



CHINA

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Joint submission prepared by FIDH (International Federation for Human Rights) and Taiwan Association for Human Rights (TAHR)

FIDH

The International Federation for Human Rights, known by its French acronym FIDH, is an international human rights NGO representing 184 organizations from 112 countries. Since 1922, FIDH has been defending all civil, political, economic, social, and cultural rights as set out in the Universal Declaration for Human Rights.

Address: 17 Passage de la Main d'Or, 75011, Paris (France)

Website: <https://www.fidh.org/en/>

Contacts: asia@fidh.org

TAHR

Founded in 1984, the Taiwan Association for Human Rights (TAHR) is one of the most important and oldest human rights NGOs in Taiwan. TAHR has participated in many important democratic and human rights movements in Taiwan and has advocated for the Taiwanese government to implement international human rights conventions and incorporate international human rights standards in its domestic legislation.

Website: <https://www.tahr.org.tw>

Contacts: info@tahr.org.tw, eeling@tahr.org.tw

1. This joint submission focuses on the Chinese government's actions to repress human rights defenders, including through arbitrary detention and enforced disappearance. These actions have targeted Chinese and foreign human rights defenders alike.

2. During its first Universal Periodic Review (UPR) in February 2009, China did not accept the three recommendations it received concerning human rights defenders, and all five recommendations related to arbitrary detention. During its second UPR in October 2013, China accepted three recommendations to improve the protection of human rights defenders and rejected the other three recommendations related to human rights defenders. China also accepted four recommendations that addressed the issue of arbitrary detention.
3. However, the Chinese government has failed to implement a number of recommendations it accepted, including recommendations to: ensure human rights defenders can exercise their legitimate activities; abolish its system of arbitrary detention; facilitate the participation of NGOs in safeguarding human rights; enable an environment in which both civil society and human rights defenders can operate free from fear, hindrance, and insecurity; ensure that proper investigations are conducted in all cases of attacks on human rights defenders; inform the suspects of their rights and obligations in a timely manner in accordance with the law; and actively create conditions for lawyers to get involved in a lawsuit from the stage of criminal investigation.
4. In addition, China has not yet become a state party to the International Covenant on Civil and Political Rights (ICCPR) despite having accepted recommendations that urged the government to take steps towards its ratification.

Shirking space for civil society

5. Since China's second UPR in 2013, Chinese authorities have intensified the crackdown on both local and foreign activist and human rights defenders through arbitrary arrests, prosecutions, and imprisonment under vaguely worded national security provisions.
6. Articles 103 ('inciting separatism') and 105 ('subversion of the state power' and 'inciting subversion') of China's Criminal Law contain broad and vaguely defined offenses that have been frequently used against activists who support democracy and human rights.
7. China does not provide a safe and enabling environment for civil society, academics, and human rights defenders. In April 2016, China passed the "Law of the People's Republic of China on Administration of Activities of Overseas Non-Governmental Organizations in the Mainland of China." The law, which came into effect in January 2017, bars foreign NGOs from providing funds to local NGOs. In addition, it prevents foreign NGOs registered in China from conducting fundraising or recruiting members. These restrictions are inconsistent with international standard related to the right to freedom of association.¹

¹ UN Human Rights Council, 20th session, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 21 May 2012; UN Doc. A/HRC/20/27 Paras. 67-72.

Arrest of foreign human rights defenders

8. The Chinese government's harassment and persecution of activists and human rights defenders has extended to foreign nationals both on Chinese territory and abroad. These actions are inconsistent with the recommendations the Chinese government accepted in the previous UPR to provide a safe and enabling environment for human rights defenders and civil society.
9. In January 2016, Chinese authorities arrested Swedish NGO worker Peter Dahlin, who ran a Beijing-based rights organization called *Chinese Urgent Action Working Group* (also known as *China Action*), as he was preparing to leave China. Mr. Dahlin was detained incommunicado for 23 days.
10. For more than a week in March 2017, University of Technology Sydney associate professor Chongyi Feng was detained and repeatedly interrogated about his links with intellectuals in China and blocked from leaving the country by authorities at Guangzhou international airport. Feng was eventually allowed to leave for Australia in early April 2017.
11. On 19 March 2017, Taiwanese activist Li Ming-Che was arrested after entering China from Macau through the Gongbei Port immigration checkpoint located in Zhuhai, Guangdong Province. Chinese authorities refused to disclose his fate or whereabouts until 27 March 2017, when they revealed that Li Ming-Che was being detained at an undisclosed location and investigated by police on suspicion of "endangering national security." On 28 November 2017, Mr. Li was found guilty of charges of 'subversion of the state power' and sentenced to five years in prison for sharing information about the history and democratization of Taiwan through social media. According to a document received by his family members in January 2018, Mr. Li was imprisoned in Zishan Prison in China's Hunan Province, where he has remained detained incommunicado until 27 March 2018.
12. According to a confidential report in Taiwan, other Taiwanese scholars and NGO workers were detained and questioned by Chinese police before Mr. Li's case. According to statistics maintained by Taiwan's Straits Exchange Foundation, 533 Taiwanese disappeared and 1,077 were detained with no information about their whereabouts in China from 1991 to November 2017.
13. In January 2018, Hong-Kong based book publisher Gui Minhai, a Chinese-born Swedish citizen, was arrested for the second time by Chinese plainclothes police as he was travelling with Swedish diplomats to seek medical treatment in Beijing on charges of "illegally providing state secrets or intelligence." In late 2015, Gui went missing in Thailand and was one of five men who vanished in a string of incidents known as the 'Causeway Bay Books disappearances.'

Criminalization of freedom of expression

14. Internet freedom in China has been steadily declining since 2013. Evidence has emerged of increasing censorship on the online messaging application *WeChat*.² In addition, several individuals have been detained over messages they sent using *WeChat*.
15. In November 2016, China passed the “Cybersecurity Law.” The law, which came into effect in June 2017, has been used to restrict the right to freedom of expression on the internet and expand internet surveillance. It requires internet users to register by using their real name on the internet, and internet service providers must deny service to any person who registers using fictitious names. The Cybersecurity Law also requires internet service providers to retain their users’ personal details, and imposes an obligation on internet platforms to cooperate with the Chinese government for ‘national security.’
16. Taiwanese activist Li Ming-Che was sentenced to five years in prison over offenses that included using the internet to share information concerning the democratization of Taiwan and to criticize the Chinese government between 2012 and 2015.
17. The arbitrary arrests and detentions of many human rights lawyers, writers, and bloggers for the exercise of their right to freedom of opinion and expression illustrates the repressive environment that prevails in China.
18. Nobel Prize Laureate Liu Xiao-Bo, who called for political reforms and was involved in campaigns to end one-party rule in China, was one of the authors of the pro-democracy manifesto *Charter 08*. In December 2008, Liu was arrested for his involvement in the drafting of Charter 08. A year later, he was sentenced to 11 years in prison on charges of ‘inciting subversion of state power.’ On 13 July 2017, he died of liver cancer, a few weeks after being granted medical parole.

Arbitrary detentions and lack of fair trial

19. In many cases, authorities have invoked ‘national security’ and other overly broad provisions in its draconian legislation to arbitrarily arrest, detain, and prosecute human rights defenders without due process. In some cases, those detained have been forced to confess to crimes they did not commit.
20. After his arrest in January 2016, Swedish NGO worker Peter Dahlin’s fate or whereabouts were unknown for 23 days. He later appeared in an interview broadcast on the Chinese state television channel CCTV, where he gave a confession in which he stated that he had “violated Chinese law.” During a media interview after his release on 25 January 2016, he revealed that during his

² The Citizen Lab, *We (can’t) chat - “709 Crackdown” Discussions Blocked on Weibo and WeChat*, 13 April 2017

detention he had been repeatedly interrogated, deprived of sleep, and subjected to other acts that could amount to torture or ill-treatment.

21. After being kidnapped in Thailand in late 2015, Hong Kong-based book publisher Mr. Gui Minhai was detained without trial in Ningbo, Zhejiang Province, China, for two years. After his release, he was re-arrested by Chinese plainclothes police in January 2018, as he was travelling with Swedish diplomats to seek medical treatment in Beijing. He remains detained without trial.
22. Taiwanese activist Li Ming-Che was taken into custody on 19 March 2017 and was formally arrested only on 26 May 2017. His whereabouts remained unknown until January 2018. His right to access to effective legal counsel was denied, even if the Chinese government announced that a lawyer had been appointed on 14 June 2017. The Chinese government did not inform the Taiwanese government or Mr. Li's family members of his arrest.
23. On 11 September 2017, Li Ming-Che was put on trial in the court of Yueyang, Hunan Province. During the trial, the prosecution focused on his online communications through messaging applications from 2012 to 2015 in Taiwan. In court, the state-appointed lawyer agreed that Mr. Li had committed the crime of which he was accused ('subversion of the state power'), and Mr. Li was forced to confess to this crime in front of the court's cameras. On 28 November 2017, Li Ming-Che was found guilty on charges of 'subversion of the state power' and sentenced to five years in prison. After sentencing, Mr. Li relinquished his appeal rights.
24. In January 2018, Tibetan language advocate Tashi Wangchuk was put on trial on charges of 'inciting separatism' in connection with his appearance in a video on the *New York Times* website, in which he promoted the use of Tibetan language. Tashi Wangchuk pleaded not guilty to the charges during a four-hour hearing in Yushu, Qinghai Province, China, where the prosecution's main piece of evidence against him was the nine-minute video. The trial of Tashi Wangchuk is ongoing.

Incommunicado detention amounts to torture or ill-treatment

25. Despite having ratified the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Chinese authorities still use torture and ill-treatment to intimidate human rights defenders, including human rights lawyers.
26. Detained Taiwanese activist Li Ming-Che was held incommunicado for more than a year, after his arrest on 19 March 2017. On 29 January 2018, Li Ming-Che's wife Li Jingyu received a document from Zishan Prison informing her that her husband was being held there and she had the right to visit him once a month. However, when Mrs. Li purchased a flight ticket to China's Hunan Province, the airline prevented her from boarding the plane in Taiwan because the Chinese

government had canceled her travel documents. In addition, Li Ming-Che has been unable to communicate with the outside world through phone calls or correspondence. Letters sent by Taiwanese NGOs to Li Ming-Che were not delivered and were sent back to Taiwan. Prison authorities also failed to deliver warm clothes that Mrs. Li had sent to her husband. Mrs. Li was eventually allowed to travel to China and to visit her husband in Zishan Prison on 27 March 2018. Zishan Prison is well-known for its authorities' use of torture against political prisoners.

27. Many testimonies have emerged by human rights lawyers who reported being tortured or forced to take unknown pills during their detention in Chinese prisons. Many of them fell ill after being released from prison. Human rights lawyer Li Heping said he had to wear handcuffs and shackles with iron chains between his legs all day long, and he could not stretch the body even when he was sleeping.

Failure to cooperate with UN human rights monitoring mechanism

28. Despite accepting numerous recommendations concerning cooperation with United Nations (UN) human rights monitoring mechanisms during its second UPR, the Chinese government has failed to extend an official invitation to UN Special Procedures, including the UN Working Group on Arbitrary Detention (WGAD) and the UN Working Group on Enforced or Involuntary Disappearances (WGEID) to visit China.
29. Despite an official request sent by the WGEID, the Chinese government has repeatedly failed to provide information concerning the fate and whereabouts of Taiwanese activist Li Ming-Che after his arrest on 19 March 2017.

Recommendations

30. FIDH and TAHR call on United Nations (UN) member states to make the following recommendations to China:
1. Amend the “Law of the People’s Republic of China on Administration of Activities of Overseas Non-Governmental Organizations in the Mainland of China” and the “Cybersecurity Law” in order to bring them in line with international standards of freedom of expression.
 2. Promptly inform the family members and authorities from the country of origin of arrested human rights defenders, and grant visitation rights to family members and officials from their country of origin.
 3. Improve the Criminal Procedure Law to bring it in line with international law.
 4. End the arrest and detention of individuals for the peaceful exercise of their right to freedom of opinion and expression, including criticism of the government or dissemination of information about democracy and human rights online.

5. Ensure detention conditions are in line with international standards, such as the Mandela Rules and the Bangkok Rules.
6. Fully cooperate with UN Special Procedures, including the UN Working Group on Enforced or Involuntary Disappearances (WGEID) and the UN Working Group on Arbitrary Detention (WGAD), and allow them to visit detained human rights defenders.
7. Respect the rights to freedom of opinion and expression, freedom of peaceful assembly, freedom of association, freedom of movement, and freedom of religion or belief of all human rights defenders.