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People's Republic of China

Joint Submission to the UN Universal Periodic Review

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Submission by CIVICUS: World Alliance for Citizen Participation,

NGO in General Consultative Status with ECOSOC

And

Asia Democracy Network (ADN)

CIVICUS: World Alliance for Citizen Participation

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1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 180 countries throughout the world.
- 1.2 The Asia Democracy Network (ADN) is a civil society-led multistakeholder platform dedicated to defending and promoting democracy in Asia. ADN aims to strengthen solidarity and a collective voice among Asian civil society engaged in democracy, human rights and development at the global, regional, national and local levels.
- 1.3 In this submission, the two organisations examine the compliance of the Government of People's Republic of China (hereafter referred to as China) with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse China's fulfilment of the rights to freedoms of association, peaceful assembly and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in 2018. To this end, we assess China's implementation of recommendations received during the 3rd UPR cycle relating to these issues and provide follow-up recommendations.
- 1.4 During the 3rd UPR cycle, the Government of China received 33 recommendations relating to the space for civil society (civic space). It accepted 16 of these recommendations and noted 17. However, an evaluation of a range of legal sources and human rights documentation addressed in this submission demonstrates that the Government of China has only partially implemented one recommendation. The government has persistently failed to address unwarranted restrictions on civic space since its last UPR examination. Acute implementation gaps were found with regard to the rights to freedoms of association, peaceful assembly and expression.
- 1.5 We are deeply concerned by the use of vague and broad security and public order laws to shut down CSOs and criminalise HRDs, journalists and critics, including in Hong Kong, as well other forms of harassment imposed on them including movement restrictions, travel bans, surveillance and social media restriction.
- 1.6 We are further alarmed by the pervasive censorship of all form of dissent both online and offline, the assault on the media and the crackdown on protests.
- 1.7 As a result of these issues, civic space in China is currently classified as 'closed' by the CIVICUS Monitor, the most serious category, indicating the existence of severe

civic space restrictions.¹

- Section 2 of this submission examines China's implementation of UPR recommendations and compliance with international human rights standards concerning freedom of association.
- Section 3 examines China's implementation of UPR recommendations and compliance with international human rights standards related to the protection of HRDs, civil society activists and journalists.
- Section 4 examines China's implementation of UPR recommendations and compliance with international human rights standards concerning freedom of expression and media freedom.
- Section 5 examines China's implementation of UPR recommendations and compliance with international human rights standards related to freedom of peaceful assembly.
- Section 6 contains recommendations to address the concerns raised and advance implementation of recommendations under the 3rd cycle.
- Section 7 is an annex on the implementation of 3rd cycle UPR recommendations related to civic space.

2. Freedom of association

2.1 During China's examination under the 3rd UPR cycle, the government received eight recommendations on the right to freedom of association. Among other recommendations, the government committed to 'respect the rights to freedom of religion or belief, opinion and expression, peaceful assembly and culture, including for Tibetans, Uighurs and other minorities' and 'uphold the rights, freedoms and rule of law embodied in the one country, two systems framework for Hong Kong'. The recommendation on allowing access to the Xinjiang region to the UN was partially implemented. However, as evidenced below, the government has failed to take adequate measures to realise fully any of these recommendations.

2.2 Article 35 of the Constitution of the China guarantees the right to freedom of association.² Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which China is a state party, also guarantees freedom of association. However, despite these commitments, both local and foreign CSOs lack meaningful autonomy. While hundreds of thousands of CSOs are formally registered, many effectively operate as government-sponsored entities and focus primarily on

¹ CIVICUS Monitor: China, <https://monitor.civicus.org/country/china>.

² 'Constitution of the People's Republic Of China', The National People's Congress Of The People's Republic of China, 20 November 2019, <http://www.npc.gov.cn/englishnpc/constitution2019/201911/1f65146fb6104dd3a2793875d19b5b29.shtml>.

service delivery. Nearly all prominent CSOs that focused on policy advocacy, including in previously less politically sensitive areas, have been shuttered in recent years under government pressure.³

- 2.3** A wide range of domestic legislation governs the formation, registration, operation and funding of CSOs in China. The most significant law for domestic CSOs is the Charity Law, which entered into force on 1 September 2016.⁴ Many aspects of the law set clear limits on the activities that CSOs are allowed to carry out. The law uses vague language regarding threats to national security and the public interest, which could be used to harass or close down CSOs. For example, article 4 of the Charity Law places a sweeping prohibition on any activities that may ‘endanger national security or harm societal public interests’. Further, article 5 makes clear that the government only supports CSOs that carry out activities that ‘represent the core values of socialism and promote the traditional morals of the Chinese nation’.⁵ CSOs are also subject to a bureaucratic ‘dual management’ system, where they are governed both by the authority that registers CSOs – usually the Ministry of Civil Affairs – and a professional supervisory unit (PSU) – usually a government ministry or state agency at the national, provincial, municipal, or local level working in the same sector.
- 2.4** Since 1 January 2017, foreign CSOs have been required to comply with the Overseas NGO Management Law (ONGO).⁶ This law assigns jurisdiction to the Ministry of Public Security and provincial public security bureaus (PSBs), underscoring the law’s security emphasis. The law similarly contains vague and broad language about the operations of foreign CSOs. Article 4 states that foreign CSOs must carry out activities that will ‘not endanger China’s national unity, security, or ethnic unity; and may not harm China’s national interests and societal public interests’. Foreign CSOs wishing to set up a representative office are also subject to the dual management system and must find a PSU before registering with the Ministry of Public Security. The law imposes burdensome approval, inspection and reporting procedures.⁷ The number of foreign CSOs that choose to deregister rather than attempt to comply

³ ‘China: Freedom In The World 2023’, Freedom House, 2023, <https://freedomhouse.org/country/china/freedom-world/2023>.

⁴ ‘Charity Law of the People’s Republic of China’, China Law Translate, 16 March 2016, https://www.chinalawtranslate.com/en/2016-charity-law/#_Toc446170645.

⁵ ‘AHRC Joint China UPR Submission’, CIVICUS, 29 March 2018, https://www.civicus.org/images/CIVICUS_AHRC_Joint_China_UPR_Submisison_-_March_2018.pdf; ‘Rebooting China’s Charity Law’, U.S-Asia Law Institute, 23 June 2022, <https://usali.org/usali-perspectives-blog/rebooting-chinas-charity-law>.

⁶ ‘Law of the People’s Republic of China on Administration of Activities of Overseas Nongovernmental Organizations in the Mainland of China’, The China NGO Project, 28 April 2016, <https://www.chinafile.com/ngo/laws-regulations/law-of-peoples-republic-of-china-administration-of-activities-of-overseas>.

⁷ ‘China: Philanthropy Law Report’, International Center for Not-for-Profit Law, May 2023, <https://www.icnl.org/wp-content/uploads/China-PLR-report-May-2023.pdf>.

with the law has increased each year since the law took effect.⁸

- 2.5** In Hong Kong, while the right to freedom of association is guaranteed under article 18 of the Bill of Rights Ordinance, it has been drastically undermined by the draconian National Security Law (NSL) that entered into force on 30 June 2020. The law punishes four types of activities: secession (articles 20-21), subversion (articles 22-23), terrorism (articles 24-28) and collusion with ‘foreign forces’ (articles 29-30). These offences are vaguely defined and have easily become catchall offences to prosecute activists and critics with heavy penalties. Further, under NSL article 43(5), the authorities have the power to request an organisation to provide information about its members, funding and any other related matters, raising concerns about privacy rights. Several CSOs in Hong Kong have been requested to provide a full list of members and donors since incorporation, in some cases requiring disclosure of information going back more than 10 years.⁹
- 2.6** The entire staff of some CSOs in Hong Kong quit on the eve of the NSL’s introduction.¹⁰ Dozens of organisations, including local and international NGOs, social movements, pro-democracy groups and trade unions, have disbanded and shut down due to fear of the law. Some organisations have relocated.¹¹ The authorities have also investigated CSOs seeking to raise funds to support activists.¹² Six pro-democracy figures affiliated with the-now defunct 612 Humanitarian Relief Support Fund (the 612 Fund) were convicted on 25 November 2022 for failing to register the fund. The 612 Fund was founded in June 2019 to provide legal, humanitarian and financial support to protesters during the 2019 protests against the restrictive Extradition Law Amendment Bill.¹³
- 2.7** There are serious concerns about systematic repression of ethnic Uighur Muslims and other Muslim minorities from the Xinjiang Uighur Autonomous Region (XUAR), including the arbitrary, prolonged and incommunicado mass detention of around

⁸ Freedom House, 2023, op. cit.

⁹ ‘The National Security Law For Hong Kong: Impacts On Civic Space And Civil Society Engagement With The Un’, International Service For Human Rights, September 2022, https://ishr.ch/wp-content/uploads/2022/09/ISHR_Report-Impact-of-HK-National-Security-Law_web.pdf.

¹⁰ ‘Advocacy Brief: Hong Kong – Overview Of Restrictions To Civic Freedoms’, CIVICUS Monitor, July 2021, <https://civicus.org/documents/CIVICUSMonitorBrief.HongKong.pdf>.

¹¹ ‘Timeline: 58 Hong Kong Civil Society Groups Disband Following The Onset Of The Security Law’, Hong Kong Free Press, 30 June 2022, <https://hongkongfp.com/2022/06/30/explainer-over-50-groups-gone-in-11-months-how-hong-kongs-pro-democracy-forces-crumbled>; ‘China (Hongkong): Submission To The UN Human Rights Committee’, CIVICUS, June 2022, <https://civicus.org/documents/China.HongKong.UNSubmission.pdf>.

¹² CIVICUS, June 2022, op. cit.

¹³ ‘Harassment And Criminalisation Of Activists And Journalists In Hong Kong Continues Unabated’, CIVICUS Monitor, 13 December 2022, <https://monitor.civicus.org/explore/harassment-and-criminalisation-activists-and-journalists-hong-kong-continues-unabated>.

one million people along with torture and ill-treatment in ‘political education camps’ under the pretext of countering terrorism and religious extremism.¹⁴ In May 2022, the UN High Commissioner for Human Rights visited XUAR¹⁵ and issued a report in August 2022 finding that serious human rights violations had been committed there.¹⁶

- 2.8** Ethnic Tibetans in China face discrimination and restrictions on their rights to freedom of religious belief, expression and association. Peaceful calls for greater autonomy in the Tibet Autonomous Region and Tibetan-populated areas have been met with harsh repression carried out under ‘anti-separatism’ campaigns.¹⁷

3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

- 3.1** Under China’s previous UPR examination, the government received 19 recommendations on the protection of HRDs, journalists and civil society representatives. The government committed to several recommendations including to ‘create and maintain a safe and enabling environment for all human rights defenders’ and ‘allow human rights defenders to exercise their right to freedom of expression and opinion without threats, harassment or repercussions’. Seven recommendations were accepted and 12 noted. However, the government has not implemented any of the recommendations.
- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure the protection of HRDs. The ICCPR further guarantees freedoms of association, peaceful assembly and expression. However, in

¹⁴ Human rights groups have further documented forced political indoctrination, collective punishment and restrictions on movement. The authorities have also subjected people in Xinjiang to pervasive and continuous surveillance, including the use of QR codes, biometrics, artificial intelligence, phone spyware and big data. In addition, the government has deployed over a million officials and police officers to monitor people, including through intrusive programmes in which the monitors are assigned to regularly stay in people’s homes. See ‘UN And Rights Group Findings Show Systematic Repression Of Muslims From The Xinjiang Uighur Region’, CIVICUS Monitor, 14 September 2018, <https://monitor.civicus.org/explore/un-and-rights-group-findings-show-systematic-repression-muslims-xinjiang-uyghur-region>.

¹⁵ ‘Statement By UN High Commissioner For Human Rights Michelle Bachelet After Official Visit To China’, UN Human Rights Office Of The High Commissioner, 28 May 2022, <https://www.ohchr.org/en/statements/2022/05/statement-un-high-commissioner-human-rights-michelle-bachelet-after-official>.

¹⁶ ‘China Responsible For ‘Serious Human Rights Violations’ In Xinjiang Province: UN Human Rights Report’, UN News, 31 August 2022, <https://news.un.org/en/story/2022/08/1125932>.

¹⁷ ‘China Tries To Deflect Global Criticism As Persecution Of Activists, Uyghurs And Censorship Persists’, CIVICUS Monitor, 11 August 2021, <https://monitor.civicus.org/explore/china-tries-deflect-global-criticism-persecution-activists-uyghurs-and-censorship-persists>.

spite of these protections the criminalisation, harassment, intimidation of HRDs and journalists, as well as attacks on and surveillance of them, have been documented.

- 3.3** The authorities use a range of laws to criminalise HRDs. One provision that is systematically used is ‘inciting subversion of state power’¹⁸ (article 105 (2) of the Criminal Law), which the UN Working Group on Arbitrary Detention found to be vague and broadly worded.¹⁹
- 3.4** In January 2019, a court in Hubei province sentenced activist Liu Feiyue to five years in prison for subversion. Liu was the founder of Minsheng Guancha (Civil Rights and Livelihood Watch), a website that reported on a wide range of human rights issues in China. In the same month prominent human rights lawyer Wang Quanzhang was sentenced to four and a half years in prison. He was detained as part of the government’s mass crackdown in 2015, which targeted over 200 human rights lawyers and activists.²⁰ In August 2021, Cheng Yuan, Liu Yongze and Wu Gejianxiong, the founder and two staff members of CSO Changsha Funeng – which advocated for the rights of people with disabilities and other marginalised groups – were each sentenced to between two and five years in prison for subversion following a secret trial.²¹
- 3.5** In February 2022, authorities in Shandong province formally indicted HRD Li Qiaochu for subversion following her disclosure of the torture of her partner and HRD Xu Zhiyong and her advocacy actions. Li Qiaochu may also have been targeted in retaliation for her engagement with UN mechanisms.²² In April 2022, the authorities in Guangdong province charged feminist activist and journalist Sophia Huang and fellow activist Wang Jianbing with subversion.²³ Huang is a journalist who has been involved in several #MeToo campaigns to provide support and assistance to victims of sexual assault and harassment. Labour activist Wang Jianbing has provided legal support for people with disabilities and workers with occupational diseases. He is also a prominent supporter of the #MeToo movement. In July 2022, outspoken poet Zhang Guiqi was sentenced to six years for subversion

¹⁸ This states that whoever incites others by spreading rumours or slanders or any other means to subvert the state power or overthrow the socialist system shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance or deprivation of political rights; and the ringleaders and the others who commit major crimes shall be sentenced to fixed-term imprisonment of not less than five years.

¹⁹ ‘Working Group On Arbitrary Detention’, Human Rights Council, 5 June 2020, https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session87/A_HRC_WGAD_2020_11_Advance_Edited_Version.pdf.

²⁰ ‘Persecution Of Activists Continue While Abuses Against Uighurs Remain In The Spotlight’, CIVICUS Monitor, 7 March 2019, <https://monitor.civicus.org/explore/persecution-activists-continue-while-abuses-against-uighurs-remain-spotlight>.

²¹ CIVICUS Monitor, 11 August 2011, op. cit.

²² ‘Activists And Journalists In China Face Persecution During And After Winter Olympics’, CIVICUS Monitor, 11 April 2022, <https://monitor.civicus.org/explore/activists-and-journalists-china-face-persecution-during-and-after-winter-olympics>.

²³ Ibid.

in Shandong province for calling on Xi Jinping to step down.²⁴

- 3.6** In February 2023, a court in Shanghai sentenced blogger Ruan Xiaohuan to seven years in prison for subversion.²⁵ He often wrote about China's internet restrictions and posted translations of foreign news articles. In April 2023, a court in Shandong province sentenced two activists for subversion: Xu Zhiyong was sentenced to 14 years in prison and Ding Jiayi to 12. Xu was a co-founder of the now-banned legal aid centre Open Constitution Initiative and the New Citizens' Movement, a CSO advocating for civil rights, government transparency and education equality. Ding, a former lawyer, played key roles in both groups.²⁶
- 3.7** The authorities also often criminalise HRDs under article 293 of the Criminal Law for 'picking quarrels and provoking trouble', another vague and broad legal provision. In April 2019, activist Chen Bing was sentenced to three and a half years in jail after he and three other activists – Fu Hailu, Luo Fuyu and Zhang Junyong – were found guilty for using labels on liquor bottles to encourage people to remember the 1989 Tiananmen Square Massacre.²⁷ In July 2021, a court in Anhui province sentenced Zhou Weilin, a reporter for the Chinese-language human rights news website Weiquanwang, to three and a half years in prison, citing his reporting on human rights in articles and Twitter posts as evidence of the fact that he was paid for his reporting, describing it as 'foreign funding'.²⁸
- 3.8** In August 2021, Zhou Weilin, a human rights activist and citizen journalist, was sentenced in Anhui province to three and a half years in jail for 'picking quarrels and stirring up trouble', receiving overseas funding and providing information to human rights groups.²⁹ In August 2022, journalist Mao Huibin was arrested at his home in the city of Hengshui and charged with the crime of 'picking quarrels and provoking trouble' after he had posted an article questioning the whereabouts of the victims of a June 2022 incident in the northeastern city of Tangshan, when a group of men assaulted four women who rejected their sexual advances. A day later he posted a video of the assault.³⁰

²⁴ 'Amid Protests, Censorship And Persecution Of Uyghurs And Activists In China, Xi Jinping Seeks Third Term', CIVICUS Monitor, 1 September 2022, <https://monitor.civicus.org/explore/amid-protests-censorship-and-persecution-uyghurs-and-activists-china-xi-jinping-seeks-third-term>.

²⁵ 'China: Human Rights Defenders Jailed, Protesters Detained And Activists Harassed Around The National People's Congress', CIVICUS Monitor, 13 April 2023, <https://monitor.civicus.org/explore/china-human-rights-defenders-jailed-protesters-detained-and-activists-harassed-around-the-national-peoples-congress>.

²⁶ CIVICUS Monitor, 13 April 2023, op. cit.

²⁷ 'Hong Kong Protests Met With Excessive Force As Activists Suppressed Around Tiananmen Anniversary' CIVICUS Monitor, 11 July 2019, <https://monitor.civicus.org/explore/excessive-force-hong-kong-protests-while-activists-suppressed-around-tiananmen-anniversary>.

²⁸ CIVICUS Monitor, 11 August 2021, op. cit.

²⁹ Ibid.

³⁰ CIVICUS Monitor, 1 September 2022, op. cit.

- 3.9** The government also uses defamation charges against activists. In April 2022, authorities in the central province of Henan handed down a two-year-and-11-month jail term to dissident Xing Wangli. Xing was sentenced by the Xi County District People's Court in a trial held behind closed doors. The case against Xing rested on an open letter he posted in which he accused a local propaganda official of corruption and intimidation.³¹
- 3.10** HRDs have been forcibly disappeared by the authorities. Article 75 of the Criminal Procedure Law allows for 'residential surveillance in a designated location' (RSDL) – which allows people to be detained in secret outside the protection of the law – of those suspected of 'crimes of endangering state security, terrorist activities, or especially serious bribery cases'.³² According to civil society groups, HRDs and ethnic minorities, predominantly Uighurs, are common targets of RSDL. It is a form of enforced disappearance marked by physical and psychological torture.³³
- 3.11** The authorities often put HRDs under surveillance, particularly in advance of major events. A few weeks ahead of the Belt and Road Forum, held in Beijing in April 2019, former pro-democracy movement activists were put under increased police surveillance.³⁴ Human rights activists and dissidents were also put under surveillance or forced to leave town by state security police ahead of the Chinese Communist Party's centenary celebration in July 2021.³⁵ Most recently, in March 2023, the wife and children of jailed dissident poet Wang Zang were put under round-the-clock surveillance as part of a nationwide 'stability maintenance' operation during the National People's Congress in Beijing.³⁶
- 3.12** Some HRDs face movement restrictions and travel bans. This often occurs around the Tiananmen Square Massacre anniversary on 4 June. The authorities have restricted the movement and communication of members of the Tiananmen Mothers, a group that campaigns for compensation, redress and transparent information about the massacre. In 2022, dissident political commentator Zha Jianguo and veteran journalist Gao Yu were put under house arrest at their Beijing homes, while rights lawyer Pu Zhiqiang and his wife were taken on a forced 'vacation' out of town.³⁷ In April 2019, the authorities prevented prominent human rights lawyer Cheng Hai from leaving the country at Hefei Xinqiao International

³¹ CIVICUS Monitor, 1 September 2022, op. cit.

³² 'RSDL Factsheet', Safeguard Defenders, <https://safeguarddefenders.com/sites/default/files/RDSL%20FACTSHEET.pdf>.

³³ CIVICUS Monitor, 11 April 2022, op. cit.

³⁴ CIVICUS Monitor, 11 July 2019, op. cit.

³⁵ CIVICUS Monitor, 11 August 2021, op. cit.

³⁶ CIVICUS Monitor, 13 April 2023, op. cit.

³⁷ CIVICUS Monitor, 1 September 2022, op. cit.

Airport in the eastern province of Anhui as he tried to board a plane for Taiwan.³⁸ On 2 June 2021, border control authorities at Fuzhou airport prevented Beijing-based human rights lawyer Tang Jitian boarding a flight to Japan to see his ill daughter.³⁹

3.13 Human rights activists also face social media and communication platforms restrictions. At least eight activists had their WeChat messaging app accounts restricted in early December 2021 before the Winter Olympics in February 2022. Some were unable to use their accounts entirely and forced to reregister.⁴⁰

3.14 In Hong Kong, the NSL is used against HRDs and pro-democracy activists. Forty-seven people were charged with ‘conspiracy to subversion’ under the NSL in February 2021 for organising an unofficial primary election in 2020.⁴¹ In November 2021, student activist Tony Chung was sentenced to three years and seven months in prison under the NSL for his pro-independence views.⁴² Four members of the defunct pro-democracy student activist group Student Politicism were sentenced to up to three years in jail under the NSL on 22 October 2022.⁴³ Three former organisers of Hong Kong’s annual vigil in remembrance of the Tiananmen Square Massacre were sentenced on 11 March 2023 to four and a half months jail for failing to provide authorities with information on the group, in accordance with the NSL.⁴⁴

4. Freedom of expression and media freedom

4.1 Under the 3rd UPR cycle, the government received six recommendations relating to freedom of expression and media freedom. For example, the government pledged to ‘respect, protect and ensure the freedom of expression of all citizens’ and ‘remove restrictions on freedom of expression and press freedom, including on the Internet’. Five recommendations were accepted and one was noted. However, none of the recommendations have been implemented.

4.2 ICCPR article 19 guarantees the right to freedoms of expression and opinion. Article 35 of the Constitution of China also guarantees the right to ‘freedom of speech, of the

³⁸ CIVICUS Monitor, 11 July 2019, op. cit.

³⁹ CIVICUS Monitor, 11 August 2021, op. cit.

⁴⁰ CIVICUS Monitor, 11 April 2022, op. cit.

⁴¹ CIVICUS Monitor, 13 December 2022, op. cit.

⁴² ‘Ongoing Harassment, Prosecution Of Activists And Journalists In Hong Kong To Silence Dissent’, CIVICUS Monitor, 23 March 2022, <https://monitor.civicus.org/explore/ongoing-harassment-prosecution-activists-and-journalists-hong-kong-silence-dissent>.

⁴³ CIVICUS Monitor, 13 December 2022, op. cit.

⁴⁴ ‘Hong Kong: Authorities Continue To Use National Security And Sedition Laws To Detain Activists And Criminalise Dissent’ CIVICUS Monitor, 4 May 2023, <https://monitor.civicus.org/explore/hong-kong-authorities-continue-to-use-national-security-and-sedition-laws-to-detain-activists-and-criminalise-dissent>.

press’.⁴⁵ However, in law and practice freedom of expression is widely restricted offline and online due to an extensive architecture of state censorship, surveillance and sanctions.

- 4.3** The authorities continue to harass, detain and prosecute people for their online posts and private chat messages critical of the government. Online censorship has grown more pervasive and sophisticated as a means of stifling criticism of the government, intensifying around high-profile events and anniversaries.⁴⁶ Through the use of the Great Firewall, the government selectively blocks critical outlets and social media sites.
- 4.4** According to Reporters Without Borders, China continues to be the world’s biggest jailer of media workers, with more than a hundred currently detained, often in conditions that pose a threat to their lives. China’s state and privately-owned media are under the Communist Party’s ever-tighter control, while the administration creates more and more obstacles for foreign reporters.⁴⁷
- 4.5** The Chinese authorities have tightened their grip on news and information even more since the emergence of COVID-19. Around the start of the outbreak in 2020, human rights groups documented censorship and attempts by the authorities to restrict information about the pandemic. The authorities censored numerous articles and social media posts, including those posted by families of infected people seeking help.⁴⁸ Journalists, doctors, activists and academics were targeted in order to control the narrative. In February 2020, citizen journalists Fang Bin and Chen Qiushi went missing after they shared videos and stories about COVID-19. In March 2020, Dr Ai Fen, the head of emergency at Wuhan Central Hospital, disappeared following an interview she gave where she apparently criticised Beijing’s censorship of information about the pandemic.⁴⁹
- 4.6** In May 2022, comments by the Director-General of the World Health Organization, Tedros Adhanom Ghebreyesus, criticising China’s zero-COVID policy as ‘unsustainable’ were removed from social media platforms.⁵⁰ In December 2022,

⁴⁵ The National People’s Congress Of The People’s Republic of China, 20 November 2019, op. cit.

⁴⁶ China: Amnesty International Report, <https://www.amnesty.org/en/location/asia-and-the-pacific/east-asia/china/report-china>.

⁴⁷ CIVICUS Monitor, 11 August 2011, op. cit.

⁴⁸ ‘NGOs Highlight Suppression Around Virus Outbreak In China While Persecution Of Activists Continues’, CIVICUS Monitor, 7 February 2020, <https://monitor.civicus.org/explore/ngos-highlight-suppression-around-virus-outbreak-china-while-persecution-activists-persists>.

⁴⁹ ‘China Silences Reporting On COVID-19, Expands Surveillance And Arrests Hong Kong Protest Leaders’, CIVICUS Monitor, 20 May 2020, <https://monitor.civicus.org/explore/china-silences-reporting-covid-19-expands-surveillance-and-arrests-hong-kong-protest-leaders>.

⁵⁰ CIVICUS Monitor, 1 September 2022, op. cit.

during protests in multiple Chinese cities linked to the zero-COVID policy, lockdowns and other restrictions, the censorship machine went to great lengths to prevent people seeing the scenes of protest. Videos and posts on social media about the protests were removed.⁵¹

- 4.7** In December 2021, citizen journalist Zhang Zhan was convicted of ‘picking quarrels and provoking trouble’ after a sham trial and sentenced to four years in prison. She had travelled to Wuhan in February 2020 and posted on social media about how government officials had detained independent reporters and harassed families of COVID-19 patients.⁵²
- 4.8** The government’s censorship apparatus also intensified before and during the Winter Olympics. Activists were restricted and blocked from using social media apps while journalists were closely monitored.⁵³
- 4.9** Foreign journalists working in China continue to face government interference when trying to do their jobs, according to a report by the Foreign Correspondents’ Club of China from March 2023. Thirty-eight per cent of respondents cited in the report said that at least one of their sources had been harassed, detained, or called in for questioning by the authorities, or had otherwise suffered negative consequences for interacting with foreign journalists. Chinese nationals working for foreign media organisations were also frequently targeted by the authorities, with 45 per cent of respondents saying their Chinese colleagues had been harassed or intimidated. More than half of foreign journalists are still waiting for their visas to be renewed.⁵⁴
- 4.10** Press freedom is also under assault in Hong Kong. Media outlets have been targeted with raids and forced to close and journalists have been criminalised. Foreign reporters have also been subjected to new restrictions under the NSL. Apple Daily founder and activist Jimmy Lai has been detained since December 2020 and faces multiple charges. In June 2021, Hong Kong authorities arrested and charged five Apple Daily executives under the NSL. In December 2021, the Hong Kong police raided the premises of Stand News, one of the most prominent independent pro-democracy media companies in Hong Kong. They froze its assets and arrested seven people associated with the news site on suspicion of sedition.⁵⁵

⁵¹ ‘Widespread Protests In China Met With Repression Including Restrictions, Harassment And Censorship’, CIVICUS Monitor, 5 December 2022, <https://monitor.civicus.org/explore/widespread-protests-china-met-repression-including-restrictions-harassment-and-censorship>.

⁵² ‘Human Rights Defenders And Journalists Arrested, Prosecuted And Tortured In China’, CIVICUS Monitor, 30 November 2021, <https://monitor.civicus.org/explore/human-rights-defenders-and-journalists-arrested-prosecuted-and-tortured-china>.

⁵³ CIVICUS Monitor, 11 April 2022, op. cit.

⁵⁴ ‘Foreign Journalists In China Face Official Obstruction, Expulsions And Visa Delays’, Radio Free Asia, 2 March 2023, <https://www.rfa.org/english/news/china/china-press-freedom-03022023144830.html>.

⁵⁵ CIVICUS, June 2022, op. cit.

4.11 The Hong Kong government also uses sedition offences in the Hong Kong Cap. 200 Crimes Ordinance to target critics. People have been targeted under the law for publishing books, uttering slogans, displaying posters and clapping in court. On 20 April 2022, Tam Tak-chi, a pro-democracy activist and DJ was sentenced to three years and four months in jail after being found guilty on multiple sedition charges for slogans he uttered or wrote between January and July 2020.⁵⁶ On 13 July 2022, a court sentenced Koo Sze-yiu, a veteran activist to nine months in jail under a colonial-era sedition law for planning to protest against the Beijing Winter Olympics.⁵⁷ Five members of the General Union of Hong Kong Speech Therapists were convicted of sedition on 7 September 2022 for publishing a series of children's books about Hong Kong's 2019 pro-democracy mass protests and other issues.⁵⁸

5. Freedom of peaceful assembly

- 5.1** During China's examination under the 3rd UPR cycle, the government did not receive any recommendations on the right to freedom of peaceful assembly.
- 5.2** Article 35 of the PRC's Constitution guarantees the right to the freedom 'of assembly... of procession and of demonstration'.⁵⁹ ICCPR article 21 also guarantees this right. However, in policy and practice the right to gather in public for the purposes of protest or demonstration is tightly controlled and if protests occur the authorities quickly mobilise to block and disrupt them and crack down on protesters.
- 5.3** In mainland China, the 1989 Assemblies, Processions and Demonstrations Law is the primary legislation governing assemblies. The term 'assembly' used in the Law means an activity in which people gather at an open air public place to express views or aspirations. Article 7 of the Law stipulates that 'for the holding of an assembly, a procession or a demonstration, application must be made to and permission obtained from the competent authorities in accordance with the provisions of this Law'. Article 8 requires that an application for permission to assemble must be made at least five days in advance.⁶⁰
- 5.4** In practice, protesters seldom obtain approval and risk punishment for assembling without permission. Spontaneous demonstrations have provided some outlet for local grievances.⁶¹ Despite the severe restrictions, Freedom House's China Dissent

⁵⁶ 'Arrests, Jailing Of Activists And Silencing Of Dissent In Hong Kong Persists Despite UN Review', CIVICUS Monitor, 26 July 2022, <https://monitor.civicus.org/explore/arrests-jailing-activists-and-silencing-dissent-hong-kong-persists-despite-un-review>.

⁵⁷ CIVICUS Monitor, 26 July 2022, op. cit.

⁵⁸ CIVICUS Monitor, 13 December 2022, op. cit.

⁵⁹ The National People's Congress Of The People's Republic of China, 20 November 2019, op. cit.

⁶⁰ 'China: NPC Law', 2007, 'http://www.npc.gov.cn/zgrdw/englishnpc/Law/2007-12/12/content_1383911.htm'.

⁶¹ Freedom House, 2023, op. cit.

Monitor identified 2,230 events between June 2022 and April 2023, 78 per cent of which were demonstrations or marches.⁶²

- 5.5** Around 1,000 protesters gathered on 10 July 2022 in front of the Zhengzhou sub-branch of the People's Bank of China to attempt to recover frozen savings held in rural banks. The protesters said the banks had frozen their deposits because of supposed upgrades to their internal systems in April 2022 but had not communicated with them since. Videos of the protests on social media showed a group of unidentified men in white shirts – believed to be security personnel but dressed in plainclothes – shoving the protesters and throwing water bottles at them. Some protesters were violently dragged, kicked, and beaten by the unidentified men.⁶³
- 5.6** On 24 November 2022, protests broke out around Foxconn's vast iPhone factory in Zhengzhou as workers clashed with security personnel over salaries and living conditions at the plant. Hundreds of workers joined the protests, with footage uploaded on social media showing some men pulling down barriers and smashing surveillance cameras and windows. The protests were met with excessive force by police wearing white protective suits and carrying plastic riot shields. Police kicked and hit a protester with clubs after he grabbed a metal pole that had been used to strike him. Police also fired teargas and a water cannon at the crowd.⁶⁴
- 5.7** Unprecedented protests erupted across China in November and December 2022 due to widespread public frustration with the zero-COVID policy, lockdowns and other restrictions. China's vast security apparatus moved swiftly to stifle the protests. Videos circulated online showed dozens of police officers arriving at protest sites in Shanghai and elsewhere, trying to disperse the crowds and dragging protesters into police vehicles. Police also deployed sophisticated surveillance tools to stamp out the protests, using facial recognition software and location data to track down and detain protesters. Authorities also used mobile phone data to track down protesters.⁶⁵
- 5.8** In Hong Kong, the right to peaceful assembly is guaranteed under article 17 of the Bill of Rights Ordinance. Despite this, Hong Kong authorities prosecute and convict peaceful protesters involved in demonstrations, including pro-democracy leaders. They are often charged with organising, inciting participation in or participating in an 'unauthorised assembly' under the Cap. 245 Public Order Ordinance, which requires organisers to notify police of demonstrations involving more than 30 people at least seven days in advance and to get a 'notice of no objection' from the

⁶² 'China Dissent Monitor 2023 Report', Freedom House, 2023, <https://freedomhouse.org/report/china-dissent-monitor/2023/issue-3-january-march-2023>.

⁶³ CIVICUS Monitor, 1 September 2022, op. cit.

⁶⁴ CIVICUS Monitor, 5 December 2022, op. cit.

⁶⁵ Ibid.

government before proceeding. The charge of ‘unauthorised assembly’ carries up to five years in prison. The UN Human Rights Committee has criticised the law, saying that ‘it may facilitate excessive restriction’ of basic rights.⁶⁶ HRD Chow Hang-tung was convicted with a one-year sentence in December 2021 and a one-year-and-three-months sentence in January 2022 under this ordinance for organising and promoting the Tiananmen Square Massacre vigils in 2020 and 2021.⁶⁷

- 5.9** Police officers in Hong Kong were recorded beating and using pepper spray and teargas on people during protests in 2019, including those subdued on the ground. They were also recorded shooting and blinding several people and unnecessarily tackling protesters to the ground, including pregnant women, children and older people.⁶⁸

6. Recommendations to the Government of China

CIVICUS and ADN call on the Government of China to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state’s duty to protect.

In the light of this, the following specific recommendations are made:

16.1 Freedom of association

- Take measures to foster a safe, respectful and enabling environment for civil society, including by removing legal and policy measures that unwarrantedly limit freedom of association.

⁶⁶ CIVICUS, June 2022, op. cit.

⁶⁷ Chow won her appeal against her 15-month conviction in December 2022. See ‘Hong Kong: Chronology Of Harassment Against Human Rights Defender Chow Hang-Tung’, CIVICUS, 29 November 2022, <https://www.civicus.org/index.php/media-resources/news/6172-hong-kong-chronology-of-harassment-against-human-rights-defender-chow-hang-tung>; ‘Chow Hang-Tung Wins Appeal Over June 4 Conviction’, RTHK News, 14 December 2022, <https://news.rthk.hk/rthk/en/component/k2/1679800-20221214.htm>.

⁶⁸ Civil society groups also documented further allegations of torture and other ill-treatment against protesters, including protesters being beaten, kicked, strip searched, sexually assaulted and denied access to medical treatment in detention. Protesters were attacked by thugs with impunity. According to human rights groups, no police officers alleged to have committed abuses during the 2019 protests have been held accountable. See CIVICUS, June 2022, op. cit.

- Remove all undue restrictions on the ability of CSOs to receive international and domestic funding in line with best practices articulated by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association.
- Amend the Charity Law and Overseas NGO Management Law related to the operations of civil society groups to remove undue restrictions on freedom of association, in order to bring them into compliance with ICCPR articles 21 and 22.
- Refrain from using the NSL against CSOs in Hong Kong and from acts leading to the closure of CSOs or the suspension of their peaceful activities.

16.2 Protection of human rights defenders

- Provide civil society members, HRDs and journalists with a safe and secure environment in which to carry out their work, conduct impartial, thorough and effective investigations into all cases of killings, enforced disappearances, attacks, harassment and intimidation against them and bring the perpetrators of such offences to justice.
- Ensure that HRDs are able to carry out their legitimate activities without fear or undue hindrance, obstruction, legal action, or harassment of themselves or their families.
- Undertake a consolidated process to review and repeal legal provisions that unwarrantedly restrict the legitimate work of HRDs, including ‘inciting subversion of state power’, ‘picking quarrels and provoking trouble’, defamation and the NSL in Hong Kong, in line with the UN Declaration on Human Rights Defenders.
- Immediately and unconditionally drop all charges and release all HRDs, journalists and critics detained for exercising their fundamental rights to freedoms of association, peaceful assembly and expression, and review their cases to prevent further harassment.
- Publicly condemn at the highest levels and put an end to all acts of harassment and intimidation of HRDs, activists and CSOs, including judicial harassment.
- Systematically apply legal provisions that promote and protect human rights and establish mechanisms that protect HRDs, including by adopting a specific law on the protection of HRDs in accordance with Human Rights Council

resolution 27.31.

16.3 Freedom of expression, media freedom and access to information

- Ensure freedom of expression and media freedom by bringing all national legislation into line with international law and standards.
- Review all laws, including the sedition law in Hong Kong, in order to bring them into line with ICCPR article 19 and other international law and standards in the area of freedom of expression.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the government may deem sensitive.
- Take steps to lift restrictions on freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- Enable unfettered access to online information resources by removing restrictions on access to domestic and international news websites, social media platforms and CSO websites.
- Review and repeal all laws and policies providing for censorship or undue control over social and conventional media content.

16.4 Freedom of peaceful assembly

- Adopt best practices on freedom of peaceful assembly, as put forward by the 2012 report of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, which calls for simple processes for the notification of assemblies being held rather than permission being required, and by General Comment No. 37 on the right to peaceful assembly adopted by the UN Human Rights Committee in 2020.
- Amend the 1989 Assemblies, Processions, and Demonstrations Law and other regulations in order to guarantee fully the right to freedom of peaceful assembly.

- Unconditionally and immediately release all protesters who have been detained for exercising their right to freedom of peaceful assembly and review their cases to prevent further harassment.
- Immediately and impartially investigate all instances of extrajudicial killing and excessive force committed by security forces in the context of protests.

16.5 Access to UN Special Procedures mandate holders

- The government should extend a standing invitation to all UN Special Procedure mandate holders and prioritise official visits by the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression; 3) Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; and 4) Working Group on Arbitrary Detention.

16.6 State engagement with civil society

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
- Include CSOs in the UPR process before finalising and submitting the national report.
- Systematically consult with civil society on the implementation of UPR recommendations, including by holding periodical comprehensive consultations with a diverse range of civil society.
- Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, taking into account the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.