

# **China**

## **Mid-term**

### **Implementation**

#### **Assessment**



**UPR-INFO.ORG**  
PROMOTING AND STRENGTHENING THE UNIVERSAL PERIODIC REVIEW



## Introduction

### 1. Purpose of the follow-up programme

*The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.*

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also more specifically to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC).

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are willing to follow and implement their commitments: civil society should monitor the implementation of the recommendations that States should implement.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 13 February 2012

## Follow-up Outcomes

### 1. Sources and results

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All data are available at the following address:

<http://followup.upr-info.org/index/country/china>

We invite the reader to consult that webpage since all recommendations, all stakeholders reports, as well as the unedited comments can be found at the same internet address.

28 NGOs were contacted. Both the Permanent Mission to the UN in Geneva and the State were contacted. No domestic NHRI exists.

13 NGOs responded to our enquiry. The State under Review did not respond to our enquiry.

*IRI*: 71 recommendations are not implemented, 19 recommendations are partially implemented, and 4 recommendations are fully implemented. No answer was received for 34 out of 138 recommendations.

### 2. Index

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Hereby the issues which the MIA deals with:

rec. n°	Issue	page	IRI
1	Justice, International instruments, CP rights - general,	page 7	not impl.
2	National plan of action	page 8	partially impl.
3	General	page 10	not impl.
6	Development	page 10	-
7	Right to education	page 11	not impl.
8	Poverty	page 11	-
9	International instruments, CP rights - general,	page 11	not impl.
10	Other	page 12	-
11	International instruments	page 12	not impl.
12	Death penalty	page 13	fully impl.
13	Minorities	page 13	not impl.



rec. n°	Issue	page	IRI
14	Death penalty	page 16	partially impl.
15	NHRI	page 16	not impl.
16	Impunity, Human rights violations by state agents, Human rights defenders,	page 17	-
17	International instruments, CP rights - general,	page 17	not impl.
18	Special procedures	page 17	partially impl.
20	International instruments, CP rights - general,	page 18	not impl.
21	Technical assistance	page 18	not impl.
22	UPR process	page 19	not impl.
23	National plan of action, Minorities,	page 13	not impl.
24	Death penalty	page 19	partially impl.
25	Special procedures	page 20	partially impl.
26	Right to health	page 21	not impl.
27	Other	page 23	not impl.
28	Development	page 25	not impl.
29	Poverty	page 26	not impl.
30	International instruments, CP rights - general,	page 7	not impl.
34	Death penalty	page 27	not impl.
35	Technical assistance	page 28	-
36	Technical assistance	page 29	not impl.
37	Death penalty	page 29	fully impl.
38	Detention conditions	page 29	not impl.
39	Detention conditions	page 30	not impl.
40	Death penalty	page 32	not impl.
41	Special procedures, Freedom of religion and belief,	page 20	partially impl.
43	Freedom of movement	page 32	partially impl.
45	General	page 32	not impl.
46	Other	page 33	-
47	Detention conditions	page 29	not impl.
48	Torture and other CID treatment, International instruments,	page 34	-
49	Public security	page 34	not impl.
50	Torture and other CID treatment, Extrajudicial executions, Freedom of association and peaceful assembly, Detention	page 35	not impl.
51	conditions,	page 36	not impl.
53	Human rights defenders, Freedom of the press,	page 37	not impl.
54	Minorities, Freedom of religion and belief, Freedom of movement,	page 37	not impl.
56	General	page 38	not impl.
57	Death penalty	page 39	not impl.
58	Rights of the Child, Labour,	page 41	not impl.
63	Death penalty	page 19	partially impl.
64	International instruments, CP rights - general,	page 41	not impl.
66	Detention conditions	page 42	partially impl.
67	Detention conditions	page 29	not impl.



rec. n°	Issue	page	IRI
69	Freedom of religion and belief	page 43	not impl.
72	Death penalty	page 16	fully impl.
75	Freedom of opinion and expression	page 43	fully impl.
76	Death penalty	page 32	not impl.
77	Special procedures	page 20	partially impl.
78	Minorities, Freedom of religion and belief,	page 43	not impl.
79	Minorities	page 44	not impl.
80	Human rights education and training	page 44	not impl.
81	ESC rights - general	page 44	not impl.
83	Special procedures	page 44	partially impl.
84	Special procedures	page 20	not impl.
85	Civil society	page 46	not impl.
86	Poverty	page 47	not impl.
87	Special procedures	page 20	partially impl.
88	Death penalty	page 27	not impl.
89	Torture and other CID treatment, International instruments, Enforced disappearances, Disabilities,	page 47	not impl.
92	Justice	page 48	not impl.
93	Special procedures	page 20	not impl.
94	International instruments, CP rights - general,	page 41	not impl.
95	Right to health, Right to education, Minorities, Migrants,	page 49	not impl.
96	Special procedures	page 44	partially impl.
97	NHRI	page 16	not impl.
98	Minorities	page 50	partially impl.
99	Death penalty	page 50	not impl.
100	National plan of action, International instruments, CP rights - general,	page 41	not impl.
101	Death penalty	page 27	not impl.
102	ESC rights - general	page 51	not impl.
103	General	page 51	not impl.
104	ESC rights - general	page 51	partially impl.
106	Other	page 12	-
108	Rights of the Child	page 52	not impl.
109	Development	page 53	not impl.
110	Special procedures, ESC rights - general,	page 53	partially impl.
111	National plan of action	page 8	partially impl.
112	Right to health, Poverty,	page 55	not impl.
116	Detention conditions	page 56	partially impl.
117	International instruments, CP rights - general,	page 56	not impl.
118	NHRI	page 16	not impl.
120	Labour, International instruments,	page 57	not impl.
122	Freedom of opinion and expression	page 57	not impl.
123	Detention conditions	page 58	not impl.



rec. n°	Issue	page	IRI
126	Death penalty	page 59	not impl.
127	Death penalty	page 32	not impl.
128	Minorities, Freedom of religion and belief, Freedom of movement,	page 59	not impl.
130	Minorities	page 60	not impl.
131	Special procedures	page 20	partially impl.
132	Death penalty	page 32	not impl.
133	International instruments, CP rights - general,	page 42	not impl.
134	Justice	page 60	not impl.
135	Poverty, Development,	page 63	-
136	Disabilities	page 64	-
137	Poverty	page 64	not impl.



### 3. Feedbacks on recommendations

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Recommendation n°1: *In accordance with its imperatives dictated by its national realities, to proceed to legislative, judicial and administrative reform as well as create conditions permitting the ratification, as soon as possible, of the ICCPR (Recommended by Algeria).*

IRI: *not implemented*

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Recommendation n°30: *Consider ratifying ICCPR (Recommended by Brazil).*

IRI: *not implemented*

#### Human Rights in China response:

China signed onto the ICCPR on October 5, 1998. Despite extensive bilateral discussions and international technical assistance to strengthen the conditions for ratification over the past 13 years, and despite significant support among Chinese citizens and lawyers pressing the government to ratify the ICCPR, China continues to drag its feet towards ratification. Over the past few years, China's leaders have expressed the position that China will ratify the ICCPR when its laws are in compliance with the ICCPR and conditions of human rights are met. However the ICCPR, under Article 2(2), does not require State Parties, as a condition of ratification, to have achieved full compliance, or to ensure immediate and full compliance at the moment of ratification. A commentary of the Human Rights Committee stated that Article 2(2) requires State Parties to take necessary steps to give effect to the ICCPR rights in their domestic order. While implementation needs to be "unqualified and of immediate effect", the Human Rights Committee acknowledges that implementation is an ongoing process so long as State Parties undertake to make good faith efforts. The Chinese government cannot continue to assert its lack of full prior compliance as an excuse for not ratifying the ICCPR. Instead, it should be pressed for specific ratification timeframes and commit to working towards ensuring ICCPR compliance post-ratification. This has been China's approach in its bid for accession to another multilateral treaty and membership in the World Trade Organization (WTO). In a long process, China negotiated for WTO membership and accession first, then worked closely with domestic and international experts to implement its extensive WTO obligations, including through initiation of broad domestic legislative reforms, and international technical assistance.

#### China Human Rights Lawyers Concern Group response:

Despite the fact that China signed the ICCPR in 1998 and numerous recommendations by various UN Special Procedures committees and the above states during the UPR session, China still hasn't indicated any signs or created any positive conditions for ratification of the ICCPR. Instead, we observe that there are more and more violations of the provisions of the ICCPR in the past three years, in particular the increasing crackdowns on human rights lawyers and other human rights defenders by legalizing and legitimizing measures of arbitrary detention and enforced disappearance.



Beijing Aizhixing Institute response:

Chinese government has not ratified the ICCPR.

World Uyghur Congress response:

No steps have been taken by the Chinese government to ratify the ICCPR.

International Campaign for Tibet Europe & Tibetan UN Advocacy (ICTTUNA) response:

No ratification to follow up.

Pok Yin Stephenson Chow response:

Not applicable to (the situation of) Hong Kong. Explanatory Note: The PRC government signed the ICCPR in 1998 but has not ratified the Covenant. However, the application of the ICCPR was extended to Hong Kong during its colonial days by the UK government and was domesticated through the Hong Kong Bill of Rights Ordinance ('HKBORO'); the ICCPR was further incorporated into the Basic Law of Hong Kong. Both the ICCPR and the HKBORO are applicable and litigable in the courts of Hong Kong. Although the ICCPR is applicable to Hong Kong, articles 25 (on the right to vote) and 13 (on the freedom from arbitrary removal) of the ICCPR are reserved which seriously hinders the enjoyment of civil and political rights by Hong Kong citizens (by denying their right to universal suffrage) as well as aliens within the territory of Hong Kong (e.g. by failing to adopt a comprehensive and coherent policy in relation to refugee claims).

Recommendation n°2: *Proceed as soon as possible with the publication and implementation of its National Human Rights Action Plan for 2009-2010 (Recommended by Algeria).*

IRI: *partially implemented*

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Recommendation n°11: *Finalise and publish at an early date and then swiftly implement its National Human Rights Action Plan for 2009-2010 (Recommended by Singapore).*

IRI: *partially implemented*

Human Rights in China response:

China's Information Office of the State Council published the first National Human Rights Action Plan of China (2009-2010) (Action Plan) in April 2009. The Action Plan outlined China's human rights goals in five areas: economic, social, and cultural rights; civil and political rights; rights and interests of ethnic minorities, women, children, elderly people, and the disabled; education in human rights; and performing international human rights duties, and conducting exchanges and cooperation in the field of international human rights. In its introduction, the Action Plan stated. The realization of human rights in the broadest sense has been a long-cherished ideal of mankind and also a long-pursued goal of the Chinese government and people. Since the founding of the People's Republic of China in 1949, under the leadership of the Communist Party of China, the Chinese government, combining the universal principles of human rights and the concrete realities of China, has made unremitting efforts to promote and safeguard human rights. In the Assessment Report on the National Human Rights Action Plan of China (2009-2010), the Chinese government





framed its assessment within a political and socialist context. China will continue to adhere to the path of socialism with Chinese characteristics, while upholding the principle of putting people first; further improve and enhance the mechanism of safeguarding the rights and interests of the masses guided by the Party and the government; improve the legal system to safeguard human rights and enhance social awareness of respecting and protecting human rights; comprehensively push forward the cause of human rights in China, and ensure that the basic rights and interests of all individuals are effectively safeguarded and their lives more secure dignified and happy. While promulgation of the Action Plan is an important first step, any effective human rights action plan needs to include concrete accountability and implementation measures. However, China's Action Plan lacks benchmarks, specific implementation timeframes, and mechanisms for monitoring and assessing progress. The overarching problems of censorship, information control, and the comprehensive state secrets system also present transparency issues and obstacles to access to reliable, accurate, and comprehensive data on the human rights situation in China. Despite these challenges, NGOs, UN expert bodies and mechanisms, the media, and China's own citizens have documented and reported on the disparities between the Action Plan on paper and the actual human rights situation on the ground. Some specific examples, including those reflective of the areas highlighted in this note, include:

- The detention, conviction, and sentencing of Liu Xiaobo, recipient of the 2010 Nobel Peace Prize, to eleven years prison, for activities clearly constituting peaceful exercise of fundamental rights and freedoms;
- Ongoing crackdowns against lawyers, activists, and rights defenders;
- The expanded use of torture not only as a means to coerce confessions, but as means of violent intimidation in extra-legal settings;
- The ongoing and expanded practice of extra-legal detentions, illustrated by the ongoing house arrest and abuses against activist Chen Guangcheng and his family; and
- The preliminary conclusions of the UN Special Rapporteur on the right to food following his first country visit to China, pointing out the persistence of serious human rights obstacles, especially for rural and migrant populations.

As this note points out, China's Action Plan is a limited first step. Concrete practical follow-up is necessary to promote effective implementation of its goals.

*Beijing Aizhixing Institute response:*

With regard to the implementation of protection and promotion of health rights, Chinese government evaluation report did not mention HIV/AIDS although it committed in the action plan. Evaluation report also didn't mention TB and malaria. China is receiving large funding from the Global Fund to work the 3 diseases. Evaluation report also didn't mention hepatitis B which is the most popular infection disease and relating to severe social discrimination in education and employment in China. With regard to the complete immunization of measles vaccine for 102 million children, the immunization campaign in late 2010 lack of good public education, lack of informed consent and also broke China's regulations on immunization. The campaign caused a public panic and violated people's rights. With regard to mental health, evaluation report mentioned that government provided finance support for 116 mental health institutions in 2009-2010. But to be honest, Chinese government is



increasing its use of mental health institutions and police department to control and manage people with mental illnesses. China is developing a national real-time monitoring and control system targeting on both “political risk persons” which include NGO leaders and staff members, lawyers and activists, and “socially risk persons” including most of the population that Beijing Aizhixing Institute serves including petitioners with HIV/AIDS or other health problems, mentally ill patients, drug users, prostitutes, etc. Especially, Chinese government is developing social management strategies (mostly means keeping stability) targeting on two groups of people with health problems including people with HIV/AIDS and mentally ill patients. Beijing Aizhixing Institute has been working with 2 groups since its beginning. China Ministry of Health is developing a national database of mentally ill patients. Also MOH ordered all hospitals which provide clinical psychological therapy to set up emergency preparedness plans which is linked with public security systems. Ministry of Health is developing a national resident health ID card system together with national connected electronic medical records. No information about privacy protection of the electronic system. All information shows that electronic medical records will be used for monitoring and control of socially “risk persons”.

*Pok Yin Stephenson Chow response:*

N/A. Explanatory note: (1) In April, 2009, the [People's Republic of China (PRC)] government published the 'National Human Rights Action Plan for 2009-2010' ('NHRAP'). In the 54-page document, the PRC government spelled out its goals for promoting and protecting human rights within the two-year period. Among other pressing issues, it addressed human rights in the areas of CP-rights, ESC-rights, as well as the rights of vulnerable minorities. However, in this report, there is no mentioning of Hong Kong or other Special Administrative Regions ('SARs') and thus it is not clear whether the PRC government intends to extend the obligations proclaimed in the NHRAP to the SARs. (2) The implementation of human rights obligations within the territory of Hong Kong remains the primary obligation of the Hong Kong government under 'one country two systems'.

Recommendation n°3: *Continue to explore methods of development and implementation of human rights in harmony with its characteristics, its realities and the needs of Chinese society (Recommended by Algeria).*

IRI: *not implemented*

*Pok Yin Stephenson Chow response:*

See comments to recommendations 26 [...] and 102.

Recommendation n°6: *Continue its policies in the field of international cooperation in order to assist the efforts made by other countries to fulfil the right to development (Recommended by Algeria).*

IRI: -

*Pok Yin Stephenson Chow response:*

N/A. Explanatory note: (1) Foreign affairs are the sole responsibility of the PRC government. (2) The Hong Kong Government has not provided ODAs nor technical support for the development of foreign countries.

Recommendation n°7: *Continue to strengthen policies to promote education and to address educational imbalances between urban and rural areas and among regions (Recommended by Angola).*

IRI: *not implemented*

Unrepresented Nations and Peoples Organization response:

Government policies and practices limiting the ability of ethnic minority populations to use their own languages, particularly those preventing the use of these languages as the language of instruction in schools, have a negative effect on the educational attainment of children in ethnic minority regions. Such policies have intensified in recent years (see "Language" response to recommendations 13, 23, 54, 69, 79, 98, 128 and 130 dealing with the rights of ethnic minority communities). It will be impossible for China to address educational imbalances among regions without addressing the cultural, economic, political and social discrimination experienced by ethnic minority populations.

ICTTUNA response:

Imbalance continues, new threat to Tibetan language teaching. In August 2009, the Committee on the Elimination of Racial Discrimination recommended that China «ensure that special measures adopted to promote access to education for children of ethnic minorities, such as scholarships or lower entry qualification, are available in practice. It also requests the State party to provide detailed information, including disaggregated statistics on enrolment in primary, secondary and higher education of members of ethnic minorities, in its next periodic report. In this regard, the Committee also draws the attention of the State party to the Universal Periodic Review procedure and in particular recommendation 16, which enjoyed the support of the State party (A/HRC/11/25)». On 16 October, 2011, the Chinese authorities closed a Tibetan art exhibition in Lhasa by Tibetan artist Kalnor, two hours after opening, because of the "sensitivity of Tibetans displaying traditional cultural themes". The exhibition included a display of wooden writing boards called jangshing, traditionally used to teach the written Tibetan language. [...]

Recommendation n°8: *Share good practices that allowed China to achieve poverty reduction targets set in the United Nations Millennium Development Goals (Recommended by Angola).*

IRI: -

China Labour Bulletin response:

During this period, China made efforts to reduce poverty further in a variety of areas. Most significantly, in 2010, minimum wages were increased in nearly every administrative region, amounting to a 23 percent increase nationwide. However, due to rising inflation and other costs, many workers did not find the minimum wage to be a living wage. Indeed, workers often felt obligated to work tremendous amount of overtime in order to have enough money to live on.

Recommendation n°9: *Analyse the possibility of ratifying the ICCPR (Recommended by Argentina).*

IRI: *not implemented*

Human Rights in China response:

See response to recommendation n° 1.



Beijing Aizhixing Institute response:

Chinese government has not ratified the ICCPR.

World Uyghur Congress response:

No steps have been taken by the Chinese government to ratify the ICCPR.

Pok Yin Stephenson Chow response:

N/A. See comment 1 above.

Recommendation n°10: *Evaluate the possibility of establishing a legal description of discrimination taking into account international legal standards in this area (Recommended by Argentina).*

IRI: -

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Recommendation n°106: *Inscribe a legal definition of discrimination in its national law (Recommended by Portugal).*

IRI: -

Pok Yin Stephenson Chow response:

At the constitutional level, the ICCPR is incorporated into the Basic Law of Hong Kong and is litigable in the courts of Hong Kong. Meanwhile, CP-rights are also protected through the Hong Kong Bill of Rights Ordinance ('HKBORO'). Both instruments contain express provisions on equality and discrimination. Moreover, four other ordinances address discrimination on various grounds. These are, namely, the Sex Discrimination Ordinance ('SDO'), Disability Discrimination Ordinance ('DDO'), Family Status Discrimination Ordinance ('FSDO') and Race Discrimination Ordinance ('RDO'). The Equal Opportunities Commission ('EOC') is the statutory body entrusted with the task of overseeing the implementation of the four ordinances listed above. In relation to the definition of discrimination, the definition of discrimination provided in the SDO, DDO, FSDO and RDO includes both direct and indirect discrimination. However, they do not address notions of discrimination based on two or more grounds such as multiple discrimination, compound discrimination and intersectional discrimination as contained in the jurisprudences of HRC, CESCR, and CERD. (See GC25 HRC, GC16 CESCR, GR25 CERD). Therefore, discriminatory laws in Hong Kong do not adequately protect discrimination against vulnerable groups such as the FDHs whose discrimination are based on the grounds of both ethnicity and class. Moreover, the RDO specifically excludes several characteristics from protection, including, inter alia, one's immigration status, through the adoption of the narrow definition of 'race'. Thus, despite its significance to the protection on the rights of ethnic minorities, the RDO is unable to protect new immigrants from Mainland China who are of the same ethnic origin and nationality as the majority of the Hong Kong population but are facing forms of discrimination owing to the difference in language and social backgrounds.

Recommendation n°11: *Analyse the possibility of ratifying human rights instruments which are considered relevant in strengthening its promotion and protection, highlighting: ICCPR, International Convention for the Protection of All Persons Against Enforced Disappearances, and assess the possibility of accepting the competency of the Committee on Enforced Disappearances in accordance with the*



*Convention, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the Convention against Transnational Organised Crime (Recommended by Argentina).*

IRI: *not implemented*

World Uyghur Congress response:

No steps have been taken by the Chinese government to ratify the International Convention for the Protection of All Persons Against Enforced Disappearances, and assess the possibility of accepting the competency of the Committee on Enforced Disappearances in accordance with the Convention, and the Protocol to Prevent.

[Human Rights Watch (HRW)] [stated](#) in November 2011, that the number of enforced disappearances is increasing in China[...]. According to HRW, the government's security forces use enforced disappearance to silence and intimidate critics of Chinese government policies in ethnic minority regions of Tibet and Xinjiang. Human Rights Watch research [has revealed](#) that dozens, and possibly many more, of the hundreds of people detained by Chinese security forces in the aftermath of bloody ethnic violence in the city of Urumqi on July 5 to 7, 2009, have also "disappeared" without a trace [...].

*Recommendation n°12: Reduce the number of crimes carrying the death penalty (Recommended by Australia).*

IRI: *fully implemented*

World Uyghur Congress response:

In late February 2011, the Chinese government announced the abolition of the death penalty for 13 economic crimes (they include tax fraud, the smuggling of cultural relics or precious metals, tomb robbing and stealing fossils), reducing the list of originally 68 crimes punishable by death to 55. Capital punishment will still be available for some economic crimes such as large-scale corruption. The new legal revisions will also ban the use of capital punishment for offenders over the age of 75. However, these are all crimes seldom if ever punished by execution, and the abolition announcement is likely to have little effect on China's extensive use of the death penalty. Therefore no real progress in the abolition of the death penalty [can be seen in China](#).

Pok Yin Stephenson Chow response:

The death penalty has been abolished in Hong Kong.

*Recommendation n°13: Strengthen the protection of ethnic minorities' religious, civil, socio-economic and political rights (Recommended by Australia).*

IRI: *not implemented*

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*Recommendation n°23: In accordance with the Constitution, to allow ethnic minorities to fully exercise their human rights, to preserve their cultural identity and to ensure their participation in decision-making. and address these issues in the National Plan of Action (Recommended by Austria).*

IRI: *not implemented*



Unrepresented Nations and Peoples Organization response:

**Economic discrimination:** In 2010 China passed a law entitled "Law for Education for Ethnic Unity in the Xinjiang Uyghur Autonomous Region". This law bans all people and organizations from promulgating speech that could be considered "detrimental to ethnic unity," and lays out a detailed plan for an "ethnic education" program in the region. Uyghurs in Xinjiang experience severe discrimination both within their own region and throughout China. Hiring policies often openly discriminate against Uyghurs, in particular by explicitly reserving positions for Han Chinese candidates. Such practices occur in both civil service and private sector jobs, including those advertised on government websites. The U.S. Congressional Executive Commission on China has documented the widespread use of such practices, which violate China's laws prohibiting discrimination in hiring, on multiple occasions.

**Language:** The official language of instruction for all schools in China is Mandarin Chinese. Schools teaching the Uyghur language have in many cases been outright banned, as have a number of Uyghur words that have been declared detrimental to national unity. In late 2010, large-scale student protests against such policies took place in Tibet. These protests were in direct response to a forced change in their language of school instruction from Tibetan to Mandarin Chinese, contradicting the right under Chinese law for ethnic minorities to study in their mother tongue in school.

**Religious Freedom:** In its July - December 2010 International Religious Freedom Report on China, the U.S. Department of State reported that the Chinese government's level of respect for religious freedom in both law and practice had declined over the previous six months. This report noted particularly severe repression in Tibetan areas, and a continued implementation of measures to strictly regulate religious activity in East Turkestan (Xinjiang). [...] China continues to target Tibetan Monks for particularly repressive and brutal treatment. The desperation of many within the Tibetan Buddhist community, resulting from increasing repression of their religion and culture, has led to 11 attempts at self-immolation in 2011 (as of 9 November 2011), at least seven of which have resulted in deaths. Disappearance of Uyghur asylum-seekers forcibly returned to China. Following the unrest in Urumqi in 2009, 20 Uyghurs including a pregnant woman and two small children, fled to Cambodia. While these individuals were designated persons of concern by the UNHCR, China proceeded to lobby the Cambodian government for their forcible return to China. The group was eventually forced to board a plane in Phnom Penh chartered by the Chinese government, and were flown back to China. In the two years since this event, China has failed to account for the whereabouts or well-being of any member of this group. Uyghur asylum seekers have also been forcibly returned to China by Pakistan, Malaysia, Kazakhstan, Nepal and Thailand in response to what Human Rights Watch has termed a "concerted campaign" by China to locate Uyghur refugees throughout Asia and push for their return to China. [Human Rights Watch] further noted that Uyghurs who are returned to China "disappear into a black hole."

**Cultural preservation in ethnic minority regions:** Development schemes in Uyghur and Tibetan regions have had an overwhelmingly negative effect on these populations. The ancient city of Kashgar, an important cultural symbol to the Uyghur



people, has been almost completely razed to the ground as part of a reform program that the government claims is meant to make houses safer in the event of an earthquake. In 2011 the European Parliament passed an urgency resolution calling upon Beijing to halt the destruction of Kashgar and to find culturally sensitive methods of renovating the city.

*Human Rights in China response:*

In asserting the success of its Action Plan, the Chinese government stated that “normal religious activities are protected by law,” that rules related to administration of Tibetan Buddhist temples were promulgated, and that it had invested nearly 600 million yuan to preserve and maintain major religious temples, including those in Tibet and Xinjiang. As a litmus test of cultural and religious rights in China, the crackdowns on Tibetans and self-immolations among Tibetan monks and nuns raise serious human rights concerns. Between March and November 2011, nine Tibetan monks and two nuns have resorted to the desperate act of self-immolation to protest the Chinese authorities’ restrictive religious policies and crackdowns on monasteries in Tibet. The government’s policies and actions, including its responses to these immolations, have been condemned by human rights NGOs, the European Parliament, several UN independent experts, and dignitaries and officials from around the world. The European Parliament noted that the “Chinese government has imposed drastic restrictions on Tibetan Buddhist monasteries” in Ngaba, Sichuan Province, including “brutal security raids, arbitrary detention of monks, increased surveillance within monasteries and a permanent police presence inside the monasteries in order to monitor religious activity”. Further, authorities have implemented “counterproductive policies and aggressive ‘patriotic education’ programmes in Tibetan-populated areas such as Sichuan, Gansu, and Qinghai, places where human rights violations have created tensions”. On November 1, 2011, several UN independent experts collectively voiced grave concerns over reports of heavy security measures around the Kirti monastery area. [...]

The Independent Expert on minority issues also called on the Chinese government to fully respect the rights of minorities, including the right to practice their religion and culture: “Allegations suggest that this is far from the case in this region and I urge the Government to cease any restrictive practices and refrain from any use of violence and intimidation”. As underscored by the European Parliament and UN independent experts, these self-immolations reflect the desperation Tibetans feel against the Chinese government’s restrictions on their ability to practice their religious beliefs. In the face of these desperate protests, the Chinese government has done little to loosen its tight state control over religious practices in the area. Rather, following self-immolations, Chinese armed personnel have surrounded monasteries, cut off access to food and water, imposed compulsory “patriotic education” programmes, and detained hundreds of monks in unspecific locations for weeks of political indoctrination. More recently, Chinese foreign ministry authorities have also accused the Dalai Lama’s prayers for the dead as “terrorism in disguise”. The Chinese government’s actions completely undermine the UPR recommendations it has accepted or has allegedly implemented with regard to treatment of minorities. Its activities in Tibet and against other minority groups reflect the restriction and erosion of cultural, religious, and political rights of ethnic minorities. [...]

World Uyghur Congress response:

The Chinese government continues to violate all human rights of ethnic minorities, such as the Uyghurs. [...]

Recommendation n°14: *Abolish the death penalty and, as interim steps, reduce the number of crimes for which the death penalty can be imposed and publish figures on executions* (Recommended by Australia).

IRI: *partially implemented*

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Recommendation n°72: *Continue efforts to change its legal practice in a way which is conducive to markedly reducing the number of the death sentences being imposed and persons executed* (Recommended by Germany).

IRI: *fully implemented*

World Uyghur Congress response:

In late February 2011, the Chinese government announced the abolition of the death penalty for 13 economic crimes (they include tax fraud, the smuggling of cultural relics or precious metals, tomb robbing and stealing fossils), reducing the list of originally 68 crimes punishable by death to 55. Capital punishment will still be available for some economic crimes such as large-scale corruption. The new legal revisions will also ban the use of capital punishment for offenders over the age of 75. However, these are all crimes seldom if ever punished by execution, and the abolition announcement is likely to have little effect on China's extensive use of the death penalty. Therefore [no real progress](#) in the abolition of the death penalty can be seen in China. [...]

Recommendation n°15: *Establish a national human rights institution, in accordance with the Paris Principles* (Recommended by Australia).

IRI: *not implemented*

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Recommendation n°97: *Establish a national human rights institution, in accordance with the Paris Principles.* (Recommended by New Zealand).

IRI: *not implemented*

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Recommendation n°118: *Establish an independent national human rights institution in line with the Paris Principles.* (Recommended by Sweden).

IRI: *not implemented*

Hong Kong Human Rights Commission response:

Although Hong Kong has already established many human rights' related mechanisms, such as the Equal Opportunities Commission, the Ombudsman, Privacy (Personal Data) Commissioner etc, they have specific problems reflecting the need for a National Human Rights Institution (NHRI). For instance the Equal Opportunities Commission (EOC), Privacy (Personal Data) Commissioner as well as other human rights monitoring institution should be able to issue an enforcement notice in a general investigation. EOC is further limited by the fact that there is no guarantee that an application for legal assistance will be granted, given its limited budget. Regarding the Privacy Commissioner's Office it is limited by the fact that it does not have any conciliation measures, does not provide legal advice or legal aid. Nor does it have powers to bring legal proceedings. The first step would be to





strengthen the existing institutions. But even more important is that Hong Kong sets up a NHRI. Hong Kong Government must be up to international standards and establish a NHRC. This will constitute an important statement by and to the people of Hong Kong. It will demonstrate that Hong Kong recognizes and seeks to achieve the values of fairness, equal opportunity and tolerance.

Recommendation n°16: *Investigate reports of harassment and detention of human rights defenders, including alleged mistreatment while in police custody, with a view to ending impunity* (Recommended by Australia).

IRI: -

Unrepresented Nations and Peoples Organization response:

Human rights defenders in China continue to experience frequent harassment and arrest, including human rights defenders from the regions of East Turkestan (Xinjiang), Tibet and Inner Mongolia. In East Turkestan, multiple Uyghurs have been harassed and detained merely on the basis of their having reported human rights abuses to members of the media.

Recommendation n°17: *Ratify the International Covenant on Civil and Political Rights ICCPR as quickly as possible and with minimal reservations* (Recommended by Australia).

IRI: *not implemented*

Unrepresented Nations and Peoples Organization response:

China has not yet ratified the ICCPR. However, in July 2011 the Information Office of the State Council of China announced that it was carrying out judicial and legal reforms specifically for the purpose of preparing for ratification of the ICCPR.

World Uyghur Congress response:

No steps have been taken by the Chinese government to ratify the ICCPR.

Recommendation n°18: *Respond positively to outstanding visit requests by special procedures and issue a standing invitation* (Recommended by Australia).

IRI: *partially implemented*

Unrepresented Nations and Peoples Organization response:

In 2010, China received the [Special Rapporteur (SR)] on the right to food. Aside from this, China has issued no invitations to SR. It agreed to a request from the SR on freedom of religion; however, this request was made in 2004, and according to the OHCHR website no communication regarding the visit has occurred since 2006. In addition, China has rejected visit requests from the following Special Procedures: SR on freedom of association and assembly (September 2011); IE on access to safe drinking water and sanitation (March 2010); IE on foreign debt (May 2011); IE on minority issues (2009); SR on housing (2008); SR on human rights defenders (2008); SR on independence of judges and lawyers (2011).

World Uyghur Congress response:

China's cooperation with the different UN Special Procedures Mandate Holders continues to be very poor. No standing invitation has been granted to all special procedures of the Human Rights Council. In recent years, only the Special Rapporteur on the right to food was invited to conduct a visit to China (15-23



December 2010), other Special Procedures were not allowed to visit China. The following important Special Procedures (among others) have requested a visit to China, but have not yet received any answer from the Chinese government:

- Special Rapporteur on extrajudicial, summary or arbitrary executions (visit request since 2005, reminder sent in 2008)
- SR on freedom of association and assembly (Requested in 2002 and on 6 September 2011)
- Special Rapporteur on human rights defenders (Requested in 2008)
- Independent Expert on minority issues (visit requested on 30 July 2009)
- Special Rapporteur on the independence of the judges and lawyers (Requested on 1 June 2011 for visit in 2012)
- Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (visit requested since 2002)

China has accepted a visit of the:

- Special Rapporteur on Freedom of Religion or Belief (visited China in 1997; a new invitation was extended in 2004; Date of last letter requesting dates: September 2006).

However, so far no visiting dates have been agreed. It is especially important that if the Chinese government ever grants a visit permit to the different Special Procedures, that they should have access to minority areas such as the Xinjiang Uyghur Autonomous Region (XUAR) and Tibet. [...]

Recommendation n°20: *Ratify the ICCPR* (Recommended by *Austria*).

IRI: *not implemented*

Unrepresented Nations and Peoples Organization response:

China has not yet ratified the ICCPR. However, in July 2011 the Information Office of the State Council of China announced that it was carrying out judicial and legal reforms specifically for the purpose of preparing for ratification of the ICCPR.

Human Rights in China response:

[See response to recommendation n°1].

China Human Rights Lawyers Concern Group response:

[See response to recommendation n°1].

Beijing Aizhixing Institute response:

Chinese government has not ratified the ICCPR.

World Uyghur Congress response:

No steps have been taken by the Chinese government to ratify the ICCPR.

Pok Yin Stephenson Chow response:

See comment [to recommendation n°1 above].

Recommendation n°21: *Renew the Memorandum of Understanding in order to intensify technical assistance and advisory services in the field of human rights* (Recommended by *Austria*).

IRI: *not implemented*



Human Rights in China response:

China and the OHCHR entered into a two-year Memorandum of Understanding for technical cooperation in November 2000, followed by a three-year MOU in August 2005. HRIC has previously expressed concern regarding both MOUs. According to a 2008 OHCHR report, under the 2005 MOU, “six projects were developed under the programme to support preparation for the ratification of the ICCPR and for implementation of the ICESCR” and “since the expiration of the MOU on 30 August 2008, OHCHR has been undertaking an evaluation of the programme to determine how to continue supporting China in its efforts to promote human rights”. Since then, there has been limited public information regarding any new agreement on technical assistance between China and OHCHR, or whether the High Commissioner has been invited for a visit. HRIC urges greater transparency on the scope and extent of the OHCHR’s cooperation with China, including information regarding the results of the OHCHR’s assessment of its China cooperation.

ICTTUNA response:

No progress, nothing realised and nothing publicly announced.

Pok Yin Stephenson Chow response:

N/A. Explanatory note: The MOU was signed in 2005 between the OHCHR and China in preparation for the latter's ratification of the ICCPR and implementation of the ICESCR. See comments 1 and 2 above concerning the status of the ICCPR in Hong Kong as well as the implementation of human rights obligations in Hong Kong.

Recommendation n°22: *Follow-up on this UPR (Recommended by Austria).*

IRI: *not implemented*

Pok Yin Stephenson Chow response:

NGOs in Hong Kong have not been informed by the Government of the results and outcomes of the UPR, nor is the information publicly available on any of the Government websites. It is difficult to discern that the Government has taken any follow-up measures aimed specifically at the outcome of the UPR process.

Recommendation n°24: *Recommended further reducing the applicability of the death penalty, in particular for non-violent crimes, and to provide statistics on the number of death sentences as well as on the SPC review procedure how many cases are returned for retrial. in how many cases are defendants heard by the SPC (Recommended by Austria).*

IRI: *partially implemented*

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Recommendation n°63: *Recommended the reduction of the great number of crimes which are subject to capital punishment, specifically, first of all, economic crimes, as well as abolishing the death penalty and increasing transparency on this issue by publishing national official statistics (Recommended by France).*

IRI: *partially implemented*

World Uyghur Congress response:

In late February 2011, the Chinese government announced the abolition of the death penalty for 13 economic crimes (they include tax fraud, the smuggling of cultural relics or precious metals, tomb robbing and stealing fossils), reducing the list of



originally 68 crimes punishable by death to 55. Capital punishment will still be available for some economic crimes such as large-scale corruption. The new legal revisions will also ban the use of capital punishment for offenders over the age of 75. However, these are all crimes seldom if ever punished by execution, and the abolition announcement is likely to have little effect on China's extensive use of the death penalty. Therefore [no real progress](#) in the abolition of the death penalty can be seen in China.

So far, no official statistics on the application of the death penalty in China have been made available to the public. In March 2011, Amnesty International (AI) published a report entitled "[Death sentences and executions in 2010](#)" [...] in which it states that China in recent years has carried out more executions than all other countries combined, believing that the executions in China go into the thousands. In 2010, AI decided not to publish minimum figures for the use of the death penalty in China, where such statistics are considered to be state secrets. Instead Amnesty International has challenged the Chinese authorities to publish figures for the number of people sentenced to death and executed each year to confirm their claims that there has been a reduction in the use of the death penalty in the country.

Recommendation n°25: *Recommended further strengthening cooperation through open invitations to Special Procedures* (Recommended by *Austria*).

IRI: *partially implemented*

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Recommendation n°41: *Respond positively to outstanding requests made by several United Nations Special Procedures, including the Special Rapporteur on freedom of religion or belief, to visit China* (Recommended by *Canada*).

IRI: *partially implemented*

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Recommendation n°77: *Respond positively to requests of visits made by United Nations special procedures and consider issuing a standing invitation to them* (Recommended by *Italy*).

IRI: *partially implemented*

+

Recommendation n°84: *Consider extending a standing invitation to all special procedures of the Human Rights Council* (Recommended by *Latvia*).

IRI: *not implemented*

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Recommendation n°87: *Respond positively to requests from Special Procedures on the right to food, human rights defenders, adequate housing, health, extrajudicial executions and toxic waste to visit China* (Recommended by *Mexico*).

IRI: *partially implemented*

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Recommendation n°93: *Extend a standing invitation to all United Nations special rapporteurs* (Recommended by *the Netherlands*).

IRI: *not implemented*

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Recommendation n°131: *Issue a standing invitation to the Special Procedures of the Human Rights Council* (Recommended by *the United Kingdom*).



IRI: *partially implemented*

World Uyghur Congress response:

China's cooperation with the different UN Special Procedures Mandate Holders continues to be very poor. No standing invitation has been granted to all special procedures of the Human Rights Council. In recent years, only the Special Rapporteur on the right to food was invited to conduct a visit to China (15-23 December 2010), other Special Procedures were not allowed to visit China. The following important Special Procedures (among others) have requested a visit to China, but have not yet received any answer from the Chinese government:

- Special Rapporteur on extrajudicial, summary or arbitrary executions (visit request since 2005, reminder sent in 2008)
- SR on freedom of association and assembly (Requested in 2002 and on 6 September 2011)
- Special Rapporteur on human rights defenders (Requested in 2008)
- Independent Expert on minority issues (visit requested on 30 July 2009)
- Special Rapporteur on the independence of the judges and lawyers (Requested on 1 June 2011 for visit in 2012)
- Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (visit requested since 2002)

China has accepted a visit of the:

- Special Rapporteur on Freedom of Religion or Belief (visited China in 1997; a new invitation was extended in 2004; Date of last letter requesting dates: September 2006).

However, so far no visiting dates have been agreed. It is especially important that if the Chinese government ever grants a visit permit to the different Special Procedures, that they should have access to minority areas such as the Xinjiang Uyghur Autonomous Region (XUAR) and Tibet. [...]

Recommendation n°26: *Continue its efforts to guarantee the well-being, which allows all patients to enjoy basic health care services* (Recommended by *Bahrain*).

IRI: *not implemented*

Beijing Aizhixing Institute response:

China lacks of anonymous HIV testing and nationally Chinese health department controls HIV testing and is implementing HIV testing by people's real name and personal ID information. People with HIV/AIDS who were infected through blood transfusion or using blood products, and who are also active in seeking compensation and petitions are under government monitoring and control.

China implements compulsory HIV testing in detention centers, prisons, civil servant recruitment health examination and before surgery. HIV testing before surgery caused many hospitals refuse to provide surgery for people with HIV/AIDS. HIV testing in job recruitment caused serious job discrimination against people with HIV/AIDS in the recruitment of civil servants, teachers and police. In 2004, China State Council called local government to build up special prisons or cells for people with HIV/AIDS. Since then, numerous HIV/AIDS activists were jailed in Health Province for their activism or petition campaign. Prostitutes who have medical records of HIV or STI infection might be sentenced to less than 5 years in the name of transmitting sexually transmitted diseases. The criminal law requires medical



records to be used in the judge of the crime. People with HIV/AIDS lacks of privacy protection inside government system. Privacy of HIV infection might be disclosed in the epidemiological survey of people with HIV/AIDS or when people with HIV/AIDS applies government support of medical care or finance support. People with HIV/AIDS who are concerned about their privacy may not seek HIV testing or may not seek some medical service which might identify their HIV status. Many people left their hometown to avoid privacy disclosure and became homeless. Those who left hometown and not registered in the health department will face difficulties of receiving medical care including government provided free anti-retroviral drugs. Migrants with HIV/AIDS face difficulties of receiving government free drugs, especially ethnic migrants including Uighur and Yi. Chinese government has committed free anti-retroviral drugs (ARV) for all people with HIV/AIDS in rural areas and poor people in urban areas. But China only provides 5-6 generic drugs. ARV program for adult with HIV/AIDS is being conducted in 1806 counties in all 31 provinces with 75,477 currently on treatment by August of 2010. Cumulative number of adult PLHIV received ART was 95,631. Paediatric ARV program is being conducted in 306 counties in 27 provinces with 1,680 currently on treatment by August of 2010. Cumulative number of children with HIV/AIDS aged less than 15 received ARV was 2,009. Drug resistance reached up to over 30% in provinces where free ARV treatment program began in 2003, for instance 30.3% in Henan province, 26.6% in Anhui province and 19.2% in Hubei province. It could be estimated that up to 8-10,000 patients would be requiring second line drugs in China. People who were infected through blood transfusion, using blood or donating blood plasma in 1990s have been fighting for compensation and treatment. 80% of people infected through blood was also infected with hepatitis C. Chinese government hasn't committed treatment support for people with hepatitis C. In Henan Province, courts in all counties closed their door for blood victims and rejected all legal appeals of blood victims. Some people became petitioners and faces difficulties in seeking justice. Some petitioners were beaten, sent to black jail, or sentenced. Prisoners with HIV/AIDS lack of treatment for HIV/AIDS and many died there or died soon after released under medical treatment. China lacks of medical care and HIV prevention programs in prisons.

*Pok Yin Stephenson Chow response:*

The issue of healthcare services is topical in Hong Kong. According to the Hospital Authority, the present public healthcare service is characterised by a 'persistent shortage of [resources](#). The public healthcare is overloaded partly due to the fact that the poor could not afford private medical care. It is estimated that the situation would worsen with the growing aging population. The Voluntary Health Protection Scheme: To address the above problems, the Government proposed to establish a HKD \$50 billion fund in order to subsidise citizens to purchase health insurances in order to shift burden of the public healthcare system to the private medical sector. The proposed scheme is heavily criticised for various reasons. One of which is that the Scheme subsidises those who can afford health insurances while neglecting the poor. The Scheme falls far short from a comprehensive healthcare system. At present, the Government has no plans to establish a comprehensive healthcare system.



Recommendation n°27: *Hong Kong Special Administrative Region and Macao Special Administrative Region continue to function according to their realities and preserve different rights of their citizens in accordance with their laws (Recommended by Benin).*

IRI: *not implemented*

*Hong Kong Human Rights Commission response:*

In Hong Kong, the right to political participation is still seriously violated by an unfair electoral system and an “executive-dominated” political system. The Central People’s Government is like an invisible hand, which exerts enormous political pressure to the democratic development in Hong Kong.

*An unjust electoral system* - The Chief Executive is the head of the Hong Kong Special Administrative Region (SAR). However, the citizens of Hong Kong are deprived of the right to choose their top leader by universal and equal suffrage. In 2005, the Chief Executive was only elected by an 800-member Election Committee, which has been appointed by the Preparatory Committee, which is comprised of 150 members appointed by the Standing Committee of the National People’s Congress. Serious retrogressions occurred concerning the right of Hong Kong people to elect their representatives after the handover. Of the 60 members of the Legislative Council, only half of them are elected by geographical constituencies through direct elections. Functional constituencies elect the other half, which grants more voting rights to people of the professional and business sectors. This is far from the standard of universal suffrage.

*An “executive-dominated” political system* - The Basic Law grants enormous power to the Chief Executive, but seriously restricts the members of the Legislative Council from carrying out their responsibilities to supervise the executive and take policy initiatives. This results in the formation of an “executive-dominated” political system where the executive disregards the will and the participation of Hong Kong people in policy making and implementation. Firstly, the voting procedures greatly handicap the members of the Legislative Council in supervising the government and making it accountable to the public. The passage of motions, bills or amendments to government bills introduced by individual members of the Legislative Council requires a simple majority vote of each of the two groups of members present, that is the functional constituencies and the geographical constituencies. In contrast the passage of bills introduced by the government only requires a simple majority vote of the members of the Legislative Council present. As a result, it becomes far more difficult to pass motions, bills or amendments to government bills introduced by individual members, which needs only a quarter of the members present in one of the group to vote them down, than the passage of bills introduced by the government. Since the functional constituencies are dominated by business and sectoral interests that support the government, the passing of government bills becomes much easier than passing individual members bills. Secondly, Article 74 of the Basic Law prevents the members of the Legislative Council from taking policy initiatives. The article stipulates that the members are required to get the consent of the Chief Executive in introducing member’s bills, which relate to public expenditure, political structure or operation of the government. In other words, the Chief Executive is empowered to



block the introduction of members' bills, which have implications on all government policies.

*The political intervention by the Central People's Government* - In response to public pressure for universal suffrage, which is in fact already stated in the Basic Law, the Chief Executive commenced public consultations by establishing the Constitutional Development Task Force in early 2004 to consult both the central authorities and the local public. However, without considering the views of the majority, the Standing Committee of the National People's Congress (NPCSC) reached a decision on the re-interpretation of the relevant provisions in Annexes I and II to the Basic Law on 6 April 2004, which was the second re-interpretation of the Basic Law after the re-interpretation concerning the right of abode case in 1999. In addition, the NPCSC promulgated on 26 April 2004 the decision, which outlawed the possibilities for introducing universal suffrage of the Chief Executive in 2007 and the Legislative Council in 2008. The re-interpretation by the NPCSC seriously violates the judicial independence of the Judiciary in Hong Kong. Both the Central People's Government and Hong Kong SAR Government employed the interpretation to eliminate political conflict, which deteriorates the rule of law in Hong Kong and destroys the development of the entire society. However, the Government did not promise to stop re-interpreting the Basic Law anymore and the development of Hong Kong would be further destroyed. After that, the Constitutional Development Task Force has released its Fifth Report on 19 October 2007, putting forward a set of proposals on the methods for selecting the Chief Executive in 2007 and for forming the Legislative Council in 2008. The package so-called increased the level of "democratic representation". However it did not make any significant improvement for democracy. Although the number of members of the Election Committee is to be increased from 800 to 1,600, it remains a "small-circle" election. Moreover, the proposed new electoral methods enhanced over a hundred of appointed District Board members to vote on the Chief Executive and it increased the number of seats of the functional constituency of the Legislature, which is an obvious stepping backward in the fight for universal suffrage and the equal participation. It was first in 2007 that Beijing allowed for universal suffrage. However, this is not necessary indicates that the universal suffrage will put in place. According to its decision, the NPCSC decision stipulates clearly that universal suffrage "may be implemented" for electing the Chief Executive in 2017 and after that, universal suffrage "may be implemented" for electing all the members of the LegCo. Moreover, appropriate amendments conforming to the principle of gradual and orderly progress may be made to the two electoral methods for 2012 in accordance with the relevant provisions of the Basic Law. This means that the universal suffrage is not shall be implemented as the timetable stated which provides many rooms for alternation in view of the political arena. The lack of clear promise on universal suffrage severely breaches the right to political participation of Hong Kong citizens and is harmful to the accountable of the government and the legislature in Hong Kong.

*Pok Yin Stephenson Chow response:*

See comments [to recommendations n]45, 56 and 134 below.



Recommendation n°28: *Bridge the gap in economic and social development between rural and urban areas and among regions* (Recommended by *Bhutan*).

IRI: *not implemented*

*Unrepresented Nations and Peoples Organization response:*

Ethnic minority areas, in particular the Xinjiang Uyghur Autonomous Region (XUAR), Tibetan Autonomous Region (TAR) and the Inner Mongolia Autonomous Region (IMAR), continue to experience economic discrimination and exclusion from the benefits of development schemes in their regions. As noted under the response to recommendations 13, 23, 54, 69, 79, 98, 128 and 130 dealing with the rights of ethnic minority communities, discriminatory hiring practices largely exclude Uyghurs from both civil service and private sector jobs in the XUAR, where they constitute a majority of the population.

*Pok Yin Stephenson Chow response:*

Hong Kong is an affluent society. According to the Hong Kong Monetary Authority, Hong Kong's foreign reserves amount to USD \$277 billion in 2011. According to the IMF, the GDP per capita of Hong Kong amounts to USD 31,514 in 2010. Despite so, the wealth gap in Hong Kong is among the most serious in Asia and among the world's developed societies. According to the UNDP, the Gini Coefficient of Hong Kong measures at 0.533 and at 0.434 from the period 2000-2010. According to an estimation by the Hong Kong Council of Social Service in mid-2010, 1.26 million people live in poor-income families, i.e. households earning less than the median household income, representing a shocking 18% of the population. The number increased by a staggering 60,000 from that recorded in 2009. Despite its huge foreign reserves, Hong Kong lacks a comprehensive scheme or policy which aims at combating poverty. Currently, the poor and jobless rely on the Comprehensive Social Security Assistance ('CSSA') - a monthly allowance - to meet their basic needs. Worse still, according to a [report by the Labour and Welfare Bureau](#) in 2009, the no. of persons living in households with income below average CSSA payment is estimated at more than 635,700 (among whom 151,700 are children aged 0-14). Meanwhile, the Secretary for Labour and Welfare admits that, as of 2009, an [estimated 838,000 people live in poor households](#). Although the Government introduced short-term relief measures in the period of 2009-2011, including raising transportation subsidies and rental allowances for CSSA applicants and an one-off relief of HKD \$6000 for Hong Kong citizens aged 18 or above, policies aimed at alleviating the poor are characterised by the lack of political willingness and the reluctance to undertake long-term commitments. The introduction of minimum wage in 2011: Amidst fierce debates and initial reluctance on the part of the Government, the Legislative Council of Hong Kong passed the Minimum Wage Bill in July 2010 introducing statutory minimum wage to Hong Kong. The legislation came into effect in May 2011. A Provisional Minimum Wage Commission was appointed by the Chief Executive-in-Council. The current minimum wage (as recommended by the Provisional Commission in November 2010) is set at HKD \$28 (approx. USD \$3.6) per hour. The minimum wage does not apply to foreign domestic helpers ('FDHs'). The effects of the minimum wage requirement on the livelihood of the poor is yet to be evaluated. See also comment 102 below. [...]



Recommendation n°29: *Strengthen its efforts in poverty alleviation in order to continue reducing the number of persons living in poverty* (Recommended by Bhutan).

IRI: *not implemented*

Hong Kong Human Rights Commission response:

Hong Kong has long been regarded as an international and prosperous city and one of the wealthiest societies in the world in terms of per capita GDP, which was HK\$ 246,733 (USD\$31,632) in 2010. In reality, beyond the prosperity image, the poverty problem in Hong Kong is deteriorating in both relative and absolute sense. The general public cannot share the fruits of the economic growth and the economic restructuring has led more unemployed and under-employed people to live in poverty. Worst still, the government has denied its responsibility and has not taken any active measures to ameliorate the widening income disparity and poverty.

*Number of poor people increased* - According to official statistics, more than 1,260,000 people lived below the poverty line in 2010 and they included low-income families, working elderly and the new immigrants from Mainland China and the poverty population shared 18.1% of the total population in 2010. Also, the Gini Coefficient of Hong Kong increased from 0.476 in 1991, 0.525 in 2001 to 0.533 in 2006 (higher Gini Coefficient denotes higher income inequality). It is very ironic that this figure ranked top five among the developing countries although Hong Kong is one of the wealthiest societies in the world.

*Lack of Anti-poverty policy and the death of the Commission of Poverty* - The SAR Government turned its blind eye to help the poor. It rejected to establish a poverty line to monitor the situation. Although the Hong Kong SAR Government established a Commission on Poverty in 2005, the Commission only lasted for two years and the Government dissolved the Commission before formulating any effective policy to eradicate poverty. As a result, the poor are inevitably suffering from the cancellation of various welfare grants. In the absence of any long-term policy, the day for eradicating poverty is not clear.

*Introduction of a 7-year hurdle for welfare application* - Comprehensive Social Security Assistance (CSSA) is the only safety net to help Hong Kong residents that encounters financial difficulty. Currently, about 3-5% of CSSA cases are new immigrants of less than seven years residence. Most of them are single-parent families or families with chronic illness patients. They applied for CSSA, as they could not find other helping resources. Without assistance from the CSSA system, new immigrants with financial difficulties cannot survive in Hong Kong. However, the Government adopted a stricter welfare policy for the new immigrants in order to screen out the poor new immigrants in its new population policy in 2003. The criteria of application for CSSA have changed from one-year of residence to seven years residence. In addition, at the time of application, they must have lived in Hong Kong continuously for one year. The policy took effect on 1st January 2004. Although children are waived, their parent cannot receive CSSA. Most of them are mothers. The policy hinders the mother to take care of the children, as the mother doesn't have resources to help the children but also to share the children's CSSA.



China Labour Bulletin response:

On 1 December 2011, China unveiled its "Outline for Poverty Reduction and Development of China's Rural Areas (2011-2020)", which will seek to alleviate poverty further in rural areas. Significantly, too, China raises the poverty line, from 1,196 yuan in 2009 to 2,300 yuan (\$361) in 2011, which is roughly \$1 a day, and equivalent to international norms. This new poverty line raised the population living in poverty from 26.88 million to 128 million people. Some experts think that the new poverty line could help the government better allocate resources to poverty-stricken areas.

Pok Yin Stephenson Chow response:

See comment [to recommendation n°28][...].

Recommendation n°34: *Consider establishing a moratorium on death penalty.*  
(Recommended by *Brazil*).

IRI: *not implemented*

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Recommendation n°88: *Consider positively declaring a moratorium on the application of the death penalty with a view to abolishing it* (Recommended by *Mexico*).

IRI: *not implemented*

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Recommendation n°101: *Recommended continued reform towards the eventual abolition of the death penalty, including greater transparency around its use* (Recommended by *New Zealand*).

IRI: *not implemented*

World Uyghur Congress response:

No progress has been made by China on a moratorium on the death penalty. For example, the death penalty has been handed down to many Uyghurs in the last years after unfair and non-transparent trials. In a November 2009 resolution on "[Minority rights and the application of the death penalty in China](#)", the European Parliament (EP) called on the Chinese authorities "to adopt a moratorium on the death penalty immediately and unconditionally". Some recent examples for death sentences for Uyghurs:

- In February 2011, four Uyghur men (Turhun Turdi, Abdulla Tunyaz, Ahunniyaz Nur, and Abdukerim Abdurahman) were sentenced to death for their alleged roles in three separate incidents that took place between August and November 2010 and on two other Uyghur men (Yasin Kadeer and Ahmet Kurban) received death sentences with a two-year reprieve in connection with the incidents.
- In March 2011, seven Uyghurs were sentenced to death by the Kashgar Intermediate People's Court and three others received death sentences with a two-year reprieve. Chinese media sources state that the seven sentenced to death are among a dozen people involved in "violent, terrorist" activities between June 2008 and October 2010. All of them were sentenced for "robbery and murder", allegedly committed on three occasions last year between August and October.
- In September 2011, four Uyghurs were sentenced to death in connection with the violent incidents in Hotan and Kashgar in July 2011. Abdugheni Yusup, Ablidik Hasan, Muhtar Hasan, and Memetniyaz Tursun were sentenced to death and two other men — Abdulla Eli and Pulat Memet — were sentenced to nineteen years in



prison and a five year suspension of their political rights for their part in the attacks. The defendants were convicted of “forming and participating in a terrorist organization, the illegal manufacture of explosives, premeditated homicide, arson, and several other related crimes”. The speedy conviction of these individuals casts serious doubts on the legitimacy of these trials and the WUC believes that they did not meet international legal standards. In past trials against Uyghurs, confessions were extracted by torture, trial proceedings took place covertly on undisclosed dates, and defendants were denied access to a meaningful defence with lawyers of their own choosing. According to the Tianshannet.com statement, “defendants all confessed to the crimes alleged by the prosecution,” and the WUC has serious fears that these confessions were extracted through torture. While the WUC clearly rejects any act of criminal violence, the WUC is deeply concerned that these judicial death sentences are likely to be an instance of the arbitrary use of the death penalty to intimidate the Uyghur population of East Turkestan, part of an ongoing pattern of politically motivated criminal charges, unfair trials, and disproportionate penalties. In the last years, Uyghurs have frequently been subjected to arbitrary arrest and imprisonment, torture and other forms of ill-treatment, incommunicado detentions, denial of access to lawyers and family members, and trials devoid of due process. The Chinese authorities routinely equate Uyghurs’ peaceful political, religious, and cultural activities with terrorism and religious extremism. The authorities use vaguely-worded provisions in the Criminal Law, such as “endangering state security” and “disturbing public order,” to prosecute and imprison Uyghurs who peacefully exercise their rights. Also these new convicts were sentenced for having been involved in “terrorist activities”. [...]

Recommendation n°35: *Continue its cooperation with OHCHR (Recommended by Brazil).*

IRI: -

*Human Rights in China response:*

China and the OHCHR entered into a two-year Memorandum of Understanding for technical cooperation in November 2000, followed by a three-year MOU in August 2005. HRIC has previously expressed concern regarding both MOUs. According to a 2008 OHCHR report, under the 2005 MOU, “six projects were developed under the programme to support preparation for the ratification of the ICCPR and for implementation of the ICESCR,” and “since the expiration of the MOU on 30 August 2008, OHCHR has been undertaking an evaluation of the programme to determine how to continue supporting China in its efforts to promote human rights”. Since then, there has been limited public information regarding any new agreement on technical assistance between China and OHCHR, or whether the High Commissioner has been invited for a visit. HRIC urges greater transparency on the scope and extent of the OHCHR’s cooperation with China, including information regarding the results of the OHCHR’s assessment of its China cooperation.

*World Uyghur Congress response:*

See response to recommendation n° 18.



Recommendation n°36: *Facilitate an early visit by the High Commissioner for Human Rights (Recommended by Canada).*

IRI: *not implemented*

Human Rights in China response:

See response to recommendation n°35.

World Uyghur Congress response:

See response to recommendation n°18.

ICTTUNA response:

Invited but no dates agreed or announced, since the post was created, the High Commissioner visited Tibet only once in 1998. Tibetans continue to call for United Nations fact-finding mission to Tibetan areas of present-day People's Republic of China.

Recommendation n°37: *Reduce the number of crimes carrying the death penalty (Recommended by Canada).*

IRI: *fully implemented*

World Uyghur Congress response:

See response to recommendation n°12.

Pok Yin Stephenson Chow response:

See comment 12 above.

Recommendation n°38: *Abolish all forms of administrative detention, including Re-Education through Labour (Recommended by Canada).*

IRI: *not implemented*

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Recommendation n°47: *Abolish the system of re-education through labour and black jails (Recommended by the Czech Republic).*

IRI: *not implemented*

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Recommendation n°67: *Abolish administrative detention and forced labour without proper trial, access to legal representation and independent supervision (Recommended by Germany).*

IRI: *not implemented*

World Uyghur Congress response:

No steps have been taken by the Chinese government to end arbitrary detentions, black jails, etc. On the contrary, China is taking measures to make arbitrary detention legal. In August 2011, the Chinese government has proposed a new legislation in China to empower the security apparatus to detain criminal suspects secretly for up to six months in undisclosed locations. Under proposed revisions to the Criminal Procedure Law, which the government made public on August 30, 2011, law enforcement authorities would be allowed to place suspects in detention for up to six months at a location determined by the police in cases regarding state security, terrorism, or serious instances of corruption. The revisions would permit law enforcement authorities to keep this detention secret if they believed notifying relatives or a lawyer could “hinder the investigation”. This new legislation would give



the security apparatus free rein to carry out ‘disappearances’ lawfully. Under international law, a state commits an enforced disappearance when its agents take a person into custody and then deny holding the person or fail to disclose the person’s whereabouts. “Disappeared” people are often at high risk of torture, a risk even greater when they are detained outside of formal detention facilities such as prisons and police stations. Family members and legal representatives are not informed of the person’s whereabouts, well-being, or legal status. The prohibition against arbitrary detention is a key principle of the administration of justice. It is recognized under the Universal Declaration of Human Rights, which is considered reflective of customary international law. The International Covenant on Civil and Political Rights (ICCPR), which China signed in 1998, but has yet to ratify, states that, “Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release”. The ICCPR further provides that, “Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful”. As a signatory to the ICCPR, China is obliged under the Vienna Convention on the Law of Treaties “to refrain from acts which would defeat the object and purpose” of the treaty. See HRW - [China: Don’t Legalize Secret Detention](#), 1 Sept 2011:

China Labour Bulletin response:

This has not been done.

Recommendation n°39: *Provide those held on State-security charges with all fundamental legal safeguards, including access to counsel, public trial and sentencing, and eligibility for sentence reduction and parole (Recommended by Canada)*

IRI: *not implemented*

World Uyghur Congress response:

The Chinese government continues to use “Endangering State Security” (ESS) charges to silence peaceful Uyghur dissent. After the events of 5 July 2009 in Urumqi, many Uyghurs were convicted on charges of “endangering state security” (ESS). [“Leaking state secrets” is included within “endangering state security” in China’s Criminal Law.”.] The Chinese authorities have regularly and arbitrarily used this vague provision to criminalize Uyghurs’ peaceful exercise of their human rights and prosecute and imprison them. Crimes of ESS (also translated as “endangering national security”) are defined in articles 102-113 of the PRC Criminal Law. Many of them carry the possibility of life imprisonment and capital punishment. ESS crimes include, among other acts, “subversion of state power”, “separatism” and “leaking state secrets”. In a March 10, 2006 report by the UN Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment that was based on his visits to China, the Special Rapporteur stated that the “vague definition of [ESS crimes] leaves their application open to abuse particularly of the rights to freedom of religion, speech, and assembly,” and recommended the abolition of such “political crimes”. (See U.S. Congressional-Executive Commission on China [“Number of Trials for State Security Crimes in Xinjiang Increases in 2009”](#) [citing to and quoting to March 6, 2006 report by UN Special Rapporteur on torture and other cruel, inhuman,



or degrading treatment or punishment]). The authorities' use of the ESS charge against Uyghurs has drastically increased in recent years. The U.S. Congressional-Executive Commission on China noted that in 2008, the number of trials in XUAR courts involving ESS crimes and the number of indictments involving ESS crimes issued by the XUAR procurator offices approached the nationwide totals from 2007. In addition, the human rights organization, Dui Hua, noted that ESS trials in East Turkestan had increased by 63 percent in 2009 over the previous year, according to the president of the Xinjiang Uyghur Autonomous Region Higher People's Court. The organization also reported that from 1998 to 2003, more than half of all ESS trials in China took place in East Turkestan, according to statistics published in the Xinjiang Yearbook. (See U.S. Congressional-Executive Commission on China, "[Annual Report 2009](#)", Oct. 10, 2009, pp. 66, 244, 253-254 (citing sources); Amnesty International, "[China: Fear of torture and other ill-treatment: Abdushukur Qurban](#) (m)" (Urgent Action, Dec. 5, 2008, 1st page; U.S. Congressional-Executive Commission on China (online), "[Annual Report 2008](#)", Oct. 31, 2008, p. 168). On 7 March 2010, Nur Bekri, Chairman of the XUAR government, told reporters that China had convicted 198 people in connection with the July 2009 events, in 97 separate cases. He further said that the investigations, prosecutions, and trials were continuing and that the total number of convictions would be higher. He refused to say how many defendants had been sentenced to death or executed, although as stated above, state media have reported that 26 people (24 Uyghurs, 2 Han Chinese, according to their names) have been sentenced to death and nine people (8 Uyghurs, 1 Han Chinese, according to their names) have been executed. (See U.S. Congressional-Executive Commission on China (online), "[198 People in Xinjiang Reportedly Sentenced in Trials Marked by Lack of Transparency](#)" (Commission Analysis); "[198 convicted for unrest in China's Xinjiang](#)", AFP (published on France 24's website), Mar. 7, 2010; "[Xinjiang official stresses fighting separatism, says 198 sentenced for deadly riots](#)", Xinhua. Although Nur Bekri said that the handling of the cases of these 198 people adhered to the principle of open trials, as of the date of his statement, Chinese media had reported on the convictions of far fewer individuals in connection with the events of July 2009. This discrepancy underscores the lack of transparency in the prosecutions of defendants in connection with the July 2009 events. On 16 January 2011, Chinese media, [published](#) statistics on trials held in East Turkestan in 2010 on charges of "crimes against national security". According to the official numbers, 376 trials had been conducted in 2010 for individuals charged with "endangering state security" in a series of cases, including an August 2008 attack in Kashgar in which 16 policemen were reportedly killed. According to the Dui Hua Foundation, this reflects a 16 percent drop compared to the 437 cases concluded in 2009 but remains more than 30 percent above the number reported in 2008. It is assumed that a crackdown against "splittism" following the deadly riots in Urumqi on July 5, 2009, is primarily responsible for the increase in ESS cases over the past two years. Dui Hua also noted that "the number of defendants is likely to be much higher [than 376]. Court figures from the XUAR in the period from 1998 to 2003 show that there were more than three defendants, on average, in ESS cases. So, it is very likely that XUAR courts tried more than 1,000 defendants for ESS in 2010—and it is safe to conclude that the overwhelming majority were convicted". (See Dui Hua Foundation "[Xinjiang Court Offers First Indicator of State Security Stats for 2010](#)").



Recommendation n°40: *Regularly publish detailed statistics on death penalty use (Recommended by Canada).*

IRI: *not implemented*

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Recommendation n°76: *Lift secrecy on figures and statistics concerning death penalty. Restrict its application to the most serious crimes according to international minimum standards and consider the establishment of a moratorium on the use of death penalty with a view to its abolition (Recommended by Italy).*

IRI: *not implemented*

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Recommendation n°127: *Publish the statistics of the total number of executions since the introduction of its revision to allow measurement of the decline in numbers (Recommended by Switzerland).*

IRI: *not implemented*

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Recommendation n°132: *Reduce the scope of application of the death penalty, and publish statistics to show that the use of the death penalty is falling in China (Recommended by the United Kingdom).*

IRI: *partially implemented*

World Uyghur Congress response:

So far, no official statistics on the application of the death penalty in China have been made available to the public. In March 2011, Amnesty International (AI) published a report entitled "[Death sentences and executions in 2010](#)" in which it states that China in recent years has carried out more executions than all other countries combined, believing that the executions in China go into the thousands. In 2010, AI decided not to publish minimum figures for the use of the death penalty in China, where such statistics are considered to be state secrets. Instead Amnesty International has challenged the Chinese authorities to publish figures for the number of people sentenced to death and executed each year to confirm their claims that there has been a reduction in the use of the death penalty in the country.

Recommendation n°43: *Eliminate abuse of psychiatric committal (Recommended by Canada).*

IRI: *partially implemented*

China Labour Bulletin response:

At a Standing Committee Meeting of the State Council on 19 September 2011, news was released with regards to a draft of the Mental Health Law of the PRC. This draft law would "...ensure that citizens who do not need treatment will not be subjected to forced detention due to procedural or systematic flaws". The draft law also would subject those to serious legal responsibility who forcibly detained people who did not have psychiatric problems and who did not have evidence diagnosing such people, or judicial authorities who provided false opinion.

Recommendation n°45: *Continue its efforts for the promotion and protection of human rights and also for the legitimate interests of organisations and individuals working faithfully to uphold the human rights of the Chinese people (Recommended by Cuba)*

IRI: *not implemented*





China Human Rights Lawyers Concern Group response:

After the Beijing Olympics in 2008, instead of improvements of human rights situations as expected by the international community, the crackdowns on human rights defenders have not been reduced but there have been even more cases of arbitrary detention and enforced disappearances of human rights lawyers and human rights defenders, [...]. According to CHRLCG's record, Beijing human lawyers Jiang Tianyong, Tang Jitian, Li Fangping, Liu Xiaoyuan, Ni Yulan, Li Xiongbing and Jin Guanghong, legal academics Teng Biao and Xu Zhiyong, Shanghai lawyer Li Tiantian, Guangzhou lawyers Liu Shihui, Tang Jingling, Liu Zhengqing and Wu Zhenqi and more than 100 human rights defenders and ordinary citizens had been detained from a few days to a few months after the "Jasmine Revolution," while some of them are still under detention and face prosecution. In addition, Beijing human rights lawyer Gao Zhisheng, who supported Falun Gong practitioners, has been disappearing since 4 February 2009 except for a brief reappearance for less than one month in late March 2010. It was reported that he was subjected to torture and ill-treatments during detention. His whereabouts is still unknown. Chen Guangcheng, a blind legal activist in Shandong, and his family have been under house arrest in their village home since Chen was released in September 2010 after serving a sentence of four years and three months for ungrounded charges. It was reported that he and his wife Yuan Weijing were beaten up in February and March 2011 in their home when national security officers raided their home.

Pok Yin Stephenson Chow response:

The space of human rights related efforts is shrinking in Hong Kong. This could be seen from various incidences; two of which will be highlighted here. (1) On 1 July, 2011, the Director of the Hong Kong Human Rights Monitor, Law Yuk Kai, was removed from a stand-off between police officers and protesters and while he was videotaping the removal and arrest of protestors. (2) In June 2011, the Law Reform Commission published a Consultation Paper on Charities proposing that 'a wide ranging regulatory regime for charities should be introduced in Hong Kong and that a charity commission should be set up as the regulatory body for charities. The consultation paper excludes 'the advancement of human rights, conflict resolution or reconciliation' in the list of charitable purposes contained in the paper. While the main purpose of the law reform proposal is to combat illegal fundraising activities, human rights NGOs are worried that the exclusion of 'human rights' from the definition of 'charitable purposes' would seriously hinder the fundraising works of human rights NGOs [...]

Recommendation n°46: *Maintain, in strict compliance of law, to avoid impunity for people who are qualifying themselves as human rights defenders with the objective of attacking the interests of the state and the people of China (Recommended by Cuba).*

IRI: -

China Human Rights Lawyers Concern Group response:

After the Beijing Olympics in 2008, instead of improvements of human rights situations as expected by the international community, the crackdowns on human rights defenders have not been reduced but there have been even more cases of arbitrary detention and enforced disappearances of human rights lawyers and human



rights defenders, especially after an anonymous online call for “Jasmine Revolution,” which in fact only called for “smiling and strolling” in major landmarks in some big cities in China on Sundays starting from 20 February 2011, inspired by the Arab Spring democratic movements in early 2011. According to CHRLCG’s record, Beijing human lawyers Jiang Tianyong, Tang Jitian, Li Fangping, Liu Xiaoyuan, Ni Yulan, Li Xiongbing and Jin Guanghong, legal academics Teng Biao and Xu Zhiyong, Shanghai lawyer Li Tiantian, Guangzhou lawyers Liu Shihui, Tang Jingling, Liu Zhengqing and Wu Zhenqi and more than 100 human rights defenders and ordinary citizens had been detained from a few days to a few months after the “Jasmine Revolution,” while some of them are still under detention and face prosecution. In addition, Beijing human rights lawyer Gao Zhisheng, who supported Falun Gong practitioners, has been disappearing since 4 February 2009 except for a brief reappearance for less than one month in late March 2010. It was reported that he was subjected to torture and ill-treatments during detention. His whereabouts is still unknown. Chen Guangcheng, a blind legal activist in Shandong, and his family have been under house arrest in their village home since Chen was released in September 2010 after serving a sentence of four years and three months for ungrounded charges. It was reported that he and his wife Yuan Weijing were beaten up in February and March 2011 in their home when national security officers raided their home.

Recommendation n°48: *Accede to the OPCAT, improve its national implementation of the CAT, establish an independent and effective complaints procedure for victims of torture and review its compliance with the principle of non-refoulement (Recommended by the Czech Republic).*

IRI: -

Hong Kong Human Rights Commission response:  
[Comment out of the scope]

Recommendation n°49: *End the strike hard campaign associated with numerous serious violations of human rights (Recommended by the Czech Republic).*

**IRI: not implemented**

World Uyghur Congress response:

China has not ended the so called “Strike hard” campaigns, implemented above all in the Xinjiang Uyghur Autonomous Region (XUAR). In the last two years, two “Strike hard” campaigns have been implemented in the XUAR: In November 2009, a “Strike Hard” campaign was launched to continue carrying out detentions of people deemed suspects in the July 2009 unrest in Urumqi, though mass arrests and detentions of Uyghurs had already been carried out through security sweeps and targeted raids. (See for example: The Guardian, [China launches 'strike hard' crackdown in Xinjiang](#)). Following the Hotan and Kashgar incidents in July 2011, the Chinese authorities announced the implementation of the latest “Strike Hard” campaign starting on 11 August and lasting until 15 October 2011 “against violence, terrorism and radical Islam in Xinjiang, ensuring the region’s stability”. Beijing dispatched to the XUAR its elite Snow Leopard anti-terrorism unit, which is specially trained in anti-terrorism, riot control, bomb disposal and responding to hijackings. The Public Security Bureau of Xinjiang also warned it would “severely punish” anyone who publicized or spread “extreme religious thought” and crack down on “illegal religious activities”. It said



investigations will be stepped-up and suspects dealt more harshly through accelerated trials. The campaign includes around-the-clock patrols of trouble spots, identity checks and street searches of people and vehicles. In Urumqi, XUAR's regional capital, security forces set up a total of 39 checkpoints encircling the city, in addition to a total of 200,000 security personnel. In Kashgar, public security units across the city have been strengthened and security forces are patrolling around the clock in the main Uyghur residential area. In addition, the police have established checkpoints to check the IDs of residents; people without IDs are being detained. The "Strike Hard" campaign, which began in the middle of the Muslim holy month of Ramadan, also includes a curb on peaceful religious activities in Xinjiang. The consequences of such campaigns are always associated with numerous serious violations of human rights against the Uyghur population:

- "Strike Hard" campaigns always lead to a brutal campaign of arrests and enforced disappearances in the XUAR. Chinese officials are using these campaigns as a pretext to oppress the most peaceful forms of dissent and expressions of Uyghur identity. In addition, these campaigns result in egregious human rights abuses against the whole Uyghur population, and in the deterioration of existing tensions, without addressing the root causes of social unrest.
- The Chinese government has used frequent "Strike Hard" campaigns to target many peaceful expressions of Uyghur identity inside the XUAR.
- Human Rights Watch (HRW) noted that "Strike Hard" campaigns consistently result in accelerated judicial proceedings, a lower threshold for arrests and convictions, and a higher number of people who are sentenced, including to death.
- Amnesty International (AI) has documented that, under these types of campaigns, tens of thousands of people are reported to have been detained for investigation in the region, and hundreds, possibly thousands, have been charged or sentenced under the Criminal Law.

See also: [New "Strike Hard" campaign threatens Uyghur population in East Turkestan](#) [...]

Recommendation n°50: *Investigate all cases of police brutality and torture, e.g., death of Mr. Pema Tsepak in Chambo in January this year (Recommended by the Czech Republic).*

IRI: *not implemented*

Hong Kong Human Rights Commission response:

Although a huge sum has been spent on advertisements to boost the image of the Hong Kong Police Force, the problem of police brutality and its abusive use of power remains serious in the entire society. As mentioned earlier, in the past years there have been many cases, where the Hong Kong Police Force has brutally and barbarically interfered into peaceful public processions and meetings.

*Ineffective complaints mechanism* - Unfortunately, this unfavorable condition has not been resolved by the current complaint mechanism. The complaints about abusive use of power by the police remain common and an independent complaint mechanism to investigate the complaints has been urged by various sectors of the community. Indeed, the Complaints against Police Office (CAPO) has long been criticized for lack of credibility because it is a part of the police system. The independence and fairness of officers working in CAPO is questionable, as they



come from the police force and will return to their posts in future. In fact, many complaints have been dropped due to the lack of evidence. For instance, in 2006 only 2.8% of the cases were substantiated. The number of allegations against police officers has decreased in the past two years, which the Police Force may explain by improvements in police conduct and behavior. However, a more plausible explanation might be that the general public distrusts the complaint mechanism and has given up lodging complaints even though the Police Force continues its malpractices and misconduct. In fact, a further analysis of the results of the investigations is discouraging. For example, between year 2000 and 2006, the percentage of allegations which were found to be substantiated / substantiated other than reported decreased from 4.0% in 2002 to 2.8% in 2006. In addition, in view of the defect of the complaint investigation mechanism, the withdrawal rate kept on increasing. In 2000, the percentage of cases that was finally withdrawn was 38.3%. This jumped to 43.7% in 2003 and reached the peak at 48.9% in 2006. The figures reveal that the general public is reluctant to use the present complaint system and that institutional reform is necessary to create legitimacy and enhance public confidence. The decreasing trend in the number of allegations can be explained by the ineffective complaint investigation mechanism. Thus the institutional defects of the current police complaint monitoring mechanism remain serious.

*No investigative power of the IPCC* - Until now, all cases investigated by CAPO have to be scrutinized and recorded by the Independent Police Complaints Council (IPCC). The IPCC has commented that police employed excessive power in the above-mentioned cases, and it has raised a number of suggestions, such as asking the police “to avoid tactics which may reasonably give rise to the perception that the rights of freedom of expression and of assembly and demonstration are being unnecessarily curtailed”. However, the IPCC has does not have any investigative powers for complaints. As a result, the monitoring function of the IPCC is not substantial, which makes the mechanism ineffective. Lastly, the implementation of the recommendations of the IPCC to the police force cannot be guaranteed as they are still not legally binding. Thus it is not compulsory for the Police Force to comply with the recommendations. Thus, even though the IPCC is a statutory body, in the absence of the power of investigation, the monitoring mechanism is still handicapped.

ICTTUNA response:

Rejected while custodial deaths is a major concern in Tibetan areas of present-day China. Calls for investigation by UN Treaty Bodies and UN Special Procedures over the handling of the situation in Tibetan areas following the Tibetan Uprising in 2008 remain ignored. See [CAT's Concluding Observation on China](#).

Recommendation n°51: *Ensure protection of the right of peaceful assembly and release all persons arrested in this connection, e.g., Ms. Tashi Tao and Ms. Dhungtso in Kardze County* (Recommended by the Czech Republic).

IRI: not implemented

ICTTUNA response:

Rejected while Tibetans continued to be denied of the right to peaceful assembly with more Tibetans being detained in Kardze, Sichuan province in 2011. The



Congressional-Executive Commission on China states that as of 10 October, 2011, there 1,441 political or religious prisoners being held by China although this figure does not include all Tibetan detainees on or after 10 March, 2008, or Uyghur detainees on or after 5 July, 2009. [This data](#) states that as of September 1, 2011, the records of 527 Tibetan political prisoners believed or presumed to be currently detained or imprisoned. Of those 527 records, 483 are records of Tibetans detained on or after March 10, 2008, 202 and 44 are records of Tibetans detained prior to March 10, 2008. This information for the period since March 10, 2008, is certain to be far from complete, CECC said. Following a meeting with Tibetan political prisoner Jigme Gyatso (Jinmei Jiacao) at Chushul prison, near Lhasa, the Special Rapporteur on Torture [appealed to the Chinese authorities to release him](#) since he has been convicted of a political crime, possibly on the basis of information extracted by torture. However, an urgent appeal intervention on Jigme Gyatso condition was issued to the Chinese authorities on 4 January 2007, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression jointly with the Chairperson-Rapporteur of the Working Group on arbitrary detention and the Special Rapporteur on the question of torture. In response the Chinese authorities on 9 March, 2007 stated: From November 2005, before he met with the Special Rapporteur on the question of torture in November 2005, until the present he has remained in a double cell, and his conditions of detention have not changed; there is no substance to the allegation in the letter that "since meeting with the Special Rapporteur [he] has been ill-treated and held in solitary confinement in particularly restricted conditions". Jinmei Jiacao is currently in excellent health and receives regular visits from family members, and the allegations in the letter that "restrictions have been placed on [him] regarding his... family visits and that his health is rapidly deteriorating" are not true. Jigme Gyatso is due for release on 30 March, 2014.

*Recommendation n°53: Reform its State secrets Law and definitions of crimes as incitement to subversion of state power so that they cannot be abused for persecution of human rights defenders in particular petitioners or journalists (Recommended by the Czech Republic).*

*IRI: not implemented*

*Unrepresented Nations and Peoples Organization response:*

China continues to prosecute human rights defenders for the so-called "subversion of state power". In early 2011, this law was used to prosecute internet users who reposted a call for protests at a time when the government was responding to the popular movements for democracy in the Middle East. Human rights defenders and activists in the region of East Turkestan (Xinjiang) continue to be charged with vaguely-defined crimes, including "ethnic separatism," "spreading harmful information" and "harming ethnic unity."

*World Uyghur Congress response:*

See response to recommendation n°39.

*Recommendation n°54: Review laws and practices in particular with regard to ensuring protection of the freedom of religion, movement, protection of the culture*



*and language of national minorities, including Tibetans and Uyghurs (Recommended by the Czech Republic).*

IRI: *not implemented*

Unrepresented Nations and Peoples Organization response:

See response to recommendation n° 13.

World Uyghur Congress response:

The Chinese government continues to violate all human rights of ethnic minorities, such as the Uyghurs. [...]

ICTTUNA response:

Rejected as new regulations are imposed to further restrict religious freedom in Tibet, including China's assertion that it will be the "authority" of reincarnation of Tibetan Lamas. On April 8, 2011, in a press statement the Working Group on Enforced or Involuntary Disappearances recalled unresolved cases of disappearances pending with the Chinese authorities, including the 11th Panchen Lama, Gedhun Choekyi Nyima. The Group said: "A case going back 16 years is that concerning Gedhun Choekyi Nyima known as the 11th Panchen Lama. He disappeared in 1995 when he was six years old. While the Chinese authorities have admitted taking him, they have continually refused to divulge any information about him or his whereabouts, making his case an enforced disappearance. A number of human rights mechanisms including the UN Committee Against Torture, the UN Committee on the Rights of the Child, as well as Special Rapporteur on Freedom of Religion or Belief, have all called for his whereabouts to be revealed, to no avail".

*Recommendation n°56: Continue its national efforts for the promotion and protection of human rights, including in the area of strengthening its national human rights architecture (Recommended by Egypt).*

IRI: *not implemented*

ICTTUNA response:

Non-existence of any national human rights structure in Tibet. It was reported that the Standing Committee of the National People's Congress (NPC) of China will review a second draft of a proposal for comprehensive revisions to China's Criminal Procedure Law. It is observed that the draft revision under Article 73, the practice of enforced disappearances of political offenders. While the practice has been employed for years, it was always technically illegal—until now. Under the draft, citizens can be secretly detained for up to six months on suspicion of "endangering national security" or "terrorism"—notoriously vague charges that have long been manipulated by police, prosecutors and courts. Article 73 is a blatant, open-ended attempt to authorize expanded political repression in the guise of concern for national security. Jerome A. Cohen wrote in the Wall Street Journal that in today's climate, petitioners seeking relief from political or even mundane grievances may easily be charged with endangering national security, and peaceful Tibetan and Uighur protesters are often accused of terrorism. Under Article 73, they will have fewer legal rights than they do now. They will be virtually defenceless during the critical first stage of the criminal process. Suspects could be held six months longer than the already long maximum of 37 days currently allowed to investigators before obtaining



prosecutors' approval for formal arrest. NPC is scheduled to adopt the final revisions at its March 2012 meeting.

*Pok Yin Stephenson Chow response:*

Hong Kong lacks a national human rights institution\* to prevent and promote human rights as well as to redress human rights violations. At present, human rights related policies are scattered across different bureaus under the supervision of the Constitutional and Mainland Affairs Bureau (CAB). However, it was criticised that the subversion of human rights implementation by the CAB is ineffective, largely owing to the lack of a human rights focus. Despite repeatedly urged by the HRC\*\*, the Government expressed no plans in establishing a national human rights institution in accordance with the Paris Principles.

\*In the context of Hong Kong, 'national human rights institution' is often referred to as 'national human rights commission'. The current institution that is closest to a national human rights institution is the Equal Opportunities Commission ('EOC') (see comment 106 below). However, the EOC only deals with matters concerning equality and anti-discrimination.

\*\*See CCPR A/55/40 (2000); CCPR/C/HKG/CO/2 (2006).

Recommendation n57: *In the light of its national realities, to continue to implement the policy of strictly controlling and applying the death penalty (Recommended by Egypt).*

IRI: *not implemented\**

*Human Rights in China response:*

Since 2009, the Chinese government has made significant formal changes to laws related to the death penalty. On February 25, 2011, the 19th Session of the 11th National People's Congress (NPC) Standing Committee passed an amendment, effective May 1, 2011, to the Criminal Law of the People's Republic of China. The current amended provision eliminates the death penalty for 13 non-violent economic crimes, bringing the total number of crimes for punishable by death to 55. However, since individuals are rarely charged or sentenced under the 13-eliminated crimes, it is questionable whether this amendment itself can address the problematic and overbroad use of the death penalty. In February 2010, the Supreme People's Court issued several opinions on implementing criminal law policies that mandated strict application of death penalties. In March 2010, the head of the Supreme People's Court, Wang Shengjun, again emphasized that the death penalty should be strictly controlled and prudently applied, and that the illegal evidence exclusion rules should be seriously implemented. As statistics of death penalties are still classified as "top secret" under China's state secrets system, it is difficult to accurately and comprehensively assess any rise or decline in the use of the death penalty. This includes the government's own claims that the use of the death penalty has decreased. In order to assess progress, the government would need to make public the actual numbers of executions in the past as a benchmark. With respect to the exclusion of illegally-obtained evidence, on June 25, 2010, the Supreme People's Court, the Supreme People's Procurator, the Ministry of Public Security, the Ministry of State Security, and the Ministry of Justice formally published two sets of rules regarding the use of evidence in death penalty cases and the procedure for excluding



evidence obtained through illegal means such as torture. In effect since July 1, 2010, these new evidentiary rules are: The Rules Concerning Questions About Examining and Judging Evidence in Death Penalty Cases [关于办理死刑案件审查判断证据若干问题的规定], establishing higher standards and stricter demands on the manner in which law enforcement organs handle criminal cases, especially where the death penalty can be imposed. The Rules Concerning Questions About Exclusion of Illegal Evidence in Handling Criminal Cases [关于办理刑事案件排除非法证据若干问题的规定], defining the scope of illegal evidence, and the procedures by which to exclude it, this includes evidence obtained through torture, violence or threats as illegally obtained and subject to exclusion. Despite progress on paper, it is difficult to assess whether concrete changes in practice have followed. Many of these provisions are general guidelines without specific implementation mechanisms for monitoring or accountability. One example of the new evidence rules lacking practical application is Fan Qihang's case. Fan's lawyer made requests to the Supreme People's Court to apply the new evidence rules to investigate and exclude evidence obtained through torture. Despite evidence of torture, the Supreme People's court still approved, without notice to his lawyer, Fan's execution in September 2010. However, in a recent October 2011 trial in Beihai, Guangxi Province, a local court spent four days examining confessions obtained through torture, and determining whether they ought to be excluded. A prominent Chinese criminal defense lawyer, Chen Youxi, commented that this was a breakthrough in the history of Chinese criminal procedure. The issue of the death penalty was also addressed in the draft amendments to China's Criminal Procedure Law (CPL), published on August 30, 2011. The amendments were discussed by the NPC on August 24 and August 26, 2011, and later released for public comment on August 30, 2011. The draft appears to include significant reforms, at least on paper, regarding procedures that involve juvenile offenders, the death penalty, judicial oversight of orders for compulsory psychiatric treatment, and the extension of exclusionary rules to illegally obtained evidence.<sup>66</sup> Under these proposed amendments, appeals to overturn death penalty rulings must undergo a full hearing or a retrial ordered by the court of first instance. The progress of these pending proposals must be monitored closely as they are scheduled now for a second reading before the National People's Congress in March 2012. Apart from the CPL amendments, the Supreme People's Court must approve and review all death sentences, and reviews are to be heard by a judicial panel. Finally, to prevent admitting evidence illegally obtained by torture, interrogations that involve crimes carrying the death penalty must be audio visually recorded. While China appears to be making formal legislative reforms with respect to death penalty laws, the lack of transparency and access to accurate statistics on the application of the death penalty present a fundamental obstacle to assessment and implementation of formal reforms.

*Pok Yin Stephenson Chow response:*

See comment 12 above.

**\* [UPR Info]: this recommendation is noted as “not implemented”; however, the NGOs consider the non implementation as a positive step.**





Recommendation n°58: *Develop and adopt a comprehensive policy to combat child labour* (Recommended by *Finland*).

IRI: *not implemented*

*Hong Kong Human Rights Commission response:*

Children suffer the most with the widening disparity between rich and poor in Hong Kong. Children hit the high child poverty rate at 26.7% in Hong Kong. Living standards and development opportunities for their children are sadly compromised. There are 297,500 children age under 18 living in poverty. They have to do their homework on their beds and earn their living at night collecting discarded paper, cartons and tins, in the center of affluent Hong Kong. According to the recent research conducted by Society for Community Organization, it was found that one-fourth (25.2%) of the respondents of poor children has experienced starvation due to poverty and over one-fifth (20.9%) of the respondents expressed that they did not have three meals regularly every day. There is no comprehensive child policy or any mechanism to implement the Convention on the Rights of Child since it was applicable to Hong Kong in 1994. The right of poor child is severely undermined. The general principles of non-discrimination, the best interests of the child, right to survival and development as well as participation from the Convention are not adopted in the policy formulation of the Hong Kong SAR Government.

*China Labour Bulletin response:*

Generally speaking, China has not formulated any comprehensive plans to combat child labour. In fact, some anecdotal evidence points to the trend that as the labour market became tighter in 2009 to the current day, some anecdotal evidence points to the fact that child labour has gone up. To some extent, this is due to market factors. However, child labour in China is closely related to the education system in rural areas. Schooling should be free under the Compulsory Education Law, but in many cases, this law is not properly enforced, and schools lack funding and qualified teachers, while parents still need to pay fees. Interestingly, perhaps, the government was pressed to do more on child trafficking, as China's first ever civil society-led campaign against child trafficking was launched on micro-blogging platforms, and the internet citizens (or "netizens") helped give tips and leads to PSB officers.

Recommendation n°64: *State a precise calendar for ratification and adoption of the necessary measures for the ratification of the ICCPR* (Recommended by *France*).

IRI: *not implemented*

+

Recommendation n°94: *Ratify the ICCPR as soon as possible and bring its legislation into line with its provisions* (Recommended by *the Netherlands*).

IRI: *not implemented*

+

Recommendation n°100: *Recommended that the national action plan on human rights reflect concrete steps towards the ratification of the ICCPR* (Recommended by *New Zealand*).

IRI: *not implemented*

+



Recommendation n°133: *Release a clear timetable for work towards ICCPR ratification* (Recommended by *the United Kingdom*).

IRI: *not implemented*

World Uyghur Congress response:

No steps have been taken by the Chinese government to ratify the ICCPR.

Recommendation n°66: *Guarantee that all detainees, regardless of their crimes, are held in facilities with decent standard and treatment* (Recommended by *Germany*).

IRI: *partially implemented*

Human Rights in China response:

In its National Human Rights Action Plan Assessment, the Chinese government claims that between 2009 and 2010, it took steps to improve the conditions of detention and ensure the rights of detainees are enforced. It enumerates, among others, the following laws and regulations:

- “Ten Provisions on Preventing and Cracking Down on Bullies in Detention Houses” (May 2009, Ministry of Public Security);
- “Notice on the Concentration of Female Detainees for Management in Detention Houses” (May 2009, Ministry of Public Security);
- “Notice on Effectively Strengthening and Improving Medical and Health Work in Places Under the Surveillance and Control of Public Security Organs” (December 2009, Ministry of Public Security and Ministry of Health); and
- “Construction Standards for Prisons” (December 2010).

The Chinese government also states that an “open system of supervision and law enforcement has been basically established” – detention houses have reception rooms, complaint boxes, systems and procedures for supervision and law enforcement. The government further maintains that more than 1500 detention houses have been opened for public supervision.

Despite these official statements and formal legislative reforms, serious problems regarding detainee rights and treatment continue to exist. According to the Rapporteur for Follow-up on Conclusions and Recommendations for the UN Committee against Torture, that committee remains concerned with reports that, “in practice, these laws are neither strictly adhered to nor enforced”. The Rapporteur also noted the lack of legal safeguards for detainees, failure by Chinese authorities to notify detainees of their rights at the time of detention, and restricted access to independent doctors. The lack of reliable, accurate, and complete data and statistics also presents obstacles in assessing accountability and implementation of these rules. As noted by the Rapporteur for Follow-up on Conclusions and Recommendations for the UN Committee against Torture, China’s statement that it will “work harder” to improve statistics and documentation is insufficient – “the Committee once again expresses dissatisfaction at the continued failure to provide the requested information, which is needed to complete a full assessment of China’s compliance” with international human rights mechanisms and standards. In discussing the recent crackdown against human rights lawyers in China, Professor Jerome Cohen, of the New York University School of Law’s US-Asia Law Institute, also noted that while in captivity, detained human rights lawyers “endure humiliation,



torture, and endless demands to sign statements ‘repenting’ alleged misconduct and promising ‘good behavior.’”

Recommendation n°69: *Guarantee all citizens of China, including its minority communities and religions, the exercise of religious freedom, freedom of belief and the freedom of worshipping in private* (Recommended by Germany).

IRI: *not implemented*

Unrepresented Nations and Peoples Organization response:

See response to recommendation n° 13.

World Uyghur Congress response:

The Chinese government continues to violate all human rights of ethnic minorities, such as the Uyghurs. [...]

ICTTUNA response:

- Prioritizing Tibetan Buddhist obligation to support Chinese government policies.
- "Buddhist Associations": Greater authority over monastic institutions
- "Democratic Management Committees": Subject to greater scrutiny, subordination to government authority.
- "Religious personnel": Subject to more detailed control over religious contact, travel, study.
- Township-level governments: Expanded responsibility, authority over monasteries, nunneries.
- Village-level committees: Expanded role as grassroot monitors and supervisors.
- Dedicated village-level committees monitor, supervise, report on monastic activity.

Recommendation n°75: *While guaranteeing this freedom of speech, strengthen Internet governance to make sure the contents that incite war, racial hatred or defamation of religions are prohibited, and pornographic websites that are harmful to children and minors are banned or restricted* (Recommended by Iran).

IRI: *fully implemented*

Pok Yin Stephenson Chow response:

'Internet governance' is a controversial topic in the society of Hong Kong, where internet users in general value the freedom of expression and information. The internet community in Hong Kong are particularly concerned that internet governance would become the precursor of political internet censorship. Meanwhile, the laws of Hong Kong criminalise hate speech and child pornography.

Recommendation n°78: *Simplify requirements for official approval of religious practices in order to allow more individuals to exercise their freedom of religion and belief and to better respect the religious rights of minorities* (Recommended by Italy).

IRI: *not implemented*

World Uyghur Congress response:

The Chinese government continues to violate all human rights of ethnic minorities, such as the Uyghurs. [...]



Recommendation n°79: *Continue its efforts to further ensure ethnic minorities the full range of human rights including cultural rights* (Recommended by Japan).

IRI: *not implemented*

Unrepresented Nations and Peoples Organization response:

See response to recommendation n° 13.

Human Rights in China response:

See response to recommendation n° 13.

Beijing Aizhixing Institute response:

[...]

World Uyghur Congress response:

The Chinese government continues to violate all human rights of ethnic minorities, such as the Uyghurs. [...]

Recommendation n°80: *Step up cooperation with the special procedures* (Recommended by Latvia).

IRI: *not implemented*

Pok Yin Stephenson Chow response:

See comment [to recommendation n° 45 [above]].

Recommendation n°81: *Continue to place people at the centre of development in a harmonious society for all so that this approach can further progress the economic, social and cultural rights* (Recommended by Jordan).

IRI: *not implemented*

Pok Yin Stephenson Chow response:

See comment [to recommendation n° 102 below].

Recommendation n°83: *Step up cooperation with the special procedures* (Recommended by Latvia).

IRI: *partially implemented*

+

Recommendation n°96: *Engage with the Human Rights Council's special procedure mandate holders on addressing human rights challenges* (Recommended by New Zealand).

IRI: *partially implemented*

Human Rights in China response:

Despite its cooperation in the individual complaint review process of the UN Working Group on Arbitrary Detention (WGAD), China has continued to ignore the WGAD's final determinations and recommendations. In its 2010 report, the WGAD also noted that specific detentions it declared as arbitrary have been ignored by Chinese authorities. The Working Group was informed by the source that Mr. Zhang Honghai, whose detention was declared arbitrary in Opinion No. 32/2007 (China), was released on 12 March 2009, however only after having served his prison term of eight years in full. Unfortunately, this is not an isolated case. China continues to detain individuals despite clear WGAD findings that their detentions were arbitrary



under principles of international law, or releasing them only after they have served their full prison terms. Below are some examples:

- Chen Guangcheng – Opinion No. 47/2006 (China), remained in prison and released on September 9, 2010 after serving his full sentence of four years, three months;
- Gao Zhisheng – Opinion No. 26/2010 (China), released after serving his full sentence of three years; however, his whereabouts remain unknown since April 2010;
- Jin Haiké – Opinion No. 32/2007 (China), remained in prison and released on March 12, 2011, after serving his full sentence of ten years;
- Alimujiang Yimiti (Alimjan Yimit in Uyghur) – Opinion No. 29/2008 (China), remains in jail serving a prison sentence of 15 years, and is not due for release until 2023; and
- Shi Tao – Opinion No. 27/2006 (China), remains in prison serving a ten-year sentence and not due for release until 2014.

Even after these individuals are released from prison, many continue to face extra-legal restrictions on their fundamental rights. In its 2011 report, the WGAD also noted the importance of follow-up visits particularly with China: “This was evident when the Working Group carried out its follow-up visit to China in September 2004. The Working Group requests the support of Member States in facilitating follow-up visits.” Despite this explicit language, there has been limited indication that China has extended, or plans to extend, an invitation for the WGAD’s follow-up visit.

World Uyghur Congress response:

China’s cooperation with the different UN Special Procedures Mandate Holders continues to be very poor. No standing invitation has been granted to all special procedures of the Human Rights Council. In recent years, only the Special Rapporteur on the right to food was invited to conduct a visit to China (15-23 December 2010), other Special Procedures were not allowed to visit China. The following important Special Procedures (among others) have requested a visit to China, but have not yet received any answer from the Chinese government:

- Special Rapporteur on extrajudicial, summary or arbitrary executions (visit request since 2005, reminder sent in 2008)
- SR on freedom of association and assembly (Requested in 2002 and on 6 September 2011)
- Special Rapporteur on human rights defenders (Requested in 2008)
- Independent Expert on minority issues (visit requested on 30 July 2009)
- Special Rapporteur on the independence of the judges and lawyers (Requested on 1 June 2011 for visit in 2012)
- Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (visit requested since 2002)

China has accepted a visit of the:

- Special Rapporteur on Freedom of Religion or Belief (visited China in 1997; a new invitation was extended in 2004; Date of last letter requesting dates: September 2006)

However, so far no visiting dates have been agreed. It is especially important that if the Chinese government ever grants a visit permit to the different Special Procedures, that they should have access to minority areas such as the Xinjiang Uyghur Autonomous Region (XUAR) and Tibet. [...]

Pok Yin Stephenson Chow response:

[...]

Recommendation n°85: *Consider strengthening the positive engagement with civil society, nongovernmental organizations and academic institutions, with a view to enhancing the promotion and protection of human rights and fundamental freedoms of its people* (Recommended by Malaysia).

IRI: *not implemented*Beijing Aizhixing Institute response:

In the past 5 years, NGOs have been harassed relentlessly by the government, including: ordering them to change their names and undermine their identity; imposing arbitrary restrictions on their access to banking and foreign exchange; launching selective taxation investigations against NGOs working on human rights; canceling licenses of organizations and individual professionals; banning or threatening to ban NGOs; and detaining NGO leaders or placing them under house arrest. In early January, Zeng Jinyan, wife of prominent AIDS and human right activist Hu Jia, visited Beijing State Taxation Bureau to receive further taxation investigation against Beijing Aiyuan Information & Counseling Center. Aiyuan is an NGO based in Beijing that has provide social services for people with HIV/AIDS and children orphaned by HIV/AIDS in Henan Province since 2004. In 1990s, hundreds of thousands of people were infected with HIV/AIDS as a result of unsanctioned and unsafe practices in the selling of blood or receiving tainted blood transfusions in Henan province. Aiyuan was founded by Zeng Jinyan and Hu Jia in 2004, and Zeng Jinyan has been the legal representative of the group since then. In early November 2010, Aiyuan made an announcement of closing its office and stopping operation after harassment and pressure from the Beijing Local Taxation Bureau and Beijing State Taxation Bureau. It is still under taxation investigation, which is putting Zeng Jinyan at great risk. Hu Jia was sentenced to 3 years and half in April 2008 just before the Beijing Olympics and is expected to be released in late June 2011. Hu Jia is reported to be in poor health and is not receiving adequate medical care in prison. His wife recently filed a seventh application of medical parole for him but was rejected. I strongly urge President Obama and Secretary Clinton to pay high attention to Hu Jia's health and Zeng Jinyan's security. Taxation investigations on selected NGOs working on human rights are now widely used as a strategy of harassment. In September 2008, our organization, the Beijing Aizhixing Institute, was called for taxation investigation, and in March 2010, we were called for taxation investigation again. On December 22, 2010, accompanied by two police officers from the National Security team of Beijing Public Security Bureau (the secret political police agency in China), Beijing Local Taxation Bureau took our original financial files for investigation. In 2009, Beijing Gongmeng (Open Constitution) Legal Research Center was investigated and then severely fined by two taxation departments in Beijing, Gongmeng was later on banned as illegal group by the Beijing Civil Affair Bureau, and Dr. Xu Zhiyong, head of Gongmeng, was detained for four weeks. In 2009, Beijing Jingding Law Firm was severely fined by taxation department. The Beijing Transition Institute was also investigated. Taxation investigation and harassment is not the only problem we are facing as civil society activists working in China today. We are continually subjected to the arbitrary enforcement of regulations and exercise



of government authority, intended solely to harass us and interfere with our work. In early 2005, NGOs were ordered to change their names. Under instruction from the authorities, our group name was changed from Beijing Aizhixing Institute of Health Education to Beijing Zhaixing Information & Counseling Center. In 2009, our bank stopped accepting funding from overseas for our group. In order to restore our access to these funds, we were forced to copy all our finance files from January 2009 to June 2009 and bring this to the bank to show how we use the funding for HIV/AIDS prevention, care and advocacy. Only after our staff wasted many hours, running three copy machines non-stop, did the bank agree to reopen our account. From January 14 2010 until now, our group has been attacked by more than 10 government agencies in Beijing, including the banning of our 16-year anniversary conference, taxation investigation, banning our conferences, banning media reporting of our group and myself, etc. In May 2010, my family and I made the difficult decision to leave our home in China and came to the US out of serious concerns about our security. Since 1990, I have been working on HIV/AIDS prevention and care in a sincere effort to assist my countrymen and help meet needs in Chinese society that the government has ignored, or has in some cases made worse through its ignorance, prejudice, corruption and malfeasance. We founded our current group in 1994, and it now has a 18-year history of internationally-recognized success in providing services to some of China's most vulnerable citizens despite unrelenting harassment by authorities who should instead be eager to work with us and help us succeed. My wish is that I can go back to China to serve the people there; that our organization can operate safely and be treated according to the law.

Pok Yin Stephenson Chow response:

At present, the Government consults NGOs and other interested parties on human rights issues through its Human Rights Forum. However, the effectiveness of the Human Rights Forum is constantly under criticism. Civil societies have repeatedly urged the establishment of a national human rights commission to replace the existing Human Rights Forum. See comment 56 above on national human rights commission. See also comment 45 above on the charity law.

Recommendation n°86: *Share its experiences and best practices in the field of reduction of poverty and improvement of standards of living with other developing countries* (Recommended by Malaysia).

IRI: not implemented

Pok Yin Stephenson Chow response:

See comment [to recommendation n°28][...].

Recommendation n°89: *Give positive consideration to ratifying the Optional Protocol to the Convention against Torture OP-CAT, the Convention on the Rights of Persons with Disabilities CRPD and the International Convention for the Protection of All Persons from Enforced Disappearance CED* (Recommended by Mexico).

IRI: not implemented

World Uyghur Congress response:

No steps have been taken by the Chinese government to ratify the International Convention for the Protection of All Persons Against Enforced Disappearances, and



assess the possibility of accepting the competency of the Committee on Enforced Disappearances in accordance with the Convention, and the Protocol to Prevent.

[Human Rights Watch] [stated in November 2011](#), that the number of enforced disappearances is increasing in China. According to HRW, the government's security forces use enforced disappearance to silence and intimidate critics of Chinese government policies in ethnic minority regions of Tibet and Xinjiang. Human Rights Watch research has revealed that dozens, and possibly many more, of the hundreds of people detained by Chinese security forces in the aftermath of bloody ethnic violence in the city of Urumqi on July 5 to 7, 2009, have also ["disappeared" without a trace](#).

Recommendation n°92: *Continue to advance the rule of law and to deepen the reform of the judicial system* (Recommended by *the Netherlands*).

**IRI: not implemented**

*Human Rights in China response:*

Since the 1970s, China has been building its legal order, with laws expanding and reaching out into different fields. Professor Fu Hualing of the University of Hong Kong's Faculty of Law points out that until recent years, the government had actually been encouraging the legalization of social-economic life and attempting to use legal mechanism to solve social problems. However, he notes that there is now a resurgence of "extra-extra law" in China. Professor Fu and other legal experts characterize "extra-extra law" as an "informal political institution characterized by the total lack of legality" and "used to advance some predatory and repressive government policies which cannot be justified by any law". Examples of this legal phenomenon include the use of "black jails", and recent enforced disappearances of human rights lawyers and rights defenders. Compared to criminal punishment established under formal law, these "extra-extra law" mechanisms do not punish individuals for past offenses. Rather, they focus on the "risk" of an individual to the Party-state, regardless of whether crime was committed, and take measures against individuals "according to the specific personal profile to maximize intimidation". A timely example of "extra-extra law" is the persecution of Chen Guangcheng and his family. As a blind, self-taught "barefoot lawyer" and activist, Chen was a vocal activist for the disabled, farmers, victims of coerced population control policies, and other disadvantaged groups since the late 1990s. Chen was convicted and sentenced four years and three months of imprisonment on the trumped up charge of "intentional damage of property and organizing people to block traffic" – his detention was determined to be arbitrary in November 2006 by the WGAD. Since his September 9, 2010 release, Chen and his family have been subjected to various forms of surveillance, abuse, and restrictions to their basic freedoms – all of which have no basis in law. Chen's case is representative of the persecution and extra-legal detentions countless other human rights defenders face in China. These individuals are left entirely outside the protection of law, without recourse to procedures to challenge their detention or their ill-treatment. The draft amendments to China's CPL, discussed above (see para. 26), include a troubling provision on "residential surveillance" that would greatly expand the power of police and authorities to detain and essentially disappear individuals without any due process or protections. This "residential surveillance" provision has provoked extensive criticisms and concerns,





including among Chinese legal experts. Under “residential surveillance” provisions, officials would be allowed, without independent review, to detain individuals suspected of terrorism, endangering state security, and corruption for up to six months. Officials would be legally authorized to detain individuals in locations other than the suspect’s home and would have no obligation to inform the suspect’s family of their detention, whereabouts, or condition. This, in essence, would legalize secret detentions for a broad range of activities, especially in light of the politicized and overbroad approach of the Chinese authorities to terrorism and state security. Apart from the legalization of the secret detentions, the proposed amended CPL provisions also fail to address systemic problems in China’s criminal legal system, including the use of administrative detentions, the lack of an independent judiciary, limited access to effective legal representation, crackdowns against lawyers and rights defenders, and no right to remain silent. The persistence of “extra-extra law”, the ongoing crackdowns and abuses, and the proposed “residential surveillance” amendments to the CPL reflect a serious roll back on the rule of law in China.

*China Human Rights Lawyers Concern Group response:*

We observe that there is no indication of initiating legal reforms or any sort of efforts by the Chinese government in promoting a real rule of law society, but instead it seems that the Chinese government is trying to legalize and legitimize arbitrary detention by proposing the new amendments to the Criminal Procedure Law. According to Article 84 of the amended law (modified from Article 64 of the existing law): “After being detained, the detained person should be immediately sent to the detention centre. Except that there is no way to inform the detained person’s family, or the case involves serious crimes such as suspected endangering national security or terrorist activities, or it would hinder the investigation by informing the family, the family of the arrested person(s) should be informed about the reason(s) of the detention and the place of detention within 24 hours after the detention”. There will also be similar proposed amendments to Article 92 of the amended law (modified from Article 71 of the existing law) concerning arrested persons. What is worrying is that the definition of “endangering national security” and “terrorist activities” is vague and it is also up to the public security to claim whether “it would hinder the investigation” as an excuse for not to inform the family of the detained or arrested person within 24 hours after the detention or formal arrest. We are extremely worried that it would only make it easier for the public security to detain human rights lawyers and other human rights defenders without informing their families with the excuse that the cases involve “endangering national security” or that it would “hinder the investigation.”

*Pok Yin Stephenson Chow response:*

See comment [to recommendation n°134 below on the rule of law.

Recommendation n°95: *Adopt further measures to ensure universal access to health and education and other welfare for rural communities, minority regions, disadvantaged families and the internal migrant population* (Recommended by New Zealand).

IRI: *not implemented*



Unrepresented Nations and Peoples Organization response:

Ethnic minority areas, in particular the Xinjiang Uyghur Autonomous Region (XUAR), Tibetan Autonomous Region (TAR) and the Inner Mongolia Autonomous Region (IMAR), continue to experience economic discrimination and exclusion from the benefits of development schemes in their regions. As noted under the response to recommendations 13, 23, 54, 69, 79, 98, 128 and 130 dealing with the rights of ethnic minority communities, discriminatory hiring practices largely exclude Uyghurs from both civil service and private sector jobs in the XUAR, where they constitute a majority of the population.

Beijing Aizhixing Institute response:

See response to recommendation 26.

Recommendation n°98: *Resume the dialogue in Tibet* (Recommended by New Zealand).

IRI: *partially implemented*

Unrepresented Nations and Peoples Organization response:

See response to recommendation n° 13.

ICTTUNA response:

Rejected but the 9th round of Sino-Tibetan dialogue took place in Beijing at the end of January, 2010. This happened after a gap of 15 months. Talks [have not resumed since](#).

Recommendation n°99: *Conduct a review of its application of the 1984 safeguards, as adopted by ECOSOC 1984-50* (Recommended by New Zealand).

IRI: *not implemented*

World Uyghur Congress response:

In the report "[Death sentences and executions in 2010](#)", published in March 2011, Amnesty International (AI) confirms that there is still a very high record of death sentences imposed after unfair trials and sentences based on confessions allegedly extracted through torture, clearly prohibited in both the ICCPR and the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. According to AI, in 2010, the death penalty was used after trials that did not meet international standards of fairness in several countries including China. China does therefore not respect the application of the Safeguard 5 of the "Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty", Approved by Economic and Social Council [resolution 1984/50](#) of 25 May 1984: "Capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights (ICCPR), including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings".



Recommendation n°102: *Continue enhancing the quality of life of its people through the enjoyment of economic, social and cultural rights and pursuant to international standards* (Recommended by Nicaragua).

IRI: *not implemented*

Pok Yin Stephenson Chow response:

The phrase 'quality of life' is a broad notion and encompasses a wide range of livelihood issues. Of the most pressing livelihood issues in Hong Kong are (1) poverty, (2) public healthcare, and (3) housing.

(1) See comment 29 above on poverty. (2) See comment 26 above on healthcare. (3) Housing is a particularly serious social problem in Hong Kong. The high cost of housing renders it impossible for young adults and those with low income to own or even rent a property. Recent media reports reveal that applying for government low rental housing is becoming very popular among undergraduate students because they of their low-income and have no assets. However, the Hong Kong government to build these low-rental housing. Currently, it is estimated that new applicants may have to wait for as long as 5 years or more to get an allocated flat. Since property prices are high, the poorest of the poor [are made to rent cubicle apartments or cage homes](#). The issue of cage homes in Hong Kong constitutes a serious violation of the right to adequate housing and has been a recurring concern of the CESCR. According to a local NGO, Society for Community Organization ('SOCO'), the rent for cage homes rose by 20% for the year 2009-2010. In another study by SOCO, it was found that the monthly rents per square feet for many cubicle apartments and 'cage homes' are higher than the luxurious residential units in the most expensive areas in Hong Kong. Current government policies addressing the issue of housing are characterised by a lack political willingness and long-term commitments. The Government addresses housing needs by way of increasing monthly rental allowances under the CSSA scheme. This measure does not help much in alleviating the living conditions of the poor. Moreover, the working poor - who are not on the CSSA - are not able to benefit from these measures. [...]

Recommendation n°103: *Continue its efforts for the promotion of human rights* (Recommended by Oman).

IRI: *not implemented*

Pok Yin Stephenson Chow response:

See comment 134 below.

Recommendation n°104: *Continue its endeavour to build a sound social security system and supporting services commensurate with national conditions, as well as its level of social and economic development* (Recommended by the Philippines).

IRI: *partially implemented*

China Labour Bulletin response:

Most recently, the government introduced another significant law the Social Insurance Law, which went into effect on July 1st, 2011. This law has attempted to re-structure and nationalize the diverse array of social insurance schemes and policies that have been in place throughout many cities and provinces. The law should also help ensure that all workers at enterprise in China enjoy the basic "social safety net" items. Employers are obligated to make contributions towards each



employee's pension insurance, medical insurance, unemployment insurance, work-related injury insurance, and maternity insurance, while employees are only expected to make contributions towards pensions, and medical and unemployment insurance. Significantly, the law also allows for workers to transfer their accounts from one location to another. It is too early to know to what extent this law will actually be enforced, since local governments have been given leeway to adapt the law to their locality's particular circumstance. In the long run, if successful, it could protect many rights. If it does help provide for a social "safety net", then workers may also feel more confident in spending their hard-earned money, rather than saving it in case of a medical emergency. On the other hand, since many employers currently fail to pay for social insurance, the implementation of this law could become a greater source of labour conflict in the future.

*Pok Yin Stephenson Chow response:*

See comment [to recommendation n°28][...].

Recommendation n°108: *Attach more importance to the protection of rights of the child through national plans for economic and social development* (Recommended by Qatar).

IRI: *not implemented*

*Hong Kong Human Rights Commission response:*

Children suffer the most with the widening disparity between rich and poor in Hong Kong. Children hit the high child poverty rate at 26.7% in Hong Kong. Living standards and development opportunities for their children are sadly compromised. There are 297,500 children age under 18 living in poverty. They have to do their homework on their beds and earn their living at night collecting discarded paper, cartons and tins, in the center of affluent Hong Kong. According to the recent research conducted by Society for Community Organization, it was found that one-fourth (25.2%) of the respondents of poor children has experienced starvation due to poverty and over one-fifth (20.9%) of the respondents expressed that they did not have three meals regularly every day. There is no comprehensive child policy or any mechanism to implement the Convention on the Rights of Child since it was applicable to Hong Kong in 1994. The right of poor child is severely undermined. The general principles of non-discrimination, the best interests of the child, right to survival and development as well as participation from the Convention are not adopted in the policy formulation of the Hong Kong SAR Government.

*Pok Yin Stephenson Chow response:*

The rights of the child is deteriorating. In mid-2011, the Hong Kong government made Moral and National Education Curriculum compulsory in all primary and secondary education. The objective of the Curriculum is, inter alia, to build 'national harmony, identity and unity among individuals' as well as enabling students to 'develop a sense of belonging to the motherland' and to 'appreciate Chinese culture'. Instead of promoting human rights and civil rights and responsibilities, the Curriculum, widely referred to many as 'patriotic education' aims at promoting national and ethnic identity. The Curriculum is also widely criticised as 'brain-washing'. Commenting on the controversies surrounding the implementation of the Curriculum, the spokesperson of the Liaison Government of the Central Peoples'



Government in Hong Kong, Hao Tie-chuan remarked that 'brain-washing is a common practice.' In recent years, the Government proposed a drug testing scheme to be implemented in all secondary schools. The Trial Scheme on School Drug Testing was launched last year in the schools of Tai Po district. Although students can decide whether or not to take part in drug-testing, it is feared that peer pressure would pressurise unwilling students into participating in the scheme. It is feared that this scheme would violate their right to privacy.

Recommendation n°109: *Continue to invest financial and material resources, in conditions of the financial crisis, with the view to support the economic and social development in the country as a whole and the Tibet Autonomous Region in particular (Recommended by the Russian Federation).*

IRI: *not implemented*

ICTTUNA response:

In August 2009 the Committee on the Elimination of Racial Discrimination reiterated its previous observation (A/56/18, par. 243) «that economic growth in minority regions, ipso facto, is not tantamount to the equal enjoyment of economic, social and cultural rights in accordance with article 5(e) of the Convention» (art. 5 (e)). The Committee also recommended that China «continue to intensify its efforts aimed at creating conditions for sustainable development in the western areas and to eliminate economic and social disparities between the regions. It also requests that the State party provide further information on the enjoyment of economic, social and cultural rights by all ethnic groups of the State party and the effectiveness of the measures taken to ensure that all minority groups benefit from the economic growth. At the same time, it reiterates its recommendation that the State party take all necessary steps to fully ensure the promotion of and respect for local and regional cultures and traditions». Reports emerged in August 2011 that Tibetan Mine protesters were detained at Chamdo prefecture's Dzogang (in Chinese, Zuogang) county in the "Tibetan Autonomous Region". Additionally on 30 June, On June 30, nine unidentified Tibetans were detained for protesting Chinese mining on a sacred mountain near the villages of Topa and Sapa in Bethong township. Then, on July 2, three village officials—Arsong, 56, Tashi Namgyal, 60, and Jamyang Thinley, 62—who had traveled as delegates to the Tibetan capital Lhasa to protest the mining and detentions, were taken into custody by Dzogang county police and brought back to Dzogang. Radio Free Asia reported that mining operations in Tibetan regions have led to frequent standoffs with Tibetans [who accuse Chinese firms of disrupting sites](#) of spiritual significance and polluting the environment as they extract local wealth.

Pok Yin Stephenson Chow response:

In relation to economic and social development in Hong Kong, see comment [to recommendation n°28] on poverty.

Recommendation n°110: *Invite other Special Rapporteurs dealing with economic and social rights to visit the country (Recommended by Saudi Arabia).*

IRI: *partially implemented*

Unrepresented Nations and Peoples Organization response:

In 2010, China received the SR on the right to food. Aside from this, China has issued no invitations to Special Rapporteurs. It agreed to a request from the SR on



freedom of religion; however, this request was made in 2004, and according to the OHCHR website no communication regarding the visit has occurred since 2006. In addition, China has rejected visit requests from the following Special Procedures: SR on freedom of association and assembly (September 2011); IE on access to safe drinking water and sanitation (March 2010); IE on foreign debt (May 2011); IE on minority issues (2009); SR on housing (2008); SR on human rights defenders (2008); SR on independence of judges and lawyers (2011).

*Human Rights in China response:*

China invited the UN Special Rapporteur on the right to food, Olivier De Schutter, to conduct an official mission from December 15 to 23, 2010. In his preliminary conclusions on the mission, the Special Rapporteur concluded that despite “impressive progress made in China in the achievement of food security,” ongoing serious challenges continued to persist, including:

- Poor living conditions of those living in rural areas and of migrant workers, including the discriminatory impacts of the Hukou household registration system;
- Inequalities related to land tenure security and access to land;
- Lack of sustainable agriculture practices and policies; and
- Challenges to nutrition and food safety, including accountability concerns illustrated by China’s tainted milk scandal.

Despite progress, the Special Rapporteur noted that China’s massive industrialization has led to a loss of arable land, threatening China’s ability to maintain current levels of agricultural production. He also stated that he was “convinced that transparency and access to information are essential to the effective realisation of the right to food,” including as a means to ensure that authorities are held accountable and policies are improved. Apart from the visit of the Special Rapporteur on the right to food, there is no publicly available information regarding whether China has extended invitations to other Special Procedures mandate holders addressing social and economic rights. Since February 2009, the following Special Rapporteurs have made requests to visit China:

- Independent Expert on minority issues (invitation requested in July 2009); and
- Independent Expert on access to safe drinking water and sanitation (invitation requested in March 2010).

12 The following invitation requests, made prior to China’s UPR session, remain outstanding:

- Special Rapporteur on toxic waste (invitation requested in 2005);
- Independent Expert on extreme poverty (invitation requested in 2005);
- Special Rapporteur on health (invitation requested in 2006); and
- Special Rapporteur on housing (invitation requested in 2008);

In addition to cooperating with the Special Rapporteur on the right to food to address the concerns raised in his report, China should be encouraged to respond positively to outstanding requests, and extend invitations incorporating UN terms of reference for these missions.

*World Uyghur Congress response:*

See response to recommendation n°83.



Recommendation n°112: *Intensify its efforts to eradicate poverty, to improve its health infrastructure, including access to health services especially for vulnerable groups like women, children, the elderly, the disabled and ethnic minorities, and in fostering civil society participation* (Recommended by South Africa).

IRI: *not implemented*

Hong Kong Human Rights Commission response:

See response to recommendation n°29.

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*Children* - Children suffer the most with the widening disparity between rich and poor in Hong Kong. Children hit the high child poverty rate at 26.7% in Hong Kong. Living standards and development opportunities for their children are sadly compromised. There are 297,500 children age under 18 living in poverty. They have to do their homework on their beds and earn their living at night collecting discarded paper, cartons and tins, in the center of affluent Hong Kong. According to the recent research conducted by Society for Community Organization, it was found that one-fourth (25.2%) of the respondents of poor children has experienced starvation due to poverty and over one-fifth (20.9%) of the respondents expressed that they did not have three meals regularly every day. There is no comprehensive child policy or any mechanism to implement the Convention on the Rights of Child since it was applicable to Hong Kong in 1994. The right of poor child is severely undermined. The general principles of non-discrimination, the best interests of the child, right to survival and development as well as participation from the Convention are not adopted in the policy formulation of the Hong Kong SAR Government.

*Lack of mental health services* - The rising number of PMI demands more medical and social rehabilitation services in order to realize the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health” (ICESCR, article 12). However, the HKSAR fails to meet the service needs of the people with mental illness. The budget for mental health services is only 0.21% of GDP. This is in contrast to 0.8-1% of GDP in most developed countries. In its 2001 concluding observations the Committee on Economic Social and Cultural Rights recommended: “the HKSAR undertake a comprehensive review of mental health policy and adopt effective measures to ensure that PMI enjoy the right to adequate and affordable health care” . In fact, the Equal Opportunities Commission (EOC) in Hong Kong also suggested the HKSAR to introduce an independent Mental Health Council to supervise the mental health services provided. However, the HKSAR turned down the recommendations from the Committee and the EOC. Rather, the HKSAR regards the existing structure to be working well enough. The worsening mental health situation in Hong Kong and a number of bloody tragedies, which happened to families with members suffering from mental illness, obviously rebut the claim of HKSAR that “the system has worked well”. In January 2007, the Legislative Council passed a motion to urge the HKSAR review the existing psychiatric rehabilitation policy and services, and to establish a “Mental Health Policy” as well as a “Mental Health Council” to co-ordinate relevant policy measures and rehabilitation services. The HKSAR however simply ignored the request. The lack of a comprehensive policy review and the establishment of a new structure to handle the relevant issues clearly show that the HKSAR has failed to fully realize the citizens’ right to mental health.



Beijing Aizhixing Institute response:

See response to recommendation 26.

Pok Yin Stephenson Chow response:

See comment [to recommendation n°28][...].

Recommendation n°116: *Actively and prudently push forward reform of re-education through labour according to its national realities, so that everything goes according to its system* (Recommended by Sudan).

IRI: *partially implemented*

Human Rights in China response:

There appears to be limited progress in [Reeducation Through Labor] reform, local-level RTL experiments, or steps to improve administrative detention systems and practices. In 2009, the UN Committee on the Elimination of Racial Discrimination expressed its concerns that “in practice effective judicial control of [RTL] measures is limited and that the application of [RTL] laws may disproportionately affect members of ethnic minorities”. The UN Committee against Torture has also raised concerns with the RTL system, noting that recent decrees have been passed by local governments permitting the use of RTL to punish cases of “abnormal petitioning”. In light of the rise in petitioning activities, and the expansion of the serious complaints and problems that these petitioners raise, there are concerns that the use of RTL (and other forms of administrative detention) against petitioners amounts to punishment of individuals bringing legitimate grievances. These legitimate grievances focus on areas such as corruption, forced evictions, and lack of adequate compensation for work-place injuries. In the recent draft amendment to the CPL, illegally obtained evidence, while excluded from criminal cases, can still be used by police to decide RTL sentences. In 2010, the NPC listed the draft Law on the Correction of Illegal Behavior (Draft) [违法行为矫治法(草案)] in its agenda to replace the RTL regulations. However, there was no mention of this proposed law and no time frame for its implementation in the NPC’s 2011 annual report. As of March 2011, there have been reports that the Legal Affairs Working Committee of the Standing Committee of the NPC is still in the process of drafting the new legislation, and some government departments have been performing RTL reform trials.

Recommendation n°117: *Create conditions for an early ratification of the International Covenant on Civil and Political Rights ICCPR* (Recommended by Sweden).

IRI: *not implemented*

Human Rights in China response:

[See response to recommendation n°1].

China Human Rights Lawyers Concern Group response:

[See response to recommendation n°1]

Beijing Aizhixing Institute response:

Chinese government has not ratified the ICCPR.

World Uyghur Congress response:

No steps have been taken by the Chinese government to ratify the ICCPR.





Pok Yin Stephenson Chow response:

See comment [to recommendation n°11 above.

Recommendation n°120: *Recommended lifting the current reservation to article 8.1a of the ICESCR, which ensures the right of everyone to form trade unions and join the trade union of his or her choice and welcomed more information on possible reforms in this area (Recommended by Sweden).*

IRI: *not implemented*

China Labour Bulletin response:

There has been no significant change in this area.

Recommendation n°122: *Recommended removing restrictions on freedom of information and expression (Recommended by Sweden).*

IRI: *not implemented*

UAA response:

The Chinese government [has actively moved to silence](#) Uyghur [webmaster and bloggers](#). [...]

World Uyghur Congress response:

The Chinese authorities continue to violate the right to freedom of expression and opinion. China is currently spearheading the list of imprisoned journalists worldwide with at least 34 jailed journalists on 1 December 2010, according to a report by the Committee to Protect Journalists (CPJ). Reporters Without Borders (RSF) considers China one of world's top violators of Internet freedom, highlighting that China's 'Great Firewall' is the world's most consummate censorship system. But Chinese authorities are especially cracking down and jailing Uyghur and Tibetan journalists for exercising their right of freedom of expression guaranteed by Chinese constitution. The Chinese authorities have detained and sentenced Uyghur website staff and journalists in connection with the July 2009 incidents. The authorities have accused Uyghur-language websites of helping to foment the unrest in Urumqi because messages had been posted on these websites about the Uyghur demonstration planned for 5 July 2009 (which was peaceful and brutally suppressed by Chinese security forces) and/or because the websites had reported on the brutal killing of at least two but possibly several dozen Uyghur migrant workers at a toy factory in Shaoguan, Guangdong province by Han Chinese factory workers (and this incident ended up being the spark for the protest). Since July 2009, many Uyghur journalists, blogger and website staffs were sentenced to long prison terms in closed and unfair trials, among them:

- Nureli (Webmaster of the Uyghur website Salkin)  
Sentence: 3 years. Charged with: Endangering State Security
- Dilshat Perhat (Webmaster and owner of the Uyghur website Diyarim)  
Sentence: 5 years. Charged with: Endangering State Security
- Tursunjan Hezim (manager of Uyghur website Orkhun)  
Sentence: 7 years Charges unknown
- Nijat Azat (Webmaster of the Uyghur website Shabnam)  
Sentence: 10 years Charged with: Endangering State Security
- Gheyret Niyaz (Webmaster and administrator of the Uyghur website Uyghur Online)



Sentence: 15 years Charged with: Endangering State Security

- Gulmire Imin (staff of the of the Uyghur website Salkin)

Sentence: Life imprisonment Charged with: Instigating the July 2009 riots, leaking state secrets, and organizing an illegal demonstration

- Memetjan Abdulla (Manager of the Uyghur website Salkin)

Sentence: Life imprisonment Charged with: Helping to instigate deadly ethnic rioting in Urumqi in July 2009

- Other volunteer website staff who had been reportedly detained after the July 2009 events include: Muhemmet, Obulkasim, Muztagh, Lukchek, Yanchukchi, Heyrinsa, Yalnur, Erkin. However, their current legal status and whereabouts remain unknown. By jailing Uyghur media staff, the Chinese authorities are not only violating international law standards, but also Article 35 of their own constitution which guarantees free speech and media freedom. [...]

#### ICTTUNA response:

Total restrictions in place with Tibetans being arrested and imprisoned for sending information to the outside world or for expressing their views about the current situation. For instance, in an environment of intense repression in Ngaba, Tibet, a young writer has been sentenced to four years in prison on charges linked to a collection of bold essays on the unrest and crackdown in Tibet since 2008. Tashi Rabten, the editor of banned literary magazine Eastern Snow Mountain (Shar Dungri), was sentenced on June 2 by the Ngaba Intermediate People's Court. His sentencing follows that of three other Tibetan intellectuals who wrote powerful essays for Shar Dungri, now banned in Tibet. Copies of the journal were among books [seized and burnt by security personnel at a school](#) in the Ngaba area in April, 2011 [...].

Recommendation n°123: *Recommended taking urgent steps to abolish the various systems of arbitrary detention (Recommended by Sweden).*

*IRI: not implemented*

#### UAA response:

In the wake of unrest in the regional capital of Urumchi on July 5, 2009, there have been a number of documented cases of arbitrary detentions, including sweeps of Uyghur neighborhoods. [...]

#### World Uyghur Congress response:

See response to recommendation n°38.

#### ICTTUNA response:

No progress in Tibet with many Tibetans being detained since UPR of China. In this regard, the Working Group on Enforced or Involuntary Disappearances on 8 June, 2011 « voiced its serious concern and urged the Chinese authorities to disclose the fate and whereabouts of all those who have been subject to enforced disappearances in China, including a group of Tibetan monks whose fate or whereabouts still remain unknown. On 21 April 2011, more than 300 monks of the Ngaba Kirti Monastery, located in Ngaba County, Sichuan Province, were allegedly arrested and taken to unknown destinations in ten military trucks. The arrests were reportedly carried out by agents from the People's Armed Police, the Public Security



Bureau and the People's Liberation Army. "We call on the authorities to provide full information on the fate and the whereabouts of the persons who have disappeared," said the Working Group, [noting that it is reported](#) that some of the monks have been released. "We encourage the authorities to undertake full investigations into the on-going practice of enforced disappearances and ensure that those responsible are prosecuted and receive sentences appropriate to the gravity of the crime". [...]

Recommendation n°126: *Install a moratorium on the death penalty as a first step towards its total abolition* (Recommended by Switzerland).

IRI: *not implemented*

UAA response:

Death sentences and executions related to the July 5 unrest [have continued unabated](#).

World Uyghur Congress response:

See response to recommendation n°34.

Recommendation n°128: *Respect the fundamental rights of ethnic minorities in Xinjiang and Tibet, notably freedom of religion and movement* (Recommended by Switzerland).

IRI: *not implemented*

Unrepresented Nations and Peoples Organization response:

See response to recommendation n°13.

UAA response:

The government has failed to protect the rights of minorities in Xinjiang. Please see the background section of the [linked report](#) for up-to-date information on egregious human rights abuses in Xinjiang [...]

Beijing Aizhixing Institute response:

[...]

World Uyghur Congress response:

The Chinese government continues to violate all human rights of ethnic minorities, such as the Uyghurs. [...]

ICTTUNA response:

In response to China's «Management measures for the reincarnation of living Buddhas in Tibetan Buddhism» being implemented since 1 September, 2007, the Dalai Lama issued [statement](#) on 24 September, 2011 which states: «As I mentioned earlier, reincarnation is a phenomenon which should take place either through the voluntary choice of the concerned person or at least on the strength of his or her karma, merit and prayers. Therefore, the person who reincarnates has sole legitimate authority over where and how he or she takes rebirth and how that reincarnation is to be recognized. It is a reality that no one else can force the person concerned, or manipulate him or her. It is particularly inappropriate for Chinese communists, who explicitly reject even the idea of past and future lives, let alone the concept of reincarnate Tulkus, to meddle in the system of reincarnation and especially the



reincarnations of the Dalai Lamas and Panchen Lamas. Such brazen meddling contradicts their own political ideology and reveals their double standards. Should this situation continue in the future, it will be impossible for Tibetans and those who follow the Tibetan Buddhist tradition to acknowledge or accept it».

Recommendation n°130: *Grant greater access to Tibetan areas for OHCHR and other United Nations bodies, as well as diplomats and the international media (Recommended by the United Kingdom).*

IRI: *not implemented*

Unrepresented Nations and Peoples Organization response:

See response to recommendation n° 13.

ICTTUNA response:

No progress, total and free access denied with exception of a few short State-managed trips for diplomats and journalists and foreign individuals who support China's policies in Tibet. On 29 June, 2010 stated: On the occasion of a government-led reporting trip to Tibet for foreign journalists, the Foreign Correspondents' Club of China calls on the government to apply its own reporting regulations and properly open Tibet to foreign journalists. A new [FCCC survey](#) about reporting access to Tibet found 86 percent of respondents said it is not currently possible to report accurately and comprehensively on Tibet. Respondents listed travel restrictions and the reluctance of sources to speak freely as the top reasons. Among the 35 applications submitted by survey respondents for independent reporting trips to the Tibet Autonomous Region in the past two years, only four have been approved. Critics of the international media in China fault alleged superficial reporting about Tibet but, at the same time, reporters are denied opportunities to work unhampered there.

On 12 December, 2011 at a rare press meeting in Brussels, China's man in charge of Tibet, vice-minister Zhu Weiqun said: "China is an independent country and we have the full capacity to handle problems on our territory. So under no circumstances will we allow foreign fact-finding missions into the Tibetan autonomous region. I don't believe that the interference of any foreign force could achieve anything constructive. Indeed it could very well lead to an escalation of the crisis and to wars".

Recommendation n°134: *Continue its efforts in legal and judicial reforms, economic development and other areas towards promoting a harmonious society, democracy, the rule of law and human rights (Recommended by Viet Nam).*

IRI: *not implemented*

China Human Rights Lawyers Concern Group response:

We observe that there is no indication of initiating legal reforms or any sort of efforts by the Chinese government in promoting a real rule of law society, but instead it seems that the Chinese government is trying to legalize and legitimize arbitrary detention by proposing the new amendments to the Criminal Procedure Law. According to Article 84 of the amended law (modified from Article 64 of the existing law): "After being detained, the detained person should be immediately sent to the detention centre. Except that there is no way to inform the detained person's family, or the case involves serious crimes such as suspected endangering national security or terrorist activities, or it would hinder the investigation by informing the family, the



family of the arrested person(s) should be informed about the reason(s) of the detention and the place of detention within 24 hours after the detention". There will also be similar proposed amendments to Article 92 of the amended law (modified from Article 71 of the existing law) concerning arrested persons. What is worrying is that the definition of "endangering national security" and "terrorist activities" is vague and it is also up to the public security to claim whether "it would hinder the investigation" as an excuse for not to inform the family of the detained or arrested person within 24 hours after the detention or formal arrest. We are extremely worried that it would only make it easier for the public security to detain human rights lawyers and other human rights defenders without informing their families with the excuse that the cases involve "endangering national security" or that it would "hinder the investigation."

*Pok Yin Stephenson Chow response:*

(1) Harmonious society: In recent years, the Hong Kong society is deeply divided over controversial social issues. One of the most significant in the context of human rights is the issue concerning the FDHs' right to apply for permanent residency. Unlike most other persons who are admitted to Hong Kong for employment, the Immigration Ordinance excludes FDHs from applying for permanent residency after 7 years of residence. In October 2011, the High Court of Hong Kong ruled the Immigration Ordinance unconstitutional and that FDHs should also be entitled to enjoy the right to apply for permanent residency. The judgment sparked a heated controversy among those who supports the right of FDHs and those who fears that the judgment could mean the addition of more than 128,000 permanent residents (the estimated no. of FDHs who have resided in Hong Kong for 7 years or above) which would over-burden Hong Kong's economy. Nevertheless, the claims of those who opposes the rights of FDHs to apply for permanent residency not only neglects the economic contributions of FDHs over the past decades, the fact that most other foreign nationals except FDHs are able to apply for permanent residence clearly contradicts the principle of equality before the law. Meanwhile, the Government, seeking an appeal, expressed its disappointment to the judgment. Pro-government legislative councillors further sought to fan public sentiment against the Court's decision and threatened the need to seek the NPCSC's interpretation on the relevant provisions of the Basic Law.

(2) Democracy: Democracy is a broad term entailing varying definitions. Democracy, in its narrower sense, refers to the institutional arrangement whereby political decisions are informed by representatives elected through free and fair elections (what is commonly referred to as 'procedural democracy'). In this sense, democracy could only be achieved through universal suffrage. The 'Decision of the NPCSC on the Method for Selecting the Chief Executive of the HKSAR and from Forming the Legislative Council of the HKSAR in the Year 2012 and on Issues Relating to Universal Suffrage' adopted by the NPCSC in 2007 ruled out the possibility of suffrage in the 2012 LegCo and CE elections. In June 2010, the LegCo adopted the political reform package proposed by the Hong Kong Government (backed by the PRC Government). The reform package expands the LegCo from 60 seats to 70 by adding 5 seats to the geographical constituency ('GC'), popularly elected through 1-person-1-vote, and 5 other seats to the functional constituency ('FC'), elected by



members of designated professions, organisations and corporations. In effect, the proportion of seats returned through GC and FC remains the same. Meanwhile, organisational and corporate votes remained intact to the FC elections. Furthermore, the package did not spell out the timetable for universal suffrage. The political reform package thus made little, if any, progress to Hong Kong's democracy. The strong reluctance on the part of the Hong Kong and the PRC government in yielding to any substantive and meaningful changes to Hong Kong's political system renders any progress to democracy immensely difficult. In mid-2010, before the adoption of the above mentioned political reform proposals, five members of LegCo each representing one of the five geographical constituencies resigned in order to initiate a de facto referendum through their bi-elections. The motion of the de facto referendum calls for the PRC government to allow universal suffrage in Hong Kong. Despite boycotts from the pro-Government parties, around 570,000 people turned out to vote on 13 May, 2010. Five resigned legislative councillors were re-elected through the bi-election. In May, 2011, the Government decided that initiating bi-elections in this manner is an abuse of the current election arrangements. In order to fill the 'loophole' provided by the bi-election mechanism, the Government proposed to abolish bi-elections altogether for LegCo members who resign. This sparked a huge back-fire from existing LegCo members, academics, political commentators, NGOs, as well as the general public. After several months, the Government withdrew its proposal.

(3) Rule of Law: While article 19 of the Basic Law provides that the power of final adjudication is vested with the Court of Final Appeal ('CFA') of Hong Kong, article 158 provides that the power of final interpretation of the Basic Law of Hong Kong vests in the Standing Committee of the National Peoples' Congress ('NPCSC') - the standing committee of the PRC's parliamentary organ. The right of the NPCSC interpret provisions of the Basic Law is a threat to the rule of law in Hong Kong. Not only could it mean that the NPCSC could effectively overturn the decisions of the CFA if the NPCSC and the CFA arrive at different understandings to the law the NPCSC could effectively amend Basic Law provisions by way of 'supplementary interpretations' - i.e. supplementing additional content to the law. For instance, universal suffrage is provided for in the Basic Law of Hong Kong. However, previous 'interpretations' of the Basic Law by the NPCSC ruled out the possibility of universal suffrage for LegCo and CE elections in 2007-2008 as well as for 2012. In the recent 2011 case, *FG Hemisphere Associates v Democratic Republic of Congo*, the plaintiff, a US investment fund, filed a claim against DRC on the HK\$800 million paid to the country by a Chinese state-owned corporation. Prior to adjudicating the potential obligations of the DRC, the CFA had to decide whether sovereign immunity applies to the DRC in this case. Undecided over the applicability of restrictive immunity (as provided by prevailing international law and common law) and absolute immunity (which is applied as a part of PRC's foreign policies), the CFA sought NPCSC's interpretation of articles 13 (that the PRC is responsible for the foreign affairs of Hong Kong) and 19 (that the courts of Hong Kong has no power to adjudicate on matters concerning foreign affairs and national defence) of the Basic Law in relation to the notions of 'foreign affairs'. The NPCSC decided that matters concerning diplomatic immunity is a part of foreign affairs and are thus the responsibility of the PRC. The NPCSC further decided that the courts of Hong Kong shall apply the doctrine of absolute immunity shall the question of sovereign immunity arise. Although the long



term impact of the case is yet to be seen, the CFA nevertheless established a significant and potentially devastating precedent jeopardising the administrative and judicial autonomy of Hong Kong, for it suggests that the NPCSC has the final say over the interpretation of the notion of 'foreign affairs' provided in the Basic Law rather than the local courts.

(4) Human Rights: As highlighted in the above comments, human rights in Hong Kong is deteriorating. This section will supplement the above by commenting on the (a) abuse of police powers and (b) press freedom. Abuse of police powers: The abuse of police power is one of the most pressing human rights issues in Hong Kong. In short, abuse of police power is getting more prevalent in Hong Kong. This is characterised by (i) the deployment of disproportionate amount of police officers in public associations and processions and (ii) the use of disproportionate forces. Two incidences are highlighted below to illustrate the situation. On 1 July, 2011, tens of thousands of Hong Kong citizens took to the streets to protest against, inter alia, retrogressive political reforms, 'patriotic' educational reforms, widening wealth gap, and prevailing housing and healthcare issues. According to the estimations of the organisers, 218,000 citizens took part in the rally. At night, some protestors gathered on the streets and refused to leave. After a standoff between the protestors for several hours, the Police Force began using pepper sprays on the protestors without warning. This is followed by the removal and arrest of protestors. A total of 228 protestors were arrested that night; all of them were subsequently released without charge. According to the Police Force, around 3000 police officers were deployed on that day. On 18 August, 2011, Vice-Premier of Li Ke-qiang visited the University of Hong Kong's ('HKU') inauguration ceremony as a guest of honour. A few HKU students sought to protest against his presence and the repeated denial of the PRC government to the events of the 1989 Tiananmen massacre. As the students sought to march to the inauguration hall, the Police Force obstructed their path. One student was violently pushed to the ground and was falsely imprisoned in one of the staircases of a university building. Press freedom: The Hong Kong Journalists Association maintains that freedom is on a downward trend. This continues to be the case. (i) During the Li-Keqiang's stay in Hong Kong, journalists were obstructed from their reporting duties for 'security reasons'. (ii) In September 2011, a government official with no broadcasting experience was appointed as the Director of Broadcasting. One of his duties is to supervise the works of the Radio Television Hong Kong (RTHK), the quasi- public service broadcaster of Hong Kong which is reputed for producing programmes critical of government policies. It is feared that the appointment of the new Director would threaten the editorial independence of RTHK. (iii) Apart from the above, political censorship remains to be a pressing issue among Hong Kong media. [...]

Recommendation n°135: *Share with the international community its experience in promoting the right to development and poverty reduction* (Recommended by Viet Nam).

IRI: -

Pok Yin Stephenson Chow response:

See comment [to recommendation n°28][...].



Recommendation n°136: *Continue efforts in supporting persons with disabilities and ensuring their contribution in social life, as effective partners* (Recommended by Yemen).

IRI: -

*Pok Yin Stephenson Chow response:*

The UN Convention on the Rights of Persons with Disabilities ('CRPD') entered into force in August 2008 for PRC; its application was extended to the Hong Kong. The compliance of Hong Kong to CRPD is yet to be seen.

Recommendation n°137: *Continue its poverty reduction programmes* (Recommended by Zimbabwe).

IRI: *not implemented*

*Hong Kong Human Rights Commission response:*

See response to recommendation n°29.

*Pok Yin Stephenson Chow response:*

See comment [to recommendation n°28][...].



## Methodology

### A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted both the delegate who represented the State at the UPR and the Permanent Mission to the UN in Geneva or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.

We posted our requests to the States and NHRI, and sent emails to NGOs.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

### B. Processing the recommendations

The persons we contact are encouraged to use an Excel sheet we provide which includes all recommendations received by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage using the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the



recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

### C. Implementation Recommendation Index (IRI)

*UPR Info* developed an index showing the implementation level achieved by the State for the recommendations received at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show both disputed and agreed recommendations.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is noted as 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review says the recommendation has been fully implemented and a stakeholder says it has been partially implemented, score is 0.75.

Then the score is transformed into an implementation level, according to the table hereafter:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

### ***Disclaimer***

*The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.*

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