

35th Annual Meeting of Chairpersons of the Human Rights Treaty Bodies

Meeting topic: Intimidation and reprisals against individuals seeking to cooperate or having cooperated with the United Nations

Introduction

- Thank you for the opportunity to meet with you today.
- I represent the International Service for Human Rights, an NGO with a mission to support and protect human rights defenders and strengthen human rights systems.
- As some of you will be aware, one of ISHR's areas of focus for a long time has been the intimidation and reprisals against human rights defenders related to engagement with the UN.
- I'm aware you have a packed agenda, and our time is limited today so what I'd like to do is go straight to a very concerning issue that is very pertinent to your work.
- In January 2023, [ISHR released a briefing paper outlining China's tactics to influence the treaty bodies](#),¹ including various ways in which Chinese officials have sought to disrupt, limit and undermine their work.
- The treaty bodies are one of the few international human rights mechanisms where China is regularly held up to scrutiny and as such are seen as a valuable forum for advocacy by Chinese defenders and organisations. At the same time, the Chinese government has expended substantial effort to control and restrict their functions.
- ISHR's paper exposes Chinese government efforts to deter inputs from independent NGOs, while encouraging participation by government-aligned organisations (or GONGOs).
- The paper uses three concrete examples to demonstrate Chinese efforts to control and restrict efforts of the treaty bodies. These include acts of intimidation against defenders seeking to engage with the CAT; the censorship of independent NGO contributions for review by the Committee on the Elimination of Discrimination against Women (CEDAW); and the stifling of procedures by the Committee on the Elimination of Racial Discrimination (CERD) when looking at evidence of the crackdown on minorities in the country's Uyghur region (Xinjiang) and Tibet.
- Since the paper was published, we have documented further acts of reprisals against independent organisations and activists engaging during China's review by the CESCR in February, along with disruptive behaviours by GONGO representatives interrupting NGO speakers during the NGO briefing.
- Each review of China by the UNTBs is a chance to draw attention to the country's human rights challenges. We must ensure that TBs are a safe, accessible and effective space that enables the voices of defenders, lawyers, scholars and democracy activists who seek to hold their government accountable, free of reprisal and intimidation.

¹ https://ishr.ch/wp-content/uploads/2023/01/202212_China_influence_UNTBS_ISHR_2023.pdf

Threats and reprisals against Chinese organisations engaging with UN Treaty Bodies

- China's attempts to restrict, control and censor independent NGO inputs to UNTB is not limited to rhetoric in official statements to UN bodies, nor to a passive approach that outsources implied or actual disinformation, threats and intimidation to GONGOs.
- There are a number of practical examples where intimidation and reprisals have occurred throughout the review process of China by several UNTBs, stemming from the express action of Chinese officials and delegation members.
- China is one of the countries most often mentioned in the UN Secretary-General's annual report on reprisals. These reprisals have a deeply chilling effect on civil society activism and engagement – as exemplified, and amplified, by the tragic case of Cao Shunli, as we will mark the 10-year anniversary of her death in custody in March.
- Yet the Chinese official perspective on the UNTBs' ability or mandate to address reprisals is clearly illustrated in a 2017 UNGA statement by a Chinese diplomat focused on the 'San José Guidelines': they said "the provisions of the San José Guidelines (are) not in line with the Convention, resulting in additional obligations for State Parties. The treaty bodies should not act unilaterally but should consult with State Parties and fully solicit and take in their views. The Guidelines should not be promoted or enforced until consensus was reached".

Efforts to restrict the publication of NGO reports on the OHCHR website

- While China is far from the only state that seeks to restrict civil society engagement with the treaty bodies, China is relatively unique in its repeated and targeted attempts to deter the publication of independent NGO reports on the OHCHR website.
- As part of a UNTB review process, the Secretariat will normally upload all civil society submissions received to a publicly accessible website, insofar as authors provide approval. At the CAT, China pressured – unsuccessfully – the Secretariat for the removal of reports from Tibetan and Uyghur groups from the Committee's website. As you are no doubt aware, similar pressure is exercised privately by China whenever it is due to be reviewed by a UNTB.
- ISHR has been made aware and asked to intervene on a number of occasions, for a range of treaty bodies, and in particular the CERD, as a result of NGO reports mostly from Uyghur, Tibetan and CHRD groups, not being uploaded to the OHCHR website despite repeated requests from the submitting organisations.

The Role of GONGOs

- As the Chinese diplomats seek to silence independent voices, the participation of GONGOs among UNTB has significantly increased.
- Chinese GONGOs consist of the organizations established by active government officials, and also includes academic institutions. They receive government funding and report to the government, while actively working to promote China's human rights achievements internationally.

- The presence and participation of Chinese GONGOs in UNTB reviews can imperil the participation of independent NGOs and individual activists by creating a chilling effect, on the (well-grounded) assumption that information about their actions could be shared with government officials. As a result, across all human rights communities in China (and more recently, in Hong Kong), independent NGOs are increasingly reluctant to participate in UNTB sessions. GONGOs also increasingly occupy space dedicated to independent NGOs (such as regular NGO formal/informal briefings), limiting access to independent, impartial information.
- There have been efforts to address this risk of intimidation and reprisal, as well as increase options for secure or confidential communication with the UNTB Secretariats and members. However, the Chinese government's tolerance or even encouragement of the engagement of GONGOs is in practice an effective way of ensuring that official Chinese perspectives are reinforced, without being seen as 'interfering' or seeking to influence the procedures or methods of work themselves.

Recommendation to UNTBs

- Uphold the implementation of and compliance with the Addis Ababa Guidelines within your Committee. Make sure that failures to comply are reprimanded through appropriate action.
- Call out incidents and instances where members fail to comply with basic requirements of independence, including in relation to periodic reviews, reviews of individual communications, as well as other activities including meetings with NGOs.
- Make sure that independent NGOs operating in restrictive domestic contexts, including but not limited to China, are provided with safe meeting spaces, virtually *and* in-person with Committee members, including by systematically holding separate briefings for GONGOs and independent NGOs/activists, and working with trusted NGOs (such as ISHR) to identify GONGOs. This includes working with trusted NGOs such as ISHR to hold informal briefings outside of UN premises, to avoid forcing at-risk defenders to register and seek accreditation. Make sure that national Committee members are excluded from meetings with independent NGOs and are not able to access the identities of participants.
- Establish encrypted communication channels (Protonmail *and* Signal) to receive reports and information from civil society before and during the review.
- Insist on commitments before/during/after reviews that human rights defenders will be able to engage safely and effectively.
- Apply a zero-tolerance policy on reprisals and address any incidents of reprisals and intimidation with the Chinese delegation, both publicly and privately, as soon as they occur (including during reviews if needed).
- Inform victims of reprisals when action has been taken on their cases.