

Rights of the Child in China

A joint report, Submitted to 3rd UPR (China)

Our recommendations for State Parties Participating in China's 3rd UPR:

- Take effective measures, including establishing national and local-level systems to protect children from child labor, child trafficking, and sexual abuse;
- Strictly enforce the International Labor Organization's standard of 18 as the minimum age for admission to any type of employment or work that is likely to jeopardize the health and safety of minors;
- Abolish the *hukou* system to protect the rights of all boys and girls born in rural China to enjoy equal access to the same government subsidies and social benefits that urban children have enjoyed;
- Lift state birth control quotas and remove all forms of penalties that deter parents or guardians from registering children at birth;
- Enforce the right to nine-year free compulsory education for migrants' children and rural children;
- Establish a mechanism to monitor and evaluate the efficacy, adequacy, and equitability of the distribution of resources across the country, with particular focus on ensuring adequate resources reaching rural, remote, and minority areas;
- Establish a centralized and publicly available data system to collect comprehensive and disaggregated statistics on indicators of children's rights protection;
- Take effective measures to combat social discrimination against girls and children with disabilities.

1. Child labor, child trafficking, and sexual abuse remain serious issues in China. The government has not made significant progress in this area since the 2013 UPR, despite China's claim that it "accepted and already implemented" Finland's recommendation to "[c]reate national and local-level systems to protect children from all forms of exploitation, including child labour" (186.83).¹

2. At the 2nd cycle of UPR, China accepted 27 recommendations concerning the right of the child: 186.56 (South Africa), 77 (Mauritius), 79 (United Arab Emirates), 80 (Ethiopia), 83 (Finland), 84 (Central African Republic), 86 (Mexico), 87 (Slovenia), 96 (Romania), 98

(Botswana), 135 (Egypt), 183 (Russia), 205 (Chad), 206 (Portugal), 207 (Singapore), 208 (Eritrea), 209 (Russia), 210 (Senegal), 211 (Chad), 212 (Italy), 213 (Lesotho), 214 (Republic of Korea), 215 and 216 (South Sudan), 218 (Zimbabwe), 244 (Namibia), and 245 (Yemen). Of which China said it had “already implemented” three (186. 83, 96 & 98), and it did not accept two recommendations: 186.82 (Italy) and 94 (Canada).

3. In this report, we find that China has *partially implemented* recommendations 77, 79, 80, 94, 209, 214 & 215, and has *not implemented* the other 22 recommendations. We provide updates on these and other areas of developments concerning the rights of the child in China since 2014.

4. The Chinese government has made some attempts at protecting children at the legislative and regulatory levels, including issuing opinions and joint circulars to enhance safeguards, and amending the Criminal Law (CL) to increase punishments for offenders. Both new provisions and existing laws on the protection of children’s rights, however, critically lack concrete and specific stipulations to ensure effective enforcement, supervision, evaluation, and accountability. This is largely due to the lack of political will to establish a fully integrated system of laws to hold law breakers accountable, and to establish an independent complaint and redress mechanism. Public education and awareness raising efforts are also lacking.

5. Around the same time as China’s 2nd UPR, in 2013-14, the Committee on the Elimination of Discrimination against Women (CEDAW) and Committee on the Rights of the Child (CRC) expressed concerns over the absence of comprehensive legislation, missing crucial data on child abuse and missing children, impunity for perpetrators, limited access to justice and public services, and lack of public awareness.² The CRC positively noted the adoption in July 2011 of the National Plan for Child Development 2011-2020 (NPCD), but CRC was concerned about the lack of implementation mechanisms and the lack of participation of independent experts and non-governmental organizations.³ The government has made insufficient efforts for complying with these treaty bodies’ recommendations.

Ineffective Measures Leaving Children Exposed to Exploitation & Violence

Child Labor

6. Little data on child labor has been released by the government. Moreover, any official estimates of the numbers of child laborers would be distorted since the government defines “child” as anyone under the age of 16, while the international cutoff age is 18.⁴

7. In many poor rural and ethnic minority regions, children, particularly girls, are more susceptible to becoming child laborers, migrating to industrial cities, due to poverty, gender discrimination, and limited access to public services like education and state subsidies.⁵ Migrant children continued to work in Chinese factories.⁶ One report estimates that in one Eastern coastal city, where many garment factories are based, between 2012 and 2016, city government found 107 cases involving employing 211 child laborers.⁷ State media acknowledges that child labor remains common all over the country.⁸ Child laborers mostly work in the garment, food processing, and phone assembling industries, working the same shifts and long hours as assigned to adult workers, in some cases, as long as 14-15 hours a day. State media reported in

2016 the arrest of a garment factory owner on suspicion of “forced labor” for employing seven children.⁹

8. Another area of concern is the continuing use of child labor under the “student internship” program. Employers who use “student interns” often give financial incentives to schools that provide the students, typically by giving a portion of students’ monthly salary as commission. As such, the welfare and interests of students are often neglected in such programs.¹⁰ Employers who exploit student interns often evade inspection by school authorities.¹¹ Government corruption is also a major factor that contributes to the lack of enforcement of regulations and law.¹² In April 2016, five government ministries jointly issued “Administrative Measures for Internships at Vocational Schools.”¹³ However, the measures lack clear and effective mechanisms for supervision, complaints, and redress.¹⁴

9. Problems contributing to the government’s failure to eradicate child labor include the lack of comprehensive preventative measures and weak enforcement. China’s Labor Law and Law on the Protection of Minors both clearly prohibit the hiring of children under the age of 16, and the Criminal Law (2012) punishes those who use children to do dangerous and hazardous work.¹⁵ However, China has no independent supervisory mechanisms that could ensure implementation of the law and credibly handle complaints. The government provides inadequate support to public education programs.

10. Government assistance for seeking redress is critically lacking. According to a labor rights NGO, in the past five years in Zhejiang Province, workers as young as 13 years old have been employed in physically dangerous work. When some children were injured, they were threatened into not filing complaints or, if they filed reports, they were forced to accept unfair settlements.¹⁶ When such accidents occur, authorities tend to blame the children or their parents for allowing children to work illegally. Even in cases where children have died as victims of work accidents, employers have only paid minimal fines.¹⁷

Child Trafficking

11. The Chinese government does not release the number of trafficked children. There are some media reports on cases where the government reportedly conducted rescue and prosecuted offenders. One State media reported, quoting the Ministry of Public Security, that police had successfully rescued 13,000 abducted children nationwide in 2014.¹⁸ Many factors have fuelled China’s market of buying and selling children, including decades of government enforcement of strict birth control policies, failure to change biased gender preferences, lack of adequate pensions for rural elderly, and an increasing number of left-behind children in rural areas due to parents migrating to urban cities in search for work.¹⁹ Trafficked children are sold into forced labor, prostitution, forced marriages, adoption, or forced to engage in panhandling.

12. The government put out a National Action Plan (2013-2020) to combat human trafficking in 2013, but it has not taken effective measures to tackle the root causes. The Action Plan promised some new measures, especially the creation of a mechanism across multiple ministries to expose and report trafficking, and a plan to strengthen public education.²⁰ However, the Action Plan fails to set up concrete targets with specific timelines for implementation of these measures. It

did not include any specific provisions to establish a nationwide data collection system to track human trafficking in the country, which is a key concern of CEDAW.²¹

13. Chinese law does not fully criminalize all forms of trafficking such as the facilitation of prostitution involving children younger than the age of 18.²² Some laws and regulations contain loopholes and ineffective punitive measures against suppliers and customers, which have allowed buyers, abductors, traffickers, and sellers of children, in some cases their parents, to abuse children without criminal punishment. Prior to 2015, buyers of children for adoption or forced marriages faced little consequences, unless they were found to be mistreating the child or obstructing police investigations. A 2015 amendment to the Criminal Law added new stipulations that would give buyers a “light” punishment, though the consequences for buyers remains minor such that the law has little effect in deterring offenders.²³ Though the government had issued an opinion in 2010 that included a stipulation to hold parents criminally accountable for selling their own children, the opinion had a loophole that allowed parents to sell children without legal consequences if they were poor and did not intend to make a profit.²⁴ One media reported in 2015 that about 50 percent of all children in trafficking cases were sold by their parents.²⁵

Sexual Abuse

14. The government has failed to take effective measures to protect children, especially young girls, from sexual abuse. The lack of government transparency has not helped raise public awareness. There is a lack of willingness to “[i]ncrease efforts to gather data on child abuse with the aim of supporting policy formulation process” (UPR recommendation by Italy, 186.82), which China rejected. Meanwhile, the government refused to disclose specific statistics of cases of sexual violence and rape against children to the CRC.²⁶ CRC noted the “limited public accessibility to reliable and comprehensive statistical data,” and recommended the government review state secrecy laws in order to ensure that data is available.²⁷

15. The November 2017 child sex abuse scandal at a Beijing kindergarten sparked outrage, prompting an investigation. But similar abuses took place in daycare in other parts of the country.²⁸ In a 2014 study for the World Health Organization, researchers found that approximately 25% of Chinese children have suffered some form of physical abuse and that almost 9% have suffered sexual abuse.²⁹ According to a government affiliated organization, “Girls’ Protection,” an estimate of 75% of all child sexual abuse cases take place in rural areas.³⁰ The group found 968 incidents of sexual assault of children reported in Chinese media from 2013-2015, involving 1,790 victims, most of whom were rural children.³¹

16. One major cause for the prevalence of child abuse traces back to China’s mass internal migration. The rural migrants earned too little to raise their children in the cities. Under China’s household registration system, rural migrants are treated as second-class citizens in Chinese cities, discriminated against in access to education, healthcare, housing and other social services. As such, many children remain in villages while their parents move to cities to work. China has an estimated 60 million “left-behind” children, one-fifth of the country’s children. State media reported that one-third of all rural children live apart from their parents.³² In 2013, CRC expressed concerns that, “due to the restrictive *hukou* policy, many migrant parents face the difficult choice of leaving their children behind.”³³ These “left behind” children have little

parental protection and are extremely vulnerable to abuse. Their lack of parental support and care led to psychological and social problems including juvenile delinquency, poor academic performance, and suicide.³⁴

17. Due to the lack of education on sexual abuse and little knowledge on the part of victims or parents about how to report such incidents to police, the actual number of victims likely far exceeds the number of reported cases. Many rape cases tend to be reported and prosecuted as “child molestation” cases, where convicted offenders face maximum 5 years in prison. One report said that Chinese courts prosecuted 10,782 cases involving child molestation between 2013-16, while providing no number for child rape cases.³⁵

18. In one positive step in 2015, the Criminal Law, which previously prosecuted child sexual assault offenders under the crime of “prostituting minor girls,” was amended and suspect offenders will be prosecuted for “rape.”³⁶ But the Criminal law only punishes criminal suspects for rape of girls under the age of 14, excluding boys, and girls between the age of 15-17.³⁷

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

Violence and Neglect Tied to Birth-Control Policy & Gender/Disability Discrimination

20. Under a new birth control regulation put into effect on January 1, 2016, the government relaxed the quota from one birth per married couple to two births, but couples who violate the new quota still face financial or administrative penalty.⁴⁰ Thus the state continues to restrict couples’ reproductive freedom, and the loosened policy does not sufficiently help combat abuses against disabled children and girls due to entrenched social discrimination.

21. Under pressure from societal and policy biases toward women and persons with disabilities, some pregnant women resort to abortion of fetuses, or kill or abandon their disabled or female infants. It is difficult to obtain data on abandoned children disaggregated by gender or disability. One media reported that more than 300 children at one orphanage in a Southern city were waiting for adoption in February 2018, while 90% of them, living with some kind of disability, have little prospect of being adopted.⁴¹ China’s Ministry of Civil Affairs reported that, by the end of 2016, there were about 460,000 orphans in China, 373,000 of them lived on their own and only 88,000 lived in orphanages.⁴²

22. Ultrasound tests, though illegal, continue to be available in under-regulated black market, for detecting the gender or possible birth defects of fetuses.⁴³ The government systematically denied

that the more strict “one couple per birth” policy resulted in the deaths or abandonment of disabled children.⁴⁴ The CRC raised serious concerns in its 2013 review about “infanticide, particularly of girls and children with disabilities”⁴⁵ and “the widespread abandonment of ... children with disabilities and girls, mainly due to the State party’s family planning policy and discrimination and stigma attached to children with disabilities and girls.”⁴⁶

23. China has the world’s most imbalanced sex ratio at birth, according to the World Economic Forum’s 2015 Global Gender Gap report.⁴⁷ In responding to Canada’s 2013 UPR recommendation to China on addressing the problem of sex imbalance and missing women and girls, the government claimed, “There is no such situation as many women and children missing in China.” According to the UN Population Fund, women that are not born due to gender-biased sex selection are considered “missing.”⁴⁸

Persistent Under-registration of Children

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

25. CRC expressed “serious concerns” in 2013 that China’s family planning policies and financial penalties “significantly deter parents or guardians from registering their children” and that “the family household registration (*hukou*) to which the birth registration is attached impedes birth registration of children of migrant workers.”⁴⁹ The Committee recommended the removal of all penalties and the abandonment of the *hukou* system.⁵⁰ CEDAW reiterated its recommendation to remove all barriers to the registration of children in its 2014 Concluding Observations.⁵¹

26. A 2015 study, reported in state media, estimated that, among the 13 million unregistered persons found in China’s most recent population census in 2010 (or 1% of the population), 50-60 percent of them had been born either as out-of-quota children, by unmarried women, or abandoned as babies.⁵² The welcomed government decision to relax the one-child policy in January 2016 should improve the chance for some children to be registered at birth. However, the government continues to enforce financial penalties—called “social maintenance fees”—for having children outside of the existing birth quota.⁵³ Parents face financial penalties for having more children than state-mandated quota or children born out of wedlock.⁵⁴ The fee is set by local governments and is, on average, three to six times the annual salary of the parents, and one-third of such families can’t afford to pay the fines.⁵⁵

27. In 2015, the State Council called for all Chinese to be registered and forbade local governments from setting pre-conditions for obtaining a *hukou*.⁵⁶ However, the “Opinion on Resolving Issues of Hukou Registration for Persons with no Hukou” does not have the force of law, and detailed regulations have not been released; thus, enforcement and implementation are problematic. Furthermore, it is unclear if individuals registering for a *hukou* would have to pay a fine for having out-of-quota children, thereby deterring parents from registering their children.⁵⁷ Some authorities announced a delink between registering for a *hukou* and paying the “social maintenance fee” after the State Council directive, but the government would still demand parents to pay the fee at some point and authorities could obtain court orders to enforce payments, if needed.⁵⁸

Unequal Access to Education for Rural & Migrants’ Children

28. The Chinese government *partially implemented* Russia (209) and South Sudan’s (215) recommendations to increase resources for education in rural areas. China also *partially implemented* the Republic of Korea’s recommendation (214) to “continue to make efforts to promote the right to education for children of migrant workers from rural areas.”⁵⁹ However, the government has *not implemented* recommendations by Chad (211) and Italy (212) on “fully ensuring the right of education” for the children of migrant workers. It also did not implement Lesotho’s recommendation (213) to “continue to attach great importance to safeguarding the compulsory education rights of children accompanying rural migrant workers.”⁶⁰ Nor did it implement South Sudan’s recommendation to “better the conditions of urban schools, especially in the poor neighborhoods” (216).

29. China’s household registration system has led to the denial of equal education to children based on their rural or urban *hukou* residential registration status. Of particular concern has been the continued obstacles for children of rural migrants working in cities to receive education. According to the last government census, there are approximately 261 million rural migrants working in urban areas.⁶¹ Because their *hukou* remains attached to their rural residency, their children do not have equal access to government subsidized public school education in cities.

30. While laws exist in China to protect the rights of migrant children to education, there is also a lack of clarity and mechanism for enforcement. China’s 2006 Compulsory Education Law stipulated nine-year compulsory education for all children.⁶² Under Article 12 of the law, migrant children are entitled to schooling of “equal conditions” in their place of residence, but local authorities are given the power over enacting the regulations.⁶³ As a result, migrant children’s access to public schools varies from region to region. Under Article 4 of the Ministry of Education’s “Provisional Measures for the Schooling of Migrant Children and Young People” (1998),⁶⁴ local government bureaus of education must guarantee and provide the required compulsory education for migrant children. However, the regulations do not specify which government agencies are responsible to enforce the regulations or to penalize violators. Despite a “non-discrimination” provision in its 2012 Law on Protection of Minors to protect children’s right to education,⁶⁵ migrant children still face discrimination in enjoying equal access to basic education.

31. One major obstacle to protecting this basic human right has been inadequate funding budgeted by the government. The government systematically allocates more resources for schools in urban areas than in rural areas. As a direct outcome of the government's low funding allocation, 50 percent of rural primary schools closed between 2000 to 2010, making education less accessible for rural children.⁶⁶ Due to severe shortage of resources for education in poor rural regions, schools in these places charge high fees for different services and school materials, creating an undue financial burden for poor families and causing high drop-outs rates.

32. The Ministry of Education targeted a reduction within 3-5 years of primary school dropout rate within 0.6% and middle school dropout rate within 1.8% in 2014.⁶⁷ According to one study conducted by Chinese scholars between 2007 and 2013 in four provinces, published in 2016, the estimated rates of middle school dropout in rural areas ranged from 17.6% to 31%. This study found that the combined dropout rate for rural middle school, high school and professional middle schools were as high as 63%. In poor rural areas, 51.2% - 53.5% of children do not attend high school or professional middle schools, while the rate of urban kids who went to high school was 90%.⁶⁸

33. The Chinese government reported to CRC in 2012 that education spending accounted for 3.48 percent of the gross national product, a figure the CRC considered "inadequate." The Committee expressed concerns that, due to the dependence on "provincial and lower-level resources," this low spending resulted in "sharp inequities in public resource allocations" for "the implementation of children's rights" to education.⁶⁹ CRC was particularly concerned about disparities in access to education between urban and rural children (and children of migrant workers), and the harassment and forced closure of privately run or community schools for such children.⁷⁰ Similarly, following its review of China in 2014, CESCR stated "with concern that unequal geographic distribution of funds is increasing the disparities in access to, and availability of, education between urban and rural areas," and that "compulsory education is still not free and is often unaffordable for children in rural areas and poor urban areas."⁷¹

34. Local government regulations also hamper efforts for migrant children to receive free public education. In 2015, the Beijing Municipal Education Committee released regulations on compulsory education, which allow schools to demand up to five different documents for children whose families do not have a Beijing residential registration before they could enroll.⁷² One school in Beijing required 28 different certificates for children without Beijing residential registration, according to a 2015 report in the State-run *People's Daily*.⁷³

35. Confronting these problems, parents of migrant children and civil society groups have experimented with opening private or community schools for these children. The "migrant schools" cannot obtain state funding, face severe shortage of resources and qualified teachers, and are often housed in unsafe buildings. Authorities often shut down migrant schools due to failed safety inspections of the buildings or licensing issues.⁷⁴ The government took a hard line against civil society efforts to address the problems of migrant children's education. For instance, legal activist Xu Zhiyong (许志永) received a four-year prison sentence in 2014 after he organized protests and petitions to the Ministry of Education from parents of migrant children who were denied equal access to public education.⁷⁵ The court verdict against Xu accused him of

“exploiting social issues of great public concern” in order to “gather crowds to disturb order in public places.”⁷⁶

36. In recent years, the government has taken some steps to tackle unequal access to education by improving funding.⁷⁷ However, the government has not created the necessary mechanisms, as called for by CRC, to “monitor and evaluate the efficacy, adequacy and equitability of the distribution of resources across provinces, prefectures and counties in mainland China.”⁷⁸

37. In inadequately providing for education for rural “left behind” and migrant children, the government has fallen short of achieving protections outlined in its National Human Rights Action Plan (2016-2020), namely that China “will focus efforts to guarantee equal right to compulsory education for children of migrant workers in places they migrated to, improve education service system for left-behind children.”⁷⁹ In the past 3 years, urban centers have erected tremendous obstacles to keep out rural migrants through tough measures on obtaining housing and residential permits. In Beijing, the government’s 2017 “Resolve Improvement and Push Promotion” of city management project meant that most migrant schools have been demolished after government inspectors designated them as safety hazards, leaving hundreds of thousands of migrant children out of schools.⁸⁰ In Shanghai, the government placed onerous requirements on migrants for obtaining residential permits, deterring many parents from enrolling their children in schools where such permits are required.⁸¹

Notes:

¹ We have assessed some of the recommendations in this section to be “poor.” The recommendation by Egypt (135) is “poor” since it contains a problematic presumption, namely that China has “effective protection” for the family. The full text recommends China “maintain its effective protection for the family as the fundamental and natural unit of society,” but current laws and practices are not “effective” and do not provide adequate protection. Furthermore, the recommendation by the United Arab Emirates (79) for China to “Continue its efforts to successfully achieve the Child Development Plan 2011-2020” is also “poor” because it practically praises China for its “efforts” to “successfully” achieve the stated goals, but the government has not made enough efforts and these goals have not been successfully achieved. Namibia’s recommendation (244) “Continue promoting the right to development” is assessed as “poor” because the Chinese government has not promoted the “right to development” as a human right to equitable and participatory human development. Yemen’s recommendation (245) “Give priority to the right of people to development...” is assessed as “poor” for the same reason.

² CEDAW welcomed the promulgation of the National Plan of Action on Combating Human Trafficking (2013-2020), but noted the lack of clarity as to whether domestic law criminalizes all forms of trafficking, including trafficking for the purpose of sexual exploitation, forced labour, forced marriage and illegal adoption. Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the combined seventh and eighth periodic reports of China, CEDAW/C/CHN/CO/7-8, November 2014, para. 28.

³ Committee on the Rights of the Child (CRC), Concluding observations on the combined third and fourth periodic reports of China, CRC/C/CHN/CO/3-4, October 2013, para. 8.

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

⁵ Currently, there is no regulation that stipulates punishment for individuals who recruit child laborers from around the country. They target minority groups in poor rural areas where poverty has forced children to search for work, such as the case of children of Yi ethnic minority group from Liangshan Yi Autonomous Prefecture in Sichuan Province. Children as young as 11 years old were forced to go out and work, not knowing it is illegal. Girls are more vulnerable to being pressured to find work

because of gender discrimination. *Beijing Youth Daily*, “A Different Life for Child Laborers of Daliangshan” (大凉山童工的另一人生), January 26, 2014, http://epaper.ynet.com/html/2014-01/26/content_38001.htm?div=-1.

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

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

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

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

¹⁰ *Beijing Youth Daily*, “Interns ‘Sold’ To Factories” (被“卖”进工厂的实习学生), September 25, 2016, http://epaper.ynet.com/html/2016-09/25/content_219784.htm; *Xinhua News Agency*, “Student Interns From A Sichuan School Allegedly Became Cheap Labor, Working 12 Hours A Day” (四川一学校学生实习疑变廉价工 1 天工作 12 小时), October 21, 2016, http://news.xinhuanet.com/local/2016-10/21/c_129331765.htm.

¹¹ In 2014, several cities in Jiangsu Province had reported incidents of students under 18, including children laborers, were subjected to overtime work, night shifts, and poor living conditions. Students and their parents were not informed of the working conditions beforehand. No punishment was given to either the factory that employed underage workers or schools that knowingly sent students to unlawful work environment. *Jiangsu TV*, “Undercover Visits to Chemical Plants Suspected of Using Child Labor, Interns Work 12 Hours Every Day” (暗访化工厂涉嫌使用童工 实习生每天工作 12 小时), September 2014, <https://www.youtube.com/watch?v=8JS2sCWkSYE>.

¹² In 2014, over 60 students under 16 years old were forced to work summer internships at a packaging facility in Guangdong Province, for up to 13 hours daily. The manager of the factory claimed to have good relations with the local labor inspectorate, an administrative branch of Ministry of Human Resources and Social Security, hence they were not afraid of complaints against them. Xu Zhanglong (徐章龙), “Vocational School Teachers Expose ‘Illegal Employment’ at Chang’an Factory” (职校老师曝长安工厂“非法用工”), *Nandu.com*, August 1, 2014, http://epaper.oeeee.com/epaper/l/html/2014-08/01/content_3288982.htm?div=-1.

¹³ The five government agencies include: Ministry of Education, Ministry of Finance, Ministry of Human Resources and Social Security, State Administration of Work Safety, and China Insurance Regulatory Commission. This new regulation will apply “Provisions on Prohibition of Child Labor” to carry out criminal punishment if violations occur. The new regulation outlaws overtime, dangerous, and harmful work. In addition, an agreement from guardian is required if an intern is at least 16 but younger than 18 and unlike its predecessor, this new regulation stipulates offenders be prosecuted accordingly. “Notice Concerning Published ‘Administrative Measures for Internships at Vocational Schools’” (关于印发《职业学校学生实习管理规定》的通知), April 11, 2016, <http://www.xxy.org.cn/a/falvfagui/20160507/765.html>.

¹⁴ Under the regulations, schools have unchecked power to manage the system, including selecting companies and supervising internships, investigating violations, and deciding what remedies to give. The absence of an independent body to oversee the internship programs and a mechanism for students to file appeals and seek redress fail to protect the interests of young workers, particularly those who are under 18.

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

¹⁶ Such work including metal forming, pressing, cutting, and welding. Most of them do not have worker’s compensation insurance, which employers are required by law to have to cover for employees. In most cases, because it is illegal to hire underage workers, employers intentionally do not provide labor contracts, hence depriving them of fair wage, guarantees of payment, and benefits including periodic health examinations especially for those working dangerous or harmful jobs. Authors interviews with NGO, 2016.

¹⁷ In 2016, a 14-year-old died after working up to 12 hours every day for two months at a factory in Guangdong Province. Journalists reported this case to the local branch of Ministry of Human Resources and Social Security and after an investigation confirming employment of child labor, the factory was fined 10,000 RMB (approx. 1,500 USD), but no one was held criminally responsible. *Foshan Public*, “14-year-old Child Laborer Died in Sleep Worked 11 Hours A Day, Factory Fined 10,000 RMB” (14 岁童工每天工作 11 小时梦中猝死 工厂被罚 1 万), April 23, 2016, <http://v.qq.com/cover/s/s9l6zociw68qaf5.html?vid=d01959jby4u>.

¹⁸ *Legal Daily*, “Police Rescued 13,000 Abducted Children Nationwide in 2014” (2014 年全国公安解救被拐儿童 1.3 万), February 16, 2015, http://www.legaldaily.com.cn/Police/content/2015-02/16/content_5973062.htm.

¹⁹ Child trafficking affects both sexes, although in different ways: male infants and toddlers sell for higher price and in high demand while girls trafficked are usually older, because they would be sold into sex trafficking and forced marriage. According to an analysis of over 8,000 cases of child abduction, more girls aged 13 and above than boys are trafficked because they would be trafficked into illegal markets for forced prostitution and marriage. Wang Qingkai (王庆凯), “Analysis of 30 Years of Missing Children: More Children Go Missing as Temperature Rises” (三十年失踪儿童分析: 气温回暖儿童失踪几率增大), *Caijing*, March 25, 2016, http://www.caijingmobile.com/political/2016/03/25/257035_1_0.html. A state media report in 2015 noted the trend of more left-behind children becoming street children. Hu Han (胡涵), “Left-Behind Children Becoming New Source of Homeless Children, Or Manipulated Into Criminals” (留守儿童正成流浪儿童新来源 或被操纵走向犯罪), *Beijing News*, July 14, 2015, http://news.xinhuanet.com/local/2015-07/14/c_128016439.htm.

²⁰ Some other proposed measures include: incentivizing reporting of trafficking, strengthening enforcement and inspection efforts, expanding a database to help match parents of missing children with homeless children, regulating adoption procedures and rehabilitation mechanisms, and evaluating local authorities’ anti-trafficking performance. Notice of the State Council Office Regarding the Printing and Distribution of the Action Plan to Prevent Trafficking in China (2013-2020) (国务院办公厅关于印发中国反对拐卖人口行动计划(2013—2020 年)的通知), March 2, 2013, http://www.gov.cn/zhengce/content/2013-03/08/content_6108.htm.

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

²² The US State Department, “2017 Trafficking in Persons Report,” <https://www.state.gov/documents/organization/271341.pdf>

²³ Article 15, Ninth Amendment to the Criminal Law of the People’s Republic of China (中华人民共和国刑法修正案(九)), November 2015, <http://npc.people.com.cn/n/2015/1126/c14576-27857512.html>.

²⁴ A joint legal opinion issued in 2010 by the Ministry of Justice, the Ministry of Public Security, and the Supreme People’s Procuratorate and Supreme People’s Court clarified the criminal liability of parents who sell their children. “Opinion Regarding the Punishment of Crime of Trafficking in Women and Children According to Law” (关于依法惩治拐卖妇女儿童犯罪的意见), March 15, 2010, http://news.xinhuanet.com/legal/2010-04/02/c_1214478.htm.

²⁵ According to one Chinese media report, more than half of child trafficking cases analyzed (133 cases) were committed by parents or relatives. *Caixin*, “Analysis of Trafficked Children in China: Half of Them Sold by Family Members” (中国被拐卖儿童状况分析: 一半为亲人所卖), June 23, 2015, <http://opinion.caixin.com/2015-06-23/100821499.html>.

²⁶ In China’s reply to the CRC’s List of Issues, the government stated, “China’s Criminal Law lays down the crime of abuse, but the crime object is not limited to children alone. In 2010, 2011 and 2012, Chinese courts respectively handled 67, 68 and 40 cases of abuse crimes, with 27, 27 and 16 perpetrators convicted. China’s Criminal Law lays down the crime of sexual harassment of children. In 2010, 2011 and 2012, Chinese courts respectively handled 1,721, 1,818 and 2,017 such cases, with 1,513, 1,550 and 1,662 perpetrators convicted.” Response of the Chinese Government to Questions Concerning the Combined 3rd and 4th Periodic Reports on the Implementation of the Convention on the Rights of the Child, CRC/C/CHN/Q/3-4/Add.1, September 2013.

²⁷ CRC, Concluding observations on the combined third and fourth periodic reports of China, paras. 15-16.

²⁸ “Jilin Siping Honghuanglan Daycare Child Abuse Case Civil Lawsuit Verdict Announced” (吉林四平红黄蓝幼儿园虐童案民事诉讼宣判), November 25, 2017, <http://news.china.com/socialgd/10000169/20171125/31718967.html>

²⁹ Bulletin of the World Health Organization, “The burden of child maltreatment in China: a systematic review,” March 1, 2015, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4371492/>

³⁰ “Girls’ Protection 2016 Investigative Report on Child Sex Assault Prevention Education” (“女童保护”2016 年儿童防性侵教育调查报告), March 3, 2017, http://gongyi.ifeng.com/a/20170303/44550261_0.shtml

³¹ *Xinhua*, “Foundation bids to shine a light on child abuse,” June 3, 2016, <https://www.shine.cn/archive/nation/Foundation-bids-to-shine-a-light-on-child-abuse/shdaily.shtml>

³² “One-third of rural children left behind by parents: report,” *Global Times*, July 24, 2017, <http://www.globaltimes.cn/content/1057820.shtml>

³³ CRC, Concluding observations on the combined third and fourth periodic reports of China, para. 48.

³⁴ Emily Feng, “China to Survey Children Left Behind by Migrant Workers,” *The New York Times*, March 29, 2016, http://www.nytimes.com/2016/03/30/world/asia/china-left-behind-children-survey.html?_r=0; “China’s Rural Boarding School Students Research Report” (中国农村住校生调查报告), 2015, http://www.growinghome.org.cn/upload/file/20150114163848_59.pdf.

³⁵ *Huaxi Doushibao*, “Hunan Man Raped 14 Girls in Two Years, Execution Carried out” (湖南一男子两年强奸 14 名幼女 被执行死刑), June 1, 2017, <http://news.163.com/17/0601/14/CLRP4B1H00018AOR.html>

³⁶ Under Article 360 (2), “Prostitution of underage girls” has been removed under the Ninth Amendment to the Criminal Law; Supreme People’s Procuratorate of the People’s Republic of China, “China Abolishes Crime of Prostitution of Underage Girls, Replaces It With Rape Charges to Punish More Harshly” (中国取消嫖宿幼女罪 奸淫幼女以强奸论从重处罚), August 30, 2015, http://www.spp.gov.cn/zdgz/201508/t20150830_103811.shtml.

³⁷ PRC Criminal Law, Article 236.

³⁸ PBS, “Women’s Rights Activist in China Takes on Officials Accused of Raping Young Girls—And Pays a Steep Price,” September 26, 2016 <http://www.pbs.org/pov/blog/pressroom/2016/09/womens-rights-activist-in-china-takes-on-officials-accused-of-raping-young-girls-and-pays-a-steep-price/>; *Variety*, “Film Review: ‘Hooligan Sparrow’”, July 22, 2016, <http://variety.com/2016/film/reviews/hooligan-sparrow-review-1201820676/>

³⁹ “Compensation for the Mental Suffering of Rape Victims and Rape and Prostitution Laws relating to Minors: A Comparative Study,” *Reuters*, December 2, 2013, <http://www.trust.org/publications/i/?id=1f16a695-7353-42a5-ac18-5fb1524a2f3c>; “Women’s legal aid center in Beijing closed,” *Global Times*, February 2, 2016, <http://www.globaltimes.cn/content/966852.shtml>

⁴⁰ *Xinhua News Agency*, “China to ease one-child policy,” November 15, 2013, http://news.xinhuanet.com/english/china/2013-11/15/c_132891920.htm.

⁴¹ *Jing Bao*, “Almost New Year, How Are ‘the Children Waiting for Adoption’ at Shenzhen Orphanage?” (快过年了，深圳福利院那些“等待被认领的孩子们”还好吗?) February 3, 2018, <http://news.sina.com.cn/o/2018-02-03/doc-ifyremfz4366500.shtml>

⁴² Ministry of Civil Affairs of PRC, “2016 Social Service Development Statistics Public Report” (2016 年社会服务发展统计公报), August 3, 2017, <http://www.mca.gov.cn/article/sj/tjgb/201708/20170800005382.shtml>

⁴³ *BBC*, “China’s two-child policy: Single mothers left out,” November 2, 2015, <http://www.bbc.com/news/world-asia-china-34695899>. Any set restriction on the number of births still maintains the state’s power over citizens’ reproductive choices, and the policy continues to discriminate against unmarried women, who are not allowed to legally have children unless they receive a “reproduction permit” from the government. Married women may still be pressured to undergo gynecological tests to monitor their reproductive status, face forcible IUD insertion or sterilization, or be forced to abort a fetus if a pregnancy is “out-of-quota.” CHRd, Report Submitted to UN Committee on Economic, Social and Cultural Rights, April 2014, paras. 24-25, <https://www.nchr.org/2014/04/report-submitted-by-the-network-of-chinese-human-rights-defenders-a-coalition-of-ngos-to-the-committee-on-economic-social-and-cultural-rights-for-its-review-at-the-52nd-session-of-the-second-report/>.

⁴⁴ The government has responded to criticism of China’s family planning policy by saying that it is a “distortion” to assert that the “family-planning policy of mainland China is a major factor for infanticide and abandonment (particularly of girls and children with disabilities).” The government asserted that it “has taken actions of caring for girls and children with disabilities, creating a good social environment for their growth and development.” Comments of the Chinese Government about the

Concluding Observations on the combined third and fourth periodic reports of China, adopted by the Committee on the Rights of the Child at its sixty-fourth session (CRC/C/CHN/CO/3-4), January 2014, 2 (c).

⁴⁵ CRC, Concluding observations on the combined third and fourth periodic reports of China, para. 33.

⁴⁶ *Ibid.*, para. 52.

⁴⁷ World Economic Forum, The Global Gender Gap Report 2015 – China, <http://reports.weforum.org/global-gender-gap-report-2015/>.

⁴⁸ United Nations Population Fund, “Gender-Biased Sex Selection-Overview,” July 29, 2016, <http://www.unfpa.org/gender-biased-sex-selection>.

⁴⁹ CRC, Concluding observations on the combined third and fourth periodic reports of China, CRC/C/CHN/CO/3-4, para. 39 (b).

⁵⁰ *Ibid.*, paras. 39-40.

⁵¹ CEDAW, Concluding observations on the combined seventh and eighth periodic reports of China, para. 39 (b).

⁵² *Xinhua News Agency*, “Investigation Shows Entire Country has 13 Million Non-Registered Citizens, Of Whom 60% Were Born Out of Family Planning Quotas” (调查显示全国“黑户”1300万 60%以上为超生人员), December 10, 2015, http://news.xinhuanet.com/legal/2015-12/10/c_128517997.htm; CCTV, “Nationwide 13 Million People Have No Hukou, Mostly Due to Birth Quota Violations, 1/3 Can’t Afford Fines” (全国 1300 万人无户口多因超生超 1/3 交不起计生罚款) January 16, 2016, <http://www.chinanews.com/gn/2016/01-16/7718900.shtml>.

⁵³ Under Article 41 of the Population and Family Planning Law, parents that have a child outside of provisions of Article 18 must pay a social maintenance fee. Individuals that don’t pay the fee within a set time period must pay an additional surcharge. Failure to pay the fee and additional surcharge can result in the relevant administrative department applying to the People’s Courts for enforcement. Family Planning Law of the People’s Republic of China (中华人民共和国人口与计划生育法), 2001, amended 2015, http://www.gov.cn/xinwen/2015-12/28/content_5028414.htm.

⁵⁴ The “Measures for Administration of Collection of Social Maintenance Fees” are still in effect, and Article 3 of the Measures lay down the formula for the fees parents have to pay, with reference to their annual income. Measures for Administration of Collection of Social Maintenance Fees, 2002, http://english1.english.gov.cn/laws/2005-07/25/content_16929.htm.

⁵⁵ Sheng Menglu “China Keeps Fines for One-Child Policy Even after Rule Change,” *Caixin*, February 22, 2016, <http://english.caixin.com/2016-02-22/100911219.html>; CCTV, “Nationwide 13 Million People Have No Hukou, Mostly Due to Birth Quota Violations, 1/3 Can’t Afford Fines,” January 16, 2016, <http://www.chinanews.com/gn/2016/01-16/7718900.shtml>.

⁵⁶ State Council Office, “Opinion on Resolving Issues of Hukou Registration for Persons with no Hukou” (国务院办公厅关于解决无户口人员 登记户口问题的意见), December 31, 2015, http://www.gov.cn/zhengce/content/2016-01/14/content_10595.htm; *Xinhua News Agency*, “China to ensure all citizens get registered,” January 14, 2016, <http://www.shanghaidaily.com/national/China-to-ensure-all-citizens-get-registered/shdaily.shtml>.

⁵⁷ Xu Ming, “Millions of unregistered individuals await legal status after China scraps one-child policy,” *Global Times*, January 27, 2016, <http://www.globaltimes.cn/content/965972.shtml>.

⁵⁸ Huang Kai (黄恺), Guangdong Household Policy Current Situation: Household Registration and Family Planning Delinked, but Outside of Quota Births Still Need to Pay Social Maintenance Fee” (广东落户政策现状: 落户与计生已脱钩 超生仍要缴费), *Southern Metropolis*, “January 15, 2016, <http://www.oeeee.com/nis/201601/15/416731.html>; CCTV, “Nationwide 13 Million People Have No Hukou, Mostly Due to Birth Quota Violations, 1/3 Can’t Afford Fines,” January 16, 2016.

⁵⁹ We consider this a *poor* recommendation, as it calls on China to “continue” making certain efforts with an unsupported assumption that such efforts have been made so far.

⁶⁰ This is *poor* recommendation, as it pre-supposes the government is already attaching great importance to the issue, and does not give an actionable goal to be implemented.

⁶¹ National Bureau of Statistics, “2010 6th National Census Main Points Announcement” (2010 年第六次全国人口普查主要数据公报).

⁶² Compulsory Education Law of the People’s Republic of China, 1986, amended 2006, http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383936.htm.

⁶³ Article 12 states: “School-age children and adolescents shall be exempted from the entrance examinations. The local people’s governments at various levels shall ensure that school-age children and adolescents enroll in school near the places where their residence is registered. For school-age children and adolescents whose parents or other statutory guardians work or reside in places other than the places of their registered residence and who have to receive compulsory education in the places where their parents or other statutory guardians work or reside, the local people’s governments shall provide equal conditions for them to receive compulsory education. The specific measures in this regard shall be formulated by provinces, autonomous regions, and municipalities directly under the Central Government. The administrative department for education of the people’s government at the county level shall ensure that the children of servicemen within its administrative area receive compulsory education.” Compulsory Education Law of the People’s Republic of China, 1986, amended 2006.

⁶⁴ Ministry of Education, “Provisional Measure for the Schooling of Migrant Children and Young People” (流动儿童少年就学暂行办法), March 2, 1998, http://www.moe.edu.cn/publicfiles/business/htmlfiles/moe/moe_621/200409/3192.html.

⁶⁵ Law on the Protection of Minors of the People’s Republic of China (中华人民共和国未成年人保护法), 1991, amended 2012, http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383869.htm.

⁶⁶ During the daily commute to schools in urban areas from rural villages, children are exposed to high risks of accidents, abduction, and other rights violations. In the span of a decade, 50 percent of rural primary schools were closed due to campaigns to centralize education. Lijun Chen, Dali Yang, Qiang Ren, “Report on the State of Children in China,” Chapin Hall at the University of Chicago, October 2015, p. 11, http://www.chapinhall.org/sites/default/files/Chapin_CFPSReport2016_ENGLISH_FNLweb.pdf; Furthermore, not only has the quantity of schools lowered, quality of education remained poor as teachers are in short supply, undertrained, and overworked but underpaid, especially in boarding schools. For examples, responsibilities of teachers have extended beyond teaching to include overlooking safety and security, helping with cooking and looking after children after school. China Labor Union for Education, Technology, Culture, Health, and Sports, “Solution to Rural Education Development and Ending Intergenerational Poverty” (发展乡村教育和阻止贫困代际传递的治本之策), August 31, 2016 <http://media.worker.cn/115/201608/31/160831151551255.shtml>.

⁶⁷ People’s Daily, “Ministry of Education: Primary School Dropout Rate Shall Be Lower than 0.6% and Middle School Dropout Rate To Be Controlled under 1.8%” (教育部：小学辍学率要低于 0.6% 初中控制在 1.8%以下), February 17, 2014, <http://www.wxjy.com.cn/Item/54835.aspx>

⁶⁸ Shi Yuejiang, Ma Yue, et al. *Discovering Rural China*, “China Rural Middle School Dropout Investigation” (中国农村中学辍学调查), March 2, 2016, <http://www.zgxcfx.com/nongcunwanxiang/81993.html>

⁶⁹ CRC, Concluding observations on the combined third and fourth periodic reports of China, paras. 12 and 13(a); CRC, Third and fourth periodic reports of States parties due in 2009 China, CRC/C/CHN/3-4, June 2012, para. 167.

⁷⁰ CRC, Concluding observations on the combined third and fourth periodic reports of China, para. 75.

⁷¹ Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations on the second periodic report of China, including Hong Kong, China and Macao, May 2014, CESCR/E/C.12/CHN/2, para. 35.

⁷² An Su (安苏), “Non-Beijing Registered School Children Growing and “Five Cards” Remains: Full Text” (非京籍学生幼升小仍需“五证”齐全), *Beijing Youth Daily*, February 11, 2015, http://epaper.ynet.com/html/2015-02/11/content_115452.htm?div=-1.

⁷³ *People’s Daily*, “Difficulties for Children of Migrant Workers to Attend School: Non-Beijing Registered Children Must Provide 28 Certificates to Attend School” (流动儿童上学难：非京籍儿童北京念书需办 28 个证), June 15, 2015, <http://edu.people.com.cn/n/2015/0615/c1053-27155342.html>.

⁷⁴ CHR, “‘Flowers of the Country’: Mistreated and Abused: A Report on Violations of the Rights of the Child in China,” August 2013.

⁷⁵ CHR, Portrait of a Defender – Xu Zhiyong (许志永), <https://www.nchrd.org/2013/10/prisoner-of-conscience-xu-zhiyong/>.

⁷⁶ Xu had founded the “New Citizens’ Movement,” a loose grouping of individuals advocating for rule-of-law reforms, constitutionalism, human rights, and social justice; the movement was targeted and several members imprisoned in 2013-2014 after they publicly protested over social justice issues.

⁷⁷ According to the State Council press release from November 28, 2015: “Starting from the spring term of 2016, China will unify the basic funds per student for public use, and grant subsidies to urban and rural compulsory education schools (including private schools) no less than the stipulated amount. ... Starting from the spring term of 2017, students receiving compulsory education in both urban and rural areas will be exempt from tuition and incidentals, while provided with free textbooks. In addition, boarding students from poor families will receive subsidies to cover their living expenses. ... the guideline stipulates that teachers at compulsory education schools in central and western areas and in parts of eastern areas will be financially guaranteed, with governments at provincial and county level making sure teachers are paid in full and on time.” State Council, “Government to improve public service,” November 18, 2015, http://english.gov.cn/premier/news/2015/11/18/content_281475237397955.htm; State Council, “Government to guarantee funds for compulsory education,” November 28, 2015, http://english.gov.cn/policies/latest_releases/2015/11/28/content_281475243824738.htm.

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

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

⁸⁰ *Caijing Magazine*, “Beijing Migrant School Faces Demolition, Migrant Children’s Schooling Becomes Problematic” (北京一民工子弟学校面临拆迁 民工子女上学成难题), August 26, 2017, <http://news.163.com/17/0826/15/CSPC60590001899N.html>

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