

# CHINA'S FAILURE TO COOPERATE WITH THE UNITED NATIONS

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A BRIEFING BY THE TIBET ADVOCACY COALITION

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# 1. EXECUTIVE SUMMARY

In October 2020, the UN General Assembly will vote on whether to elect China to be one of the 47 member states of the UN Human Rights Council (UNHRC). Members of the top human rights body are expected to “uphold the highest standards in the promotion and protection of human rights, [and to] fully cooperate with the Council”. In this report, the Tibet Advocacy Coalition, highlights the Chinese government’s failure to cooperate with the United Nations and calls on UN Member states to heed the opportunity by voting ‘No’ to China’s election bid. The report also underscores the urgent need for the Chinese authorities to adhere to its international human rights obligations and commitments, including facilitating unfettered access of independent human rights monitors.

China has served on the Human Rights Council on four occasions: from 2006 to 2009, 2010 to 2012, 2014 to 2016 and most recently from 2017 to 2019. Many Member States hoped that by rewarding China with a seat on the Council, the Chinese authorities would avail of the opportunity and undertake the national reforms necessary to justify its continued participation in the Council. Yet, rather than doing so, China has used its membership to ramp up its crackdown on human rights - not just domestically but also directly within the Council itself.

The Chinese government has emerged as one of the world’s worst human rights violators, actively suppressing critical voices and committing widespread and systematic human rights violations with impunity, including in occupied Tibet. This pattern of abuse has become particularly evident since 2013 when President Xi Jinping was appointed President of the People’s Republic of China. For the fifth consecutive year, Tibet has been listed as the second worst country in the world for civil liberties and political rights on Freedom House’s *Freedom in the World index*.<sup>1</sup> Hundreds of Tibetan political prisoners currently linger behind bars for peacefully exercising their human rights, including Tibetan human rights defenders, writers, bloggers, supporters of his Holiness the Dalai Lama, and individuals critical of the government.<sup>2</sup> In 2019, for the fourth year in a row, China also topped Freedom House’s *Freedom on the Net Index* on countries as the world’s worst abuser of internet and digital media freedoms.<sup>3</sup> China is the number one jailer of journalists worldwide and in 2019 was responsible for imprisoning almost 20 percent of all journalists throughout the globe.<sup>4</sup>

Since it was first elected in 2006, China has also used its membership to muzzle criticism of its human rights record at the Council, undermine human rights protections globally, derail

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<sup>1</sup> Freedom House, Countries and Territories 2020,

<https://freedomhouse.org/countries/freedom-world/scores?sort=asc&order=Total%20Score%20and%20Status>

<sup>2</sup> Dui Hua, Political Prisoner Database, <https://duihua.org/resources/political-prisoners-database/>

<sup>3</sup> Freedom House, ‘Freedom on the Net 2019: The Crisis of Social Media’

<https://freedomhouse.org/report/freedom-net/2019/crisis-social-media>

<sup>4</sup> Committee to Protect Journalists:

[https://cpj.org/data/imprisoned/2019/?status=Imprisoned&start\\_year=2019&end\\_year=2019&group\\_by=location](https://cpj.org/data/imprisoned/2019/?status=Imprisoned&start_year=2019&end_year=2019&group_by=location)

discussions on human rights and avoid scrutiny by UN experts and UN Member States. In doing so, the Government of China has shown that the approach afforded to it by the international community since 2006 has not worked and that a new approach is required if China is to be forced to take its international commitments seriously. Ensuring that only States with a demonstrated commitment to protecting human rights both domestically and internationally are granted a seat on the Council is crucial if the top UN rights body is to serve the function for which it was created.

## 2. OBSTRUCTION AND NON-COOPERATION WITH THE COUNCIL

In addition to China's systematic human rights violations in Tibet, the Chinese government has consistently failed to cooperate with the Council, including in the following ways:

### 2.1 DENIAL OF VISITS BY UN HUMAN RIGHTS EXPERTS

#### 2.1.1 SPECIAL RAPORTEURS AND UN WORKING GROUPS

Despite repeatedly pledging to 'fully cooperate' with the United Nations, the Chinese authorities have adopted a highly limited and selective approach to issuing visit invitations to UN experts. In the last two decades between 1997 and 2020, China permitted only eight mandate holders to visit the country.<sup>5</sup> Six out of eight of those mandate holders have mandates related to economic and social issues, which the Chinese government sees as its success story - education, food, extreme poverty, foreign debt, women's rights and the rights of older persons. Mandate holders reporting on civil and political rights have faced a near total denial of access.

Of those UN experts who have been permitted access, the Chinese authorities have either entirely denied them access to Tibet or severely monitored and controlled the visits. During the most recent visit of a UN expert to China which took place from 25 November to 3 December 2019, Rosa Kornfeld-Matte, the UN Independent Expert on the human rights of older persons, was again unable to visit Tibet and Tibetan populated areas.

The last UN expert to visit Tibet was the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2005. During Mr Nowak's visit, he visited the Tibetan Autonomous Region but was unable to secure access to the Tibetan populated

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<sup>5</sup> UN Commission on Human Rights, *Report of the Working Group on Arbitrary Detention. Mission to China*, 29 December 2004, E/CN.4/2005/6/Add.4, available at: <https://www.refworld.org/docid/42d66e570.html>; UN Commission on Human Rights, "Report submitted by the Working Group on Arbitrary Detention, Addendum: Visit to the People's Republic of China," E/CN.4/1998/44/Add.2, December 22, 1997; UN Commission on Human Rights, *Report on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Mission to China*, 10 March 2006, E/CN.4/2006/6/Add.6, available at: <https://www.refworld.org/docid/45377b160.html>; UN Commission on Human Rights, The right to education: Report submitted by the Special Rapporteur, Katarina Tomaževski: Addendum Mission to China, 21 November 2003, E/CN.4/2004/45/Add.1, available at: <https://www.refworld.org/docid/4090ffdc0.html>; UN Human Rights Council, Report of the Special Rapporteur on the right to food, Olivier De Schutter - Addendum - Mission to China, 20 January 2012, A/HRC/19/59/Add.1, available at: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/19/59/Add.1](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/19/59/Add.1); UN Human Rights Council, Report of the Working Group on the issue of discrimination against women in law and in practice - Mission to China, 12 June 2014, A/HRC/26/39/Add.2, available at: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/26/39/Add.2](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/26/39/Add.2); UN Human Rights Council, Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights on his mission to China, 1 March 2016, A/HRC/31/60/Add.1, available at: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/31/60/Add.1](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/31/60/Add.1); UN Human Rights Council, *Report of the Special Rapporteur on extreme poverty and human rights on his mission to China*, 28 March 2017, A/HRC/35/26/Add.2, available at: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/35/26/Add.2](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/26/Add.2); UN Human Rights Council, Report of the Special Rapporteur on the human rights situation of older persons on her visit to China, 7 August 2020, A/HRC/45/14/Add.1, available at: <https://undocs.org/A/HRC/45/14/Add.1>

areas of Qinghai, Sichuan, Gansu or Yunnan. These areas are in equal and urgent need of independent human rights monitors to assess the human rights situation on the ground.

The reverse was true for the Special Rapporteur for Extreme Poverty and Human Rights, who visited China in August 2016. While he was permitted to visit Yunnan, one of the Tibetan populated provinces, he was unable to secure access to the TAR. On his time in Yunnan, Special Rapporteur Philip Alston commented that “it turned out that the program was entirely unproductive... In terms of a visit to a model village which was basically a tourist village. In terms of very carefully orchestrated visit to particular projects and so on, which were utterly unrepresentative and shed no light at all.”<sup>6</sup> He was also unable to meet with local NGOs or with anyone other than government approved and government-linked entities.<sup>7</sup>

In June 2020, over 50 UN experts called for “decisive measures to protect fundamental freedoms” for those living under Chinese rule, including in Tibet.<sup>8</sup> The experts criticised China’s failure to permit access to UN mandate holders and recommended the establishment of an impartial and independent United Nations mechanism to closely monitor, analyse and report annually on the human rights situation in China, Hong Kong, Tibet and East Turkestan. The 51 UN experts included those covering not just civil and political rights, but also those reporting on social and economic thematic areas - highlighting the widespread consensus amongst UN experts over the urgency of the human rights situation and restrictions of access to all mandate holders offices.

## **OUTSTANDING VISITS BY UN EXPERTS AND WORKING GROUPS**

Unlike over 120 States, the Government of China has not issued a standing invitation to UN independent experts to conduct official visits. To date, there are at least 19 outstanding visit requests to China by Special Procedures.<sup>9</sup> These include:

- A request by the Special Rapporteur on Freedom of Religion and Belief which has been outstanding for 17 years, since 13 January 2003.
- A request by the Special Rapporteur on extrajudicial, summary or arbitrary executions which has been outstanding for over 15 years, since 24 March 2005.
- A request by the Special Rapporteur on Human Rights Defenders which has been outstanding for over 15 years since 2005.
- A request by the Special Rapporteur on the adverse effects of toxic and dangerous products and human rights has been outstanding since 2005.

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<sup>6</sup> Human Rights Watch, ‘The Costs of International Advocacy: China’s Interference in United Nations Human Rights Mechanisms’ 5 September 2017:

<https://www.hrw.org/report/2017/09/05/costs-international-advocacy/chinas-interference-united-nations-human-rights>

<sup>7</sup> *ibid*

<sup>8</sup> OHCHR, UN experts call for decisive measures to protect fundamental freedoms in China, 26 June 2020:

[https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26006#~:text=OHCHR%207C%20UN%20experts%20call%20for%20protect%20fundamental%20freedoms%20in%20China&text=GENEVA%20\(26%20June%202020\)%20%E2%80%93%20fundamental%20freedoms%20in%20China](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26006#~:text=OHCHR%207C%20UN%20experts%20call%20for%20protect%20fundamental%20freedoms%20in%20China&text=GENEVA%20(26%20June%202020)%20%E2%80%93%20fundamental%20freedoms%20in%20China)

<sup>9</sup> OHCHR, View Country visits of Special Procedures of the Human Rights Council since 1998, China, available at: <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=CHN&Lang=en>

- A request by the Special Rapporteur on Housing has been outstanding for over 12 years, since 21 July 2008.
- A request by the Special Rapporteur on Minority Issues which has been outstanding for over 11 years, since 9 July 2009.
- A request by the Special Rapporteur on the human rights to safe drinking water and sanitation has been outstanding for over a decade, since 10 March 2010.
- A request by the Special Rapporteur on the Independence of Judges which has been outstanding for over 9 years, since 1 June 2011.
- A request by the Special Rapporteur on Freedom of Peaceful Assembly and of Association which has been outstanding since 23 September 2011.
- A request by the Working Group (WG) on Disappearances which have been outstanding for over 7 years, since 11 February 2013. The wg has sent 5 reminders to China since then, in 2013, 2014, 2018, 2019 and finally on 2 March 2020.
- A request by the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes has been outstanding since 2014.
- A request by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health has been outstanding for over 5 years, since 1 May 2015.
- A request by the Special Rapporteur on Privacy has been outstanding for over 4 years, since 31 March 2016. The most recent reminder was sent to China on 8 August 2019.
- A request by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has been outstanding for almost 3 years, since 7 August 2017.
- A request by the Working Group of Experts on People of African Descent has been outstanding since 10 November 2017.
- A request by the Working Group on the issue of human rights and transnational corporations and other business enterprises has been outstanding since on 16 October 2017. The most recent reminder was sent on 26 February 2020.
- A request by the Special Rapporteur on the Environment has been outstanding since 16 November 2018.
- A request by the Special Rapporteur on the rights of persons with disabilities has been outstanding since 22 November 2018.
- A request by the Special Rapporteur on Cultural Rights has been outstanding since 16 January 2019.
- A request by the Working Group on the use of mercenaries has been outstanding since 26 March 2019.

By successfully denying mandate holders access to areas under Chinese control, China has been able to operate with near total impunity for its widespread and systematic human rights violations, including in Tibet.

## 2.1.2 VISITS BY THE UN HIGH COMMISSIONER

The last UN High Commissioner for Human Rights to visit Tibet was Mary Robinson in 1998, after repeated failed requests by her successors. Since then, China has permitted the UN High Commissioner Louise Arbour to visit China in 2005 but she was subsequently denied a visit to Tibet in 2008.<sup>10</sup> Since then, no UN High Commissioner has conducted a visit to China and despite assurances that High Commissioner Navi Pillay could visit the country at “a time convenient to both sides,” China never facilitated a visit.<sup>11</sup> Like his predecessor, High Commissioner Zeid was granted nothing but empty promises after he requested that China allow him to conduct a visit, particularly seeking access to the Tibetan Autonomous Region.

In 2020, the Chinese government extended an invitation to Michele Bachelet, the current High Commissioner for Human Rights, to visit China and East Turkestan (Ch: Xinjiang). While discussions are currently underway about the scope of the visit, public mention has not yet been made as to whether this trip will include a visit to Tibet. If permitted, it is extremely unlikely that the Chinese authorities will facilitate access to visit both the TAR and Tibetan populated areas and any visit will undeniably be carefully controlled by the authorities.

## 2.2 INTIMIDATION OF CIVIL SOCIETY PARTICIPATION AT THE UN

Individuals and groups, including Tibetans, who have cooperated with the United Nations, its representatives and mechanisms have been subject to reprisals and intimidation by the Chinese government. While attending the March 2015 session of the UNHRC, Tibetan monk and former torture survivor, Golog Jigme, had photos taken of him by Chinese diplomat Zhang Yaojun when was in the café of the Palais des Nations.<sup>12</sup> At the 31st session of the Human Rights Council in March 2016, China used its influence within the UN to interfere with a side-event panel, hosted by the US and Canada, featuring Nobel Peace Prize laureates, which included the Dalai Lama. The organisers moved the event to an alternative location outside the UN premises, after succumbing to Chinese pressure.<sup>13</sup> In September 2019, during the 42nd session of the Human Rights Council in Geneva, members of the Tibet Advocacy Coalition were harassed by a member of the Chinese delegation as they were preparing for a meeting with a UN Member State in Palais des Nations. The Chinese delegate pulled his chair over from a table at least 3 meters away and attached it to the back of a Tibetan colleague so he could hear the content of discussions, situating himself in direct view of her mobile phone.

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<sup>10</sup> During its 2009 UPR, China said that High Commissioner Navi Pillay could visit the country at “a time convenient to both sides.” China, however, never facilitated a trip for her visit.

<sup>11</sup>Remarks by Ambassador Li Baodong Head of the Chinese Delegation at Fourth Session of HRC WG on UPR, 2 February 2009: <https://www.fmprc.gov.cn/ce/cegv/eng/hom/t536333.htm>

<sup>12</sup> Human Rights Watch, ‘The Costs of International Advocacy: China’s Interference in United Nations Human Rights Mechanisms’ 5 September 2017: <https://www.hrw.org/report/2017/09/05/costs-international-advocacy/chinas-interference-united-nations-human-rights>

<sup>13</sup> ibid



## RECENT CITATIONS IN THE REPORT BY THE SECRETARY-GENERAL ON REPRISALS

China has consistently been cited in the Secretary General's reports on 'alleged reprisals for cooperation with the United Nations, its representatives and mechanisms in the field of human rights' (2010-2019).<sup>14</sup> To name but a few recent incidents:

- In May 2019, staff members of the NGO Chinese Human Rights Defenders (CHRD) faced serious intimidation and harassment for sharing information with the UN and for conducting training for China-based human rights defenders on United Nations engagement.<sup>15</sup>
- On 10 January 2019, human rights lawyer Mr. Liu Zhengqing, who had engaged with the UN human rights mechanisms, was disbarred on the grounds that his defense statements “endangered national security” and “slandered” the State. He had previously faced reprisals for representing a human rights defender's case addressed by the United Nations, and his case had been addressed by several mandate holders in 2011.<sup>16</sup>
- On 28 December 2018, activist Mr. Zhen Jianghua, who had engaged with the UN human rights mechanisms, was convicted of “inciting subversion of state power” and sentenced to two years in prison, following a closed-door trial.
- On 27 November 2018, activist Ms. Li Xiaoling was sentenced to three years in jail for “picking quarrels and provoking trouble” after she engaged with the UN.
- In April 2018, China attempted to block Uyghur and human rights activist Dolkun Isa, from attending the U.N. Permanent Forum on Indigenous Issues. The UN Permanent Missions of the United States and Germany had to intervene to facilitate entrance.
- China sought to revoke the Society for Threatened Peoples' ECOSOC status in 2018.
- Human rights lawyer Ms. Li Yuhan is in pre-trial detention on charges of “picking quarrels and provoking trouble” after she engaged with the UN human rights mechanisms. Ms. Li suffered ill-treatment and torture in detention and was denied medical treatment.

## 2.3 CHINA'S FAILURE TO SIGN AND RATIFY KEY HUMAN RIGHTS INSTRUMENTS

The level of ratification of core international human rights treaties provides another important measure of the level of a Member State's cooperation with the Human Rights Council. Of the

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<sup>14</sup> Reporting mandate of the Secretary-General on intimidation and reprisals for cooperation with the UN in the field of human rights, available at: <https://www.ohchr.org/EN/Issues/Reprisals/Pages/Reporting.aspx>

<sup>15</sup> Between February and July 2018, repeated anonymous emails in Chinese reportedly threatened CHRD and its staff members with “severe consequences” if the organization held its planned trainings, including physical assault and abduction at airports and forcible return to China.

<sup>16</sup> Response from Government: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=30914>

18 International Human Rights Treaties and optional protocols, China has only ratified eight (49 UN Member States have ratified between 15-18 of these treaties, while a further 88 have ratified between 10-14 of them).<sup>17</sup>

### 2.3.1 DRAGGING ITS HEELS ON THE ICCPR

For over 22 years, China has consistently defied calls from within the UN system (including UPR, treaty bodies, and Special Procedures) and demands from members of civil society that it ratify the International Covenant on Civil and Political Rights (ICCPR). China first signed the treaty on 5 October 1998 and has since then done nothing more than pay lip service to its intentions to ratify this core UN document. Prior to its first Universal Periodic review before the Human Rights Council in 2009, China reported that the “relevant departments are carrying out necessary legislative, judiciary and administrative reforms to create the conditions for the early ratification of ICCPR.”<sup>18</sup> In 2013, China again reported that the “relevant organs of the national government are continuing steadily to pursue administrative and legislative reforms in preparation for ratifying the Convention.”<sup>19</sup> Before its third review in November 2018, China yet again said that the “relevant departments of the government are steadily continuing to advance administrative and judicial reforms in preparation for [ICCPR] ratification.”<sup>20</sup> For 22 years, the Chinese authorities have consistently sidestepped ratification of the ICCPR. While the ratification of new treaties can and does take time, during the interim period, states are obligated, at a minimum, to refrain from acts which would defeat the object and purpose of a treaty.<sup>21</sup> The Chinese authorities routinely violate the rights contained within this Covenant, rather than further expand the range of protections and guarantees afforded to those living under Chinese rule.

### 2.3.2 REFUSAL TO PROTECT ALL PERSONS FROM ENFORCED DISAPPEARANCE

China has refused to accede to the International Convention for the Protection of All Persons from Enforced Disappearance.<sup>22</sup> The Chinese government extensively uses enforced disappearance to silence those who express differing views and to deter others from doing so. Grave concerns over the legalisation of this practice under Chinese law, through

<sup>17</sup> OHCHR, Status of Ratification Interactive Dashboard, <https://indicators.ohchr.org/>

<sup>18</sup> UN Human Rights Council, *National report submitted in accordance with paragraph 15(a) of the annex to Human Rights Council resolution 5/1 - China*, 10 November 2008, A/HRC/WG.6/4/CHN/1, available at:

[https://www.upr-info.org/sites/default/files/document/china/session\\_4\\_-\\_february\\_2009/ahrcwg64chn1e.pdf](https://www.upr-info.org/sites/default/files/document/china/session_4_-_february_2009/ahrcwg64chn1e.pdf)

<sup>19</sup> UN Human Rights Council, *Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21 : China (including Hong Kong, China and Macao, China)*, 7 August 2013, A/HRC/WG.6/17/CHN/2, available at:

[https://www.upr-info.org/sites/default/files/document/china/session\\_17\\_-\\_october\\_2013/a\\_hrc\\_wg.6\\_17\\_chn\\_1\\_e.pdf](https://www.upr-info.org/sites/default/files/document/china/session_17_-_october_2013/a_hrc_wg.6_17_chn_1_e.pdf)

<sup>20</sup> UN Human Rights Council, Working Group on the Universal Periodic Review, China, National Report, UN Doc.

A/HRC/WG.6/31/CHN/1\* (20 August 2018) available at:

[https://www.upr-info.org/sites/default/files/document/china/session\\_31\\_-\\_november\\_2018/a\\_hrc\\_wg.6\\_31\\_chn\\_1\\_e.pdf](https://www.upr-info.org/sites/default/files/document/china/session_31_-_november_2018/a_hrc_wg.6_31_chn_1_e.pdf)

<sup>21</sup> United Nations, *Vienna Convention on the Law of Treaties*, 23 May 1969, United Nations, Treaty Series, vol. 1155, p. 331,

available at: <https://www.refworld.org/docid/3ae6b3a10.html> - Article 18: “A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when: (a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty; or (b) it has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed.”

<sup>22</sup> OHCHR, Universal Periodic Review - China, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CNindex.aspx>

'Residential Surveillance under a Designated Location', have already been raised by 10 UN human rights experts on 24 August 2018.<sup>23</sup> In its report to the Council, the Working Group on Enforced or Involuntary Disappearances reiterated its concerns over continued reports of mass detention of Uighurs in East Turkestan (Ch: Xinjiang), including the extraterritorial abductions of Uyghurs living in other countries, who are brought or returned to China and end up in secret or other forms of deprivation of liberty.<sup>24</sup> The whereabouts of Tibet's 11th Panchen Lama, Gedhun Choekyi Nyima, who was forcibly disappeared by the Chinese government at age six in 1995, remains unknown.

On 19 February 2013, the Working Group requested an invitation to visit the country. No response has yet been received from the Government of China in spite of reminders sent on 27 October 2014, 27 November 2015, 18 November 2016, 19 January 2018, 18 January 2019 and most recently on 2 March 2020.<sup>25</sup>

## 2.4 NEGATIVE ENGAGEMENT WITH THE UPR

Since 2009, China has undergone three Universal Periodic Reviews (in 2009, 2013 and 2018).<sup>26</sup> Out of the 346 recommendations made to China during its third UPR cycle in 2018, China did not accept 62 of them (which amounts to almost 18 percent of all recommendations made).

### KEY RECOMMENDATIONS REJECTED BY CHINA AT ITS UPR IN 2018

- At least twelve recommendations that the Chinese authorities cooperate with Special Procedures and the United Nations system, including by granting the United Nations High Commissioner for Human Rights and the special procedures access to China, Tibet and Xinjiang.
- In terms of engaging on follow up to treaty bodies, China rejected all recommendations that it implement the recommendations of the Committee on the Elimination of Racial Discrimination from August 2018. Tibet specific recommendations included, but were not limited to, urging the Chinese authorities to promptly, impartially and effectively investigating all custodial deaths, allegations of torture and ill-treatment, harassment and reported use of excessive force against Tibetans, strengthening measures to prevent acts of torture and ill-treatment against Tibetans, preserving the Tibetan language and revising its regulations to ensure Tibetans' freedom of movement.<sup>27</sup>

<sup>23</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23997>

<sup>24</sup> UN, Human Rights Council, Working Group on Enforced or Involuntary Disappearances, UN Doc. A/HRC/42/40, 30 July 2019, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/229/25/PDF/G1922925.pdf?OpenElement>

<sup>25</sup> OHCHR, View Country visits of Special Procedures of the Human Rights Council since 1998, China, available at: <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&country=CHN&Lang=en>

<sup>26</sup> OHCHR, Universal Periodic Review - China, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CNindex.aspx>

<sup>27</sup> UN Committee on the Elimination of Racial Discrimination (CERD), UN Committee on the Elimination of Racial Discrimination: Concluding Observations, People's Republic of China, 19 September 2018, CERD/C/CHN/CO/14-17, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCHN%2fCO%2f14-17&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCHN%2fCO%2f14-17&Lang=en)

- China rejected all recommendations that it accede to the Rome Statute of the International Criminal Court. The principal objective of the Rome Statute is to end impunity for the perpetrators of the most serious crimes of concern to the international community, including the crime of genocide; crimes against humanity; war crimes; and the crime of aggression.
- On the issue of arbitrary arrests and detentions, China rejected all recommendations that it end the mass internment camps and close its “re-education centres”.
- When it came to accepting international norms, China rejected all recommendations that it sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance.
- China rejected the recommendation that it put an end to its residential surveillance at a designated location.

In 2013, during its second UPR cycle, China did not accept over 19% (48) of the 252 recommendations made, including the recommendation that it issue a standing invitation to UN human rights special procedures, accept all requested visits by mandate holders and remove restrictions on freedom of information and expression that are not in accordance with international human rights law. China also rejected the recommendation that it resume the two-way dialogue in Tibet<sup>28</sup> and cooperate more with Special Procedures specifically on access to Tibet and Xinjiang, including that the Chinese authorities:

- Grant unhindered access to Tibet.<sup>29</sup>
- Respond to the invitation addressed to the Special Rapporteur on freedom of religion or belief to visit Tibet and Xinjiang.<sup>30</sup>
- Set a date for the visit of the Special Rapporteur on Freedom of Religion or Belief.
- Lift restrictions on access.<sup>31</sup>

Despite being a member of the Human Rights Council on four occasions and though UN Member States are encouraged to submit mid-term reports that assess their implementation of UPR recommendations, China has yet to submit a single mid-term report. In sharp contrast to China’s lack of cooperation, 78 States submitted, on a voluntary basis, UPR mid-term reports as of 22 June 2020.<sup>32</sup> On 11 January 2011, during discussion of the Open-Ended Working Group on the review of the HRC and functioning,<sup>33</sup> China made clear that the follow-up mid-term reports should remain voluntary - in contrast to Hungary, on behalf of the EU, as well as Canada, who called for stronger language on mid-term reporting.<sup>34</sup>

<sup>28</sup> Recommendation 186.236. “Resume the two-way dialogue in Tibet (New Zealand)”

<sup>29</sup> Recommendation 186.232. “Ensure democratic participation of members of all ethnic minorities and allow unhindered access to all minority areas, including Tibet (Germany)”

<sup>30</sup> Recommendation 186.235. “In light of concerns about the situation of human rights in Xinjiang and Tibet , respond to the invitation addressed to the Special Rapporteur on freedom of religion or belief to visit these regions (France)”

<sup>31</sup> Recommendation 186.142. “Stop the prosecution and persecution of people for the practice of their religion or belief including Catholics, other Christians, Tibetans, Uyghurs , and Falun Gong, and set a date for the visit of the Special Rapporteur on Freedom of Religion or Belief (Canada)”

<sup>32</sup> OHCHR, Mid-Term reports, <https://www.ohchr.org/en/hrbodies/upr/pages/uprimplementation.aspx>

<sup>33</sup> Open-Ended Working Group on the review of the HRC and functioning, UN Doc. A/HRC/RES/12/1, 1st October 2009.

<sup>34</sup> UPR-Info, HRC Review 2011, <https://www.upr-info.org/en/upr-process/foundation/hrc-review/hrc-review-2011>

## 2.5 CHINA'S UN VOTING RECORD

Since it first became a member of the Council in 2006, China has (in the absence of consensus) voted against all resolutions tabled under item 4 (situations that require the Council's attention). China has also consistently voted against country-specific resolutions under item 2 which are geared towards addressing the human rights situation in countries such as North Korea, Syria, Yemen and Iran - although in June 2015 it did join consensus on a resolution on the situation of Rohingya Muslims and other minorities in Myanmar, whose main sponsor was Pakistan. As one of the world's worst human rights abusers, with Tibet being listed as the second least free place in the world for the fifth consecutive year - after only Syria - and with calls mounting for a China-specific monitoring mechanism, China's motives for opposing country specific mandates have long been evident.<sup>35</sup>

Under the item 3 agenda, China voted against a resolution on the question of the death penalty in 2014,<sup>36</sup> 2017<sup>37</sup> and 2019<sup>38</sup> as well as against resolutions on peaceful protests in 2014<sup>39</sup> and 2016.<sup>40</sup> In an effort to further oppose civil society activism, China opposed a resolution focused on protecting human rights defenders<sup>41</sup> and on civil society space.<sup>42</sup> The latter expressed deep concern at the use of national security and counter-terrorism legislation to hinder the work and endanger the safety of civil society - legislation frequently used to arrest Tibetans and subject them to prolonged and politically motivated prison sentences. One prominent example is that of Tashi Wangchuk, a Tibetan shopkeeper and language advocate who was sentenced to five years in prison for "inciting separatism" in May 2018 after giving interviews to the New York Times and advocating for Tibetan language education in schools in Tibetan areas.<sup>43</sup> While UN experts have called on China to immediately and unconditionally release him, the Chinese authorities have consistently ignored these calls.<sup>44</sup>

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<sup>35</sup> OHCHR, UN experts call for decisive measures to protect fundamental freedoms in China, 26 June 2020: [https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26006#:~:text=OHCHR%20%7C%20UN%20experts%20call%20for%20protect%20fundamental%20freedoms%20in%20China&text=GENEVA%20\(26%20June%202020\)%20%E2%80%93%20fundamental%20freedoms%20in%20China](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26006#:~:text=OHCHR%20%7C%20UN%20experts%20call%20for%20protect%20fundamental%20freedoms%20in%20China&text=GENEVA%20(26%20June%202020)%20%E2%80%93%20fundamental%20freedoms%20in%20China)

<sup>36</sup> UN Human Rights Council, *The question of the death penalty : resolution adopted by the Human Rights Council*, 16 July 2014, A/HRC/RES/26/2, available at: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/26/2](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/26/2)

<sup>37</sup> UN Human Rights Council, *Resolution adopted by the Human Rights Council on 29 September 2017 - The question of the death penalty*, 5 October 2017, A/HRC/RES/36/17, available at: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/36/17](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/36/17)

<sup>38</sup> UN Human Rights Council, *The question of the death penalty : resolution adopted by the Human Rights Council*, 27 September 2019, A/HRC/RES/42/24, available at: <https://undocs.org/A/HRC/RES/42/24>

<sup>39</sup> UN Human Rights Council, *The promotion and protection of human rights in the context of peaceful protests : resolution / adopted by the Human Rights Council*, 11 April 2014, UN Doc A/HRC/RES/25/38, available at: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/25/38](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/25/38)

<sup>40</sup> UN Human Rights Council, *The promotion and protection of human rights in the context of peaceful protests : resolution / adopted by the Human Rights Council*, 24 March 2016 UN Doc A/HRC/RES/31/37, available at: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/31/37](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/31/37)

<sup>41</sup> UN Human Rights Council, *Protecting human rights defenders, whether individuals, groups or organs of society, addressing economic, social and cultural rights : resolution / adopted by the Human Rights Council*, 24 March 2016, UN Doc A/HRC/RES/31/32 available online at: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/31/32](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/31/32)

<sup>42</sup> UN Human Rights Council, *Civil society space : resolution / adopted by the Human Rights Council*, 20 July 2016, A/HRC/RES/32/31, available at: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/32/31](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/32/31)

<sup>43</sup> International Campaign for Tibet, 'Translated court documents expose China's sham prosecution of Tibetan language rights advocate Tashi Wangchuk, raise fears about use of torture', 29 August 2018: <https://www.savetibet.org/translated-court-documents-expose-chinas-sham-prosecution-of-tibetan-language-rights-advocate-tashi-wangchuk-raise-fears-about-use-of-torture/>

<sup>44</sup> OHCHR, 'China: UN human rights experts condemn 5-year jail term for Tibetan activist' 6 June 2018: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23176> ; OHCHR, 'China: UN experts denounce the

Given how frequently the Chinese authorities use counter-terrorism as a pretext to arrest and imprison Tibetans for peacefully exercising their human rights, it is not surprising that China also voted against a resolution on the protection of human rights and fundamental freedoms while countering terrorism that same year.<sup>45</sup> Further highlighting China's efforts to undermine the workings of the Council, China specifically voted against a resolution focused on how the Human Rights Council could effectively contribute in the future to the prevention of human rights violations,<sup>46</sup> alongside other human rights abusers, such as Saudi Arabia, Egypt and Venezuela.<sup>47</sup>

China has also used the Human Rights Council to table resolutions undermining human rights, emphasising national sovereignty, and calling for quiet dialogue and cooperation rather than investigations and international calls to action, including in 2017<sup>48</sup> and 2018<sup>49</sup> and 2020.<sup>50</sup> During its 43rd Session on 22 June 2020, the Human Rights Council adopted a China-sponsored resolution entitled "Promoting mutually beneficial cooperation in the field of human rights" which will only serve to further undermine the HRC's mandate to address human rights violations, reframe the international human rights system as a forum for "non-confrontational" dialogue to benefit the duty-bearers (i.e. states) rather than the rights-holders and minimise scrutiny of the Chinese government's conduct. The 2020 resolution was widely criticised by civil society organisations<sup>51</sup> and despite efforts by many UN Member States to oppose the resolution, the Chinese authorities were able to successfully rally like-minded States to push it through the Council.

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criminalization of linguistic and cultural rights advocacy', 21 February 2018:

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22683&LangID=E>

<sup>45</sup>UN Human Rights Council, *Protection of human rights and fundamental freedoms while countering terrorism : resolution / adopted by the Human Rights Council on 30 September 2016*, 7 October 2016, A/HRC/RES/33/21, available at:

[https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/33/21](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/33/21)

<sup>46</sup> UN Human Rights Council, *The contribution of the Human Rights Council to the prevention of human rights violations*, 17 July 2018, UN Doc: A/HRC/RES/38/18, available at: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/38/18](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/38/18)

<sup>47</sup> Burundi, China, Cuba, Egypt, Kyrgyzstan, Saudi Arabia, South Africa, United Arab Emirates, Venezuela (Bolivarian Republic of)

<sup>48</sup> U.N. General Assembly, Resolution 35/L.33, *The contribution of development to the enjoyment of all human rights*, A/HRC/35/L.33/Rev. 1 (June 20, 2017), <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G17/170/16/PDF/G1717016.pdf?OpenElement>.

<sup>49</sup> U.N. General Assembly, Resolution 37/L.36, *Promoting mutually beneficial cooperation in the field of human rights*, A/HRC/37/L.36 (March 19, 2018), <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G18/066/67/PDF/G1806667.pdf?OpenElement>

<sup>50</sup> U.N. General Assembly, Resolution 43/L.31, *Promoting mutually beneficial cooperation in the field of human rights* A/HRC/43/L.31 (June 2020), [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/43/L.31/Rev.1](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/43/L.31/Rev.1)

<sup>51</sup> Key Concerns with Draft Resolution A/HRC/43/L.31 on Promoting Mutually Beneficial Cooperation in the Field of Human Rights, <https://www.nchrd.org/wp-content/uploads/2020/06/Joint-NGO-annex-on-Mutually-Beneficial-Cooperation-15-June-2020.pdf>

### 3. RECOMMENDATIONS

**We urge UN Member States to:**

- Prepare to vote ‘no’ to China’s election bid to the Human Rights Council in October 2020 in light of China’s consistent failure to meet the minimum standards for membership.
- Support an urgent special Human Rights Council session on China and establish a new UN mechanism to monitor and investigate the human rights situation in China, Tibet, Hong Kong and East Turkestan.
- Make a strong joint statement and condemn the grave and deteriorating human rights situation in Tibet at the UN Human Rights Council under Agenda Item 3 (“Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development”) and/or Agenda Item 4 (“Human Rights Situations that Require the Council’s Attention”).
- Use all relevant multilateral and bilateral forums (e.g UN Human Rights Council and Third Committee, Security Council, EU/China Dialogue) to subject China’s human rights record to the utmost scrutiny and critical engagement.