protecting and promoting human rights. Overall there has been a deterioration of human rights since President Xi Jinping came to power in early 2013.

[1] https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/188/55/PDF/G1318855.pdf?OpenElement
[2] 186.166 (Ethiopia)
[3] 186.163 (Bangladesh); 186.164 (Cuba); 186.162 (Viet Nam).

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

5. The Xi Jinping leadership has adopted a zero-tolerance policy towards expression of political dissent, including criticisms and complaints about government policies, especially online. This concerning development goes against a 2009 resolution of the UN Human Rights Council, reconfirming that governments should refrain from imposing restrictions on "[d]iscussion of government policies and political debate; reporting on human rights, government activities and corruption in government…"[4] In 2014, the Committee on Economic, Social and Cultural Rights urged the PRC "to take effective measures to remove restrictions on freedom of expression and information."[5]

Engagement with UN Mechanisms

6. The PRC did not accept recommendations from 19 states to ratify the International Covenant on Civil and Political Rights (ICCPR).[6]

7. Since the 2013 UPR, the PRC has not assented to Special Procedures' visits to specific regions in China, including Tibetan and Uyghur areas, nor has not it taken the necessary concrete steps to facilitate visits by the UN High Commissioner for Human Rights and the UN Special Rapporteur on the Right to Freedom of Expression. The PRC still has not joined the 117 UN Member States that have extended "standing invitations" to all thematic Special Procedures and the government rejected recommendations from Hungary and Latvia (70) and Australia (72) to do so. The Chinese government has not extended invitations to the majority of the multiple mandate holders who made requests, in some cases repeatedly, to visit the PRC in the past decade.

Recommendations:

- Ratify, without further delay, the International Covenant on Civil and Political Rights.
- Accede to the multiple outstanding requests by UN special rapporteurs to visit China, including Tibet, and extend an invitation to the High Commissioner on Human Rights.

Primary legislation used to restrict freedom of expression

8. During its 2013 UPR, the PRC noted recommendations to remove legislation and regulations which limit the legitimate exercise of the right to freedom of expression and to review its extremism legislation in terms of actual use of violence. However, existing restrictive legislation remains in place and numerous new laws severely restricting freedom of expression have been adopted.

9. Several new pieces of legislation (listed below) have reduced—or will reduce— the already restricted space for free expression. A common element among these laws is the

[4] UN Human Rights Council, Freedom of Expression resolution, A/HRC/RES/12/16, October 12, 2009
[5] Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of China, including Hong Kong, China and Macao, China, CESCR/E/C.12/CHN/2, May, 2014, para. 37.
[6] Recommendations 186.2-21

criminalisation of speech in the name of "national security," a term that is nebulously defined in the legislation, thus opening the door for the government to target its critics.

- **China's Counterespionage Law,** passed and enacted in November 2014, allows national security agencies to confiscate or shut down telecommunications equipment if authorities find that an organisation or individual is "harming national security."
- **The National Security Law**, passed and enacted in July 2015, targets "dissemination of unlawful and harmful information on the Internet" without clearly defining "unlawful information."
- The **Ninth Amendment to the Criminal Law**, which was adopted in November 2015, for the first time specifically criminalises the online dissemination of "false" information, in particular about "danger, epidemics, disasters or security alerts."
- • The **Counter-Terrorism Law**, passed in December 2015 and enacted on 1 January 2016, prohibits behaviour that "distorts or slanders national laws, policies, or administrative regulations," and provides for large-scale police monitoring and surveillance, both online and offline.
- The **National Cyber Security Law**, took effect in June 2017, stipulates that individuals and groups should "observe public order and respect social morality…and must not use the [Internet] to engage in activities upsetting social order, [and] harming the public interest…" The law prohibits individuals or groups from establishing "websites and communication groups" for "spreading…information related to unlawful and criminal activities," which may provide authorities a pretext to criminalize online sharing about human rights cases or public protest. Under the law, the State Council may approve of restricting network communications (i.e., cutting off of the Internet) in certain regions if it deemed it necessary for protecting "social public order."
- The **Film Industry Promotion Law**, took effect in March 2017, forbids film content based on political criteria that are open to authorities' interpretation, including if material harms the "dignity, honour and interests" of the country, or if it foments opposition to the PRC's law or Constitution, harms state unity or security, threatens sovereignty or territorial integrity, or exposes national secrets.

These laws and regulations demonstrate that the Chinese government has taken steps in the wrong direction from revising its laws and reforming its law-enforcement and criminal judicial systems towards compliance with international standards for protection freedom of expression and the press, as stipulated in the ICCPR.

Recommendation:

- Amend laws and remove restrictions on freedom of information, expression, and on the media, including the Internet and social media, that are not in accordance with the International Covenant on Civil and Political Rights and Universal Declaration on Human Rights.

Internet Censorship

10. Internet users have grown rapidly in China in recent years. According to government data, by the end of 2015, China's online population had reached 688 million, and the "Internet penetration rate" had reached 50.3 percent.[7] However, the Chinese government has also increased its heavy monitoring and censorship on the Internet through an extensive cyber policing apparatus. The "Great Firewall" severely restricts online information that can be

[7] Information Office of the State Council, Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012-2015), June 2016, Chap. III, Sec. 7, http://english.gov.cn/archive/white_paper/2016/06/15/content_281475372197438.htm

accessed within the country. The stifling environment for free expression undermines the government's claim that Australia's recommendation (186.170) to "increase transparency of traditional and social media by guaranteeing the rights of Chinese citizens to freely critique any state organ or functionary" is "being implemented."

11. The PRC's model of "cyber sovereignty"[8] is a vision that rejects the universalism of the internet in favour of the idea that each country has the right to shape and control the internet within its own borders. China's implementation of cyber sovereignty as an ideological justification for censorship is incompatible with rights of freedom of expression, access to information, and privacy.[9]

12. The PRC has a broad pre- and post-publication censorship system applied to both publications and news within China, be it in print or online.[10] The state has also sought to centralise power over social media in the hands of high-level decision makers. In April 2014, the PRC created the **Cyberspace Administration of China (CAC),** which has promulgated an extensive set of new regulations that strengthen its control over online speech. These regulations impose onerous requirements on internet platform providers—including social media companies—to act to control their users' speech. Additionally, several of them impose requirements on the individual users themselves. Such regulations include:

- The **Internet User Public Account Information Services Management Regulations** (7 September 2017), which require all internet users to provide their national identity documents and phone numbers in order to obtain internet service, and calling for all internet companies to set up credit rating systems for their users.[11]

- A judicial interpretation issued in September 2013 by the Supreme People's Court and Supreme People's Procuratorate expanded the scope of the crime "picking quarrels and provoking trouble" (Article 293(4) Criminal Law) so that "cyberspace" is now considered a "public place." In expanding the law from the previous application restricted only to acts in physical locations, authorities have provided themselves another domestic loophole to punish online expression, including speech that involves critical comments on party leaders or government policies.

- The **2015 amendment[12] to the Criminal Law** strengthened the government's ability to penalize any sharing of information—including on social media—that contradicts their official narrative on major events of social importance.

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[8] "China internet: Xi Jinping calls for 'cyber sovereignty,' December 16, 2015, http://www.bbc.com/news/worldasia-china-35109453; Jun Mai, "Xi Jinping renews 'cyber sovereignty' call at China's top meeting of internet minds," South China Morning Post, December 3, 2017, http://www.scmp.com/news/china/policies-politics/article/2122683/ xi-jinping-renews-cyber-sovereignty-call-chinas-top.

[9] AP, Seven 'bottom lines' for Chinese Social Media, Deccan Chronicle, Aug. 8, 2014. https://www.deccanchronicle.com/140808/world-neighbours/article/seven-%E2%80%98bottom-lines%E2%80%99-chinese-social-media

[10] "Prior Restraints," Congressional-Executive Commission on China, https://www.cecc.gov/prior-restraints; "Freedom of Expression in China: A Privilege, Not a Right," Congressional-Executive Commission on China, https://www.cecc.gov/freedom-of-expression-in-china-a-privilege-not-a-right; Beina Xu and Eleanor Albert, "Media Censorship in China," Council on Foreign Relations, February 17, 2017, https://www.cfr.org/backgrounder/ media-censorship-china.

[11] "Internet user public account information service management regulations, Cyberspace Administration of China, Sep. 07, 2017, http://www.cac.gov.cn/2017-09/07/c_1121624269.htm

[12] People's Republic of China Criminal Law Amendment (9), China Law Translate, (Amending Criminal Law Article 291), 7/7/2015, http://chinalawtranslate.com/criminallawam92/?lang=en

An updated set of **Chinese Internet News Information Service Management Regulations** released in May 2017, which entered into effect on 1 June of that year.[13] Among the provisions, the Regulations mandate that only government-approved online news portals can legally publish original reporting or commentary. As these regulations extend over all forms of online speech—from online media, to blogs, to instant messaging—they function as a *de facto* prohibition against citizens using social media outlets to report on or provide analysis of political developments, natural disasters, or any other current event the government might deem sensitive.[14] In June 2014, China's major media regulator, the State Administration of Press, Publication, Radio, Film and Television, issued a notice that forbids journalists working for state media from publishing "critical reports" without approval of their employers, thus elevating the need for official media outlets to self-censor.

- In June 2014, the Ministry of Public Security announced a campaign against "online crime" that allows police to monitor online messages, including texts on cell phones. The campaign supposedly focused on "traditional crimes that endanger social order," such as disseminating information that "endangers national security," but authorities did not define what these "traditional crimes" were or what constitutes "illegality." Regulations that took effect in August 2014 further restricted the use of China's instant message services to share news and information without government authorisation. More recently, **Regulations on Internet Publishing Services Administration**, which took effect in March 2016, have placed vaguely worded limitations on the scope of content that can be published online, targeting materials that would allegedly involve "politically sensitive" issues.

- The **Cybersecurity Law**,[15] which came into effect in June 2017, imposes sweeping obligations upon all internet companies operating within China to enforce censorship rules and allows for a series of penalties, from fines to the closure of websites or revocation of business licenses. The law further strengthens and codifies companies' legal obligations to block the dissemination of "prohibited information." Article 12 of the law prohibits individuals from using the internet to conduct such vaguely-labelled activities as "endanger[ing] national security, honour and interest," a requirement that is already present in other domestic laws. Article 47 of the law obligates network operators to stop or prevent the transmission of such illegal speech.

13. According to PEN America's research, there are seven governing principles that social media posts must not contravene:

- The rules and laws of the PRC
- The socialist system
- The country's national interests
- The legitimate interests of the citizens
- Public order
- Morality
- Authentic information

[13] Internet News Information Service Management Regulations, National Internet Information Office Order, Cyberspace Administration of China, May 02, 2017, http://www.cac.gov.cn/2017-05/02/c_1120902760.htm

[14] "China: New Regulations Increase Control Over Both Internet and Media," PEN America, May 09, 2017, https://pen.org/press-release/china-new-regulations-increase-control-internet-media/

[15] Cybersecurity Law of the People's Republic of China, LawinfoChina, http://www.lawinfochina.com/display.aspx?id=22826&lib=law

14. The broad and vague nature of these principles provides authorities with unfettered discretion to crack down on anything they deem inappropriate. Additionally, it helps instil self-censorship among internet users, who are left with very little sense of what types of social media postings are appropriate.

15. Those who do test the limits of the PRC's online censorship face intimidation, job loss, prison sentences, exile. PEN America researchers have collected 80 cases between 2012-18 where Chinese citizens were subject to police action, criminal prosecution, or other forms of targeting based at least in part on their social media postings.[16]

16. In the Tibetan and Xinjiang Uyghur Autonomous Regions – areas that have been marked by ethnic tensions – online restrictions are more closely applied. These efforts come in addition to surveillance and malware campaigns that the Chinese government has launched against Tibetan and Uyghur civil society groups both within and outside the country, several of which have been documented by Toronto-based research group, The Citizen Lab.[17]

17. Under the guise of "public safety," the PRC has imposed internet controls in the Xinjiang Uygur Autonomous Region that are far stricter than in other parts of the country.[18] Indeed, in July 2016, the government of Xinjiang's capital of Urumqi told city residents that they were required to install an app on their smartphones that automatically detects and deletes "subversive" material.[19] Since August 2016, the Xinjiang Bureau of Public Security has acknowledged the existence of an "Integrated Joint Operations Platform," a data-aggregation platform that apparently collects data on individuals from various sources for the purpose of political monitoring.

18. The PRC's centralised control over online expression brings a particular set of risks for writers, poets, bloggers, artists and other creatives, for whom free expression holds both a personal and a professional significance. Indeed, many writers, artists and especially journalists in China are disproportionately affected by social media censorship owing to their role as social commentators, their efforts to create works of societal significance, and their increasing reliance on social media to build an audience and make an income.

19. Social media offers creative professionals the opportunity to expand their audience, to be connected with fans and like-minded individuals. Furthermore, engaging online is now a necessary element of building one's career. However, the vague and broad nature of the

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[16] See annex to PEN America report available online: https://pen.org/wp-content/uploads/2018/03/forbidden-feeds-appendix.pdf

[17] Jakub Dalek, Masashi Crete-Nishihata, and John Scott-Railton, Shifting Tactics, Citizen Lab, March 10, 2016, https://citizenlab.ca/2016/03/shifting-tactics/; Communities @ Risk, Citizen Lab, https://targetedthreats.net/; Katie Kleemola, Masashi Crete-Nishihata, and John Scott-Railton, "Targeted Attacks against Tibetan and Hong Kong Groups Exploiting CVE-2014-4114," Citizen Lab, June 15, 2015, https://citizenlab.ca/2015/06/targeted-attacks-against-tibetan-and-hong-kong-groups-exploiting-cve-2014-4114/; Katie Kleemola, Masashi Crete-Nishihata and John Scott-Railton, Tibetan Uprising Day Malware Attacks, Citizen Lab, March 10, 2015, https://citizenlab.ca/2015/03/tibetan-uprising-day-malware-attacks/; Tibet: Frontline of the New Cyberwar, Citizen Lab, January 30, 2015, https://citizenlab.ca/2015/01/tibet-frontline-new-cyberwar/; "Tracking GhostNet: Investigating a Cyber Espionage Network," Information Warfare Monitor, March 29, 2009, http://issuu.com/citizenlab/docs/iwm-ghostnet

[18] *China Is Creating An Unprecedented 'Security State' in Xinjiang,* Pacific Standard, Feb. 23, 2017, https://psmag.com/news/china-is-creating-an-unprecedented-security-state-in-xinjiang; Edward Wong, *Xinjiang, Tense Chinese Region, Adopts Strict Internet Controls*, N.Y. Times, Dec. 10, 2016, https://www.nytimes.com/2016/12/10/world/asia/xinjiang-china-uighur-internet-controls.html

[19] Rowan Callick, *"China delete app: cutting edge of Uyghur suppression,"* The Australian, July 22, 2017, https://www.theaustralian.com.au/news/world/china-delete-app-cutting-edge-of-Uyghur-suppression/news-story/3c-5c74a453a59ebdcdc6459348c312fe

PRC's censorship rules means that the "red lines" of posting or conversing on social media are continually drawn and re-drawn. When creative professionals choose to push the boundaries of what the government deems acceptable online discourse, they face a backlash that may include having their content removed or their accounts closed. Outspoken writers or artists risk total banishment from social media platforms.

20. As the popularity of online literature platforms grows, so do government efforts to expand control over their content. In June 2017, the State Administration of Press, Publication, Radio, Film, and Television (SAPPRFT) announced its plans to "score" literary websites on a scale of 1-100, with platforms that score below 60 being subject to additional review.[20] Up to 15 of these points will be awarded based on the websites' publication and dissemination of "excellent works", putting government regulators in the position of evaluating the literary merit of these websites' public pieces. Up to 45 points will be awarded for how well the platforms uphold socialist values. While these plans are still in the early stages, the announcement creates a strong incentive for both writers and the managers of these platforms to publish content that will please the Party, as well as an implied threat to those who do not.

Recommendations:

- Dismantle all forms of internet and media censorship mechanisms and repeal administrative regulations that restrict freedom of expression.
- Reform or abolish any laws and regulations affecting internet governance currently in force within China to comply with guarantees of the right of free expression contained in China's Constitution and in international human rights instruments.
- End the practice of widespread state surveillance of online speech
- Revoke all laws and regulations requiring internet companies to impose keyword filtering or other practices that support censorship
- End the practice of "blacklisting" websites and preventing website access.

Linguistic Rights

21. The PRC did not accept any of the recommendations relating to linguistic rights including Germany's recommendation to "[e]nsure democratic participation of members of all ethnic minorities and allow unhindered access to all minority areas, including Tibet";[21] the Czech Republic's recommendation to "protect ethnic and religious minorities, including Tibetans and Uyghurs, stop all disproportionate policies against them, while addressing their discontent in a non-violent, dialogical way"[22]; or Cambodia's recommendation "Continue pursuing measures and policy aimed at ensuring the rights of ethnic minorities' learning, writing and the development of their own languages according to the relevant laws."[23]

22. The UN Committee on Economic Social and Cultural Rights (CESCR) expressed concern in its 2014 Concluding Observations that ethnic minorities continue to face severe restrictions to use and teach minority languages.[24] The Committee on the Rights of the Child (CRC)

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[20] Tai Zhong Small, "*Notice on Printing and Distributing the 'Trial Measures for Social Benefit Evaluation of Network Literature Publishing Service Units*," SAPPRFT, 6 June 2017, http://www.sapprft.gov.cn/sapprft/contents/6588/338296.shtml; Owen Churchill and Kevin Schoenmakers, "*China Says Online Literature Must Uphold Socialist Values*," Sixthtone, 28 June 2017, http://www.sixthtone.com/news/1000418/china-says-online-literature-must-uphold-socialist-values

[21] 186.232

[22] 186.233

[23] 186.219

[24] (E/C.12/CHN/CO/2, para. 36).

expressed deep concern over discrimination and continuous violations of right of ethnic minority children to freedom of language.[25]

23. Uzbekistan recommended the PRC "[s]tep up measures to bring to justice persons who instigate others to commit acts of self-immolation".[26] Uzbekistan, in effect, urged the PRC to systematically persecute ethnic Tibetans whom the government has accused of "inciting self-immolation." Such a recommendation is not oriented to address human rights abuses at the roots of the ethnic repression, cultural destruction, deprivation of religious freedom, exploitation of natural resources, and ecological and environmental degradation in Tibet, which ultimately led to this desperate form of protest. Rather, it advocates further political repression. Such recommendations are inappropriate for the UPR and they cannot be meaningfully assessed without, at the same time, compromising the human rights principles that guide the UPR, which UN Member States are obligated to uphold. Such recommendations essentially contradict the mission and objectives of the UPR and perpetuate human rights violations. Making such recommendations is thus counterproductive to achieving stated UPR goals.

24. Since the 2013 UPR, central and local authorities have implemented repressive policies that have systematically curtailed linguistic rights through the imposed ongoing restrictions on Tibetan Buddhists and Uyghur Muslims. Many of those imprisoned or detained in China's autonomous regions of Tibet and Xinjiang, areas marked by ethnic tension and separatist conflicts, face accusations of 'inciting separatism' or the more serious charge of separatism (also referred to as 'splittism') in connection with their peaceful promotion of their languages and cultures.[27]

25. Authorities in minority areas, including the Tibet Autonomous Region (TAR), not only interfere in the public sphere, but also in the private in attempts to monitor political thought and behaviour. Party and government officials removed some members of management committees in monasteries and nunneries in the TAR and reportedly replaced them with "government and Party appointees," and have demand that monks and nuns "demonstrate their support" for the Party. The intrusion of government and Party officials at the household-level in the TAR, and other areas, is particularly worrisome, because such behaviour is likely to stifle freedom of thought and speech. According to a Human Rights Watch report, teams of officials were "categorizing Tibetans according to their religious and political thinking, and establishing institutions to monitor their behaviour and opinions."[28]

26. The Chinese government has discriminated against ethnic Tibetans and Uyghurs by blocking members of these groups from obtaining employment opportunities. For example, authorities have instructed companies to refuse job applicants who hold household registration in the autonomous regions of Tibet and Xinjiang. In the TAR, Han Chinese have benefitted from government policies enforced since 2008, allowing them to acquire local residency and invest in business ventures and obtain loans. Tibetans in the TAR continue to experience *de facto* discrimination in obtaining government jobs, as Tibetans are not able to take the civil service exam in the Tibetan language, and thus miss out on benefits and social security protections.[29]

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[25] (CRC/C/CHN/CO/3-4, para. 25).
[26] 186.238
[27] See, for example, the cases of **Ilham Tohti** and **Kunchok Tsephel Gopey Tsang** listed in PEN's Case List
[28] See CAT, Concluding observations on the fourth periodic report of China, paras. 15 and 44, and CAT, Concluding observations on the fifth periodic report of China, paras. 6, 31, 36, 37.
[29] Zhejiang Provincial Government. "Notice Regarding Implementation of a Three-Year Plan of 'Three Rectifications, One Demolition' Throughout Zhejiang," http://www.zj.gov.cn/art/2013/3/13/art_13012_77021.html

Recommendations:

- Protect the fundamental right of ethnic minorities and all who are living in so-called 'sensitive regions' to full freedom of expression by supporting linguistic diversity and the right to education in their native tongue.

The Treatment of Writers and Publishers

28. The suppression of the right to freedom of expression in the PRC remains an ongoing and critical concern. Recent crackdowns have taken place not only in Beijing, but in numerous inland provinces including Hubei, Hunan, Jiangxi and Sichuan, the coastal provinces of Guangdong, Fujian, Zhejiang and Shandong, the Autonomous Regions of Tibet, Inner Mongolia and Xinjiang Uyghur, and the Hong Kong Special Administrative Region.

29. The coalition remains gravely concerned that the PRC failed to accept a further 11 recommendations related to the protection of the right to freedom of expression, including recommendation 186.160 "Take steps that all persons including bloggers, journalists and human rights defenders can freely exercise their right to freedom of expression, online as well as offline, without fear from censorship or persecution" (Austria).

30. While the Constitution recognises the freedom to engage in scientific research, literary and artistic creation and other cultural pursuits (Article 47), this is limited by what the State determines as 'conducive to the interests of the people'. Similarly, the promotion of the development of literature and art (Article 22) is limited to those that 'serve the people and socialism'.

31. Since the last UPR, PEN International has recorded[30] 125 cases of writers persecuted for their use of the written word in mainland China and its autonomous or special administrative regions, of whom 57 were imprisoned, many under vague national security and public order provisions of the Criminal Law, facing protracted prison sentences.

32. A further 29 individuals were detained in the same period. Such as poet and artist **Liu Xia**, who has been held under extrajudicial house arrest in her Beijing apartment since her late husband, the poet Liu Xiaobo, was named the winner of the Nobel Peace Prize in October 2010.

33. In the same period, four writers and human rights activists – **Cao Shunli**, **Huuchinhuu Govruud**, **Liu Xiaobo** and **Yang Tongyan** – have died shortly after being released on medical parole, or while under house arrest, an indication of the effect of long-imprisonment under poor conditions. Their deaths also raise questions as to whether detainees have access to adequate medical care.

34. In light of this, the coalition notes with concern that the PRC noted recommendation 186.152 "Urgently release those being held in detention or imprisonment for exercising their right to freedom of expression" (Sweden).

35. Dissident voices also face other forms of persecution, such as harassment, brief detentions, surveillance and travel restrictions.[31] Writers and publishers are also subjected to direct and indirect censorship.[32]

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[30] See PEN's annual Case Lists http://pen-international.org/who-we-are/case-lists

[31] See, for example, the cases of author **Wang Lixiong** – barred from traveling to Japan in November 2015, apparently due to concerns that his visit would 'damage national security' – and writer **Fan Yanqiong** – prevented from attending PEN International's Bled Conference in May 2016.

36. The coalition is also concerned by the use of forced televised 'confessions' by the Chinese authorities in contravention of international fair trial standards. In April 2014, prominent journalist **Gao Yu** was detained by Beijing police accused of 'leaking state secrets abroad'. Footage of her 'confession', feared to have been taken under duress, was shown on state television, heightening concerns for her well-being and her chance of a fair trial. Gao Yu later retracted her confession in court, saying that she made the 'confession' whilst under extreme pressure, fearing the arrest of her son.

37. At the last UPR, the PRC failed to accept six recommendations pertaining to the practice of enforced disappearance.[33] The disappearance of the five employees of Hong Kong-based publishing house Mighty Current and its retail arm Cause Way Book Store between October and December 2015, who reappeared in custody in mainland China in early 2016, is a stark reminder of the PRC's ongoing utilisation of enforced disappearance in order to silence dissent. The five are also thought to have been subjected to televised confessions thought to have been coerced.[34] While four of the five have since been released, publisher and PEN member **Gui Minhai** (a Swedish national) remains in detention. Gui, who was released from detention and put under supervised house arrest in October 2017, was re-detained in January 2018 as he was travelling for a medical examination while accompanied by Swedish diplomatic officials. Gui is reportedly presenting symptoms of ALS, symptoms he reportedly did not have before entering Chinese custody. PEN international believes that Gui and his colleagues were targeted for the publication of books that did not portray the PRC authorities in a positive light.

Recommendations

- Immediately cease all forms of harassment and persecution of journalists and writers and unconditionally release all writers, journalists, and bloggers who are currently imprisoned or detained for the peaceful exercise of their right to freedom of expression;
- Take steps to ensure that all persons including bloggers, journalists and human rights defenders, can freely exercise their right to freedom of expression, online and offline, without fear of censorship or persecution.
- Respect and protect the right of writers and publishers in China to publish without fear of reprisals or government interference, and foster the creation of domestic and internationally-treasured literature and the growth of a world-class publishing industry.

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[32] See: *The PEN Report: Creativity and Constraint in Today's China* (PEN International, 2013): http://www.pen-international.org/wp-content/uploads/2013/05/The-PEN-Report-Creativity-and-Constraint-in-Todays-China.pdf and *Censorship and conscience: foreign authors and the challenge of censorship* (PEN American Center, 2015): http://www.pen.org/sites/default/files/PEN%20Censorship%20and%20Conscience%202%20June.pdf

[33] **186.1**: 'Ratify ICCPR and CPED"; **186.16**: "Ratify the CPED, OP-CAT as well as the Rome Statute"; **186.23**: "Continue efforts to ratify the OP-CAT and CPED, as well as the main international human rights instruments to which the country is not yet a party"; **186.23**: "Ratify the CPED and reform the Criminal Procedure Code with a view to guaranteeing the rights of those deprived of their liberty"; **186.115**: "End the use of harassment, detention, arrest, and extralegal measures such as enforced disappearance to control and silence human rights activists as well as their family members and friends"; **186.122**: "Release all people in administrative detention for political reasons including bishops, priests, artists, reporters, dissidents, people working to advance human rights, and their family members, and eliminate extra-judicial measures like forced disappearances".

[34] Such suspicions are supported by claims made by **Lam Wing-kee –** Cause Way Book Store Manager – during a June 2016 press conference, in which he alleged that the confession was scripted and coerced.