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Submission by: Front Line Defenders – The International Foundation for the Protection of Human Rights Defenders

Related to: China

UPR Session: 31th session (November 2018)

Submitted: 29 March 2018

Front Line Defenders (www.frontlinedefenders.org) is an international NGO based in Ireland with special consultative status with the Economic and Social Council of the United Nations (ECOSOC). Founded in 2001, Front Line Defenders has particular expertise on the issue of security and protection of human rights defenders and works to promote the implementation of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders) adopted by General Assembly resolution 53/144 of 9 December 1998

The following submission has been prepared based on information received from independent human rights defenders (HRDs) and human rights organisations in China. This submission covers the situation of human rights defenders in China between 2013 and 2018.

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I. INTRODUCTION AND KEY CONCERNS:

1. Chinese authorities have enhanced and expanded means of targeting human rights defenders (HRDs) in China and narrowing civil society space since the country's last UPR in 2013.
2. Following that review, the Chinese government accepted recommendations from Ireland, Switzerland and Poland to ensure that HRDs can exercise their legitimate activities free from fear, hindrance, insecurity or reprisal, and that proper investigations should be conducted into all attacks against HRDs.¹ The Chinese government also accepted Germany's recommendation to "refrain from impeding civil society" and to respect the right to freedom of expression, opinion, and peaceful assembly.² Despite these assurances, Front Line Defenders has observed new and continued violations of human rights on a vast scale, especially in relation to HRDs.
3. Chinese authorities have sharply contracted the working space for HRDs, obstructing their work, cutting off their access to international partners and stakeholders, and subjecting defenders and their families to surveillance, harassment, intimidation, public defamation, forced relocation, house arrest and travel ban, arbitrary and incommunicado detention, arrest, inhumane treatment, torture, and violation of their rights to work, expression, association, and assembly. Several human rights organizations in China have similarly been slandered, harassed, and shuttered by Chinese authorities in recent years.

II. LEGISLATIVE FRAMEWORK AND JUDICIAL PROCESS

4. In the period under review, a series of vaguely defined crimes with vast scope of applicability have been exploited to find HRDs guilty of criminal acts. Hundreds of defenders have been charged, and many convicted, on charges of "creating a disturbance", "gathering a crowd to disrupt order of a public place", and "picking quarrels and provoking troubles". Since 2015, Chinese judicial authorities have sharply increased use of the charges of "subversion/inciting subversion of state power" and "possessing/disclosing state secrets".³ These crimes, considered crimes of national security, carry longer sentences and provide a legal basis for stricter detention measures. With these charges have come a host of legal and illegal measures to prolong detention of HRDs, cut off access to legal counsel, and otherwise violate their rights to a fair judicial process. During trials of HRDs which frequently last no more than a few hours, the defendants' lawyers are regularly interrupted or prevented from fully presenting their defence. Independent trial observers are not permitted to attend hearings. Even so, trials are frequently rescheduled or held secretly to avoid public observation, including by the international diplomatic community.
5. While some positive developments have been seen in the judicial process in 2018, Chinese law enforcement regularly fails to present arrest or seizure warrants prior to their apprehension of HRDs or search of their residences and offices. Authorities often wait weeks before notifying families of the whereabouts of arrested HRDs. Chinese law does not allow for family visits during pre-trial detention, but Chinese authorities also severely restrict access of lawyers to their clients, in violation of China's Law on Lawyers and the rights of detained individuals. Chinese authorities exploit vaguely worded laws and policies on detention to extend detention periods by several months, and many HRDs spend over a year in detention before going to trial.
6. Inside detention facilities, many HRDs have reported acts of abuse, intimidation, harassment, beating, electrical shock, sleep deprivation, and other torture and inhumane treatment. Defenders

1 United Nations, "Report of the Working Group on the Universal Periodic Review: China (A/HRC/WG.6/17/L.3)" October 24, 2013, cf recommendations 61, 148, 157. https://www.upr-info.org/sites/default/files/document/china/session_17_-_october_2013/ahrcwg.617l.3china.pdf

2 Ibid, cf recommendations 154, 166.

3 See The Criminal Law of the People's Republic of China (*Zhonghua Renmin Gongheguo Xingfa*), adopted March 14, 1997, Articles 291, 293, and 105.

who speak out about this treatment upon release may be re-arrested and detained again with the same officers accused of the original inhumane treatment. In some cases, HRDs released from detention exhibit extreme mental health issues, ranging from depression to paranoia, that they did not exhibit prior to their arrest. Human rights lawyer Li Chunfu was arrested in 2015 and detained for 500 days after representing several politically sensitive defendants. Following his treatment in detention, the defender was diagnosed with schizophrenia soon after his release.

7. Chinese judicial authorities have shown an increasing use of “residential surveillance in a designated location” (RSDL), a measure that allows local public security officers to hold HRDs accused of endangering national security in undisclosed locations for up to six months. HRDs who have undergone RSDL have reported facing threats, intimidation, sleep deprivation, coerced confession, and other inhumane treatment during their tenure in detention.

III. RESTRICTIONS ON FREEDOM OF EXPRESSION

8. Freedom of expression is guaranteed under Article 33 of China’s constitution. However, since 2013, Chinese authorities have expanded reliance on criminal allegations of “disturbing public order”, “illegal business activities”, and “disclosing state secrets” to silence the voices of Chinese HRDs. Blogger [Dong Rubin](#), sentenced to six-and-a-half years imprisonment in 2014 for posting online on issues of injustice and environmental pollution; press freedom advocate [Gao Yu](#), convicted of “disseminating state secrets overseas” in 2015 for allegedly posting a Communist Party directive to a foreign website; writer [Lü Gengsong](#), sentenced to eleven years in prison in 2016 for online campaigns regarding human rights violations; these are only a few examples of the extreme measures taken against HRDs exercising their freedom of expression to advocate on behalf of others. No legal regulations exist clearly delineating which forms of expression merit judicial reprisal, but under common practice, any public speech or expression critical of the Communist Party or its policies, the political regime, or leading political officials can constitute criminal activity or otherwise justify legal action.

9. Political expression remains extremely sensitive in China. Independent candidates running for local elected office, critics of China’s one-party system, and publishers of content urging reform of the legal or political system face harassment, intimidation, and imprisonment. [Liu Xiaobo](#), prodigious author of numerous works calling for expanded rights and freedoms for Chinese citizens, remained in incommunicado detention until his death in 2017. [Yu Wensheng](#), a human rights lawyer who published open letters on legal reform, was stripped of his legal license and arrested in 2018.

10. Apolitical public expression is also a frequent target for reprisal by Chinese authorities. In March 2015, five women human rights defenders were [detained for several weeks](#) for organizing a country-wide demonstration against sexual harassment on public transportation. In 2014, Uyghur scholar [Ilham Tohti](#) was accused of “separatism” for his written work calling for better integration of Uyghur peoples into China’s economic development. He is now serving a life sentence in prison. Other advocates for Uyghur rights, dignity, and even basic allowance for cultural expression find themselves and their families harassed, threatened, arrested, and sent to “re-education” centers, where they are kept incommunicado for months at a time. In 2014, Tibetan HRD Tashi Wangchuk issued a call for enhanced bilingual education for Chinese Tibetans. Despite guarantees made in China’s third National Human Rights Action Plan⁴ that the “the right of ethnic minorities to learn, use and develop their spoken and written languages shall be respected and guaranteed,” Tashi Wangchuk was arrested, detained incommunicado, charged with “separatism”, and currently awaits a court verdict.

4 The third National Human Rights Action Plan of China (2016-2020) was issued by the Information Office of the State Council on September 29, 2016. The full text is available here: http://english.gov.cn/archive/publications/2016/09/29/content_281475454482622.htm (“National Human Rights Action Plan”).

11. Freedom of expression of HRDs is further restricted by both the censoring of the internet and the targeted censorship of HRDs' electronic communications. Authorities have blocked access to the websites of domestic human rights organisations Civil Rights and Livelihood Watch (*Minsheng GuanCha*), *Tianwang*, Not News (*Feixinwen*) and Human Rights Campaign in China (*Quanli Yundong*). In 2016 and 2017, founders and supporters of each of these platforms were arrested on charges of “inciting subversion of state power”, “disclosing state secrets abroad”, and “picking quarrels and provoking troubles”, among others.

12. Chinese authorities continue to strengthen and expand the comprehensiveness of the “Great Firewall” censorship system, preventing many HRDs from conducting advocacy efforts with networks outside of China. Virtual private networks (VPNs), which Chinese HRDs have historically relied on to surpass the restrictions of the Great Firewall, have themselves become targets of a 2017-2018 “cyberspace sovereignty” initiative. Under new legal guidelines, use of certain VPNs has become illegal, and vendors of VPN services have received jail sentences.

IV. RESTRICTIONS ON FREEDOM OF ASSOCIATION AND ASSEMBLY

13. Since 2013, the space available for civil society to engage in rights defence work has contracted sharply. Leading human rights organizations, notable among them *Aizhixing* and *Yirenping*, have been forced to close and their staff monitored and harassed. In 2017, China passed a new law regulating non-government organizations, establishing grounds for detention of any Chinese citizen who collaborates with an unregistered overseas NGO. Domestic groups that have attempted to register human rights organizations are denied outright by government agencies or waylaid with endless convoluted administrative procedures. Independent organisations dedicated solely to human rights are effectively not permitted to officially exist.

14. HRDs who attempt to meet together informally are frequently prevented from doing so. They are either stopped from leaving their home, or the location where they had planned to meet is raided by security forces. Such tactics were used repeatedly against members of China's political reform advocacy group the New Citizens' Movement, whose members were arrested en masse, kept in incommunicado detention, and imprisoned. In January 2014 Xu Zhiyong, one of the movement's founders, was convicted of “gathering crowds to disrupt public order” and sentenced to four years imprisonment.

15. Freedom of Assembly is similarly severely restricted. Protests conducted without the permission of the Public Security Bureau have remained illegal since 1989; in 2016, the Criminal Law was amended to criminalize organizing or providing funding for any unsanctioned demonstration or public event. Those who attempt to organise demonstrations which call for greater human rights or which challenge the overarching political system face detention, arrest or imprisonment. Individuals accused of committing the crime of “gathering a crowd to disrupt order in a public place” are subject to harsh sentences, such as that of Guo Feixiong in August 2015 for his role in organizing a press freedom rally earlier that year.

16. In periods leading up to public mourning events, trials of sensitive individuals, high-level political meetings, or anniversaries of politically sensitive events, Chinese “stability forces” commit dozens to hundreds of HRDs and petitioners to house arrest, forced travel, or other detention. In 2017, lawyer Chen Jiangan was subjected to a cross-country drive under police escort to keep him from attending the trial of fellow human rights lawyer Xie Yang.

V. MOST TARGETED GROUPS: HUMAN RIGHTS LAWYERS, WHISTLEBLOWERS, PETITIONERS

17. China's human rights lawyers are regularly obstructed from the ordinary and lawful conduct of their official business, refused access to their clients, denied access to relevant documents,

prevented from accessing needed materials during court hearings and obstructed when attempting to renew their legal licenses. Law firms that hire human rights lawyers are subject to pressure from judicial authorities, accused of collaborating with foreign powers, and shut down. Attempts to open independent law firms are refused. A 2015 amendment to the Criminal Law established that lawyers whose courtroom speech is deemed insulting, threatening, or disruptive, can be punished by up to three years in prison. In 2018, a new regulation denied human rights lawyers the right to conduct interviews with foreign media.

18. In 2015, hundreds of lawyers and legal assistants were questioned, detained, and arrested in a national crackdown. In the course of this crackdown, dozens of lawyers and other HRDs were subject to illegal incommunicado detention. One lawyer targeted in the crackdown, [Wang Quanzhang](#), remains in incommunicado detention today, almost three years later. In one case, the child of a targeted lawyer was [extradited from a foreign country](#), interrogated by police, and subjected to months of house arrest and close surveillance.

19. Individuals who report on rights abuses are also victims of targeted government aggression, in violation of their right to free expression. In most cases, their treatment under the Chinese judicial process also grossly violates their rights under Chinese and international human rights law. Citizen journalists Lu Yuyu, Li Tingyu, [Huang Qi](#), [Liu Feiyue](#), and [Zhen Jianghua](#) founded websites documenting protest events and human rights violations in China. All six have been arrested on a variety of charges and kept in incommunicado detention for prolonged periods. As of 2018, Lu Yuyu is serving a four-year sentence, Li Tingyu has been released, [Huang Qi](#), and [Liu Feiyue](#) await criminal sentences, and [Zhen Jianghua](#)'s whereabouts in detention are unknown.

20. China's most violent treatment is reserved for petitioners, those who travel to central government offices to seek redress for acts of injustice in their hometowns. Petitioners, many of them HRDs who fiercely advocate for the rights of others as well as their own, are repeatedly denied the right to peaceful assembly and petition and subject to house arrest, forced travel, detention in unofficial "black jails", and violent assault. Wu Jufang, a petitioner HRD who has supported fellow petitioners to prepare their suits for presentation to government officials, has been violently detained, arrested, and forcibly sent from Beijing to her hometown on multiple occasions since she began petitioning in 2014.

VI. OTHER MEASURES FOR TARGETTING HRDS

21. Chinese authorities frequently use travel bans to block HRDs from travelling abroad for participation in human rights meetings and conferences. In 2013, HRDs [Cao Shunli](#) and Chen Jianfang were detained from airports while attempting to travel to the 24th session of the UN Human Rights Council. While in detention, Cao Shunli was repeatedly denied proper medical treatment and was refused multiple requests for release on medical parole, despite her rapidly deteriorating health due to pre-existing conditions. After six months in detention, [Cao Shunli](#) died in March 2014.

22. Many detained HRDs have also reported being administered unlabelled medication while in detention, which they were often compelled to take. Official requests from family members and defence lawyers for medical parole for HRDs are routinely denied, and medical care inside detention centres is scant and of poor quality. In some cases, medical negligence leads to disastrous consequences. In 2017, [Li Xiaoling](#), a defender of the rights of petitioners, was refused medical care for an attack of acute glaucoma, resulting in loss of the majority of her vision in both eyes. That same year the Chinese detention centre holding [Liu Xiaobo](#) belatedly announced his diagnosis of late-stage liver cancer; [Liu Xiaobo](#) died shortly after.

23. Chinese authorities frequently extend oppressive treatment to family members of targeted HRDs. Defenders' family members report being monitored, followed, harassed, detained, and

interrogated. Children of HRDs, including the daughter of pro-democracy activist [Zhang Lin](#), and the son of human rights lawyer [Chen Jiangang](#), have been prevented from attending the public schools where they studied, denying their right to education. Most commonly, local authorities contact the families of detained HRDs and warn them not to communicate with media or seek independent legal counsel for their child, spouse, or sibling. In the most severe cases, family members of HRDs are kept completely isolated from friends, family, and society, despite the absence of any criminal charge or official judicial proceeding against them. [Liu Xia](#), wife of [Liu Xiaobo](#), and Zhao Suli, wife of detained HRD [Qin Yongmin](#), have both remained in forced isolation for years.

VII. RECOMMENDATIONS

24. Front Line Defenders calls upon the member states of the UN Human Rights Council to urge the Chinese government to prioritise the protection of HRDs and in doing so:

- 1. Revise regulations that violate the right to freedom of expression, enforce the protection of freedom of expression and release all individuals arrested and detained on related charges.**
- 2. Put an immediate end to all arbitrary detention, particularly residential surveillance in a designated location. Release all HRDs currently detained under these conditions or begin formal, legal charges against them and provide them full access to legal counsel and appeal.**
- 3. Ensure the protection of the right to freedom of association and assembly. Allow for the independence of organizations to interact with one another. Free all individuals arrested and detained on related charges.**
- 4. Agree to a visit request by the Special Rapporteur on Human Rights Defenders and immediately work to put an end to the arbitrary persecution of HRDs.**
- 5. Agree to a visit request by the Special Rapporteur on the Independence of Lawyers and Judges. Withdraw mandatory party affiliation for law firms and all official and unofficial restrictions on freedom of expression of lawyers.**
- 6. Withdraw its reservations to the Convention against Torture and recognise the right of the Committee Against Torture to act on Chinese HRDs individual complaints.**
- 7. Ratify the International Covenant on Civil and Political Rights signed by China in 1998, and sign and ratify its optional protocols.**