Information for the Committee on the Rights of Persons with Disabilities on the occasion of the adoption of a **List of Issues** for the review of the People’s Republic of China

**13th Pre-Sessional Working Group**

**30 March – 3 April 2020**

The International Service for Human Rights[[1]](#footnote-1)

1. **Article 24: Education**

Reporting the implementation of the inclusive education since last review in 2012 to the committee of CRPD, in the concluding observations by the experts in last review, the experts made recommendations to China to relocate the resources from the special education system to promote the inclusive education in mainstream schools to enable the Children with disabilities can attend mainstream education (Section 35, 36).  Chinese government revised the regulations on the education policies of the persons with disabilities (残疾人教育条例) in 2017.

The new version, published on 1 May 2017, reads: ‘Education for persons with disabilities should increase in quality, proactively promote inclusive education, and according to the typologies of disability and abilities undertake to prioritize standard education methods while also including special education methods’ (Article 3) [[2]](#footnote-2). The Second Plan to Promote Special Education (2017-2020) also include a pledge to improve inclusive education by stating: ‘By placing emphasis on access to education in the standard schools, and retaining the importance of special education institutions, [authorities should] fully promote inclusive education’[[3]](#footnote-3).

However, such pledges are vague and difficult to assess. There is no more detailed information how to implement ‘inclusive education’ in practice in other official documents, or in the official State Party report from September 2018.

**We hope that the Committee can request the State Party to provide explicit information about the process of revising the regulations, their implementation, and measures and benchmarks for monitoring its progress.**

1. **Article 29: Participation in political and public life**

Information from the State Report based on Ministry of Civil Affairs documentation indicates that the number of social organisations, or *shehui zuzhi)* working to support persons with disabilities showed seven national-level organisations and 6200 local-level organisations (both social organisations, foundations and private not-for-profit social enterprises) working on such issues[[4]](#footnote-4).

It is incredibly hard to find corresponding official information to verify this claim; official numbers are poorly defined. For example:

* The March 2019 CDPF report listed a total of 16’000 specialised associations aimed at assisting persons with disabilities. This included 2562 social organisations (*shehui zuzhi*) supporting persons with disabilities nationally. It also listed 9036 structures (*ji gou*) working to rehabilitate persons with disabilities. This included 1346 working with the vision-impaired population; 1549 with the hearing-impaired population; 3737 working with those with physical disabilities; 3024 working with those with learning disabilities; 1962 working with psychological disabilities; 1811 working with children with autism; and 1929 organisations working to provide assistive devices[[5]](#footnote-5).
* This report by the CDPF further notes that 42’000 branches of the CDPF had been established in 2018, comprising a total of 549’000 branches covering more than 95% of cities, towns and neighbourhood/communes. This organisation is a mass organisation, closely connected to the Chinese Communist Party and government organs. Its director, Zhang Haidi, also holds a long-term position in the Standing Committee of the Chinese People’s Political Consultative Committee (CPPCC), a legislative advisory body comprised largely of Communist Party members.
* Finally, the State Council Information Office report, issued in July 2019, asserts that the number of CDPF branch organisations for persons with disabilities nationwide – with the exception of military zones in Xinjiang and Heilongjiang – was 42’000, while specialised associations made up 16’000.

Put in the domestic context, where the Ministry of Civil Affairs database indicates that as of January 2020 there were nearly 865’000 registered NGOs, the even using that largest numbers available the proportion of domestic charities/non-government organisations make up less than 2% of the sector.

Among foreign non-governmental organisations (FNGOs, registered with the Ministry of Public Security), some 30 out of 525 indicate that they work in whole or in part in the field of disability. This is just under 6% of the all registered FNGOs, approximately equal to the reported percentage of the population living with disability (a reported 85 million out of 1.4 billion).

While this does show some willingness to provide space for international cooperation with civil society organisations, as well as for the development of domestic, independent public interest and civil society groups, some cases do serve as cautionary tales. For example, in the summer of 2017, Sabriye Tenberken, the founder of Braille Without Borders and creator of the first Tibetan Braille, was required to end the activities of her and her organization in Lhasa, due to a lack of local partner approval (possibly under the new FNGO Law, which went into force on 1 January 2017). Through their work, in partnership with the Tibet Disabled Persons Federation, they had trained more than 300 Tibetan students with vision impairment since 1998.

**We urge the Committee to request the State Party to provide more information on the impact of the FNGO and Charity Law on registration of organisations and activities by non-governmental/not-for-profit organisations working to support persons with disabilities, in particular in ethnic minority areas.**

**What steps are being taken to ensure that organisations operating independently from the CDPF can access funds; provide services; consult on relevant laws and policies; and contribute to the work of the UN human rights mechanisms, including but not limited to the Committee?**

1. **Article 31: Statistic and data collection**

The State Report fails to disaggregate information about persons with disabilities by ethnicity, or residence in ethnic areas. Specifically, while the state report notes that the government has ‘incorporated poor persons with disabilities living in rural areas into the overall poverty alleviation efforts of the Government’[[6]](#footnote-6), there is no explicit information about how these efforts, including a ‘comprehensive protection mechanism’ mentioned later in the paragraph, are being implemented in different geographic, linguistic and cultural contexts.

This is a persistent problem. An annual report published in March 2019 by the China Disabled Persons Federation[[7]](#footnote-7) (or CDPF, a party-affiliated mass organisation) included extensive information about the breakdown by age (children under 6, and others); by type of disability; access and inclusion to mainstream education institutions; and special education systems. Similarly, a white paper published by the State Council Information Office in September 2019[[8]](#footnote-8) outlined a series of successes in the protection of rights of persons with disabilities, but again focused on aggregate numbers rather than reflecting on differential and intersectional experiences of persons with disabilities from rural, poor and/or ethnic minority contexts.

**We urge the Committee to call on the Chinese government to provide detailed information, disaggregated by province/region and ethnicity, to better understand variations in access to social services and public goods. Of particular interest is information about the baseline situation, and efforts taken to address it, in Yi, Tibetan and Uyghur ethnic communities.**

1. **Article 33: National implementation and monitoring**

In addition to the challenges facing organizations, individual human rights defenders who work for disability rights have also been reported under threat during the reporting period. These include:

* Hu Jun (胡军), one of the co-founders of Human Rights Campaign in China (权利运动, or HRCC), was reported by website Weiquanwang to be in danger, without access to internet and unable to move freely, in his home province of Xinjiang[[9]](#footnote-9). Mr Hu had previously been imprisoned from 1992 to 1994, and again from 1995 to 2008, for various crimes; during this time, he was paralysed in a labour camp and confined to a wheelchair. In 2009, along with some colleagues, Mr Hu started the organization HRCC. Then, in 2011, Mr Hu was detained on charges of ‘subversion of the state’ related to the activities of HRCC, and held in residential surveillance without a right to obtain a household registration or identity documents.

**The Committee could consider requesting information from the State Party on the whereabouts of Mr Hu Jun, who has been incommunicado since August 2017, and any formal judicial proceedings against him.**

**As has been repeatedly requested of the State Party by other UN mechanisms, including the Special Procedures most recently in November 2019[[10]](#footnote-10), we urge the Committee to ask: what steps has the State Party taken to ensure that human rights defenders (and civil society organisations, and others who seek to promote and protect internationally-recognized human rights) in China are able to carry out their peaceful and legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort?**

1. **Article 33: National implementation and monitoring**

During its 2012 review of the initial report of China, the Committee raised concerns about the absence of independent bodies and organisations monitoring implementation of the Convention. It therefore recommended ‘the establishment of an independent national monitoring mechanism in line with… the Convention and in accordance with the principle relating to the status of national institutions for the promotion and protection of human rights’.

The Chinese government asserts in its State Party report that the disabled Persons’ Work Committee of the State Council is charged with ‘promoting the implementation of the Convention’, and overall coordination of engagement with the UN on issues related to persons with disabilities (para 154).

However, in our assessment and tracking over the years since the last review, the Chinese government has hardly changed its approach to the need to establish a national human rights institution in line with the Paris Principles. Rather than undertaking this as a priority, they prefer to ‘consider’ such an effort – a process which has not yet borne fruit, and for which it is challenging to assess concrete progress.

* In 2014, China had accepted UPR recommendations explicitly related to the establishment of a NHRI.
* Later that year, China informed the Committee on Economic, Social and Cultural Rights that although it had not established a NHRI, it had overseen the establishment of 25 new government institutions intended to perform similar functions. In its concluding observations, the Committee expressed its concern about the absence of an NHRI (in line with the Paris Principles) and noted that governmental institutions ‘do not replace such an institution’.
* This was echoed by the Committee against Torture in 2015, who pressed China on establishment of an NHRI in their dialogue with the State[[11]](#footnote-11). The government responded that, while various departments were responsible for protecting human rights, it would ‘further consider establishing a national human rights institution’.
* The Committee on the Elimination of Racial Discrimination called for establishment of an NHRI in their 2018 review[[12]](#footnote-12), and also noted concerns that the Equal Opportunities Commission of Hong Kong was assigned a C rating by the Global Alliance of National Human Rights Institutions and was ‘not fully independent and accessible to victims’. The Chinese delegation responded by rejecting the recommendation, stating that there was no need.
* In its 3rd UPR cycle in 2018, China accepted five recommendations to consider the establishment of an NHRI in accordance with the Paris Principles, yet rejected 7 recommendations to explicitly establish an NHRI. It further stated that it ‘has not established an NHRI’, however ‘many government agencies in China assume similar responsibilities’.

**We urge the Committee to request that China provide an overview of existing third-party/independent mechanisms to monitor and promote human rights, including efforts to meet obligations under this and other international human rights conventions; it should also provide an analysis of any gaps between the National Human Rights Action Plan and such obligations. The Committee should urge the government to prepare, for its formal review, a time-bound action plan for establishing an NHRI and ensuring that it complies with the Paris Principles.**

1. This submission was conceived and drafted based on information from Chinese human rights defenders; for reasons of security, they remain anonymous. [↑](#footnote-ref-1)
2. . 中国政府网：《残疾人教育条例》第三条,<http://www.gov.cn/zhengce/content/2017-02/23/content_5170264.htm> . [↑](#footnote-ref-2)
3. .教育部:教育部等七部门关于印发《第二期特殊教育提升计划（2017-2020年）》的通知,<http://www.moe.gov.cn/srcsite/A06/s3331/201707/t20170720_309687.html>. [↑](#footnote-ref-3)
4. CRPD/C/CHN/2-3, para. 120. [↑](#footnote-ref-4)
5. It can be inferred that some organisations provide multiple services, thus accounting for a sum significantly larger than the overall total provided earlier in the paragraph. [↑](#footnote-ref-5)
6. CRPD/C/CHN/2-3, para. 5. [↑](#footnote-ref-6)
7. .人民政协网:《2018年残疾人事业发展统计公报》发布,<http://csgy.rmzxb.com.cn/c/2019-04-02/2322811.shtml>. [↑](#footnote-ref-7)
8. .国务院新闻办:《平等、参与、共享：新中国残疾人权益保障70年》白皮书, <http://www.scio.gov.cn/zfbps/ndhf/39911/Document/1660531/1660531.htm>. [↑](#footnote-ref-8)
9. https://wqw2010.blogspot.com/2017/08/blog-post\_73.html [↑](#footnote-ref-9)
10. <https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=24845> [↑](#footnote-ref-10)
11. CAT/C/SR.1371 ,para 44. Accessed at https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/264/87/PDF/G1526487.pdf?OpenElement [↑](#footnote-ref-11)
12. CERD/C/CHN/CO/14-17, para. 10 [↑](#footnote-ref-12)