



STRATEGIES OF SILENCE

REPRESSION OF CHINESE HUMAN RIGHTS DEFENDERS,
LAWYERS AND JOURNALISTS



A MID-TERM ASSESSMENT OF THE 2018 UNIVERSAL
PERIODIC REVIEW OF THE PEOPLE'S REPUBLIC OF CHINA

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Executive Summary

In November 2018, the Government of the People's Republic of China underwent its 3rd Universal Periodic Review (UPR), a UN-hosted peer review of countries' human rights records. China received a number of recommendations from other States to stop arbitrarily detaining human rights defenders, lawyers and journalists, and to amend laws and practices that restrict the fundamental freedoms underpinning their ability to operate freely and to exercise the right to defend others' rights.

Though they rejected some of these recommendations, the Chinese government accepted a majority and identified them as 'already implemented', including many addressing civil and political rights concerns. This was a departure from standard UN practice – but more importantly, an inaccurate description of the situation on the ground.

Independent research points to evidence that the Chinese government is still making widespread use of an array of legal provisions to detain and disappear defenders, as well as allowing the continuation of regulation, policy and practice that *de facto* deprive them of any possibility to engage in human rights activities – regardless of the language in China's laws, not to mention the Chinese Constitution. The criminalisation of human rights defenders aims not only to silence dissenting voices, but also to deter others from speaking up and promoting fundamental rights and freedoms.

This report consolidates such research to shed light on the misuse of ill-defined national security provisions, carrying long prison terms and allowing for restrictions to due process under China's Criminal Procedure Law, to arbitrarily detain defenders, criminalize their free speech and assembly, and severely restrict their movement. ISHR's database based on reporting by grassroots defenders, has documented at least 851 instances of arbitrary detention, under administrative or criminal detention, over the period.

Other – less visible, but no less repressive – tactics are rooted in administrative measures and regulations and have been used to suspend or revoke human rights lawyers' professional licenses. Of particular concern is the widespread use of incommunicado detention and enforced disappearances against human rights defenders, lawyers and journalists, especially under Criminal Procedural Law provisions allowing for 'Residential Surveillance at a Designated Location' (RSDL). These laws and practices are not only inconsistent with international standards and China's obligations under international human rights law, but also run contrary to China's own Constitution.

The human rights violations described in this report, whether justified in law or ignored in practice, result in a cumulative harmful impact on human rights defenders, lawyers and journalists. This is not only a question of the respect (or lack thereof) of civil and political rights; the behaviours of Chinese authorities also lead to economic insecurity and frequently harm human rights defenders' and their family's enjoyment of their rights to housing, adequate food, education, physical and mental health, work, religious and cultural practices, and the right to a family life, including the rights of the child. They also directly undermine President Xi Jinping's stated policy goal to achieve common prosperity, including by respecting and protecting the people's economic, social and cultural rights, as articulated in China's latest [Human Rights Action Plan \(2021-2025\)](#).

The report concludes with a series of priority steps the Government of China should take to improve implementation of human rights protections by its next UPR cycle (expected to take place in 2023), as well as other recommendations to States and UN mechanisms.

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Cover page : This illustration was created by Yettesu, a Uyghur ‘art-ivist’ that uses his artwork to shed light on the repression against rights defenders and oppressed peoples in China.

Background

In November 2018, the People’s Republic of China underwent its [3rd Universal Periodic Review](#) (or UPR): a process under the auspices of the UN by which a country presents its progress on all human rights to the international community, and receives recommendations from other governments for actions to take to continue to improve. During the review, China received 346 recommendations from 150 countries; in March 2019, the government agreed to [accept](#) 284 of them, with a number noted as ‘accepted and already implemented’. In other words, the government made a commitment to take action on – or to continue to comply with – recommendations on important human rights issues.

On the situation of human rights defenders, lawyers, and journalists and the protection of fundamental freedoms, China accepted a majority of recommendations (Annex I) – indicating that they had been ‘already implemented’ – while rejecting those recommending the release of individuals arbitrarily detained, or the repeal of laws and practices permitting censorship.

The Government justified its response by indicating that

- ‘China is a country under the rule of law, and all its citizens are equal before the law’
- it ‘protects its citizens’ freedom of speech in accordance with the law’, and
- ‘the request to release those who are under compulsory measures or serving sentences in accordance with law is an interference in China’s judicial sovereignty.’

The 62 rejected recommendations include those related to the mass arbitrary detention in re-education camps in the Uyghur region, unfettered access to the country by Special Procedures and the High Commissioner, ‘Residential Surveillance at a Designated Location’ (or RSDL), ratification of the ICCPR and other international instruments, and the death penalty.

On 29 April 2019, UN High Commissioner for Human Rights Michelle Bachelet [addressed a letter](#) to Foreign Minister Wang Yi, in which she lists a number of areas which she considered ‘in need of particular attention over the next four and half years until the next cycle of the UPR’. The High Commissioner ‘strongly encourage[d]’ the Chinese government to ‘create an enabling environment for human rights defenders and lawyers defending the rights of others,’ and appended a list of priority recommendations (Annex II). These focused on, *inter alia*, the operating environment for human rights defenders, journalists and NGOs; the protection of fundamental freedoms, including freedom of expression; judicial independence and due process guarantees; arbitrary detention, house arrest, and incommunicado detention under RSDL.

High Commissioner Bachelet also urged China to consider submitting a voluntary mid-term report to the third cycle of review ‘by 2021’ documenting progress on the implementation of recommendations. However, to date, the Government has not submitted a report as part of its engagement with or follow-up to any of the first, second, or third UPR cycles. In this context, the role of civil society in follow-up reporting is particularly important.¹

On 16 December 2020, the UN Special Rapporteur on the situation of human rights defenders [expressed](#) her dismay at the ‘continued crackdown on human rights defenders and lawyers’, which continue to be ‘charged, detained, disappeared and tortured’. She added that ‘since the so-called “709 crackdown” began on 9 July 2015, the profession of human rights lawyer has been effectively criminalised in China.’ In addition to arbitrary detention and prison terms, the Government has also resorted to other means to deter human rights lawyers from taking on human rights cases, including on assemblies and association. Lawyers’ relatives are ‘routinely threatened, summoned for

¹ For this reason, ISHR has published in November 2020 a [‘Civil Society Guide to Monitoring and Follow-up of the China Universal Periodic Review \(UPR\)’](#), available in English, Simplified and Traditional Chinese, Tibetan, Uyghur, and Spanish.

questioning, subjected to surveillance by the authorities and socio-economically affected on account of the loss of income to the household’.

This joint report looks at the implementation of recommendations received in November 2018 over the past three years – a period marked by an intensified repression of human rights defenders, lawyers, and journalists across the country, as well as against the Uyghur and Tibetan peoples, and under the National Security Law in Hong Kong.

1) ‘Protesting is a threat to China’: misuse of national security legislation and obstacles to peaceful assembly

The Chinese Constitution provides for the right to assemble and demonstrate². Yet, the [1989 Law on Assemblies, Processions and Demonstrations](#) wholly restricts this right, turning it into a matter for administrative review and approval,³ restricted on grounds of endangering public security, or State sovereignty and territorial integrity.⁴ This harsh authorisation regime is clarified in the [1992 Regulations for the Implementation of the Law of Assembly, Procession and Demonstration](#).

As widely reported by UN bodies⁵ – including government responses to Special Procedures communications – and civil society, activities surrounding human rights issues have been systematically interpreted by the authorities as threats to public security and public order, or to ethnic unity and territorial integrity when it comes to the rights of Uyghurs, Tibetans and other ethnic groups. This makes it virtually impossible for any individual to organise a public demonstration for the purpose of promoting universal human rights.

When public security organs do not grant permission, there are no effective channels to appeal the decision through a judicial process, as courts will in practice not open or file the case nor agree to issue a written document justifying the refusal of permission. If an individual or group ignores official refusal of permission, they are subject to police summons in minor cases, and criminal penalties in major cases: holding an assembly without prior application or obtention of permission can carry a criminal sentence of up to five years’ imprisonment for ‘seriously sabotaging social order’.⁶

In cases where exchanges of political views take the form of private and/or unauthorised gatherings, participants are regularly charged with ‘endangering national security’ and related crimes under China’s *Criminal Law*;⁷ these provisions carry harsher penalties than public order-related crimes. Rights groups have [documented](#) growing patterns of systematic misuse of national security legislation taking the form of charges for ‘inciting subversion of State power’⁸ or outright ‘subversion

² Article 35: Citizens of the People’s Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration.’, Constitution of the People’s Republic of China.

³ Article 7: Application must be made to and permission obtained from’ public security organs for holding any assembly or demonstration, at least five days prior.

⁴ Article 12 : No permission shall be granted (...) which involves (...) harming the unity, sovereignty and territorial integrity of the State (...) endanger(ing) public security or seriously undermin(ing) public order.

⁵ See UN Special Procedures communications [AL CHN 4/2021](#), [AL CHN 20/2020](#), [OL CHN 17/2020](#), [AL 16/2020](#), [UA 11/2020](#), and Government [response](#) to AL CHN 3/2018, among others.

⁶ Article 296 of the People’s Republic of China [Criminal Law](#)

⁷ Part II, Chapter I of the People’s Republic of China [Criminal Law](#)

⁸ Article 105(2): ‘whoever instigates the subversion of the political power of the State and overthrow the socialist system through spreading rumors, slandering, or other ways’

of State power⁹ (Article 105) against human rights lawyers and defenders; these crimes are punishable with, respectively, five- and ten-year prison sentences.

In a [28 April 2021 communication](#) to the government, eight UN Special Procedures ‘reiterate[d] alarm’ at ‘the continued use of national security provisions of the Criminal Code that have been used to restrict the rights to freedom of expression, of association, and of peaceful assembly.’ Citing the cases of detained defenders **Chang Weiping, Qin Yongpei, Xu Zhiyong, Li Qiaochu, Ding Jiaxi, Ilham Tohti, Huang Qi, Qin Yongmin, and Zhang Haitao**, among others, they expressed ‘serious concern’ at the length of imprisonment under national security charges, in particular those related to subversion of State power, stressing that these provisions do not meet the principles of legality and proportionality.

The chilling effect of unauthorised assembly is amplified by provisions under [China’s Criminal Procedure Law](#) which provide for explicit exemptions to basic due process guarantees when it comes to ‘national security crimes’. These provisions effectively waive the obligation of family notification within 24 hours (Article 85) and the right to meet with a lawyer of one’s choice within 48 hours (Article 29). Access to a lawyer is conditioned in these cases on the ‘permission of the investigating organ’, without further clarification or independent oversight.

2) ‘An open-air prison’: legal and practical restrictions to free movement

The Chinese government has employed, with impunity, extralegal and extrajudicial tactics to unlawfully restrict human rights defenders’ freedom of movement, some of which amount to enforced disappearance. These abuses have contributed to an unsafe and disabling environment for human rights defenders.

Freedom of movement is instrumental to individuals’ ability to, independently and jointly with others, promote and defend human rights, as well as to their ability to exercise other fundamental freedoms. Human rights defenders in China travel within the country and to other countries in order to study, work, rest, secure housing, seek medical care, and meet and care for family members. They also exercise their right to freedom of movement to conduct and benefit from a wide range of human rights activities, including ‘petitioning’ with local authorities, submission of legal and administrative complaints, human rights investigation, legal assistance, trial observation, peaceful protests, conferences, media interviews, trainings, engagement with international human rights mechanisms, and humanitarian assistance to victims of human rights violations.

Restrictions on defenders’ freedom of movement take many forms, including entry or exit bans, confiscation of or refusal to issue or renew travel documents, physical interception during travel, reprisals after travel, forced cancellation of tickets for travel, house arrest, placement of guards outside residence or surrounding areas, eviction from hotel or rental residence, involuntary travel (including forced labour transfer), and confinement to a hotel room or to a police-operated facility outside of the criminal justice system. These restrictions may last days, months, or, in extreme cases, years. Human rights defenders could be subject to these restrictions in cycles of different type, duration and severity.

⁹ Article 105(1): ‘whoever organizes, plots, or acts to subvert the political power of the State and overthrow the socialist system’

These restrictions are inconsistent with human rights protections under the Chinese Constitution¹⁰ and China's national laws, as well as international law. Article 3 of the [Exit and Entry Administration Law](#) states that the government 'protects Chinese citizens' legitimate rights and interests of exiting and entering the country.' However, like many other Chinese laws, it enshrines ill-defined exceptions and sweeping catch-all provisions that confer discretionary powers to unspecified governmental departments to impose exit ban on citizens if their departure 'may endanger national security' (e.g. Article 12(5)).

House arrest under 'Non-Release Release' – Human rights defenders who are released on bail while under criminal investigation or those who are released after completing their prison sentence have faced additional extralegal restrictions on their freedom of movement, known popularly as 'non-release release'. Civil society groups have [documented the conditions](#) of those held under 'non-release release', including guards sleeping in the detainee's room, the absence of contact with relatives and friends, and limited access to medical care. This practice tends to be more frequently used against human rights defenders and dissident voices during politically 'sensitive' periods, to prevent them from speaking to international media. It has also been used against Turkic Muslim populations after their detention in the vast network of reeducation and forced labour camps in the Uyghur region.

- After completing his sentence in February 2019, human rights lawyer **Jiang Tianyong** has been forcibly escorted back to his ancestral home in Luoshan, where he has been kept under house arrest with tight surveillance to this day, a situation [denounced by UN Special Procedures](#). He has not been allowed to travel to seek adequate medical care or employment. Human rights defenders who attempt to visit him have routinely been harassed, had their identification checked or even have been briefly detained by police or unidentified agents.
- The most egregious example of extralegal house arrest is demonstrated by the [enforced disappearance](#) of human rights lawyer **Gao Zhisheng**, who has not been seen or heard from since August 2017, as [reported by UN Special Procedures](#). Gao has been held alternatively under residential surveillance, jail, and incommunicado detention in 'black jails' since 2006.

Passport revocation or rejection of applications – Human rights defenders have had their applications for passport arbitrarily denied.

- In January 2020, Gansu-based human rights defender **Li Dawei** [reported](#) that local public security officers informed him that his passport and travel permit for Hong Kong and Macao have been invalidated. When asked, the police failed to disclose the date of the revocation and the justification.
- Passports were recalled and revoked for [many Uyghurs](#) in Xinjiang. Uyghurs outside of China whose Chinese passports were expiring [reported](#) that Chinese consulates refused to renew their passports and required them to return to China to do so, but many Uyghurs who returned have disappeared or became incommunicado.

Exit bans – Human rights defenders who hold a valid passport have been physically prevented from boarding an international flight, often on the grounds that their travel would 'endanger national security.' These exit bans are usually imposed without any procedural transparency and the victims rarely receive any detailed explanation for the decision.

- In January 2021, border control authorities at Shanghai's Pudong Airport blocked human rights defender and writer Yang Maodong (aka [Guo Feixiong](#)) from boarding a flight to the United States to see his wife who is seriously ill, reportedly citing 'suspicion of

¹⁰ Article 37 of the Chinese Constitution stipulates that 'freedom of the person of citizens of the People's Republic of China is inviolable' and prohibits 'unlawful detention or deprivation or restriction of citizens' freedom of the person by other means.'

endangering national security’ as the basis. After being taken away from the airport, he has remained to date under tight surveillance at an unconfirmed location, likely in Guangdong province.

- In June 2021, border control authorities at Fuzhou airport prevented Beijing-based human rights lawyer [Tang Jitian](#) from boarding a flight to Japan to see his ill daughter. The authorities stated that an exit ban had been imposed because his travel abroad ‘may endanger national security,’ but failed to provide any further reasons or an official notice in writing.

Guarding outside residence – Public security or plainclothes agents have harassed and prevented human rights defenders from leaving their residence to participate in peaceful activities, such as meetings with other human rights defenders and groups, diplomats, and journalists.

- On 17 September 2021, unidentified persons [blockaded the apartment](#) of Beijing-based woman human rights defenders **Xu Yan** to prevent her from leaving to attend a reception hosted by a foreign embassy.
- Woman human rights defender **Wang Qiaoling** also [faced the same restrictions](#) on the same day. These restrictions occur routinely when human rights defenders in Beijing or other major cities are invited to attend diplomatic events or meet with foreign dignitaries.

Interception during travel – Human rights defenders have been routinely intercepted, detained or interrogated by public security or plainclothes agents while travelling within the country, including to seek medical treatment. Attempted travel to Beijing tends to draw the most swift interceptions, especially during ‘sensitive’ periods (political anniversaries, National People’s Congress and Party congresses, high-profile international conferences or summits with foreign leaders).

- Prior to woman human rights defender **He Fangmei**’s [disappearance](#) in early October 2020, local police repeatedly blocked her from taking her daughter to Beijing to seek medical treatment for the disability resulting from receiving a defective vaccine.
- Imprisoned human rights defender and citizen journalist **Huang Qi**’s 88-year-old mother, **Pu Wenqing**, has been told by the police that she is not allowed to go to Beijing to ‘petition’ government offices, give media interviews, meet with other ‘petitioners’, or hire human rights lawyers. In December 2018, security officers [physically assaulted](#) her at a train station in Beijing and forcibly escorted her back to Sichuan province.

Forced travel or relocation – Human rights defenders have been forced to travel, often with police escort, to a third location during ‘sensitive’ periods. Others have been forced to relocate repeatedly after their landlords came under pressure from local police not to shelter the defenders or they were compelled to relocate due to incessant police harassment which made their employment or livelihood impossible to sustain.

- In the last six years, artist, feminist, and sex workers’ rights defender **Ye Haiyan** has had to [relocate repeatedly](#) after regular harassment by local police in the provinces of Guangxi, Guangdong, Hubei, Beijing, and most recently Inner Mongolia, due to her online writings critical of government policies. As a result, she has faced economic insecurity and struggled to sustain her livelihood and support her daughter.

In the Uyghur Region and Tibet – Many of the restrictions on freedom of movement described in this report are believed to have applied or are still being applied in a widespread and systematic manner against ethnic minorities, particularly in the Tibet and [Uyghur regions](#). The [Xinjiang Victims Database](#) has documented the cases of at least 529 individuals in China who are believed to have been

detained or are still in detention due to overseas travel.¹¹ It is difficult to independently verify these cases due to the severe restrictions on meaningful access to the Uyghur region, tight information control by the State, and reprisals against human rights defenders belonging to these ethnic groups who provide information to independent monitors.

3) ‘Shut up or disappear’: RSDL and other forms of enforced disappearances

The Chinese government operates an increasingly expansive network of legal and extralegal systems of arbitrary detention and enforced disappearances, which have been used to target human rights defenders and lawyers, journalists, ethnic and religious minorities and high-profile foreign nationals. Detention conditions flout international human rights standards. In a [28 June 2021 public statement](#), UN Special Rapporteur on human rights defenders Mary Lawlor stressed that ‘countless reports’ which she had received indicated that ‘the mistreatment of human rights defenders in Chinese custody remains endemic and may amount to torture and other cruel, inhuman or degrading treatment, despite the plethora of documentation and recommendations from UN mechanisms over the years, including from the Committee Against Torture.’ These testimonies include [solitary confinement](#), beatings and the use of ‘[tiger chairs](#)’ during interrogation. Requests for country visits by UN Special Procedures to investigate abuses on the ground have been [repeatedly denied](#) by the Chinese government.

In a [February 2020 Opinion](#), the UN Working Group on Arbitrary Detention stated:

‘In its 28-year history, the Working Group has found China in violation of its international human rights obligations in about 90 cases. The Working Group is concerned that this indicates a systemic problem with arbitrary detention in China, which amounts to a serious violation of international law. The Working Group recalls that, under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the rules of international law may constitute crimes against humanity.’

The government has simultaneously deployed specific methods to allow for enforced disappearances.

Residential Surveillance at a Designated Location (RSDL) (指定居所监视居住) – In 2012 China amended its [Criminal Procedure Law](#) to include a new provision in Article 73 that allowed for a practice called ‘Residential surveillance at a designated location’ (henceforth, RSDL); this provision was further amended and expanded in 2018, and now constitutes articles 74 to 79 under the Law. This provision authorises holding someone incommunicado – during an investigation period prior to arrest – for up to six months. In contrast with other forms of pre-trial detention, the person can be held in custody in any location or building chosen by the police (with the [explicit exception](#) of detention centres or ‘case-handling areas’), without a need to disclose such location, and with very limited respect for due process or judicial review. For many lawyers, this provision only legalised an existing practice of police interrogation in ‘illegal’ locations (hotels, restaurants, disaffected buildings, etc): by giving it a semblance of legality, any information obtained in such locations could now be used in court.

The revised *Criminal Procedure Law* (2018), on paper, clarifies that the family ‘shall be notified within 24 hours, *unless there is no way to inform them*’ (emphasis added); yet, notification does neither

¹¹<https://shahit.biz/exportpdf.php?photos=1&reason=2> (accessed on 12 October 2021)

require, nor include in practice, the whereabouts of the individual. Anecdotally, relatives are most often not informed, or informed several months later. As stated above (section 1), the standard legal obligations of the Law, such as family notification within 24 hours (Article 85) and the right to meet with a lawyer of one's choice within 48 hours (Article 29), are waived in cases of 'national security crimes.' The approval, and therefore review of legality, of RSDL is entrusted to a people's procuratorate or to a public security organ. In other words, the police may itself approve, review and enforce RSDL, without any further oversight by a judicial organ. Civil society groups have [documented dire conditions](#) for those held under RSDL, including unsanitary conditions, constant surveillance, deprivation of access to outdoor spaces or exercise, and forced solitary confinement.

In a detailed [communication](#) to the government sent in August 2018, ten UN Special Procedures asserted that RSDL 'denies [those held under RSDL] the fundamental right to fair trial, potentially undermines the right to physical and mental integrity, and denies persons held under these conditions of their rights to counsel and family visits'. They stressed that RSDL gives the police and public security too much power, that is abused in order to allow arbitrary arrest, and that it is being used to muzzle peaceful and legitimate rights to freedom of expression, assembly, association and the right to defend rights.

The experts underscored that, by allowing individuals 'to be held incommunicado, for long periods, in undisclosed location,' RSDL 'may *per se* amount to cruel, inhuman or degrading treatment or punishment, or even torture, and additionally may expose [those held under RSDL] to an increased risk of further abuse, including acts of torture'. [Victim testimonies](#) point to a pattern of torture in the form of [solitary confinement](#) and oppressive interrogations with the [aim of extracting confessions](#), allowing police officers to justify charges *a posteriori* and either proceed to formal arrest after six months, or renew the period of RSDL for another six months.

In a March 2020 [public statement](#), six UN Special Procedures – including the UN's Working Group on Enforced or Involuntary Disappearances – 'expressed their alarm at the ongoing use of RSDL in China, despite having for many years reiterated the position that RSDL is not compatible with international human rights law. As a form of enforced disappearance, RSDL allows authorities to circumvent ordinary processes provided for by the criminal law and detain individuals in an undisclosed location for up to six months, without trial or access to a lawyer. This puts individuals at heightened risk of torture, inhuman or degrading treatment or punishment'.

China's [official court records database](#) points to an exponential growth of the RSDL system, with an estimated minimum of 60,000 victims to date – that is, between 16 and 41 victims everyday – since its creation in 2013. The number of victims held under RSDL [increased](#) from between an estimated 450 to 680 in 2013, to between an estimated 10,080 to 15,120 in 2020 (an increase of 136% compared to 2016), with a strong increase since 2016. While not all these individuals are human rights defenders, this is commonly recognised as a tactic used to intimidate and coerce individuals detained for their human rights-related work. It is notable that this database has significant flaws or gaps in information, and is increasingly difficult for researchers and scholars outside of China to access.

Liuzhi (留置) – Created in 2018 as a revamp of its predecessor the [shuanggui system](#), *liuzhi* closely resembles the RSDL system of incommunicado detention, in isolation for up to six months without adequate judicial oversight and due process. But unlike RSDL, *liuzhi* is [not part of the judicial system](#) and there is no guarantee of the right to legal counsel at all.

Established to tackle corruption among any Chinese Communist Party member (over 95 million individuals), the *liuzhi* system has a broad remit with exclusive competence for ‘economic crimes’ and ‘violations of duties’ across all branches of government and society. Those targeted include journalists and those in the business, health and education sectors. In 2018, first year of its implementation, the number of individuals investigated reached 1,667,000. Official government data indicates the use of the system has rapidly expanded, with a nearly-16% growth in 2020 despite the Covid-19 pandemic. It is [estimated](#) to have been used to detain roughly 45,000 individuals between early 2018 and the end of 2020.

The *liuzhi* system is operated by China’s National Supervision Commission (NSC), defined as a ‘non-administrative body’, operating with the Party’s Central Commission for Discipline Inspection since its establishment in 2018. Its non-judicial and non-administrative nature renders impossible any lawsuit under China’s administrative law, or reviews to challenge the legality of detention; it also excludes it from any criminal procedure guarantee, including the restricted right to legal counsel, or weak anti-torture provisions in Chinese law. Victims’ [testimonies](#) describe a wide array of torture methods ; less than six weeks after the operationalization of the system in 2018, a [first death by torture was reported](#).

This indicates an increasingly leading role taken by the NSC in the management of China’s international judicial cooperation, which civil society has raised serious concerns about. For example, a [Memorandum of Understanding](#) allowing for cooperation between the UN Office on Drugs and Crime (UNODC) and China’s National Supervision Commission exists, but its content and substance have not been disclosed.

Hidden in detention – Since 2016, [reports of enforced disappearances](#) within the formal criminal justice system have emerged. These often occur at the stage of arrest, through the use of false names in pre-trial detention facilities. During this critical stage of the criminal justice process, victims seek legal counsel to prepare for trial; yet, the victims – most often human rights lawyers – are registered under false names, making it impossible for both their relatives and lawyers to identify their location or file relevant paperwork for communication and defence.

4) ‘Ruling by law’: the disbarment of human rights lawyers

The legal profession could, in theory, provide a bulwark against these kinds of wilful abuse of rights under overly-broad or vague laws. However, at the same time that researchers and victims have been consistently reporting needs for defence of due process rights (including those issues raised above), authorities have taken legal and practical measures to restrict lawyers’ rights to practice.

Between 2016 and 2018, the Chinese government adopted or amended two administrative regulations, the *Administrative Measures for the Practice of Law by Lawyers* (‘*Lawyers*’) and the *Measures on the Administration of Law Firms* (‘*Law Firms*’). As outlined by CHRD and ISHR in [a submission to the UN Special Procedures](#), these measures [contravene a series of international human rights standards](#) relating to the rights to freedom of expression, association and peaceful assembly, and to the independence of the legal profession. They criminalise human rights lawyers who uphold such rights in their personal and professional capacities, resulting in the effective disbarment of a significant number of human rights lawyers. Human rights lawyers play a central role in representing victims of human rights violations and upholding rights guaranteed under Chinese law in court, as well as acting as a link between various human rights communities in China.

These regulations tighten ideological control over law firms through the introduction of Party influence and surveillance of lawyers and law firms, including obligations to ‘adhere to guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era’ and to ‘make support for the Party’s leadership and support for socialist rule of law basic requirements for the profession’ (*Law Firms*, Article 3). Party organisations within law firms shall ‘regulate acceptance procedures and direct and oversee lawyers’ handling of major and difficult cases’ (*Law Firms*, Article 49).

The regulations strengthen supervision of lawyers by their law firms, including taking responsibility for monitoring lawyers’ exercise of fundamental freedoms. Law firms shall prevent lawyers from ‘organizing involved parties in cases [to] disrupt public order’ including through ‘sit-ins, holding banners or placards, shouting slogans, expressing solidarity’ (*Law Firms*, Article 50-1; *Lawyers*, Article 37); from ‘using the Internet or media to express dissatisfaction with the Party or the government; inciting or participating in any organisation endangering national security, or supporting, participating in or committing any activity endangering national security’ (*Law Firms*, Article 50-6; *Lawyers*, Art. 40). This also includes ‘denying the nature of state-determined evil cults’, targeting lawyers defending Falun Gong practitioners (*Law Firms*, Article 50-5; *Lawyers*, Article 39-3).

The regulations allow for the revocation of law firms’ license if they do not take action to sanction lawyers in contravention with the regulations (*Law Firms*, Article 39). Local Judicial Bureaus, a local extension of the Executive branch, are empowered to suspend, cancel or revoke the license of lawyers and law firms (*Lawyers*, Articles 23-4, 53; *Law Firms*, Article 64).

In a context of repressive measures against human rights lawyers since the 2015 ‘709 crackdown’, these administrative measures are intended to both punish human rights lawyers, and prevent them from exercising their fundamental freedoms, effectively impeding them from adequately defending ‘sensitive’ cases.

According to documentation undertaken by The 29 Principles, between January 2017 and October 2021, at least 42 human rights lawyers and three law firms have been penalised either by having their license suspended, cancelled or revoked by local Judicial Bureaus. This figures [compares](#) to 20 cases over the period 2004-2014 and 9 cases over the period 2014-2016. Revocation and suspension of human rights lawyers’ licenses continue until today: in 2021 alone, this included lawyers [Lu Siwei](#), [Ren Quanniu](#), [Xi Xiangdong](#), [Zhou Ze](#), [Peng Yonghe](#), [Chang Weiping](#) and [Yang Bin](#).

Accordingly, number of detained human rights lawyers are unable to meet their defence lawyers, including, but not limited to, the UN Special Procedures’ reported cases of [Gao Zhisheng](#) and [Jiang Tianyong](#). In the case of [Yu Wensheng](#), whose detention was deemed [arbitrary by the Working Group on Arbitrary Detention](#), lawyers hired by the detainee's family were refused access and were given a statement allegedly written and signed by Yu, dismissing them and requesting that his family not hire another lawyer. Yu had recorded a video before his arrest stating that he would [not voluntarily renounce his legal counsel](#). In the cases of lawyers [Qin Yongpei](#) and [Chang Weiping](#), the Working Group found that requests to meet with lawyers were repeatedly denied by authorities.

5) ‘Inside the Great Firewall’: targeting journalists and restricting free speech

The People’s Republic of China still ranks at the bottom of [Reporters Without Borders’ \(RSF\) 2021 World Press Freedom Index](#) (177th out of 180 countries). By relying on a massive use of new technology, the Chinese government under Xi Jinping’s leadership has imposed a social model based on control of news and information, and online surveillance of its citizens. State- and privately-owned media are under tight control of the authorities and the Party, while the latter has created an increasing number of obstacles for foreign reporters.

The Cyberspace Administration of China (CAC), has deployed a wide range of new restrictions that affect the existing 1 billion Internet users in the country. [With the help of new technologies](#), and a significant number of human censors, it exercises control over information through shutting down sites, blocking access to IP addresses, filtering web pages and locking keywords on networks. CAC revealed that between January and the end of September 2020, nearly [130,000](#) social media accounts and more than [12,000](#) sites were closed by the government. In July 2021, this included the [deletion of a number of LGBT platforms](#). According to [Jamestown Foundation](#), China spent at least \$6.6 billion on cyber censorship operations in 2020, according to the Jamestown Foundation.

In 2021, China continued to be the account for the highest number of imprisoned defenders of press freedom, with more than [122 professional and non-professional journalists](#) currently held in conditions that pose a threat to their lives. [Kunchok Jinpa](#), a leading media source of information about Tibet, died in February 2021 as a result of mistreatment in prison; this shows no improvement since the 2017 deaths of [Liu Xiaobo](#), a Nobel Peace prize laureate and winner of the RSF Press Freedom Prize, and dissident blogger [Yang Tongyan](#). [Zhang Zhan](#), one of several Chinese journalists who travelled to the city of Wuhan to report on the first days of the Covid-19 pandemic in 2020, has been sentenced for ‘picking quarrels and provoking quarrels’ and is suffering from a [critical health condition](#) with potentially lethal consequences if she is not provided with adequate independent medical care and released on medical parole.

At least three foreign journalists and defenders of press freedom were arrested in recent years and are still detained by the Chinese regime on the accusation of espionage, including high-profile Australian business news anchor [Cheng Lei](#), Australian political commentator [Yang Hengjun](#) and Swedish national and Hong Kong publisher [Gui Minhai](#).

China-based foreign reporters are not spared intimidation and harassment. The 2020 report of the Foreign Correspondents’ Club of China (FCCC) stated the authorities were making it increasingly difficult for foreign journalists and their sources to conduct their work. [According to the report](#), for the third consecutive year not a single correspondent said working conditions had improved. The harassment to which they are subjected includes being followed, arrested, interrogated, physically surveilled, and threatened with expulsion. The report denounced an increasing weaponization of visas, leading to the expulsion of at least 18 foreign correspondents in the first half of 2020.

In June 2020, the Chinese authorities adopted the National Security Law in Hong Kong, giving the police powers to arbitrarily arrest anyone suspected of ‘national security’ crimes. According to [RSF figures](#), since August 2020, at least 13 journalists and press freedom defenders have been arrested, and 10 are still being detained and facing life in prison, including [Jimmy Lai](#), the founder of the largest pro-democracy newspaper, *Apple Daily*, and 2020 RSF Press Freedom awardee, as well as six employees. In late June 2021, the Hong Kong government froze the *Apple Daily*’s financial assets, forcing it into closure.

Conclusions & Recommendations

Despite the Chinese government indicating that most of human rights defenders-related UPR recommendations were ‘already implemented’, our research points to diametrically opposed conclusions. It evidences how both Chinese law and practices are used to systematically persecute human rights defenders, lawyers, and journalists, in stark opposition to protection in China’s Constitution and China’s obligations under international law.

In light of the above, our organisations urge prompt action by key stakeholders on the following points, well ahead of the fourth Universal Periodic Review of China (expected in 2023):

Steps that should be urgently implemented by the Government of the People’s Republic of China:

- Immediately and unconditionally release all human rights lawyers and defenders, as well as professional and non-professional journalists detained in connection with their reporting, and provide them with remedy;
- Initiate a comprehensive and transparent legal reform process, in genuine consultation with UN experts, independent civil society and human rights defenders, to review existing laws, regulations, policies and practices used to target human rights defenders and journalists, with a view to aligning them with China’s obligations under international human rights law and standards. This includes:
 - Guaranteeing the rights to freedoms of expression, association and peaceful assembly for human rights defenders, journalists and lawyers, including removing restrictions under two administrative measures on the practice of law by lawyers and on law firms;
 - Repealing articles 74 to 79 of the *Criminal Procedure Law* allowing for ‘Residential Surveillance at a Designated Location’;
 - Amending national security-related legal provisions – including Criminal Procedure Law provisions restricting the right to legal counsel – to bring them in compliance with international human rights law and standards;
 - Putting an end to the use, whether through law or practice, of arbitrary restrictions on the right to freedom of movement, including by amending the *Exit and Entry Administration Law*;
- Ensure lawyers can freely practice their profession, including meeting with clients, without undue restrictions;
- Ensure all detainees have access to lawyers of their own choice in accordance with Chinese law and international standards;
- Put an end to the system of online censorship, to the surveillance of journalists and restrictions to foreign reporters, provide them with accreditation in an open and transparent manner, and ensure the independence of state- and privately-owned media.

Recommendations to States who have issued recommendations to the Government of China:

- Use all available diplomatic channels with Chinese counterparts to request information on, and urge meaningful steps for the implementation of, UPR recommendations.

Recommendations to all States:

- Engage in meaningful consultation with human rights defenders, including lawyers and journalists, and civil society organisations on a regular basis, and in particular over the period 2022-2023, in preparation for China’s fourth Universal Periodic Review;

- Ensure that these views, and those of other independent stakeholders, inform state positions on issues related to human rights in China across the full range of multilateral and bilateral exchanges or fora, especially on efforts that aim to advance official accountability;
- Review legal cooperation agreements with China and the Hong Kong SAR in light of the deterioration of due process and legal protections for lawyers and their clients, with a view to ensure full compliance with international human rights obligations, including *non-refoulement*.

Recommendations to UN, and especially its human rights bodies and mechanisms, in line with the UN Secretary General’s Call to Action on human rights:

- Ensure that dialogue and cooperation with China a) foregrounds structural concerns about the rule of law and access to justice, including restrictions on fundamental freedoms of human rights defenders, lawyers and journalists and b) identifies and proposes solutions for inconsistencies with relevant international human rights law and standards;
- Take systematic and meaningful action on all cases of threats, intimidation or reprisals against human rights defenders, lawyers and journalists cooperating or seeking to cooperate with the UN, its representatives and mechanisms – including in relation to China.

ANNEX I: Key Relevant Recommendations from China's 2018 UPR

The following recommendations were made by different Governments during China's third UPR in November 2018, in connection with the situation and work of human rights defenders, lawyers, and journalists. All recommendations can be found in the Report of the Working Group on the UPR of China ([A/HRC/40/6](#)) and its Addendum ([A/HRC/40/6/Add. 1](#)), and in the [Matrix of recommendations](#).

337: Take the necessary measures to guarantee that [human rights defenders](#) can exercise their [freedom of expression](#) and [peaceful association](#) (**Belgium**) (*'accepted and already implemented'*)

338: Guarantee the full exercise of the [freedoms of association](#) and [expression](#) of human rights defenders and minorities, in accordance with international human rights law (**Costa Rica**) (*'accepted and already implemented'*)

340: Take immediate action to allow human rights defenders and lawyers to exercise their right to [freedom of expression](#) and opinion [without threats, harassment](#) of repercussions (**Ireland**) (*'accepted and already implemented'*)

211: Expand the list of professional supervisory units to accommodate the [registration of non-governmental organizations](#) that seek to work in China (**Denmark**) (*'accepted'*)

205: Guarantee [freedom of expression, assembly](#) and [association](#) including in [Hong Kong](#), and remove obstacles to [freedom of information on the Internet](#), in particular for human rights defenders (**France**) (*'accepted'*)

207: Guarantee [freedom of opinion](#) and [expression](#), enhancing efforts to create an environment in which [journalists, human rights defenders](#) and [NGOs](#) can freely operate in accordance with international standards (**Italy**) (*'accepted and already implemented'*)

208: Protect and guarantee respect for [freedom of information](#) and [expression](#), in particular by [journalists, bloggers](#) and [human rights defenders](#) (**Luxembourg**) (*'accepted and already implemented'*)

199: Expedite the reforms necessary for [freedom of expression](#) to be fully protected in law and practice (**Australia**) (*'accepted'*)

200: Respect, protect and ensure the freedom of expression of all citizens (**Norway**) (*'accepted'*)

201: Remove restrictions on [freedom of expression](#) and [press freedom](#), including on the Internet, that are not in accordance with international law (**Sweden**) (*'accepted and already implemented'*)

204: Enable [unrestricted use of the Internet](#) by all members of society by ensuring cybersecurity and the safe flow of information without violating freedom of expression (**Estonia**) (*'accepted and already implemented'*)

203 (**rejected**): Repeal or amend laws and practices, such as [censorship](#), which prevent the right to [freedom of expression](#) and [free access to information](#) (**Czechia**)

150 (**rejected**): Amend the [definition of subversion](#) to remove all exercise of an individual's human rights and fundamental freedoms from its scope (**United States of America**)

335: Apply public policies to [protect human rights defenders](#) in line with international standards (**Spain**) (*'accepted and already implemented'*)

341: Adopt the necessary measures to provide a [safe environment](#) for those who work on the protection and promotion of human rights, including [human rights defenders](#) and [journalists](#), and [investigate and punish](#) all acts of violence against them (**Argentina**) (*'accepted and already implemented'*)

342: Ensure that [human rights defenders](#) can conduct their work without being subjected to [harassment](#), [intimidation](#) or any kind of [reprisals](#) (**Liechtenstein**) (*'accepted and already implemented'*)

216: Guarantee the [protection of lawyers](#) against any form of [harassment](#), [violence](#) or attempts to impede or [interfere with the defence](#) of their clients, in accordance with national law (**Finland**) (*'accepted and already implemented'*)

206: Consider further measures to ensure a [safe environment for journalists](#) and other civil society actors to carry out their work (**Greece**) (*'accepted'*)

336 (**rejected**): Cease the [harassment](#) and [extraterritorial abduction](#) of [human rights defenders](#) and their family members, cease [house arrest](#) and [travel restrictions](#) for people based on their rights defence work, and [release those imprisoned](#) for such work, including [Tashi Wangchuk](#), [Ilham Tohti](#), [Huang Qi](#) and [Wang Quanzhang](#) (**United States of America**)

213 (**rejected**): Guarantee [fair trials](#), an [independent judiciary](#) and [access to legal counsel](#), [release all human rights defenders](#), including [lawyers](#), and refrain from persecuting those who exercise their rights or defend others (**Czechia**)

218: Guarantee [fair trials](#); allow all defendants unhindered [access to their chosen lawyers](#), prompt notification of their families and transparent legal procedures (**Germany**) (*'accepted and already implemented'*)

171: Respect the [rights of all detainees](#) under the relevant human rights instruments and the Vienna Convention on the Law of Treaties, including due process (**Sweden**) (*'accepted and already implemented'*)

181: (**rejected**) End the [arbitrary detention](#) of those who defend and promote human rights (**Iceland**)

333: (**rejected**) Release [detained human rights defenders](#) (**Australia**)

180 (**rejected**): End all [unlawful detention](#), including the unconstitutional [mass detention of Uighurs](#) and other Muslims in Xinjiang, and [residential surveillance at a designated location](#) (**Germany**)

176 (**rejected**): Put an end to the practice of "[residential surveillance at a designated location](#)", specifically with regard to human rights defenders and lawyers (**Switzerland**)

57: Review its national and regional [security legislation](#) to bring it into conformity with international human rights law and standards and ensure that provisions are clearly and strictly defined (**Austria**) (*'accepted and already implemented'*)

152: Ensure that any legal provision to protect [national security is clearly and strictly defined](#) in its security laws, in conformity with international human rights law and standards (**Belgium**) (*'accepted and already implemented'*)

ANNEX II: Priority areas identified by UN High Commissioner for Human Rights in its April 2019 letter to Foreign Minister Wang Yi

The following areas of recommendations were identified as ‘priority’ ones for implementation by UN High Commissioner for Human Rights Michelle Bachelet in her April 2019 [letter](#) to Chinese Foreign Minister Wang Yi.

Guaranteeing an independent judiciary, fair trials, and access to legal counsel, releasing all human rights defenders, including lawyers, and refraining from persecuting those who exercise their rights or defend others’ rights.

Enhancement of efforts to create an environment, in which journalists and human rights defenders and NGOs can freely operate in accordance with international human rights standards.

Ceasing the harassment, house arrest of, and travel restrictions on, human rights defenders and their family members.

Repeal the provisions of the Criminal Procedure Law that allow *de facto* incommunicado detention at a designated location while under residential surveillance.

Ensuring that any legal provision to protect national security is clearly and strictly defined in conformity with international human rights law and standards. This includes amending the definition of subversion with a view to removing from its scope the legitimate exercise of all human rights and fundamental freedoms.

Expediting the reforms necessary to fully protect freedom of expression in law and in practice.

Removal of all restrictions on freedom of expression and press freedom, including on the Internet, which are not in conformity with international law.

Respect of the rights of all detainees in compliance with relevant human rights instruments.

Strengthening of measures to prevent torture and ill-treatment.