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UPR Submission – China 2018

### Introduction

1. Since the last UPR session in 2013, human rights situation in China has gone from bad to worse. Human rights violations now occur on a systematic and indiscriminatory level, bringing severe consequences to not just activists or human rights defenders but ordinary people. The social credit system, to be made mandatory in 2020, heralds a big brother state with comprehensive control on every aspects of a citizen's life. The widespread network of re-education centres, targeting ethnic minority in particular, is a mockery of the formal abolition of the re-education through labour system, and echoes the concentration camps of Nazi. The newly established National Supervisory Commission bypasses judicial institutions and imposes Party's discipline onto millions of ordinary people. Further, the government remains wholly unaccountable for the persecution and harassment of human rights activists.

### Social Credit system and high-tech surveillance

2. The social credit system ('SCS'), announced in 2014, aims to rate and rank every citizen with a score. Taking inspiration from credit rating system used by banks, the SCS is much more ambitious in its scope and has much more pervasive impact on an individual's life. The SCS aims to rate 3 categories of behaviour: (1) commercial activities, such as whether one pays his bills on time; (2) social activities, such as participation in charitable activities; (3) online activities, such as online speeches "slandering" the government or online purchasing habits. The score thus calculated would affect a person's ability to travel, to buy property and to find work.<sup>1</sup>
3. The system has already been implemented in 43 test sites in China by 2017.<sup>2</sup> For example in Rongcheng city, Shandong Province, citizens are ranked into 6 categories by an opaque algorithm, taking into account their marital status, criminal records, traffic violations, "voluntary" activities, online speeches or even minor

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<sup>1</sup> 《社会信用体系建设规划纲要》

<sup>2</sup> 首批社会信用体系建设示范城市风采一瞥, [http://www.sdfgw.gov.cn/art/2018/1/16/art\\_4392\\_803852.html](http://www.sdfgw.gov.cn/art/2018/1/16/art_4392_803852.html)

transgression such as dispute with neighbours. People with low ranking are barred from certain jobs and promotion, stripped of social benefits, subjected to strict surveillance, and can even be barred from travelling. SCS black lists and red lists (commendation list) are published publicly with personal details for all to see.<sup>3</sup>

4. In Suining Conty, Jiangsu Province, details provisions have been promulgated on what would be taken into account in its citizen score. It includes participation in “cults”, domestic violence, failure to support family, petitioning, “harassment” of governmental bodies, online slandering, and breaches of the one child policy. It is unclear how and by whom such actions are judged to have occurred.
5. The system already has widespread impact even though it is still in beta. In the first half year of 2017 alone, 7.28 million people were barred from buying air ticket, and 2.74 million people were barred from buying train ticket for alleged untrustworthy behaviour.<sup>4</sup> As revealed by a report from Human Rights Watch, a lawyer was barred from buying a plane ticket simply because a court found his apology ‘insincere’.
6. The implementation of the SCS is made possible by the breakneck development in surveillance and information technology, and laws compelling the giving of information by citizens and corporations alike. The government had compelled domestic and international private companies to hand over massive amount of their customers’ data under the name of domestic law, notable examples being that of Apple<sup>5</sup> and Airbnb<sup>6</sup>. Coupled with the presence of the Great Firewall, which greatly limited the Chinese citizens’ choices of online services, the government is able to have comprehensive control and knowledge of a citizen’s online activities. As for offline activities, the ubiquitous real name registration requirement, from buying train tickets, checking into hotels to getting a sim cards, gives government extensive information on a citizen’s movements and behaviour. Together with Skynet – a vast network of surveillance cameras equipped with face recognition technology, the government could effectively traced almost all aspects of a citizen’s life.
7. Apart from the obvious intrusion of citizens’ right to privacy, the SCS upends the notion of criminal justice, procedural fairness and the principle of no punishment without law. The power of legislation and punishment are effectively put into the hands of petty officials who are free to devise scoring system based on all kind of amorphous behavioural standard. People are being punished without being notified and without due process, and without mechanism of appeal. Records of “misconduct” follow one for life and could be accessed by all kind of persons and institutions. Discrimination and differential treatments are legitimised under the guise of promoting trustworthy behaviour. Arbitrary restriction on the right to work and right to travel are being deployed at will as punishment, without any regard to individual circumstances or due process.
8. And given the opaque and arbitrary way the scoring system is devised, the SCS would have chilling effect on

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<sup>3</sup> 荣成社会信用体系全覆盖经验解读, <http://www.creditsd.gov.cn/101/639.html>

<sup>4</sup> 发改委限制 733 万“老赖”买机票！失信榜公布……[http://www.xinhuanet.com/fortune/2017-08/19/c\\_1121508985.htm](http://www.xinhuanet.com/fortune/2017-08/19/c_1121508985.htm)

<sup>5</sup> Here's When Apple Will Hand Over Chinese iCloud Data to Comply With Local Laws, <http://fortune.com/2018/01/10/apple-china-icloud-data/>

<sup>6</sup> Airbnb to give Chinese authorities guest information, <http://www.bbc.com/news/business-43578948>

freedom of expression. It is expected that the SCS would be used to penalise “unwelcomed” speech and behaviour, in particular those critical of the government or tending to “create unrest”. It would also have devastating effect on diversity, as it is all about moulding behaviour towards one common standard set by the government.

9. The SCS is a nightmarish big brother system that represents an attack on all aspects of human rights and rule of law. As such we recommend:
  - (1) Abolish the SCS;
  - (2) Stop the publication of black lists with personal details;
  - (3) Stop all arbitrary restrictions of right to travel and to work without due process;
  - (4) Immediately enact legislation to protection data privacy and to restrict access of private data by government institutions;
  - (5) Allow citizens access and control of their personal data gathered by the government;
  - (6) Repeal the need for real name registration for various services, including the buying of train ticket and sim cards;
  - (7) Immediately enact legislation to protect right to privacy, and to circumscribe permissible use and access of surveillance and face recognition technology;
  - (8) Respect citizens’ right to free internet access and dismantle the Great Firewall of China;
  - (9) Immediately cease all governmental internet censorship.

### **Re-education Centres and persecution of Uighurs**

10. In the last UPR session, the government had promised to abolish system of arbitrary detention including re-education through labour. While re-education through labour had since then been formally abolished, “re-education centres”<sup>7</sup> had sprung up in its place which operates entirely outside the law. These centres had been used around the country to arbitrarily detain petitioners, religious practitioners and ethnic minorities in particular. The practice is worst in Xinjiang, targeting Uighurs on a massive scale amounting to ethnocide.
11. Reports have shown that at least thousands<sup>8</sup>, and possibly up to 120,000 Uighurs are forcibly detained at such centres for “re-education”<sup>9</sup>. While accurate statistics is difficult to come by, anecdotal accounts have reported detention of on average four to five hundred people from villages of around 2000 people. Exiled Uighurs community reports that every Uighurs overseas have at least one family member who have been sent to these re-education camps. Officials have been ordered to fulfil pre-set “arrest quota”. Young persons are particularly targeted. Economies have collapsed due to the arrest of high proportion of workforce.

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<sup>7</sup> Such facilities are variously called re-education centres, “counter extremism training centers” (去极端化培训班), or “education and transformation training centers” (教育转化培训中心), amongst others.

<sup>8</sup> Human Rights Watch: China: Free Xinjiang ‘Political Education’ Detainees <https://www.hrw.org/news/2017/09/10/china-free-xinjiang-political-education-detainees>

<sup>9</sup> Around 120,000 Uyghurs Detained For Political Re-Education in Xinjiang’s Kashgar Prefecture <https://www.rfa.org/english/news/uyghur/detentions-01222018171657.html>

12. Detainees are forced to learn Chinese, watch official propaganda television, and abandon their own cultural and religious practice. They were to be detained for an indefinite period of time until they have “reformed” and abandoned the Uighur’s way. Conditions are cramped and detainees do not even have sufficient space to lie down. Food is scarce, and death has been reported at these facilities<sup>10</sup>. There is no legal representation. Families are not notified, and no contact with the outside world is allowed least the effect of “re-education” would be contaminated.<sup>11</sup>
13. Outside such facilities, the whole Xinjiang region has become increasingly like an open-air prison. In villages, CCTV has been installed in front of every houses. Residents are required to check the identification documents of every visitors to their home, and to raise the national flag every morning, right before the CCTV. Publications in Uighur and carpets for praying are confiscated from every home. Uighurs are classified into “safe” and “unsafe” categories and tracked by their IDs; those in the latter category are not allowed to enter train stations or even shopping arcades. Veil and long beard are banned, and minors are not allowed to enter mosques. Discrimination in housing, education and employment is rampant and institutionalised by government policy. Travel restrictions is common.
14. Such ethnocide and cultural genocide must be recognised as the crimes against humanity that they are, involving the wholesale violation of the Uighurs’ rights to liberty, security, conscience, non-discrimination, religious freedom, cultural identity, travel and work on a massive scale. It must be stopped immediately. We recommend:
  - (1) Abolish all systems of arbitrary detention, including the re-education centres in Xinjiang;
  - (2) Immediately release all detainees from such illegal facilities;
  - (3) Facilitate an urgent OHCHR fact-finding mission to Xinjiang;
  - (4) Cease all restriction on religious expression of Uighurs;;
  - (5) Cease the ubiquitous surveillance of Uighurs;
  - (6) Abolish discriminatory restrictions against Uighurs and protect ethnic minorities against discrimination.

## **The Supervision Law**

15. The Supervision Law, passed in March 2018, transposed the system previously used to discipline Party members into national law. The new law establishes an institution which has power to detain, investigate and impose sanctions without going through the judiciary at all.

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<sup>10</sup> Uyghur Teenager Dies in Custody at Political Re-Education Camp, <http://uyghuramerican.org/article/uyghur-teenager-dies-custody-political-re-education-camp.html>

<sup>11</sup> Pakistanis distressed as Uighur wives vanish into China’s shadowy network of ‘reeducation centres’, <https://www.hongkongfp.com/2018/03/26/pakistanis-distressed-uyghur-wives-vanish-chinas-shadowy-network-reeducation-centres/>

16. The new law covers both Party members and public sector personnel, which includes anyone working directly or indirectly for the government, such as judges, academics or personnel at state-owned enterprises. It empowers supervision bodies to detain a person without charge for up to 6 months, during which no legal representation is allowed. The government justified the denial of legal representation by the fact that supervision procedure is not technically “criminal” procedure.
17. Further, supervision bodies are allowed to decide on penalties according to the result of its own investigation, without any hearing, legal representation or due process.
18. Notwithstanding technical classification, the Supervision Law effectively legalise arbitrary detention and sanctions without legal representation and without judicial oversight. Similar to the SCS, it is a system that bypasses existing judicial process and threaten to weaken the already shaky foundation of rule of law in China.
19. We recommend:
  - (1) Overhaul the Supervision Law to bring it in line with existing judicial process;
  - (2) Restrict power of supervision bodies to detain to no more than 48 hours;
  - (3) Provide for the right to legal representation in the Supervision Law;
  - (4) Provide for the right to public hearing before imposition of any penalty under the Supervision Law.

### **Persecution and harassment of human rights activists**

20. The above discussion does not imply that existing legal and judicial process provides adequate protection against human rights abuses. The judicial process has often been employed as a mean to persecute human rights activists and dissidents. The use of state security offences such as subversion and inciting subversion has been on the rise since Xi Jinping came into power in 2013, targeting mostly peaceful activists and dissidents. With the “leadership of the Communist Party” enshrined into the constitution since March 2018, it remains to be seen whether dissidents’ activities would come under even harsher scrutiny.
21. The use of state security offences allows the government to “legally” violate human rights under the draconian provisions of the Criminal Procedural Law. Under the notorious provisions of residential surveillance at designated location (RSDL), persons suspected of state security offences could be subjected to secret detention at unknown location for up to 6 months. Such conditions are prime breeding ground for torture, and indeed torture had been reported. Legal visit is routinely denied in the name of state security. Families have no right to visit a detainee until he or she is convicted and sentenced.
22. Chinese police also has one of the most extensive power to detain without charge. People can be detained for up to 30 days by the police without being “formally arrested”. Where a person is subjected to RSDL, he or she could be detained for up to 7 months without formal arrest. Such a case had in fact happened to human

rights activist and citizen journalist Zhen Jianguo, who on the date of writing has been detained incommunicado for one day short of 7 months. Right to bail is effectively non-existence for all such political cases.

23. The use of televised confessions, sometimes before trial, is another cause for concern. Activists who refused to submit to such public confession and scripted apologies are slammed with heavy prison sentence, and are deprived of the right to a public trial, a notable example being that of Wu Gan.
24. We especially wish to highlight and condemn the treatment of Dr. Liu Xiaobo, Nobel Peace Prize winner. Convicted of inciting subversion in 2009, Dr. Liu had spent his long prison sentence in solitary confinement, which in itself amounts to torture and inhumane treatment. Even when he was confirmed to be terminally ill, he was still placed under tight surveillance, with no possibility of visits from friends and supporters, and no access to independent media. His wish to leave the country for treatment was ignored. When he eventually passed away on 13 July 2017, he was hastily and secretly cremated, with his ashes thrown to the seas within 3 days, leaving no tomb for others to remember him by. People who held memorials for Dr. Liu have been imprisoned.
25. Such secretive and underhand treatment of a dying man is entirely unwarranted and disrespectful. It also makes it impossible for any investigation to be conducted into the circumstances surrounding Dr. Liu's death, such as whether any torture, maltreatment or delayed medical attention had contributed to his premature demise. The fate of Liu Xiaobo highlights the perils faced by imprisoned dissidents and activists; the lack of any effective supervision of prison means that torture and inhumane treatment such as solitary confinement or corporal punishments could be imposed at will. Visiting rights can be arbitrarily revoked. Medical attention is scarce or non-existence, with many activists reported deterioration in health while detained. Death under custody are not investigated.
26. The situation of Liu Xia, wife of Liu Xiaobo, demonstrates the other side of the story – the difficulties and harassment faced by families of dissidents. Liu Xia has been placed under house arrest since 2010, and was pressured into staying silent for fear of losing the “privilege” of visiting Liu Xiaobo. She was secreted away in the months after Liu Xiaobo's death, and her freedom of movement is restricted up to this day. She was threatened with retaliation against her family if she say anything “untoward”. She is forced to stay in the country against her will.
27. Threats and harassment against family members have often been deployed to terrorise activists; often times such tactics are more effective than physical torture. Schools have been known to turn away children of activists and dissidents. Wives and parents are often forced out of jobs and homes. Relatives are known to have been detained for speaking up on behalf of their detained loved ones.
28. We recommend:

- (1) Immediately release all political prisoners;
- (2) Carry out a public investigation into the death of Dr. Liu Xiaobo;
- (3) Immediately cease all harassment of Liu Xia and allow her to travel freely;
- (4) Cease all harassment of families of activist and dissidents;
- (5) Establish proper procedural to investigate suspicious deaths and deaths in custody, such as establishing a coroner's court;
- (6) Repeal provisions on RSDL;
- (7) Curtail police power to detain from 30 days to 48 hours;
- (8) Cease all practices of forced, coerced and publicised confessions;
- (9) Enshrine and protect the right of detainees to receive visits from families and friends, before and after trial;
- (10) Respect and protect detainees' right to bail;
- (11) Ratify ICCPR;
- (12) Sign and ratify OP CAT.