

STAKEHOLDER SUBMISSION BY HUMAN RIGHTS IN CHINA

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HRIC is an international, Chinese, nongovernmental organization, founded in March 1989 with a mission to promote international human rights and advance the institutional protection of these rights in the People's Republic of China. Key program areas include: case and policy advocacy; research, translation and other communication activities to promote awareness and effective actions to address systemic and individual human rights issues.

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INTRODUCTION

1. As a “cooperative process,” the Universal Periodic Review (UPR) assesses each United Nations (UN) member state’s implementation of its human rights obligations contained in the *United Nations Charter*, the *Universal Declaration of Human Rights*, human rights treaties, voluntary pledges and commitments, and applicable international humanitarian law.¹ The explicit focus of the Third UPR on implementation of prior UPR recommendations presents a timely opportunity for member states and all stakeholders to advance concrete recommendations for the state under review to address challenges to meaningful progress.²
2. The government of the People’s Republic of China (PRC) was reviewed under two previous UPR cycles (2009, 2013). In its National Human Rights Action Plan (2016-2020)³ (NHRAP), the PRC government reiterated its commitment to participating in the work of UN human rights mechanisms, including implementing recommendations made during its first two UPR cycles and actively participating in the third,⁴ and conducting international exchanges and cooperation.⁵
3. However, concerning domestic developments reflect serious human rights abuses including ongoing crackdowns by the authorities on lawyers, rights defenders, and their families; restrictions on peaceful civil society actions including women’s rights activism;⁶ retaliation against rights defenders; and abuses in detention, including denial of medical care.⁷ Under the justification of combatting “terrorism,” “separatism,” and “splittism,” the authorities have increased their military presence and issued new regulations that severely restrict the peaceful exercise of religious, linguistic, and cultural rights in Tibet and Xinjiang.⁸ These developments have raised alarm in the international community, including among NGOs,⁹ the UN High Commissioner for Human Rights,¹⁰ UN Special Rapporteurs,¹¹ and governments.¹²
4. Internationally and within UN bodies, China’s aggressive engagement also presents structural challenges to meaningful implementation of China’s international obligations, including UPR recommendations.¹³ A robust Third UPR is therefore critical to addressing alarming developments and trends that plainly undermine meaningful implementation and the integrity, credibility, and effectiveness of the UN human rights system, including the UPR.
5. As constructive input into China’s Third UPR, this submission by Human Rights in China (HRIC) highlights two key structural challenges presented by current domestic developments and China’s aggressive international engagement: the negative impact of (1) legal and political developments on a safe and enabling environment for civil society; and (2) China’s international efforts to advance new concepts, terms, and models on the foundation of the international human rights system: accountability of states, and the universality of human rights norms.

CHINA'S THIRD UPR: SYSTEMIC/STRUCTURAL CHALLENGES AND CONCERNS

6. The continued deterioration of domestic human rights in China in recent years underscores the critical importance, in the upcoming UPR, of rigorous scrutiny, constructive criticism, and concrete recommendations, backed by effective actions to uphold the international human rights framework.¹⁴
7. In its Second UPR, the PRC government accepted 204 of the 252 recommendations¹⁵ that address a comprehensive range of human rights commitments, including those relating to civil and political rights, economic, social, and cultural rights; rights of workers, ethnic minorities, and vulnerable groups such as children, women, the elderly, and persons with disabilities; judicial reform; rights of lawyers and access to legal assistance; and international cooperation.¹⁶
8. In addition to a review of the implementation challenges and progress on substantive rights, China's Third UPR must examine systemic legal and political developments fueling human rights abuses and undermining prospects for genuine and sustainable human rights progress, as well as the related challenges posed by China's mounting efforts to undermine international norms in an escalating ideological battle to replace them with its authoritarian version.

Legal and political developments undermine a safe and enabling environment for civil society.

9. A robust civil society plays a vital role in facilitating each member state's achievement of the purposes and principles of the UN, in the promotion of good governance and accountability, and in ensuring that policies are reviewed and improved.¹⁷ It is also an important player in the multi-stakeholder approach to the UPR¹⁸ through input into the state report, written civil society submissions, monitoring of the actual review, and implementation of recommendations and progress. All three UPR cycles allow for remote monitoring of public sessions through a live webcast and archived videos.
10. According to the national reports that China submitted for its previous UPRs, oral and written consultations were held with nearly 20 NGOs and academic institutions, and broad public input on the report was sought via the website of the Ministry of Foreign Affairs.¹⁹ But HRIC's research of relevant official websites, including those of the Ministry of Foreign Affairs and the State Council, found little or no information regarding public consultation for those reports. (See App'x A.) Based upon HRIC's preliminary survey of written submissions in China's first and second UPR cycles, the participation of domestic civil society organizations was quite limited compared to overall submissions. (See App'x B.)
11. China has stated that its goal is to become a world leader in the areas of technology and the Internet, investing billions of dollars in this pursuit, including expanded "informatization" for greater citizen access to public services.²⁰ Yet with more than 700 million people online, and this enormous technology capacity, China has the ability to do much more to raise public awareness of UN human rights mechanisms, including the UPR, to increase civil society participation in these processes. What is lacking is the political will necessary to create a safe and enabling domestic environment.

12. However, related recommendations the PRC government accepted or asserted as already being implemented in its Second UPR include: “facilitating, in law and practice, a safe and enabling environment in which both civil society and human rights defenders can operate free from fear, hindrance and insecurity,”²¹ as well as numerous others (see App’x C) that protect the exercise of the rights to freedom of expression and association—rights that are critical to the effective exercise and promotion of all other civil and political, and economic, social, and cultural rights.²²
13. To ensure a safe and enabling environment for civil society, the UN High Commissioner for Human Rights has identified five essential elements: a robust legal framework compliant with international standards that safeguards public freedoms and effective access to justice; a political environment conducive to civil society; access to information; avenues for participation by civil society in decision-making processes; and long-term support and resources for civil society.²³
14. However, as we concluded in our mid-term assessment following China’s second UPR, key legal and political developments in China in recent years exacerbate an already hostile and restrictive political environment that severely restricts peaceful exercise of rights, access to information, participation, and long-term support and resources.²⁴ A UN expert has observed that even where China prioritizes implementation of economic, social, and cultural rights, it has rejected a rights-based framework that is widely recognized as critical to sustainable, effective development, raising serious concerns about the government’s respect for rule of law and rights in its poverty alleviation efforts.²⁵
15. Instead of adhering to a legal framework compliant with international standards, the Chinese government uses the *Cybersecurity Law* and implementing regulations to severely curtail freedom of expression, access to information, a free press, and privacy—steps aimed at obscuring and stamping out the diverse views that exist in civil society.²⁶ This regulatory framework intensifies Internet censorship, bans virtual private networks, requires real-name registration for online accounts, creates peer monitoring and reporting channels, penalizes service providers for hosting “illegal” content, and tightens restrictions on news media and news websites.²⁷ Foreign journalists working in China also face increasingly difficult restrictions; even foreign journalists outside will encounter China’s retaliation for stories deemed critical by the authorities.²⁸
16. As its implementation to date demonstrates, the *Law on the Management of Overseas Non-Governmental Organizations’ Activities Within Mainland China*²⁹ is severely limiting access to long term support and resources. Treating foreign organizations as a security risk, the ONGO Law restricts Chinese civil society groups’ access to foreign support and cooperation to only officially-sanctioned foreign groups—those mostly in the trade, social services, or education sectors and able to navigate the systematic supervision and monitoring by the police.³⁰ Conspicuously missing are groups engaged in rights defense or independent grassroots work.
17. Most significant among major legal and political changes that further limit citizen participation and exercise of rights, is the elimination of the two-term limit for the president and vice president from the Party and State Constitutions, a change that allows the concentration of unaccountable power. President Xi Jinping—also chairman of the Central Military Commission and Secretary General of

the Party, and head of all the key national leading groups, including the Cybersecurity Leading Group—is now potential president for life.

18. “Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era” is now also enshrined in the Party and State Constitutions. The comprehensive ideological guidance (“14 Upholds”) set out by Xi Jinping Thought treats an uncontrolled civil society as a threat under its all-encompassing approach to national security and requires upholding “absolute Party leadership over the people’s forces.”³¹ Instead of a rule of law, China now clearly pursues a “rule/govern-by-law” model, the key tenets of which are also outlined in Xi Jinping Thought.³² Despite the reference to people as “masters of the country,” the Chinese model of “democracy” is—in law, fact, and policy—a one-party dictatorship with one powerful leader without term limits: it is, in any light, a mockery of any claims of respect for fundamental rights and freedoms.³³

19. As has been cogently articulated by the Special Rapporteur on Extreme Poverty, “The most difficult and complex challenge in this respect is to understand how the leading role of the Communist Party can co-exist with the recognition of individual rights and the provision of meaningful accountability mechanisms which are an indispensable element in a human rights framework.”³⁴

China’s efforts to replace international norms and language marginalize accountability, enable impunity, and threaten the integrity and effectiveness of the international human rights system.

20. On the 70th Anniversary of the *Universal Declaration of Human Rights*, it is timely to reaffirm the fundamental principle that human rights are “equal and inalienable rights of all members of the human family,” common to all human beings, across ethnicities, cultures, national borders, economic conditions, and political systems. Respect for and protection and promotion of international human rights—universal, indivisible, interrelated, interdependent and mutually reinforcing³⁵—must be upheld as the core standard for assessing human rights progress.

21. However, as China continues to invoke “human rights with Chinese characteristics” to deflect and reject international scrutiny of its human rights record, and assert concepts and terms such as “judicial sovereignty,” “Internet sovereignty,” “rule/govern by law,” and China’s “model of democracy,” China’s engagement in the international human rights system presents challenges to universal human rights norms, values, and principles. Xi Jinping’s message of China’s national rejuvenation and readiness to retake the center of the global stage raises additional concerns, especially when viewed within the context of characterization by the president of the nation’s highest court that judicial independence and constitutional democracy are “erroneous” ideas from the West.³⁶

22. Specific approaches being advanced by China internationally include: a “governance” approach to rights, a people-centered development model, and a focus on international “cooperation” among states. Common to these state-centric approaches is the marginalization of state accountability for ensuring respect, protection, and promotion of human rights, and a rejection of the “universality” of rights in favor of the “localization” of rights as equal to and a replacement for international standards. Foreign Minister Wang Yi has articulated this view:

There is no one-size-fits-all approach in human rights practices. No one path of human rights development should be regarded as the only choice, nor should we mechanically follow the paths of other countries. Instead of imposing either eastern or western models, we need to advocate diversity and localization, and work for a rebalancing of human rights models. No one path or system is superior to others as each has its own distinctive features.³⁷

23. China's "human rights with Chinese characteristics" also reflects a deep distrust of an uncontrolled civil society, as was evident in its proposal of 31 amendments to a resolution on human rights defenders that sought to replace every mention of "human rights defenders" with "individuals, groups and organs of society."³⁸ As China increasingly attempts to insert its domestic policies and approaches into the international human rights arena—including through the manipulation of language—more effective, results-oriented responses must be advanced by member states as highlighted by a recent example.
24. At the 37th session of the Human Rights Council, China sponsored a resolution (with eighteen other states) entitled, "Promoting Mutually Beneficial Cooperation in the Field of Human Rights."³⁹ The resolution's use of terms taken directly from Xi Jinping Thought, such as "community of shared future" and "mutually beneficial cooperation," drew statements of concern from member states. States also noted that the resolution reflected a shift away from an established UN accountability framework under the guise of "respect," "common ground," and "constructive cooperation." Some states delivered oral statements against the resolution and cited concerns about its undefined and vague terms, its overemphasis on states at the expense of individuals, and that the proposed approach would ultimately fail to hold states accountable. But *despite* these concerns, the resolution passed with 28 yes votes, 17 abstentions, and only one no vote.⁴⁰ In the face of China's true intention behind "mutually beneficial cooperation" regarding human rights protection, the only principled stance is to unequivocally say no to these normative attacks led by China.
25. At a moment when China's global economic and political influence is increasingly more powerful, a rigorous implementation-focused Third UPR of China is a critical test of the effectiveness of this "cooperative" mechanism and of the political will of Human Rights Council member states to ensure the legitimacy, credibility, and effectiveness of the system itself. This is not to "politicize" the process, but to ensure that authoritarian power politics do not destroy the purpose of the system—to ensure peace, stability, and human rights. As the High Commissioner for Human Rights has warned: "For it is the worst offenders' disregard and contempt for human rights which will be the eventual undoing of all of us. This, we cannot allow to happen."⁴¹

RECOMMENDATIONS

Recommendations to China

26. The government of the PRC must demonstrate more effective cooperation with the UN human rights system, including consideration and adoption of the following steps prior to, during, and following its Third UPR:
- Include systematic assessment information in China's Third UPR state report, such as specific indicators and benchmarks to enable a meaningful assessment and promotion of progress.
 - Draw upon its advanced and considerable technology capacity to promote greater awareness and diverse participation by widely disseminating information:
 - on official websites of all relevant government ministries and subnational government departments, and mass organizations regarding China's international human rights obligations and outcomes of UPR cycles; and
 - on opportunities for civil society to provide input into, monitor, and engage with China's Third UPR and upcoming treaty body reviews (CEDAW, CAT, and CERD), including opportunities to monitor and engage remotely.
 - Review the NHRAP (2016-2020) to ensure compliance with the international human rights framework and adopt and implement concrete measures to ensure full civil society participation in monitoring its implementation and the progress of UPR recommendations China has accepted or will accept.

Recommendations to Member States

27. The international community must use the opportunity of China's Third UPR to address more effectively the root causes of the systemic human rights abuses and ongoing impunity by China. HRIC urges member states to take clear, principled stances backed up by effective actions including:
- Continue to demonstrate and expand high-level political and concrete support for human rights defenders and independent civil society through joint and individual government actions, including mainstreaming of a rights-based framework in bilateral engagement, technical assistance, and exchange programs.
 - Call out the human rights abuses fueled by domestic Chinese policies and practices aimed at enforcing ideological conformity and comprehensive social control, and express concrete support for a safe and enabling environment for civil society.
 - Press for review of the suite of national security and cybersecurity laws and regulations to promote compliance with international standards for legality, and that any restrictions on fundamental freedoms and rights are necessary, proportionate, and related to a legitimate government interest.

- Adopt clear principled responses, including constructive criticism and concrete recommendations to counter any international efforts to replace international norms with Chinese concepts and models on development, human rights, and governance.

- Urge China, within the explicit focus of the Third UPR on implementation, to commit to a specific timeframe for the ratification of the *International Covenant on Civil and Political Rights*, but not beyond the time period of the NHRAP (2016-2020).

¹ U.N. Office of the High Commissioner for Human Rights, “Universal Periodic Review,” <http://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>, accessed March 26, 2018.

² U.N. Human Rights Council, “Institution-Building of the United Nations Human Rights Council,” U.N. Doc. A/HRC/RES/5/1 (June 18, 2007), pp. 12, http://ap.ohchr.org/Documents/dpage_e.aspx?b=10&se=68&t=11.

³ Information Office of the State Council of the People’s Republic of China, *National Human Rights Action Plan of China (2016-20)* (国家人权行动计划(2016-2020年)), September 29, 2016, http://news.xinhuanet.com/politics/2016-09/29/c_129305934.htm [English translation: http://news.xinhuanet.com/english/2016-09/29/c_135722183.htm].

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Office of the High Commissioner for Human Rights, “China: UN Experts Concerned About Health of Jailed Rights Lawyer Jiang Tianyong,” March 23, 2018, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22890&LangID=E>; Office of the High Commissioner for Human Rights, “China: UN Experts Condemn Jailing of Human Rights Lawyer Jiang Tianyong,” November 23, 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22437&LangID=E>; Office of the High Commissioner for Human Rights, “UN Experts Urge China to Release Lawyer Jiang Tianyong Currently on Trial for Subversion,” September 6, 2017,

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22028&LangID=E>; Office of the High Commissioner for Human Rights, “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>; Office of the High Commissioner for Human Rights, “Comment by the UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein on the Death of Liu Xiaobo,” July 13, 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21870>; Office of the High Commissioner for Human Rights, “Press Briefing Note on Turkey, China, and Cambodia,” July 7, 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21852&LangID=E> (“We are very concerned at reports that Liu Xiaobo’s health has seriously deteriorated over the past 24 hours. As you know, we have been engaging with the Chinese authorities about the situation of Liu Xiaobo and his wife, Liu Xia. However, we have received no further information from the Chinese Government regarding them for more than 24 hours. The welcome request for medical support for Liu Xiaobo should be responded to urgently, and amid these latest reports of the deterioration of his health, we believe the UN should be granted access to both Liu Xiaobo and Liu Xia. The High Commissioner, given the urgency and seriousness of the situation, will continue to follow developments regarding Liu Xiaobo and Liu Xia closely.”); Office of the High Commissioner for Human Rights, “Deep Concerns Over Crackdown on Human Rights Defenders Since Liu Xiaobo Was Awarded the Nobel Peace Prize,” December 13, 2010, <http://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10599&LangID=E>; Office of the High Commissioner for Human Rights, “UN Human Rights Chief Deeply Concerned by Extremely Harsh Sentencing of Liu Xiaobo,” December 25, 2009, <http://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9702&LangID=E>; “The Cases of Nobel Laureate Liu Xiaobo and Lee Ming-Che” (P8_TA(2017)0308), European Parliament Resolution of 6 July 2017 on the Cases of Nobel Laureate Liu Xiaobo and Lee Ming-Che (2017/2754(RSP)), <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2017-0308&language=EN>; Government of Canada, “Statement by Ambassador McCallum on Nobel Prize Laureate Liu Xiaobo,” June 28, 2017, <http://www.canadainternational.gc.ca/china-chine/highlights-faits/2017/2017-06-28a.aspx?lang=en> (“Canada calls on China to ensure Nobel prize laureate Liu Xiaobo receives suitable medical care and is reunited with his family. Canada calls on China to uphold its international human rights obligations, including freedom of expression, and to release those imprisoned for exercising those rights.”); Office of the White House of the United States of America, “Press Briefing by Principal Deputy Press Secretary Sarah Sander,” July 12, 2017, <https://www.whitehouse.gov/briefings-statements/press-briefing-principal-deputy-press-secretary-sarah-sanders-071217/> (“Finally, and lastly, we understand the Chinese hospital treating Nobel Peace Prize laureate and writer, Liu Xiaobo, has invited U.S., German medical experts to China for medical consultations. We remain concerned that both Mr. Liu and his family are unable to communicate with the outside world and that he is not free to seek the medical treatment of his choosing. We continue to call on the Chinese authorities to grant him full parole and to release his wife from house arrest and provide them the protections and freedoms, such as freedom of movement and access to appropriate medical care consistent with Chinese constitution, legal system, and international commitments.”); Neil Connor, “Britain Calls for ‘Critical’ Chinese Nobel Laureate Liu Xiaobo to Be Allowed to Travel Abroad for Treatment,” *Telegraph UK*, July 10, 2017, <https://www.telegraph.co.uk/news/2017/07/10/britain-calls-critical-chinese-nobel-laureate-liu-xiaobo-allowed/>.

⁷ Office of the High Commissioner for Human Rights, “China: UN Experts Concerned About Health of Jailed Rights Lawyer Jiang Tianyong,” March 23, 2018, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22890&LangID=E>;

Office of the High Commissioner for Human Rights, “Press Briefing Note on Turkey, China, and Cambodia,” July 7, 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21852&LangID=E> (“We are very concerned at reports that Liu Xiaobo’s health has seriously deteriorated over the past 24 hours. As you know, we have been engaging with the Chinese authorities about the situation of Liu Xiaobo and his wife, Liu Xia. However, we have received no further information from the Chinese Government regarding them for more than 24 hours. The welcome request for medical support for Liu Xiaobo should be responded to urgently, and amid these latest reports of the deterioration of his health, we believe the UN should be

granted access to both Liu Xiaobo and Liu Xia. The High Commissioner, given the urgency and seriousness of the situation, will continue to follow developments regarding Liu Xiaobo and Liu Xia closely.”).

⁸ Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices for 2016: China (Includes Tibet, Hong Kong, and Macau)*, <https://www.state.gov/documents/organization/265540.pdf>; 《新疆维吾尔自治区去极端化条例》 Xinjiang Uyghur Autonomous Region Regulation on De-extremification, promulgated by the 28th Meeting of the Standing Committee of the Twelfth People’s Congress for the Xinjiang Uyghur Autonomous Region (Mar. 29, 2017), effective Apr. 1, 2017, [English translation by China Law Translate, <http://bit.ly/2pZobUH>].

⁹ See International Service for Human Rights, *Human Rights Defenders and Lawyers in China: A Mid-Term Assessment of Implementation During the UPR Second Cycle, 2016*, <http://www.ishr.ch/news/human-rights-defenders-and-lawyers-china-assessing-upr-progress>; Chinese Human Rights Defenders, *Too Risky to Call Ourselves Defenders*, 2015 Chinese Human Rights Defenders Annual Report on the Situation of Human Rights Defenders in China, <https://www.nchrd.org/2016/02/too-risky-to-call-ourselves-defenders-chrds-2015-annual-report-on-the-situation-of-human-rights-defenders-in-china/>; Leitner Center for International Law and Justice at Fordham Law School at New York City, *Plight and Prospect: The Landscape for Cause Lawyers in China*, 2015, http://www.leitnercenter.org/files/Plight%20and%20Prospects_FULL%20FOR%20WEB.pdf; Amnesty International, “China: End Relentless Repression Against Human Rights Lawyers on First Anniversary of Crackdown,” July 7, 2016, <http://www.amnestyusa.org/news/press-releases/china-end-relentless-repression-against-human-rights-lawyers-on-first-anniversary-of-crackdown>; International Federation for Human Rights, “China: Massive Crackdown on Human Rights Lawyers Continues,” July 16, 2015, <https://www.fidh.org/en/region/asia/china/china-massive-crackdown-of-human-rights-lawyers-continues>; Human Rights Watch, “China’s Human Rights Crackdown Punishes Families, Too,” August 15, 2016, <https://www.hrw.org/news/2016/08/15/chinas-human-rights-crackdown-punishes-families-too>. See also, China Human Rights Lawyers Concern Group for extensive reporting on the crackdown, <http://www.chrlawyers.hk/en/content/%E9%A6%96%E9%A0%81> and Human Rights in China, *Mass Crackdown on Chinese Lawyers and Defenders*, <http://www.hrichina.org/en/mass-crackdown-chinese-lawyers-and-defenders>.

¹⁰ U.N. Office of the High Commissioner for Human Rights, “UN Human Rights Chief Deeply Concerned by China Clampdown on Lawyers and Activists,” February 16, 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17050&LangID=E>.

¹¹ U.N. Office of the High Commissioner for Human Rights, “‘Lawyers Need to Be Protected Not Harassed’—UN Experts Urge China to Halt Detentions,” July 16, 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16241&LangID=E>.

¹² A joint statement by twelve governments issued at the UN Human Rights Council in March 2016 expressed concern “about China’s deteriorating human rights record, notably the arrests and ongoing detention of rights activists, civil society leaders, and lawyers” and called for the release of those detained. “Joint Statement—Human Rights Situation in China,” March 2015, <https://geneva.usmission.gov/2016/03/10/item-2-joint-statement-human-rights-situation-in-china/>. See also, Congressional-Executive Commission on China, *Annual Report* (Washington, D.C.: U.S. Government Publishing Office, 2017), <https://www.cecc.gov/media-center/press-releases/cecc-releases-2017-annual-report>; and statements made by governments of Canada: <http://www.canadainternational.gc.ca/china-chine/highlights-faits/2015/CanadaGravelyConcernedbyDetentionandDisappearanceofLawyersandActivistsinChina.aspx?lang=en>; Australia: <http://dfat.gov.au/news/media-releases/Pages/recent-human-rights-developments-in-china.aspx>; Germany: http://www.auswaertiges-amt.de/EN/Infoservice/Presse/Meldungen/2015/150713_MRHH_Str%C3%A4s-ser_verurteilt_Verhaftungswelle_China.html; United States: <http://www.state.gov/r/pa/prs/ps/2015/07/244820.htm>; European Union External Action: http://collections.internetmemory.org/haeu/content/20160313172652/http://eeas.europa.eu/statements-eeas/2015/150715_03_en.htm.

¹³ Human Rights in China, “The China Challenge to International Human Rights: What’s At Stake: A China UPR Mid-Term Assessment,” November 2016, https://www.hrichina.org/sites/default/files/hric_upr_mid-term_assessment_11.06.2016.pdf.

¹⁴ *Ibid.*

¹⁵ U.N. Human Rights Council, “Report of the Working Group on the Universal Periodic Review: China,” U.N. Doc. A/HRC/25/5/Add.1 (February 27, 2014), <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Pages/ListReports.aspx>.

¹⁶ See App’x C.

¹⁷ See U.N. Human Rights Council, “Civil Society Space,” U.N. Doc. A/HRC/32/L.29 (June 27, 2016), p. 1, 3, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/32/L.29; U.N. Human Rights Council, Report of the U.N. High Commissioner for Human Rights, “Practical Recommendations for the Creation and Maintenance of a Safe and Enabling Environment for Civil Society, Based on Good Practices and Lessons Learned,” U.N. Doc. A/HRC/32/20 (April 11, 2016), http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/32/20.

¹⁸ Human Rights Council Resolution 30/25 recognizes the “important and constructive role played by parliaments, national human rights institutions, civil society and other relevant stakeholders in the universal periodic review mechanism, and . . . their continued and unhindered participation in and contribution to national human rights follow-up systems and processes.” U.N. Human Rights Council, “Promoting International Cooperation to Support National Human Rights Follow-Up Systems,” U.N. Doc. A/HRC/RES/30/25 (October 12, 2015), p. 2, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/30/25.

¹⁹ U.N. General Assembly, “National Report Submitted in Accordance with Paragraph 15(A) of the Annex to Human Rights Council Resolution 5/1: China,” U.N. Doc. A/HRC/WG.6/4/CHN/1 (November 10, 2008), http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CN/A_HRC_WG6_4_CHN_1_E.pdf; U.N. General Assembly, “National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21,” U.N. Doc. A/HRC/WG.6/17/CHN/1 (August 5, 2013), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/169/58/PDF/G1316958.pdf?OpenElement>.

²⁰ Cyberspace Administration of China, *Report on China Internet Development 2017 Overview* (December 2017), <http://www.wuzhenwic.org/download/ReportonChinaInternetDevelopment2017overview.pdf>; Xi Jinping, “Secure a Decisive Victory in Building a Moderately Prosperous Society in All Respects and Strive for the Great Success of Socialism with Chinese Characteristics for a New Era” (speech, Beijing, China, October 18, 2017), keynote delivered at the 19th National Congress of the Communist Party of China.

²¹ Recommendation 186.149, “Facilitate the development, in law and practice, of a safe and enabling environment in which both civil society and human rights defenders can operate free from fear, hindrance and insecurity (Ireland).” U.N. General Assembly, “Report of the Working Group on the Universal Periodic Review: China (Including Hong Kong, China and Macao, China),” U.N. Doc. A/HRC/25/5 (December 4, 2012), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/188/55/PDF/G1318855.pdf?OpenElement>.

²² Ibid.

²³ U.N. Human Rights Council, Report of the U.N. High Commissioner for Human Rights, “Practical Recommendations for the Creation and Maintenance of a Safe and Enabling Environment for Civil Society, Based on Good Practices and Lessons Learned,” U.N. Doc. A/HRC/32/20 (April 11, 2016), http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/32/20.

²⁴ Human Rights in China, “The China Challenge to International Human Rights: What’s At Stake: A China UPR Mid-Term Assessment,” November 2016, https://www.hrichina.org/sites/default/files/hric_upr_mid-term_assessment_11.06.2016.pdf.

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²⁷ 《中华人民共和国国家安全法》 National Security Law, promulgated by the Standing Committee of the 12th National People’s Congress (Jul. 1, 2015), effective Jul. 2, 2015, [English translation by China Law Translate, <http://www.chinalawtranslate.com/2015nsl/?lang=en>]; 《中华人民共和国网络安全法》 Cybersecurity Law of the People’s Republic of China, promulgated by the Meeting 24 of the 12th Standing Committee of the People’s Republic of China (Nov. 7, 2016), effective June 1, 2017 [English translation by China Law Translate, <http://www.chinalawtranslate.com/cybersecuritylaw/?lang=en>]; 《互联网跟帖评论服务管理规定》 Provisions on the Management of Internet Post Comments Services, promulgated by the Cyberspace Administration of China (Aug. 25, 2017), effective Oct. 1, 2017 [English translation by China Law Translate, <http://bit.ly/2CGhR6h>]; 《互联网群组信息服务管理规定》 Internet Group Information Service Management Provisions, promulgated by the Cyberspace Administration of China (Sep. 7, 2017), effective Oct. 8, 2017 [English translation by China Law Translate, <http://bit.ly/2hNFcdS>]; 《互联网新闻信息服务单位内容管理从业人员管理办法》 Measures for the Administration of Content Management Practitioners in Internet News Information Service Providers, promulgated by the Cyberspace Administration of the People’s Republic of China (Oct. 30, 2017), effective Dec. 1, 2017 [English translation by Law Info China, <http://www.lawinfochina.com/display.aspx?id=27090&lib=law>].

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²⁹ 《中华人民共和国境外非政府组织境内活动管理法》 People’s Republic of China Law on the Management of Overseas Non-Governmental Organizations’ Activities within Mainland China, promulgated at the 20th meeting of the Standing Committee of the 12th National People’s Congress (Apr. 28, 2016), effective Jan. 1, 2017 [English translation by China Law Translate, <http://chinalawtranslate.com/bilingual-fngo-law/?lang=en>].

³⁰ As of January 2018, 322 representative offices have been established, with over 160 engaged in work described as “trade,” and over 80 as “education.” The next highest categories include international relations, youth, health, and disaster relief. During this same period, 543 temporary activity permits were approved (240 in education, 90 in youth, and over 50 in health categories.) Jessica Batke, “Visually Understanding the Data on Foreign NGO Representative Offices and Temporary Activities,” *ChinaFile*, March 2, 2018, <http://www.chinafile.com/ngo/analysis/visually-understanding-data-foreign-ngo-representative-offices-and-temporary-activities>.

³¹ Xi Jinping, “Secure a Decisive Victory in Building a Moderately Prosperous Society in All Respects and Strive for the Great Success of Socialism with Chinese Characteristics for a New Era” (speech, Beijing, China, October 18, 2017), keynote delivered at the 19th National Congress of the Communist Party of China. See also Sharon Hom, “The 14 ‘Upholds’ of China’s ‘New Era’ of Socialism Have Something Missing: Human Rights,” *Hong Kong Free Press* (Oct. 29, 2017), <https://www.hongkongfp.com/2017/10/29/14-upholds-chinas-new-era-socialism-something-missing-human-rights/>.

³² These are: Ensure Party leadership over all work (坚持党对一切工作的领导); continue to comprehensively deepen reform (坚持全面深化改革); Exercise full and rigorous governance over the Party (坚持全面从严治党); Ensure that the people run the

country as masters of the country (坚持人民当家作主); Ensure every dimension of governance is law-based (坚持全面依法治国); and Uphold core socialist values (坚持社会主义核心价值观体系).

³³ The Universal Declaration of Human Rights guarantees “the right [of everyone] to take part in the government of his country, directly or through freely chosen representatives.” U.N. General Assembly, “Universal Declaration of Human Rights” (December 10, 1948), Art. 21.

³⁴ Office of the High Commissioner for Human Rights, “End-of-Mission Statement on China, by Professor Philip Alston, United Nations Special Rapporteur on Extreme Poverty and Human Rights,” August 23, 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20402&LangID=E>.

³⁵ U.N. General Assembly, “Universal Declaration of Human Rights” (December 10, 1948); U.N. General Assembly, “Vienna Declaration and Programme of Action” (July 12, 1993).

³⁶ 俞声 (Yu Sheng), 《亮剑错误思潮维护司法公正》 (“Reveal the Sword to Resist Erroneous Influence and Defend Justice”), *Xinhua Net* (January 16, 2017), http://www.xinhuanet.com/comments/2017-01/16/c_1120323438.htm; Michael Forsythe, “China’s Chief Justice Rejects an Independent Judiciary, and Reformers Wince,” *New York Times* (January 18, 2017), <https://www.nytimes.com/2017/01/18/world/asia/china-chief-justice-courts-zhou-qiang.html>.

³⁷ Wang Yi, “Advance the Global Human Rights Cause and Build a Community with a Shared Future for Mankind” (speech, Beijing, China, December 7, 2017), Opening Ceremony of the First South-South Human Rights Forum, p. 6, http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/P020171211565335323921.pdf.

³⁸ Office of the High Commissioner for Human Rights, “List of All Adopted Draft Proposals with Their Final Numbers,” <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/31stSession/Pages/Resolutions.aspx>, last accessed March 26, 2018 (Draft resolution A/HRC/31/L.28 and proposed amendments).

³⁹ U.N. General Assembly, “Promoting Mutually Beneficial Cooperation in the Field of Human Rights,” U.N. Doc. A/HRC/37/L.36 (March 19, 2018).

⁴⁰ U.N. General Assembly, “Result of the Vote: L.36 as Orally Revised—Promoting Mutually Beneficial Cooperation in the Field of Human Rights,” March 23, 2018, https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/37thSession/Resolutions/A_HRC_37_L.36/Result%20of%20the%20vote.pdf. Some states (United States, Australia, Slovakia on behalf of the European Union, Japan, Switzerland, and the Republic of Korea) delivered oral statements against the resolution and cited concerns about the resolution’s undefined and vague terms, its overemphasis on states at the expense of individuals, and that the proposed approach would ultimately fail to hold states accountable.

⁴¹ Pointing to accumulating human rights abuses generally (and specific abuses in El Salvador, Turkey, and Myanmar) and highlighting the task of the human rights community is “to name or single out offenders publicly.” Zeid Ra’ad Al Hussein, “Opening Statement By U.N. High Commissioner for Human Rights” (speech, Geneva, Switzerland, February 26, 2018), Opening of the 37th Session of the Human Rights Council, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22702&LangID=E>.