



CHINA: HUMAN RIGHTS VIOLATIONS IN THE NAME OF “NATIONAL SECURITY”

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC
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INTRODUCTION

This submission was prepared for the Universal Periodic Review (UPR) of China in November 2018. In it, Amnesty International evaluates the implementation of recommendations made to China in its previous UPR, including in relation to the death penalty, ratification of human rights treaties, and cooperation with UN human rights mechanisms. It also assesses the “national security” legal architecture, and the shrinking space for human rights defenders and NGOs. With regard to the human rights situation on the ground, this document looks at the harassment, intimidation, arbitrary detention, criminal prosecution, imprisonment and enforced disappearance of human rights defenders, torture and ill-treatment in detention and unfair trial, restrictions on freedom of expression, transfers from other jurisdictions to China, discrimination against ethnic minorities, and the impact of business on human rights.

FOLLOW UP TO THE PREVIOUS REVIEW

In its second UPR in 2013, the government of the People’s Republic of China (China) accepted 204 of the 252 recommendations made by 137 states.¹ While the Chinese authorities have made progress on some of the accepted recommendations, they have failed to make progress on others, and have taken regressive steps with regard to some recommendations.

THE DEATH PENALTY

Twenty countries raised recommendations related to the death penalty in the 2013 UPR review;² however, China accepted only two of these.³

¹ Report of the Working Group on the Universal Periodic Review, China, A/HRC/25/5, 4 December 2013, (hereinafter A/HRC/25/5) and Addendum, A/HRC/25/5/Add.1, 27 February 2014, (hereinafter A/HRC/25/5Add.1).

² A/HRC/25/5, recommendations 186.17 (Benin), 186.18 (Estonia), 186.56 (South Africa), 186.107 (New Zealand, Rwanda, Portugal, Argentina, Australia, Spain), 186.108 (Italy, Switzerland, France, Belgium), 186.109 (Italy, Bulgaria, Germany, Belgium), 186.110 (Algeria), 186.112 (Namibia), 186.113 (Slovenia), 186.114 (Chile) and 186.128 (Norway).

³ A/HRC/25/5, recommendations 186.56 (South Africa) and 186.110 (Algeria). The Chinese Government has claimed that the use of death penalty is declining and indicated its policy is “retain the death penalty, but strictly and prudently limit its application according to law”, A/HRC/25/5/Add.1, para 186.17.

In amendments to the Criminal Law in 2015, China reduced the number of capital crimes from 55 to 46.⁴ This brings China closer to the standards of the International Covenant on Civil and Political Rights (ICCPR); however, the revisions still do not bring Chinese law in line with international law and standards on the use of the death penalty, which restrict its use for only “the most serious crimes”.⁵ The number of executions carried out in China in recent years may have decreased as the result of ongoing reforms and the return of power to the Supreme People’s Court in 2007 to review all death penalty cases; however, all statistics on the use of the death penalty remain classified as state secrets. Amnesty International’s research and analysis show that China consistently sentences to death and executes thousands of people annually.⁶

RATIFICATION OF HUMAN RIGHTS TREATIES

Two decades after becoming a signatory to the ICCPR and despite accepting recommendations in this regard,⁷ China has shown no significant progress towards its ratification.

China continues to severely repress a range of human rights, such as to freedom of expression, including the right to seek, receive and impart information, as well as to freedom of association and peaceful assembly, religion and belief, to fair trial and *non-refoulement*, to freedom from arbitrary detention, torture and other ill-treatment, and discrimination. This is in contravention of Article 18 of the Vienna Convention on the Law of Treaties, according to which states should refrain from acts that defeat the object and purpose of a treaty once the treaty is signed.⁸

COOPERATION WITH THE UN HUMAN RIGHTS MECHANISMS

China accepted recommendations to cooperate with the UN human rights mechanisms; however, there is no evidence that it has made any progress with regard to cooperation with the Special Procedures of the Human Rights Council.⁹ To date, requests to visit China are pending from 14 mandate holders.¹⁰

⁴ Amnesty International, *China’s Deadly Secrets* (Index: ASA 17/5849/2017), p.11; Zhang Yi, “Fewer crimes to be subject to death penalty”, *China Daily*, 31 August 2015, www.chinadaily.com.cn/china/2015-08/31/content_21742870.htm

⁵ Article 6(2) of the International Covenant on Civil and Political Rights (ICCPR) requires the use of death penalty only for “the most serious crimes”.

⁶ For further information see Amnesty International, *China’s Deadly Secrets* (Index: ASA 17/5849/2017).

⁷ A/HRC/25/5, recommendation 186.3 (Cape Verde), 186.4 (Czech Republic), 186.5 (Benin), 186.6 (Egypt), 186.7 (Guatemala), 186.8 (Latvia), 186.9 (Botswana) and 186.10 (New Zealand). See also A/HRC/25/5/Add.1 para 186.1, where China stated it was actively preparing for the ratification of the ICCPR. China signed the ICCPR in 1998.

⁸ Vienna Convention Article 18 states: “A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when: (a) it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty; or (b) it has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed.”

⁹ A/HRC/25/5, recommendation 186.69 (Benin, Albania), 186.71 (France) and 186.73 (Austria, Slovakia, Switzerland). See also A/HRC/25/5/Add.1 p.6. China accepted a recommendation to fully cooperate with OHCHR as well as special procedures.

¹⁰ The 14 mandate holders are the Special Rapporteur (SR) on extrajudicial, summary or arbitrary executions, the SR on rights to water and sanitation, the SR on minority issues, the SR on health, the SR on toxic waste, the SR on freedom of expression, the SR on torture, the SR on freedom of assembly, the SR on the situation of human rights defenders, the SR on housing, the SR on independence of judges, the Working Group (WG) on Enforced or Involuntary Disappearances, the SR on religion and the SR on human rights and counter terrorism.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

Since 2014, the Chinese government has created a comprehensive “national security” legal architecture that presents severe threats to human rights. This includes the Anti-Espionage Law (enacted in 2014), the Criminal Law Amendments (9) (2015),¹¹ the National Security Law (2015),¹² the Anti-Terrorism Law (2016),¹³ the Cyber Security Law (2017),¹⁴ the foreign NGO management law (2017),¹⁵ the National Intelligence Law (2017)¹⁶ and the revised Regulations on Religious Affairs (2018).¹⁷ This series of sweeping laws and regulations uses vague and overly broad concepts of “national security”, grants effectively unchecked powers to the authorities and lacks safeguards to protect against arbitrary detention and infringements of the rights to privacy and freedom of expression and other human rights. These laws and regulations can also be misused by the authorities to silence dissent, censor information and harass and prosecute human rights defenders.

China has failed to provide a safe environment for human rights defenders and NGOs to promote and protect human rights. In 2013 and 2014, more than 65 people who were allegedly connected with the New Citizens Movement, a loose network of activists which aims to promote government transparency and expose corruption, were targeted by the authorities. Fourteen individuals were convicted and sentenced to jail terms ranging from one and a half years to six and a half years.¹⁸ Many former employees and volunteers of *Yirenping*, a well-known anti-discrimination advocacy organization, were detained and suffered harassment and intimidation in 2015.¹⁹

¹¹ For further information, see Amnesty International, *Submission to the NPC Standing Committee's Legislative Affairs Commission on the Criminal Law Amendment (9) (second draft)* (Index: ASA 17/2205/2015).

¹² For further information, see Amnesty International, *Scrap draconian new national security law* ([Press release](#), 1 July 2015).

¹³ For further information, see Amnesty International, *Draconian anti-terror law an assault on human rights* ([Press release](#), 4 March 2015).

¹⁴ For further information, see Amnesty International, *Submission to the NPC Standing Committee's Legislative Affairs Commission on the draft “Cyber Security Law”* (Index: ASA 17/2206/2015).

¹⁵ For further information, see Amnesty International, *Submission to the NPC Standing Committee's Legislative Affairs Commission on the second draft Foreign Non-Governmental Organizations Management Law* (Index: ASA 17/1776/2015). The title of the law was changed when it was adopted to the Law of the People's Republic of China on Administration of Activities of Overseas Nongovernmental Organizations in the Mainland of China. The Law came into force on 1 January 2017.

¹⁶ For further information, see Amnesty International, *Submission to the NPC Standing Committee's Legislative Affairs on the draft “National Intelligence Law”* (Index: ASA 17/6412/2017).

¹⁷ For further information, see Amnesty International, *Why China must scrap new laws that tighten the authorities' grip on religious practice* ([News story](#), 31 August 2017).

¹⁸ For further information, see Amnesty International, *Anti-corruption activist to be freed but relentless crackdown goes on*, ([press release](#), 14 July 2017).

¹⁹ For further information, see Amnesty International, *Activists remained in detention in China* (Index: ASA 17/2005/2015); *Two activists released in China* (Index: ASA 17/2097/2015).

The foreign NGO management law (see also above) has created additional limits on the rights to freedom of association, peaceful assembly and expression. The wide discretion granted to the police to oversee and manage the work of foreign NGOs working with Chinese civil society raises the risk of the law being misused to intimidate and prosecute human rights defenders and NGO staff. Foreign NGOs that have not yet registered could face a freeze of their bank accounts, shutting down of premises, confiscation of assets, suspension of activities, and detention of staff.

The revised Regulations on Religious Affairs, which came into force on 1 February 2018, codifies far-reaching state control over every aspect of religious practice and extends power to the authorities at all levels of government to monitor, control and potentially punish such practice. The revised law emphasizes national security and curbing “infiltration and extremism” and could be used to further suppress the right to freedom of religion and belief, especially for Tibetan Buddhists, Uighur Muslims and unrecognized churches. With regard to the campaign launched by the authorities in 2013 to demolish churches and remove Christian crosses from buildings in Zhejiang province, the media reported that more than 1,700 crosses had been removed by the end of 2016, prompting a series of protests. The authorities have also arrested and imprisoned several prominent pastors and a lawyer.²⁰ Falun Gong practitioners continue to be subjected to persecution, arbitrary detention, unfair trials, and torture and other ill-treatment.

China appears to have made no progress in establishing a national human rights institution, despite having accepted a recommendation to “look into the possibility of establishing the national human rights institution” in its previous UPR.²¹

HUMAN RIGHTS SITUATION ON THE GROUND

HUMAN RIGHTS DEFENDERS

Although the Chinese government accepted 28 of 41 UPR recommendations related to human rights defenders,²² Amnesty International is gravely concerned that the space for human rights defenders to freely carry out their work continues to shrink and that defenders are systematically subjected to monitoring, harassment, intimidation, detention and imprisonment by the authorities.

²⁰ See Amnesty International, *Lawyer supporting churches still detained* (Index: ASA 17/3559/2016); *Lawyer defending churches in China released* (Index: ASA 17/3715/2016); *Amnesty International Report 2016/17* (Index: POL1048002017ENGLISH), p.121.

²¹ A/HRC/25/5, recommendation 186.57 (Thailand). See also A/HRC/25/5Add.1, p.5.

²² A/HRC/25/5, recommendation 186.49 (Mexico), 186.50 (Niger), 186.51 (Denmark), 186.53 (Gabon), 186.54 (Turkmenistan), 186.55 (Slovakia), 186.61 (Czech), 186.62 (Switzerland), 186.117 (Germany, France), 186.118 (Sweden), 186.123 (Timor-Leste), 186.129 (Hungary), 186.130 (Cape Verde), 186.131 (Finland, Canada), 186.133 (Canada), 186.136 (Australia), 186.138 (Poland), 186.148 (Nigeria), 186.149 (Ireland), 186.150 (Netherlands), 186.154 (Norway), 186.155 (Germany), 186.157 (Cote d'Ivoire), 186.158 (Poland), 186.167 (Germany), 186.169 (Chile), 186.170 (Australia) and 186.173 (Uganda).

Many activists and human rights defenders continue to be detained, prosecuted and sentenced on vague and overly broad charges such as “subverting state power”, “inciting subversion of state power” and “picking quarrels and provoking trouble”.²³

In an unprecedented government crackdown on human rights lawyers and activists which began on 9 July 2015, almost 250 lawyers and activists have been questioned or detained by state security agents.²⁴ To date, five remain imprisoned, including lawyer Wang Quanzhang who is in incommunicado detention awaiting trial.²⁵ In addition to offices and homes being raided, their families and defence lawyers have also been subjected to police surveillance, harassment and restrictions on their freedom of movement.

More than 100 people in mainland China were detained in 2014 for supporting Hong Kong’s pro-democracy Umbrella Movement.²⁶ Six of them were imprisoned and five currently remain imprisoned.

In mainland China, Wang Mo, Xie Wenfei, Zhang Shengyu and Sun Feng were convicted in 2016 for “inciting subversion of state power” and sentenced to between four to five years each. Chen Qitang and women’s rights activists Su Changlan were convicted in 2017 for the same charge and sentenced to three years and four and a half years’ imprisonment respectively. In Hong Kong, according to government figures, 955 people were arrested during the Umbrella Movement. After the protests, the government further arrested 48 people, mostly key individuals involved in the pro-democracy demonstrations. They were arrested for a range of offences including “unlawful assembly” and “unauthorized assembly”. Many of them were released after their arrest, but police notified them that criminal investigations were still ongoing and they would be re-arrested and charged, should there be sufficient evidence to prosecute them.

In December 2015, at least 33 workers and labour rights activists were targeted by police. Seven were detained in Guangdong province, amid labour unrest and strikes; however, they were subsequently released.

More than 60 activists were detained or put under illegal house arrest in the run-up to the 25th anniversary on 4 June 2014 of the violent crackdown in 1989 of pro-democracy protests in and around Tiananmen Square in Beijing. Most of them were later released.

²³ Articles 13, 105 and 293 of the Criminal Law.

²⁴ See Amnesty International, *Authorities must end ruthless crackdown on human rights lawyers and activists* ([press release](#), 7 July 2017); Amnesty International Report 2017/18 (Index: POL 10/6700/2018), p.126.

²⁵ In August 2016, activist Hu Shigen and lawyer Zhou Shifeng were convicted of “subverting state power” and sentenced to seven and a half years’ imprisonment and seven years’ imprisonment, respectively; activist Yin Xu’an was sentenced in May 2017 to three and a half years’ imprisonment; activist Wang Fang was sentenced in July 2017 to three years’ imprisonment; and Beijing lawyer Jiang Tianyong was sentenced in November 2017 to two years’ imprisonment for “inciting subversion of state power”. See Amnesty International Australia, *Release human rights lawyer Wang Quanzhang*, available online www.amnesty.org.au/act-now/release-human-rights-lawyer-china/ (accessed at: 1 March 2018)

²⁶ See Amnesty International, *China: Release supporters of Hong Kong pro-democracy protests* ([press release](#), 28 September 2015); *China: Callous guilty verdicts against supporters of Hong Kong pro-democracy protests* ([press release](#), 31 March 2017). For background on the Umbrella Movement protests, see Amnesty International, *Hong Kong: Police response to student pro-democracy protest an alarming sign* ([press release](#), 27 September 2014).

ARBITRARY DETENTION, TORTURE AND OTHER ILL-TREATMENT, AND UNFAIR TRIAL

Torture and other ill-treatment remain widespread in detention and during interrogation, due to shortcomings in domestic law, systemic problems in the criminal justice system, and difficulties with implementing rules and procedures in the face of entrenched practices.

The authorities increasingly use “residential surveillance in a designated location”, a form of secret incommunicado detention formalized in law in revisions to the Criminal Procedure Law in 2012, that allows the police to hold individuals for up to six months outside the formal detention system, without access to legal counsel of their choice or to their families, and places suspects at risk of torture and other ill-treatment.²⁷

Following its review of China in 2015, the Committee Against Torture expressed grave concerns that this form of detention “may amount to incommunicado detention in secret places, putting detainees at a high risk of torture or ill-treatment”.²⁸

The Supervision Law, passed in March 2018, formalizes another form of secret incommunicado detention, the *Liuzhi* (retention in custody) system.²⁹

The authorities also use carefully choreographed televised “confessions” which undermine the right to a fair trial. These include interviews with detained human rights defenders conducted by Chinese state media or media outlets from Hong Kong.³⁰ Gui Minhai, a Swedish national who previously ran the Mighty Current Media, a Hong Kong company known for its books on Chinese leaders and political scandals, went missing in Thailand in 2015 and reappeared on Chinese state television in January 2016 to give a “confession” regarding an alleged traffic incident in 2003. Despite being released in October 2017, he was detained again in February 2018.

Amnesty International’s research has found that China’s criminal justice system still relies heavily on “confessions” obtained through torture or other ill-treatment, and lawyers who raise claims about their clients’ abuse are often threatened, harassed, or even detained and tortured themselves.³¹ In 2015, the UN Committee Against Torture reiterated recommendations to fully respect legal safeguards to prevent torture and to refrain from prosecuting and stop harassing lawyers, human rights defenders, petitioners and others for their legitimate activities, and urged the authorities to repeal legal provisions that allowed “residential surveillance in a designated location”.³²

Detainees with deteriorating health are often denied or unable to access adequate medical

²⁷ Article 73 of the Criminal Procedure Law; For example, Lawyer Yu Wensheng is currently held under “residential surveillance in a designated location” on suspicion of “inciting subversion of state power”. He was taken away by police on 19 January 2018.

²⁸ Concluding observations of UN Committee against Torture: China, UN Doc. CAT/C/CHN/CO/5 (2016), para.14.

²⁹ For further information see Amnesty International, *Submission to the NPC Standing Committee’s Legislative Affairs on the draft “Supervision Law”* (Index: ASA 17/7553/2017); *China: New Supervision Law a systemic threat to human rights* ([News output](#), 20 March 2018).

³⁰ Those shown “confessing” on television included lawyers Zhou Shifeng and Wang Yu, activists Zhai Yanmin and Dong Guangping and Swedish NGO worker Peter Dahlin, who was detained and later deported.

³¹ For further information see Amnesty International, *No end in sight – torture and forced confessions in China* (Index: ASA 17/2730/2015).

³² For further information see Amnesty International, *Submission to the United Nations Committee against Torture: 56th session, 9 November – 9 December 2015* (Index: ASA 17/2725/2015).

treatment. In 2017, Nobel Peace Prize laureate Liu Xiaobo died in custody from liver cancer. The authorities had refused requests that he be allowed to travel abroad to receive medical treatment. Writer and government critic Yang Tongyan died shortly after his release on medical parole. In 2015, Tenzin Deleg Rinpoche, a Tibetan religious and community leader died while serving a life sentence.

FREEDOM OF EXPRESSION

Journalists, activists, lawyers and academics have been persecuted for exercising their rights to freedom of expression. For example, in 2017, Lawyer Gao Zhisheng went missing from an isolated village in Shaanxi province, where he had lived under tight surveillance since his release from prison in 2014. He was later found in authorities' custody but his location and condition remain unknown as of March 2018. Activist Wu Gan, who worked in a law firm later targeted by the authorities in the crackdown on human rights lawyers and other activists, were sentenced to eight years' imprisonment for "subverting state power" in December 2017, after nearly 27 months' pre-trial detention. In November 2017, Lee Ming-Cheh, manager of a Taiwanese NGO, was detained when he entered mainland China and was sentenced to five years' imprisonment for "subverting state power", based on his online discussions on democracy, the fall of the Soviet Union and the 1989 Tiananmen crackdown. In 2015, lawyer Pu Zhiqiang was given a three-year suspended sentence on charges of "picking quarrels and provoking trouble" and "inciting ethnic hatred", primarily on the basis of comments he had made on social media. He was barred from practicing law as a result of the conviction. Human rights defender Zhang Haitao, an ethnic Han, was sentenced to 19 years' imprisonment on charges of "inciting subversion" and "providing intelligence overseas" in 2016. His lawyers believed that the severity of his sentence was in part due to his commentary on ethnic issues.

Bloggers, journalists and founders of websites have been detained and imprisoned. Huang Qi, co-founder of 64tianwang.com, a website that reports on and documents protests in China, has been detained since November 2016 for "leaking state secrets". At the end of 2017, 10 journalists of 64tianwang.com were in prison. Liu Feiyue, founder of human rights website Civil Rights and Livelihood Watch, has been detained since late 2016 for "inciting subversion of state power". Zhen Jianghua, executive director of online platform Human Rights Campaign in China, has been detained since September 2017 for "inciting subversion of state power". Lu Yuyu, who documented protests in China on Twitter and in a blog, was convicted of "picking quarrels and provoking trouble" and sentenced to four years' imprisonment in 2017.

The Chinese government runs one of the world's most extreme internet censorship regimes. Thousands of websites and social media services remain blocked, including Facebook, Instagram and Twitter. The Cyber Security Law, which came into effect on 1 June 2017, makes it obligatory for internet companies operating in China to censor content, to store user data domestically, and to enforce a real name registration system which runs counter to national and international obligations to safeguard the rights to freedom of expression and to privacy. The Law enshrines the concept of "internet sovereignty", which justifies broad censorship and extensive surveillance powers in the name of protecting national security.³³

TRANSFERS FROM OTHER JURISDICTIONS TO CHINA

Booksellers, publishers, activists and a journalist who vanished from nearby jurisdictions in 2015 and 2016 turned up shortly thereafter in detention in China, causing concerns about China's law enforcement agencies acting illegally outside mainland China.

Five booksellers of Hong Kong company Mighty Current Media, Gui Minhai, Lui Por, Cheung Chi-ping, Lee Bo and Lam Wing-kee, who had gone missing in Thailand, mainland China and Hong

³³ For further information see Amnesty International, *Tech companies must reject China's repressive internet rules*, ([press release](#), 15 December 2015).

Kong in late 2015, reappeared on television in mainland China in January and February of 2016. In June 2016, Lam Wing-kee returned to Hong Kong and held a press conference in which he said he had been arbitrarily detained, ill-treated in detention and forced to “confess”.

Activists Tang Zhishun and Xing Qingxian went missing in Myanmar in 2015 while helping the son of two detained Chinese lawyers. In May 2016, the authorities charged them with “making arrangements for another person to illegally cross the national border”.

Journalist Li Xin revealed in media interviews that Chinese state security officials had put him under intense pressure to act as an informant against his colleagues and friends before he left China in 2015. He went missing in Thailand in January 2016. He telephoned his partner in February 2016 and said he had voluntarily returned to China to assist with an investigation.

Following pressure by the Chinese government, Thailand deported 109 Uighurs to China in 2015, where they were at risk of torture and other ill-treatment, enforced disappearance and execution. Two pro-democracy activists who had been granted refugee status by the United Nations High Commissioner for Refugees (UNHCR) and had confirmed resettlement destinations, were forcibly returned from Thailand to China in 2015. They have been detained since their forced return from Thailand and one of them, Dong Guangping, has been held incommunicado. In 2017, the Egyptian authorities forcibly returned at least 22 Uighurs to China.³⁴

China continues to ignore *non-refoulement* obligations in international law by repatriating North Koreans to North Korea, where they risk arbitrary detention, imprisonment, torture and other ill-treatment, forced labour and possibly execution.³⁵

ETHNIC MINORITIES

The discrimination and restrictions on the rights to freedom of religion and belief, opinion and expression, peaceful assembly, association and movement facing Tibetans, Uighurs and other ethnic minorities in China contradict China’s acceptance of recommendations from the last UPR on the rights of ethnic minorities.³⁶ According to the report of the UN Special Rapporteur on extreme poverty and human rights on his visit to China in 2016, the situations of Tibetans and Uighurs are “deeply problematic” and “most ethnic minorities in China are exposed to serious human rights challenges, including significantly higher poverty rates, ethnic discrimination and forced relocation.”³⁷

Religious repression conducted under “anti-separatism” or “counter-terrorism” campaigns is particularly severe in the predominantly Muslim Xinjiang Uighur Autonomous Region (XUAR) and in Tibetan-populated areas. The regional government in the XUAR has enacted new regulations, including the “De-extremification Regulation”, to more tightly control religious affairs and ban

³⁴ It has been difficult to confirm information concerning the returned Uighurs, but they may be at risk of torture or other cruel, inhuman and degrading treatment or punishment. Amnesty International has documented cases in which Uighur asylum seekers who were forcibly returned to China, were detained, reportedly tortured or otherwise ill-treated and in some cases sentenced to death and executed.

³⁵ For further information see Amnesty International, *Mother and son risk being sent to prison camp* (Index: ASA 24/7534/2017).

³⁶ A/HRC/25/5, recommendation 186.84 (Central African Republic), 186.222 (Austria), 186.223 (Venezuela (Bolivarian Republic of)) and 186.224 (Australia). See also A/HRC/25/5/Add.1 p.7 and p.15.

³⁷ Report to the Human Rights Council, Special Rapporteur on extreme poverty and human rights on his mission to China, UN doc. A/HRC/35/26/Add.2, para 44.

certain behaviours.³⁸ The government maintains extensive controls over Tibetan Buddhist monasteries.³⁹

Uighurs and Tibetans continue to be charged with “separatism” for peacefully exercising their rights to freedom of expression and maintaining their cultural identity. Ilham Tohti, a Uighur scholar and founder of the website *Uighur Online*, was sentenced to life imprisonment in September 2014 after being convicted of “separatism”. Articles from the website were the main evidence used for his conviction. Tashi Wangchuk, a Tibetan education advocate, has been detained since January 2016 and charged with “inciting separatism”, for giving an interview to *The New York Times* in which he expressed fears about the gradual extinction of the Tibetan language and culture. Amnesty International documented cases where peaceful protesters, writers and family members of self-immolators were detained or imprisoned.

In March 2017, a 24-year-old Tibetan man, Pema Gyaltzen set himself on fire. Tibetan sources said that he was believed to be alive when he was taken away by the police. His relatives were detained and beaten when they approached the authorities asking for his whereabouts. In February 2016, Tibetan blogger Druklo was sentenced to three years’ imprisonment for “inciting separatism” with his online posts on religious freedom, the Dalai Lama and other Tibetan issues. Tibetan monk Choephel Dawa was detained by police in March 2015. People in the local area believe this was because he shared photographs of the Dalai Lama on *WeChat*, a popular messaging platform in China.

Beginning in 2017, the authorities in the XUAR have engaged in an unprecedented crackdown targeted at ethnic minorities and Muslims. The repression includes widespread use of arbitrary detention, technological surveillance, heavily armed street patrols, security checkpoints and an array of intrusive policies violating human rights. Media reports in 2017 indicated that numerous detention facilities were set up within the XUAR, in which thousands are arbitrarily detained for unspecified periods and forced to study Chinese laws and policies.⁴⁰ In May 2017, there were further media reports that the Chinese authorities in the XUAR had initiated a policy to compel all Uighurs studying abroad to return to China. Six Uighurs, who had studied in Turkey, were given prison sentences on their return to the XUAR ranging from five to 12 years on undefined charges. Buzainafu Abudourexiti, a Uighur woman who returned to China in 2015 after studying in Egypt for two years, was detained in March 2017 and sentenced to seven years’ imprisonment following a secret trial.

BUSINESS AND HUMAN RIGHTS

Despite its active role in the global economy, China lags behind in addressing and holding companies accountable for human rights impacts related to their business activity both at home and overseas. China has yet to produce a National Action Plan for the implementation of the UN Guiding Principles on Business and Human Rights (UNGPs), as recommended by the UN

³⁸ The 2017 “De-extremification Regulation” prohibits a wide range of behaviours labelled extremist, such as spreading “extremist thought”, denigrating or refusing to watch public radio and TV programmes, wearing burkas or having an “abnormal” beard.

³⁹ In 2017 the government demolished a large part of Larung Gar, reportedly the largest Tibetan Buddhist institute in the world, located in Seda (Serta) County, in the Ganzi (Kardze) Tibetan Autonomous Prefecture, Sichuan province. Local Chinese authorities ordered the population of Larung Gar to be reduced by more than half to 5,000 in order to carry out “correction and rectification”. Thousands of monks, nuns and lay people were at risk of forced evictions.

⁴⁰ These detention facilities were variously called “counter extremism centres”, “political study centres”, or “education and transformation centres”. For further information see Roseann Rife, “A police state in Xinjiang in which moderate voices are silenced is not what China needs to achieve stability”, *South China Morning Post*, 17 January 2018.

Working Group on Business and Human Rights.⁴¹ Chinese laws and regulations do not yet reference the UNGPs or place related due diligence requirements on Chinese companies operating either domestically or overseas.

In 2015, Amnesty International found that cobalt mined by adults and children under hazardous conditions in the Democratic Republic of the Congo was likely entering the supply chains of major international electronics and vehicle manufacturers after being purchased by the subsidiary of a Chinese company, Zhejiang Huayou Cobalt.⁴² This highlights the failure of companies both inside and outside China to identify the sources of their mineral supplies or to show that they are taking steps to prevent serious human rights abuses associated with their extraction, including the worst forms of child labour.⁴³ Although the China Chamber of Commerce for Metals, Minerals and Chemicals Importers and Exporters has had limited success in promoting voluntary standards for Chinese companies engaged in the mineral trade, the Chinese government has so far taken no action to make such standards mandatory.⁴⁴

RECOMMENDATION FOR ACTION BY THE STATE UNDER REVIEW

AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF CHINA TO:

“NATIONAL SECURITY” LEGAL INFRASTRUCTURE

- Repeal or amend provisions in the Anti-Espionage Law, the National Security Law, the Anti-terrorism Law, the foreign NGO management law, the Cyber Security Law, the National Intelligence Law and the Regulations on Religious Affairs, to ensure that any legal provisions to protect national security are clearly and strictly defined and conform to international human rights law and standards;
- Stop criminal prosecution and persecution of individuals and groups for the peaceful exercise of their rights to freedom of expression, association, religion or belief, and cultural life.

HUMAN RIGHTS DEFENDERS

- Immediately stop the harassment, arbitrary detention, torture and other ill-treatment, criminal prosecution, imprisonment and enforced disappearance of those who act to defend and promote human rights.

⁴¹ Report to the Human Rights Council, Working Group on the issue of human rights and transnational corporations and other business enterprises, 14 March 2013, UN Doc. A/HRC/23/32, p. 21.

⁴² African Resources Watch and Amnesty International, *“This is What We Die For”: Human Rights Abuses Power the Global Trade in Cobalt* (Index: AFR 62/3183/2016).

⁴³ Amnesty International, *Time to Recharge: Corporate Action and Inaction to Tackle Abuses in the Cobalt Supply Chain* (Index: AFR 62/7395/2017).

⁴⁴ China Chamber of Commerce for Metals, Minerals and Chemicals Importers and Exporters, *Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains*, 2015, www.cccmc.org.cn/docs/2016-05/20160503161408153738.pdf

ARBITRARY DETENTION, TORTURE AND OTHER ILL-TREATMENT AND UNFAIR TRIAL

- Amend Criminal Procedure Law Articles 33, 34, 37, 73, 83, 91 and 117 to guarantee the rights of detainees to fair trial, including the right to be held in a recognized place of detention, prompt notification of family following arrest, and timely access to legal counsel, in line with international law and standards;
- Bring Chinese law into line with the absolute prohibition against torture and other ill-treatment under international law.

NON-REFOULEMENT

- Uphold the principle of *non-refoulement* and stop forcibly transferring, either directly or indirectly, any individuals to a country where they are at risk of persecution, torture or other ill-treatment, death or other serious human rights abuses;
- Stop requesting other countries to return individuals to China in violation of the *non-refoulement* principle.

ETHNIC MINORITIES

- Respect and ensure the rights of ethnic minorities to freedom of religion and belief, opinion and expression, peaceful assembly, association, movement, and cultural life, and stop the persecution and prosecution of Tibetans, Uighurs and other ethnic minorities for solely peacefully exercising their human rights.

THE DEATH PENALTY

- Immediately establish a moratorium on executions and commute all existing death sentences with a view to the full abolition of the death penalty in national legislation;
- Publish full national statistics on death sentences and executions, fully disaggregated by region, sex, ethnic group, income and other categories.

BUSINESS AND HUMAN RIGHTS

- Immediately develop, enact and implement a dedicated national action plan on business and human rights in line with international obligations;
- Amend relevant laws and regulations to require all Chinese companies to respect human rights throughout all business operations, regardless of where they operate, and require those operating in high-risk or conflict-affected areas to conduct robust and transparent human rights due diligence in line with the UN Guiding Principles on Business and Human Rights.
- Ensure that strong human rights safeguards are integrated into the policies and management of all foreign development assistance projects, including those funded through international financial institutions.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE⁴⁵

Reports:

No end in sight – torture and forced confessions in China, 11 November 2015 (Index: ASA 17/2730/2015)

China's Deadly Secrets, 10 April 2017 (Index: ASA 17/5849/2017)

African Resources Watch and Amnesty International, *"This is What We Die For": Human Rights Abuses Power the Global Trade in Cobalt*, 19 January 2016 (Index: AFR 62/3183/2016)

Time to Recharge: Corporate Action and Inaction to Tackle Abuses in the Cobalt Supply Chain, 15 November 2017 (Index: AFR 62/7395/2017)

Submissions:

Submission to the NPC Standing Committee's Legislative Affairs Commission on the Criminal Law Amendment (9) (second draft), 5 August 2015 (Index: ASA 17/2205/2015)

Submission to the NPC Standing Committee's Legislative Affairs Commission on the draft "Cyber Security Law", 5 August 2015 (Index: ASA 17/2206/2015)

Submission to the NPC Standing Committee's Legislative Affairs Commission on the second draft Foreign Non-Governmental Organizations Management Law, 2 June 2015 (Index: ASA 17/1776/2015)

Submission to the NPC Standing Committee's Legislative Affairs on the draft "National Intelligence Law", 5 June 2017 (Index: ASA 17/6412/2017)

Submission to the NPC Standing Committee's Legislative Affairs on the draft "Supervision Law", 6 December 2017 (Index: ASA 17/7553/2017)

Submission to the United Nations Committee against Torture: 56th session, 9 November – 9 December 2015, 28 October 2015 (Index: ASA 17/2725/2015)

⁴⁵ All these documents are available on Amnesty International's website:
<https://www.amnesty.org/en/countries/asia-and-the-pacific/china/>

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