

THE HUMAN RIGHTS SITUATION IN THE PEOPLE'S REPUBLIC OF CHINA: ANALYSIS AGAINST THE "OBJECTIVE CRITERIA"

The "objective criteria" list the following objective criteria to initiate Council action:

- **whether there has been a call for action by the UN Secretary General, the High Commissioner for Human Rights or a relevant UN organ, body or agency;**

Since [her first statement to the Human Rights Council](#) (HRC) on 3 September 2018 highlighting 'deeply disturbing allegations of large-scale arbitrary detentions of Uighurs and other Muslim communities', High Commissioner for Human Rights Michelle Bachelet requested the government permit access to her Office to 'all areas of China'.

In March 2021, she [reiterated](#) 'the need for independent and comprehensive assessment of the human rights situation' in Xinjiang and her Office continued 'to assess the alleged patterns of human rights violations, including reports of arbitrary detention, ill-treatment and sexual violence in institutions; coercive labour practises; and erosion of social and cultural rights.'

In its 2022 [Report on the Application of International Standards](#), the ILO expressed 'deep concerns' about alleged discriminatory practices and coercive measures indicative of forced labour in Xinjiang, including in 'vocational and educational training centers' (VETCs)¹.

- **whether a group of Special Procedures have recommended that the Council consider action;**

On [25 June 2020](#), former High Commissioner Zeid Ra'ad Al-Hussein and eight former Special Rapporteurs urged the UN Secretary-General to appoint a special envoy on Hong Kong due to the 'severity of the deterioration, [and] the impending grave threats under the new security law.'

On [26 June 2020](#), 50 Special Procedures experts issued a joint statement calling for 'decisive measures to protect fundamental freedoms in China.' They 'denounce the repression of protest and democracy advocacy in Hong Kong' and raise concern at 'a range of issues of grave concern, from the collective repression of the population, especially religious and ethnic minorities, in Xinjiang and Tibet, to the detention of lawyers and prosecution and disappearances of human rights defenders across the country, allegations of forced labour in various sectors of the formal and the informal economy, as well as arbitrary interferences with the right to privacy, to cybersecurity laws that authorise censorship and the broadly worrying anti-terrorism and sedition laws applicable in Hong Kong.'

The 50 UN experts 'urged the Human Rights Council to act with a sense of urgency to take all appropriate measures to monitor Chinese human rights practices', which may include:

- 'a special session to evaluate the range of violations indicated in this statement and generally';

¹ The Government of China defines as 'VETCs' what civil society organisations, and the CERD Committee, identify as re-education camps, or mass internment camps, in the Uyghur region (Xinjiang).

- ‘the establishment of an impartial and independent United Nations mechanism - such as a United Nations Special Rapporteur, a Panel of Experts appointed by the HRC, or a Secretary General Special Envoy - to closely monitor, analyse and report annually on the human rights situation in China, particularly, in view of the urgency of the situations in the Hong Kong SAR, the Xinjiang Autonomous Region and the Tibet Autonomous Region.’

On [10 June 2022](#), 42 Special Procedures experts issued a second joint statement urging China to ‘address grave human rights concerns and enable credible international investigation’, and ‘renew[ing] the calls made in a June 2020 joint statement’ (see above). The experts:

- noted they ‘have yet to see any signs of political will [from China] to address the concerns raised’;
- ‘stressed that [the High Commissioner’s] engagement [with the Chinese government] does not replace the urgent need for a complete assessment of the human rights situation in the country, and especially in Xinjiang, Tibet, and Hong Kong’;
- ‘emphasized the value of ensuring a consistent United Nations approach to all States in assessing their human rights obligations and commitments’, and that ‘upholding the same standards and their equal application to all States big and small is important to maintaining the integrity, credibility and moral authority of Human Rights Council and UN systems for human rights’;

The Working Group on Arbitrary Detention, in its Opinion [35/2019](#), highlights that in 28 years, the Working Group has found detentions arbitrary in 90 out of 103 cases it has considered. It is ‘concerned that this indicates a systemic problem with arbitrary detention in China, which amounts to a serious violation of international law’. It also 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’. These concerns have been consistently reiterated in the five Opinions on China, related to nine cases overall, adopted by the Working Group in 2021 and in the Working Group’s recently-published Opinions [6/2022](#) and [9/2022](#).

Since 2018, the UN Special Procedures have issued 27 press releases² and 83 communications³ to the Government of China, on a range of issues including: enforced disappearance, arbitrary detention, torture, the independence of the legal profession, freedoms of opinion and expression, freedom of peaceful assembly and of association, freedom of religion and belief, labour rights, cultural rights, business and human rights (domestic and overseas), education, minority issues, non-refoulement, HIV/AIDS, terrorism, human rights defenders, trafficking in persons, migrants, forced labour, health, poverty, violence against women, toxic wastes, privacy, and racism, among others.

In her [annual report](#) presented at the 49th session of the Human Rights Council on the issue of secret detention, the Special Rapporteur on counter-terrorism and human rights ‘reiterates and highlights ongoing concerns about the practices of arbitrary mass and secret detention with other serious violations of international law directed at the Uighurs and other ethnic groups in the Xinjiang Uighur Autonomous Region, including the practice of “re-education”, which impinges on the most fundamental of rights’ and ‘extensive and sustained

² Since 2021: [29 March 2021](#), [14 June 2021](#), [28 June 2021](#), [22 November 2021](#), [15 March 2022](#), [1 April 2022](#), [20 May 2022](#).

³ Since 2021: [CHN 1/2021](#), [CHN 2/2021](#), [CHN 3/2021](#), [CHN 4/2021](#), [CHN 5/2021](#), [CHN 6/2021](#), [CHN 7/2021](#), [CHN 8/2021](#), [CHN 9/2021](#), [CHN 10/2021](#), [CHN 11/2021](#), [CHN 12/2021](#), [CHN 13/2021](#), [CHN 14/2021](#), [CHN 1/2022](#), [CHN 2/2022](#), [CHN 3/2022](#).

ill-treatment.’ She underscores that ‘the assertion that mass detention and incommunicado detention is justified by “re-education” to prevent extremism is incompatible with the Government’s international law obligations.’ The Special Rapporteur calls for ‘full, independent and unhindered access’ to the UN, including the OHCHR ‘and the Special Procedures, to assess and investigate allegations of systematic human rights violations occurring at detention facilities in Xinjiang, China and also calls for the immediate closure of any mass arbitrary detention facilities.’

- **whether the State concerned has a national human rights institution with A-status; [and whether that institution has drawn the attention of the international community to an emerging situation and called for action];**

China does not have a national human rights institution (NHRI).

In 2014 China accepted UPR recommendations related to the establishment of a NHRI, which were supported by recommendations from the Committee on Economic, Social and Cultural Rights; the [Committee against Torture](#); and the [Committee on the Elimination of Racial Discrimination](#). The government seemed, in its responses, to show openness to the establishment of an NHRI. However, in 2019, pursuant to its 3rd UPR, China shifted its position; the government accepted five recommendations to ‘consider the establishment’ of an NHRI in accordance with the Paris Principles, yet rejected 8 specific recommendations to ‘establish’ an NHRI.

Regarding Hong Kong, according to [the CERD Committee](#), the Equal Opportunities Commission of Hong Kong was assigned a C rating by the Global Alliance of National Human Rights Institutions and was ‘not fully independent and accessible to victims’.

- **whether the State concerned has been willing to recognise that it faces particular human rights challenges and has laid down a set of credible actions, including a time-table and benchmarks to measure progress, to respond to the situation;**

China has consistently dismissed concerns about human rights violations raised in the context of the Human Rights Council, or by the UN Special Procedures and the Treaty Bodies, characterising them as ‘groundless’, ‘irresponsible’ and constituting an ‘interference in national sovereignty and internal affairs’.

During its 2018 UPR review, the Government categorically rejected recommendations related to the Xinjiang Uyghur Autonomous Region (17 in total, including recommendations to ‘implement the recommendations of the Committee on the Elimination of Racial Discrimination’), and the release of detained human rights defenders, stating it ‘firmly opposes interference in its sovereignty and internal affairs under any pretext’.

In September 2021, right as the High Commissioner informed the Human Rights Council the OHCHR would finalise its ‘assessment on allegation of serious human rights violations’ in Xinjiang, China published its [2021-2025 National Human Rights Action Plan](#). The High Commissioner ‘note[d it] with great interest (...) including its focus on climate change, environment, digital privacy and responsible business practices’; yet these areas do not correspond to the areas of grave concern raised by Special Procedures, Treaty Bodies, and the High Commissioner herself. The Action Plan also does not provide any timeline for action on UN recommendations, including the UPR.

Responding to the 10 June 2022 Special Procedures joint statement, a spokesperson for the Chinese Mission [stated](#) that the experts ‘acting as the political tool of anti-China forces, flagrantly violated the Code of Conduct [for Special Procedures] and made vicious slanders against China.’ He indicated that the Chinese people’s human rights are ‘being protected at an unprecedented level’ and that the experts attempted to ‘kidnap the Human Rights Council to serve the U.S. strategy of containing China, and to serve the interest of hegemony.’

- **whether the State concerned is engaging in a meaningful, constructive way with the Council on the situation;**

At HRC sessions, China has repeatedly laid out expectations that the High Commissioner and her Office ‘adhere to the purpose and principles of the UN Charter’ and commit to ‘non-politicization’.

On 4 March 2021, China criticised the Special Rapporteur on freedom of religion for ‘spread[ing] false information, lack[ing] minimum professional ethics, and serv[ing] as a political tool for some Western countries anti-China forces [and going] seriously against the UN Charter and the Special Procedures Code of Conduct.’ One day before, on 3 March 2021, China criticised the Special Rapporteur on cultural rights for making reference to whistle-blower Li Wenliang in her annual report to the HRC, denouncing her ‘racist statements’ which ‘shows her ignorance towards China, goes against ethical standards of UN experts, jeopardizing the UN’s credibility.’ The Vice-President of the HRC, and Chair of the session, interrupted the Chinese Delegation indicating she would ‘not allow such inflammatory remarks.’

During the March 2022 session of the HRC, China stated that the HRC should uphold principles of non-politicization, and ‘not be reduced to political confrontation.’ It rebuked all concerns raised by dozens of States and NGOs, regarding the situation in Xinjiang, Tibet, and Hong Kong, as spreading false information and smearing and discrediting China. China also accused the Special Rapporteur on counter-terrorism of making ‘groundless accusations and slanders against China’, stated that she ‘lacks the basic ability to screen true and false information,’ regretted that ‘the Human Rights Council has wasted resources and time in engaging in dialogue with such a Special Rapporteur’ and urged her ‘not to be caught up in her arrogance and prejudice.’

A growing number of countries have issued a total of seven joint letter or statements⁴ expressing serious concerns at violations in China, including in Xinjiang and Hong Kong, calling on China to implement the recommendations from its 2018 CERD review, and on the High Commissioner to release the OHCHR Xinjiang report. In response, China and allied countries have issued 12 joint statements voicing support for China’s actions, and opposing ‘interference in China’s internal affairs.’

⁴ At the 41st, 44th, 47th and 50th sessions of the Human Rights Council, and the 74th, 75th and 76th sessions of the UN General Assembly.

- **whether the State concerned is effectively cooperating with HRC Special Procedures, including by allowing country visits;**

Over the past six years, the Chinese government has only accepted one country visit, by the Independent Expert on older persons in December 2019, despite [pledges](#) at the UN and in its [2021-2025 National Human Rights Action Plan](#) to ‘continue to cooperate with the Special Procedures’ and ‘invite them to visit China, as appropriate.’

The Chinese government has not issued a standing invitation to Special Procedures, nor has it responded to 19 pending visit requests. In 2019, China rejected all UPR recommendations (7) to respond to pending country visit requests and provide unhindered access to all regions of the country to Special Procedures and the OHCHR.

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- **whether the State concerned is engaging with OHCHR, including in the field of technical assistance and effective engagement with the UN Human Rights Treaty Bodies;**

In September 2021, exactly three years after she first [requested](#) unrestricted access to the country, the High Commissioner [indicated](#) she ‘regret[ted] that [she was] not able to report progress on [her] efforts to seek meaningful access to the Xinjiang Uyghur Autonomous Region,’ and that the OHCHR was ‘finalising its assessment of the available information on allegations of serious human rights violations in that region, with a view to making it public [by the end of the year]’⁵. Ten months later, her report has still not been published.

In December 2021, a spokesperson for the OHCHR [stated](#) the report would be released ‘in a matter of few weeks.’

On [10 December 2021](#), a spokesperson for the Chinese Mission stressed that the High Commissioner’s visit to China ‘shall in no way become a so-called “investigation” under the presumption of guilt.’ The refusal of any kind of investigation, and the emphasis on the ‘friendly’ aspect of the High Commissioner’s visit limited to ‘promoting exchange and cooperation’ has been consistently stressed by the Chinese government since March 2022.

On 23-28 May 2022, the High Commissioner conducted a visit to China: she clarified the visit was ‘not an investigation’ but an ‘opportunity to hold direct discussions with China’s most senior leaders.’ During her visit, the OHCHR had to [issue clarification of remarks](#) as a result

⁵ The OHCHR circulated a press release on her September 2021 global update that further indicated the OHCHR was finalising its assessment with a view to making it public ‘by the end of the year.’ The latter element is absent from the oral version of the statement delivered by the High Commissioner.

of [misquoting](#) by Chinese State media. [No international journalists](#), only Chinese State media, have been allowed to accompany her.

On her last day, she announced that her visit resulted in the creation of an ‘annual strategic meeting’ between the OHCHR and China’s government, as well as a ‘working group to facilitate substantive exchanges and cooperation’; yet, she did not indicate whether these exchanges would be public, nor when and what format they would take. An important number of civil society organisations expressed deep disappointment that she did not provide in her end-of-visit statement a substantial assessment of the human rights situation across the country, falling short of existing documentation by the Treaty Bodies and the Special Procedures.

On 13 June 2022, the High Commissioner [stated](#) that her ‘assessment of the human rights situation in Xinjiang is being updated.’ A few days later, she [indicated](#) in a press conference she would publish the report before ending her term on 31 August 2022.

On [14 June 2022](#), she clarified that there were ‘limitations’ during her 6-days visit to China, including that she was ‘accompanied by government officials throughout the visit of Xinjiang’ and that she was ‘not able to speak to Uyghurs currently detained or their families during the visit.’

During the same HRC interactive dialogue, China stated that the ‘so-called Xinjiang-related report violates the authorization of the OHCHR and should not exist and be published at all.’

There is no OHCHR presence in China.

China is 31-months overdue in submitting its State report to the Committee Against Torture, and the Committee on the Rights of the Child: both reports were due for December 2019.

The Human Rights Committee is currently conducting its periodic review of Hong Kong SAR and Macao SAR.

In 2021, both CEDAW and CESCR prepared, according to their working methods, Lists of Issues in preparation for dialogues with China. However, due to COVID-related delays, the CESCR will review China only in 2023, a nearly two-year gap since the LOI was issued. The CEDAW review of China was briefly scheduled for October 2022, but as of June 2022 is postponed to a later session, to be determined - apparently upon request of the Chinese government.

- **whether a relevant regional mechanism or institution has identified a situation as requiring the attention of the international community; or whether the State concerned is cooperating with relevant regional organisations;**

There is no regional mechanism on human rights of which China is a member.

China is an important regional player who shaped, but is not a member of, ASEAN. Recently, Chinese Foreign Minister Wang Yi has [called on](#) ASEAN states to ‘respect each other’s legitimate rights and interests in the Asia-Pacific’, an indirect response to an increasingly active US presence in the region. Although some ASEAN countries have raised quietly or obliquely concerns about the situation of Uyghurs, this is muted, in large part due to economic influence; the group [ASEAN Parliamentarians for Human Rights](#) has called for more active condemnation.

China has not signed the Rome Statute of the ICC. A group of lawyers, activists and Uyghur victims has [submitted evidence](#) to the ICC, asserting the Court has jurisdiction over cases of Uyghurs rounded up in the territory of ICC Member States.

The Organisation for Islamic Cooperation (OIC) released a World Survey in December 2018, which noted with regard to China that ‘officials in Xinjiang tightly control religious activity.’ The OIC’s Independent Permanent Human Rights Commission (IPHRC) ‘expressed concern on these disturbing reports on the treatment of Uighur Muslims and expressed hope that China ... would address the legitimate concerns of Muslims around the world’, in its [December 2018 meeting](#) in Jeddah, Saudi Arabia.

This was reiterated by the IPHRC at its [annual meeting in 2019](#), which stated in a press release that the Commission ‘stressed that the freedom of religion is a fundamental right, practice of which should not be construed as a source of radicalization’.

- **whether the State is facilitating or obstructing access and work on the part of humanitarian actors, human rights defenders and the media.**

The government’s crackdown against **human rights defenders** and journalists has been widely documented by UN Special Procedures:

- In their [June 2020 joint statement](#), the 50 UN experts denounced the ‘detention of lawyers and prosecution and disappearances of human rights defenders across the country’ and ‘[cybersecurity laws](#) that authorise censorship,’ raising ‘concerns that journalists, medical workers and those exercising their right to free speech online in relation to the COVID-19 outbreak and pandemic have allegedly faced retaliation from the authorities, including many being charged with ‘spreading misinformation’ or ‘disrupting public order’.’
- In [December 2020](#), four Special Procedures mandate holders expressed ‘shock at continued crackdown on human rights defenders and lawyers’, stating 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 [May 2020](#), five mandate holders had publicly denounced the ‘wider crackdown on Tibetan minority human rights defenders.’
- A Special Procedures communication from April 2021 addressed the arbitrary detention of 17 human rights defenders for the alleged commission of crimes carrying sentences of 10 years or more imprisonment.
- In a [November 2021 Opinion](#), the Working Group on Arbitrary Detention described a ‘pattern in China of detaining human rights defenders for their work’ that ‘indicates a systemic problem.’
- In the latest [June 2022 joint statement](#), the 42 UN experts reiterated ‘serious concerns about the alleged harassment, enforced disappearances, arbitrary detention and undue prosecution and sentencing of lawyers and human rights defenders including women human rights defenders, among other civil society representatives.’

Since 2018, UN Special Procedures have addressed the **targeting of 92 human rights defenders** through 29 communications and 15 opinions.

Over this period, at least 23 communications and opinions have documented [China's abuse of national security in law and practice](#) to disappear, detain, charge and jail human rights defenders, against China's international human rights law obligations. In a March 2020 [press release](#), UN experts worry that 'when the authorities in any country systemically charge human rights defenders with 'subversion of state power' or other terror-related charges without clearly communicating the factual basis for such accusations, these defenders are just being persecuted for the exercise of their most basic human rights.'

The Chinese authorities make widespread use of '[Residential Surveillance at a Designated Location](#)' (RSDL) against dissidents and activists, a practice under Chinese Criminal Procedure Law repeatedly recognised by UN experts as a form of enforced disappearance. The Working Group on Arbitrary Detention [recently](#) declared that 'placement in [RSDL] is a violation of articles 6, 9, 10 and 11(1) of the Universal Declaration of Human Rights.'

China ranks among the **top five perpetrators of reprisals** against civil society actors for cooperation with the UN, [according to information](#) from the UN Secretary-General's annual '[reprisals report](#),' with 43 cases of reprisals reported, and is the only country with above-average numbers of follow-up cases. Alongside Saudi Arabia, is it the most frequently cited country since 2010: it is mentioned in 10 of the existing 12 annual 'reprisals reports.' China figures among the 11 countries cited in 2020 by the Secretary-General for 'patterns of reprisals.'

In terms of media and press freedoms, China consistently lags at the bottom of global rankings. According to [Reporters Without Borders](#) (RSF), 'China is the world's largest prison for journalists, and its regime conducts a campaign of repression against journalism and the right to information worldwide.' According to a [2021 report](#) by RSF, at least **127 journalists** (professional and non-professional) were detained, 71 of which are Uyghur journalists, comprising more than half of detained journalists. In Hong Kong, leading independent outlets including Apple Daily, Stand News, Citizen News and FactWire have been forced to close business under the National Security Law. China ranks 175th out of 180 countries in RSF's 2022 Press Freedom Index; Hong Kong ranks 148th, falling 75 ranks since 2019.

A [2020 report](#) of the Foreign Correspondents' Club of China (FCCC) stated China expelled at least 18 foreign journalists from the New York Times, Wall Street Journal, and the Washington Post in the first half of 2020. According to the FCCC's [2021 report](#), 99% of foreign correspondents said China's 'reporting conditions did not meet what they considered international standards':

- 62% said to be 'obstructed at least once by police or other officials', with 12% 'manhandled or subjected to other forms of physical force while working'
- 52% said to be 'told to leave a place or denied access for health and safety reasons when they presented no risk according to China's own regulations;'
- 1/3 'were told to delete or show their data to the police'