

CHINA AND THE UN TREATY BODY SYSTEM

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INTRODUCTION

This is ISHR's third briefing note on the growing influence of China¹ on UN human rights bodies and mechanisms, following the 2021 briefing paper mapping Chinese presence in the United Nation's Economic and Social Council (ECOSOC) and its subsidiary bodies and agencies² and the 2020 publication of the chapter 'Feeling for stones: how China found its footing at the UN's Human Rights Council', in the Amnesty International compilation *Shifting Power and Human Rights Diplomacy: China*.³

The report seeks to document China's attitude towards and cooperation with the UN human rights Treaty Bodies (UNTBs) using a broad range of sources, including Chinese official statements to UNTBs, UN staffers and independent experts, and ISHR's and other organisations' direct experiences. It identifies the worrying ways in which China pursues influence over the composition, role and attributions of the UNTBs, and active government efforts to deter inputs from independent NGOs, while facilitating inputs from government-aligned organisations. Three examples of Chinese influence provide a vivid illustration of these trends.

It concludes with a series of key recommendations to strengthen the UNTBs so as to mitigate undue influence by China, and other member States pursuing similar goals.

¹ Unless otherwise specified, the terms 'China' and 'Chinese' in this paper are used to refer to the government of the People's Republic of China, and recognises the powerful parallel role of the Communist Party of China in setting government policy.

² ISHR. Briefing note: China and the Economic and Social Council. July 2021. Available at https://ishr.ch/wp-content/uploads/2021/07/final_proofed_formatted_-_china_and_ecosoc_0.pdf.

³ Amnesty International, ed. Davis Ismangil, Karen van der Shaaf and Stijn Deklerk. February 2020. Available at https://www.amnesty.nl/content/uploads/2020/02/STATEGIC-STUDIES-CHINA_webversie.pdf.



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WHAT ARE THE UN TREATY BODIES, AND WHY DO THEY MATTER FOR CHINA?

The United Nations treaty bodies (UNTBs) were the first UN mechanisms established with an exclusive focus on binding human rights norms. The first of them, the Committee on the Elimination of Racial Discrimination, started operating over 50 years ago. As sadly illustrated by the tragic death of George Floyd and the ensuing global outcry it unleashed, the need for – and relevance of – UNTBs remain fundamental to this day. Put another way:

The United Nations human rights treaty bodies are at the heart of the human rights protection architecture. Their independence, legal analysis of treaty provisions and expert review of implementation by States parties allow them to play a crucial role in promoting and protecting human rights around the world.⁴

⁴ UN OHCHR. Handbook for Human Rights Treaty Body Members. 2015. Available at https://www.ohchr.org/sites/default/files/Documents/Publications/HR_PUB_15_2_TB_Handbook_EN.pdf

Mandate and work

The UNTBs have a unique mandate as they are designed to monitor compliance with the core international treaties. Unlike other UN structures or bodies based on the UN Charter, the UNTBs are established and mandated by their corresponding treaty.

This means, for example, that UNTBs do not have a formal reporting relationship with the UN Human Rights Council. The Human Rights Council is a political body headed by States, while UNTBs are independent bodies composed of experts nominated by the governments of States that have ratified those treaties. A large number of countries are genuinely dedicated to and work toward ensuring that candidates for UNTB membership are independent and highly qualified.

There are currently ten UNTBs, nine of them monitoring their corresponding core international human rights treaty,⁵ and the tenth – the Subcommittee on the Prevention of Torture – established under the Optional Protocol to one of those treaties, the UN Convention against Torture.

The UNTBs play a crucial role to provide guidance to States parties on how to comply with the binding provisions of the treaties. The two core functions of the UNTBs are to review periodic reports submitted by States, and to receive complaints from individuals whose rights have been violated under the specific treaties. To do the latter, States must have ratified a specific Protocol or accepted the competence of the Committee to consider such complaints.

In discharging their mandate, UNTBs can receive information about human rights violations from any relevant source, including civil society and human rights defenders. Based on this information, as well as official reporting from States and, where relevant, material from national human rights institutions, they can ask States to prevent violations, provide redress and reparation for victims, and hold perpetrators accountable. Unlike other charter-based mechanisms such as the UN Human Rights Council, UNTBs do not require formal accreditation from the UN Economic and Social Council (ECOSOC) for civil society to provide inputs and cooperate with them. This means that in principle, **anyone can submit information on human rights violations to UNTBs.**

The promise of the UNTBs is an expert review process, informed by all relevant stakeholders, that supports governments in their efforts to comply with their international human rights obligations. However, as this report shows, this promise is considerably curtailed when it comes to using this system to advance human rights protection in China.

Foundations of Chinese engagement

China has signed, but for 25 years failed to ratify, one of the two human rights covenants that comprise the International Bill of Rights: the International Convention on Civil and Political Rights. This has meant that many of the most urgent human rights challenges faced by Chinese civil society cannot be addressed by the corresponding treaty body, the UN Human Rights Committee. In addition, for those human rights treaties which it has ratified, China has not accepted any

⁵ The International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT); the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW); the International Convention on the Rights of Persons with Disabilities (ICRPD) and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED).

individual complaint procedure. China is party to (in other words, has ratified or acceded to) the following international treaties:

- International Covenant on Economic, Social and Cultural Rights (CESCR)
- International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention against Torture and Other Forms of Cruel, Inhumane or Degrading Treatment (CAT)
- Convention on the Rights of the Child (CRC)
- Convention on the Rights of Persons with Disabilities (CRPD)

Historically, some States have competed to exercise a degree of oversight over UNTBs, with a view to shaping their outcomes. Among those, China has regularly sought to nominate and see elected UNTB members who would be favourable to them. In addition, and particularly where such efforts have failed or where the UNTB membership is more balanced, countries such as China and Russia have sought to water down the effectiveness of UNTBs, often denouncing what they see as overreach ('going beyond their mandate') by Committees or specific Committee members.

Chinese attempts to exercise oversight and control the work of UNTBs have historically focused on seeking to impose a code of conduct on UNTB members;⁶ curtailing 'non-mandated activities' such as follow-up to Concluding Observations and Views,⁷ or the drafting and adoption of General Comments; and dismissing independent sources of information from stakeholders, including NGOs. In a detailed analysis of China's engagement with the Committee against Torture (CAT), former US member of the CAT Felice Gaer points out that, in cases where all procedural elements have proven resistant to its influence, the Chinese government has responded vehemently to Concluding Observations of the Committee that did not conform to its views.⁸

Given that [the Chinese government exerts powerful influence over the UN Committee which awards accreditation](#)⁹, the UN's Charter-based bodies – such as the Human Rights Council or the General Assembly – are less likely to receive information or other contributions from independent Chinese civil society actors. In contrast, the UNTBs are not constrained in their engagement with civil society by the need for ECOSOC accreditation; this makes them one of the few human rights mechanisms where direct engagement of Chinese activists and civil society is still possible. As this paper demonstrates, Chinese officials have nonetheless used other tactics to limit communication between the UNTBs and independent NGOs, including by engaging in intimidation and reprisals. Effectively strengthening the ability of the UNTBs to prevent and, where necessary, to expose such behaviour is essential to keeping open this last remaining space for victims, survivors, family members, and advocates.

⁶ See 'Views of the Chinese Government regarding the human rights treaty body strengthening process', para 2.9. 2012. Available at <https://www.ohchr.org/en/treaty-bodies/treaty-body-strengthening-submissions-states-parties>

⁷ See 'Submission of China to the 2020 review of UNTBs', Section 1. 2020. Available at https://www.ohchr.org/sites/default/files/Documents/HRBodies/TB/HRTD/CoFacilitationProcess/States/China_docx

⁸ Gaer, Felice. 'International Human Rights Scrutiny of China's Treatment of Human Rights Lawyers and Defenders: The Committee Against Torture.' *Fordham International Law Journal*. Vol 41, issue 5. 2018. Available at <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2715&context=ijl>

⁹ ISHR 2021, op. cit.



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CHALLENGES TO ENSURING ‘EXPERT, INDEPENDENT’ MEMBERSHIP IN THE UN TREATY BODIES

How to guarantee the independence and impartiality of members is a problem which has persisted throughout the five decades of existence of the UNTBs. In 2012, the chairs of the UNTBs adopted Guidelines on the independence and impartiality of members of the human rights treaty bodies, also known as the ‘[Addis Ababa Guidelines](#)’.¹⁰ To date, this set of principles constitutes the most relevant tool adopted toward this end.

The Guidelines outline key principles related to independence and impartiality, and how UNTB members should apply them in a range of situations where a reasonable observer could impute a real or perceived conflict of interest with a State. This includes:

- Reviews or other formal processes of the treaty bodies
- Consideration of individual communications
- Participation in country visits

¹⁰ A/67/222. Available at www.ohchr.org/Documents/HRBodies/TB/AnnualMeeting/AddisAbabaGuidelines_en.doc

- Relationships with States
- Decision-making roles in other organisations¹¹
- Participation in other human rights activities

Speaking one year after their adoption, the Chair of UNTB Chairpersons mentioned that all UNTBs had incorporated the Guidelines ‘in one way or another, in the rules of procedure and practices’; this was confirmed in January 2014, when the UNTB chairpersons issued a joint statement declaring that ‘all the treaty bodies apply the principles of the Addis Ababa guidelines in their rules of procedure and/or practice... Observance of the principles of independence and impartiality [is] under the continual and effective scrutiny of the treaty bodies.’¹²

A UN General Assembly resolution adopted in April 2014 encouraged the treaty bodies to ‘implement the guidelines in accordance with their mandate.’¹³ Yet years down the road, an independent academic study has demonstrated that little has changed.¹⁴

Nomination of candidates

Various steps have been taken taken by States¹⁵ and civil society¹⁶ to reduce the over-representation of individuals with connections to their national government in UNTBs, with limited impact so far.

Annex 1 provides an overview of Chinese members of UNTBs for the past ten years. The overview is striking in that all of them have formal, deep, and long-standing affiliations with the executive branch of the Chinese government, often in the area of foreign affairs and diplomacy. At least one of them (XIA Jie¹⁷ from CEDAW) has a formal affiliation with the Communist Party of China (CPC). Although not uncommon across the UNTBs, the over-representation of individuals with high levels of connection and collusion with their government in UNTBs is deeply problematic, and well documented, in China and beyond.¹⁸

In sum, Annex 1 provides a vivid illustration that China fails to comply with basic rules of independence and impartiality in their nominations. That this is likely true of many States would be well-merited as the subject of a broader inquiry, but does not absolve the international community from recognising and reacting to the trend in this specific case. A call for States to adopt open and transparent processes of nominations, endorsed by High Commissioner Navi Pillay in a 2012 report

¹¹ Defined in the text as inclusive of ‘private corporations or entities, civil society organisations, academic institutions or State-related organisations.’

¹² Statement of Claudio Grossman during an informal consultation with States on the occasion of the 25th Meeting of UNTB chairpersons (2013). Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCHAIRPERSONS%2fSTA%2f25%2f19774&Lang=en

¹³ UNGA resolution 68/268, para 36. Available at https://www.ohchr.org/sites/default/files/Documents/HRBodies/TB/HRTD/A-RES-68-268_E.pdf

¹⁴ An independent study carried out by the Geneva Academy found that 44% of UNTB members had an affiliation with their national government. See Diversity in Membership of the UN Human Rights Treaty Bodies. 2018. Available at <https://www.geneva-academy.ch/joomlatools-files/docman-files/Diversity%20in%20Treaty%20Bodies%20Membership.pdf>

¹⁵ E.g., by establishing open and competitive national processes for identification of candidates to UNTB elections

¹⁶ E.g., by establishing online platforms to provide detailed information about candidates to UNTB elections, such as <http://untbelections.org/>

¹⁷ Chinese names are indicated with the surname first, in capital letters for the first mention, and the given name second.

¹⁸ Geneva Academy, op. cit.

to the UN General Assembly,¹⁹ has been largely ignored by States despite active engagement and follow-up by civil society.²⁰

Elections

UNTB elections provide another challenge to the meaningful guarantee of independence of expert members. The secrecy of arrangements between States in relation to elections of UNTB experts makes it hard to ascertain what alliances are made between states, on what basis and on what conditions; but it is safe to say that the practice of 'horse trading' is generalised.²¹ Some regional groups such as the Nordic countries have a practice of coordinating the process of nominating candidates, and UN-recognised regional groups may coordinate as well. The specifics vary across elections and regions, and such alliances are often based on practice rather than formal procedure. As a powerful and increasingly influential player at the UN,²² it is clear that China seeks to exercise a significant influence on the election of UNTB members, whether Chinese nationals or from third countries, including allies.²³

Carriage of duties

As far back as 1990, the CERD adopted a general recommendation on the independence of members, 'noting its alarm at the tendency of States ... to put pressure on its members, particularly country rapporteurs, and strongly recommended that States ... should respect unreservedly the status of its members as independent experts of acknowledged impartiality serving in their personal capacity.'²⁴

The Addis Ababa Guidelines clearly establish that UNTB members 'may not be subject to direction or influence of any kind, or to pressure from the State of their nationality or any other State or its agencies, and they shall neither seek nor accept instructions from anyone concerning the performance of their duties.'²⁵

¹⁹ UN OHCHR. *Strengthening the United Nations human rights treaty body system: A report by the United Nations High Commissioner for Human Rights*. 2012. Para 4.4.2 www.ohchr.org/sites/default/files/english/bodies/HRTD/docs/HCReportTBStrengthening.pdf

²⁰ See, for example, ISHR submission to the treaty body strengthening process, and joint NGO letter at the annual meeting of Treaty Body chairs. Available, respectively, at https://ishr.ch/wp-content/uploads/2021/07/ishr_submission_to_questionnaire_on_tb_strengthening.pdf and <https://www.ohchr.org/sites/default/files/Documents/HRBodies/TB/AnnualMeeting/29Meeting/JoinNGOStatement.pdf>

²¹ 'Toward a 21st century treaty body system'. Wilton Park, 2017. Available at <https://www.wiltonpark.org.uk/wp-content/uploads/WP1574-Report.pdf>. See also Carraro, Valentina. 'Electing the experts: Expertise and independence in the UN human rights treaty bodies.' In *European Journal of International Relations*, Vol. 25(3), 2019. Available at <https://journals.sagepub.com/doi/pdf/10.1177/1354066118819138>

²² See, for example, Teng Cheng-chia and Yang, Alan H. 'How China is remaking the UN in its own image.' *The Diplomat*, 9 April 2020. Available at <https://thediplomat.com/2020/04/how-china-is-remaking-the-un-in-its-own-image/>

²³ Human Rights in China (HRIC). 'Engaging China on Human Rights: the UN Labyrinth.' Interview with Felice Gaer, 29 October 2010. Available at www.hrichina.org/en/content/3261.

²⁴ OHCHR 2015, op.cit. General recommendation No. IX (1990) concerning the application of article 8, paragraph 1, of the Convention.

²⁵ A/67/222, para 5



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CHINESE PERSPECTIVES ON UN TREATY BODY POLICIES AND PRACTICES

While China has accepted many human rights norms, it has often worked to make the instruments that monitor them toothless— to render them into almost powerless entities, for example, creating a committee that cannot speak out, a procedure that cannot name names, or instruments that can't promote compliance. ²⁶

Independence of the Secretariat

The Office of the High Commissioner for Human Rights (OHCHR) hosts the Secretariat of the UNTBs and thus holds a crucial and powerful role. The OHCHR is not only in charge of the organisational aspects of the UNTBs work, such as scheduling meetings and preparing online platforms where needed; they also prepare drafts of communications and concluding observations, with varying levels of engagement and scrutiny of the content of such documents from the

²⁶ HRIC 2010.

independent experts. OHCHR staff are meant to disseminate public information about schedules of sessions, calls for inputs and submissions to general comments, revised rules of procedure, etc, including to members of civil society directly.

Pillay's 2012 report recalled 'the powers of the treaty bodies to decide on their own working methods and rules of procedure and to guarantee their independence.'²⁷ Despite this widely accepted principle, China has made no secret of its desire to exercise strict control over the activities of UNTB members and the Secretariats that support them. In a rare insight into the level of pressure privately exercised by Chinese diplomats over the Secretariats of UNTBs, former CAT member Gaer recalled in her essay that China sought to ensure the nomination of Rapporteurs – those members with primary responsibility for a specific review – who would be friendly to them.²⁸

Provision of independent information to UNTBs

The provision of independent information to UNTBs, primarily from NGOs, has historically constituted a top area of focus for Chinese attempts to control and restrict the work of UNTBs. Reflecting on her time as a CAT member, Gaer mentions that this influence was visible 'not only in the formal public review, but also through private communications to the UN Secretariat before and after the dialogues.'²⁹

In reference to UNTB strengthening, a Chinese diplomat mentioned in 2012 that her government's goals for the process were to 'promote constructive dialogue between treaty bodies and States parties on such issues as increasing efficiency, enhancing the role of conferences of States parties, and formulating codes of conduct for treaty body experts', with States (rather than UNTB independent experts) playing a 'leading role' in the reform process.³⁰

A separate Chinese submission of 2012 noted that:

*Every treaty body must also maintain an objective and impartial position and rigorously screen information submitted by NGOs. Information from NGOs is only provided for reference during the committee's deliberations; unless the country under review has given its consent, such information should not be made public on committee websites or distributed by committees to the public in some other form.*³¹

In preparation for a subsequent review on UNTB strengthening, the Chinese delegation in 2019 reinforced its position that anything beyond 'constructive dialogue' constituted overreach of the UNTBs' mandate. They also included, for the first time, more explicit remarks about the need to also supervise the OHCHR:

²⁷ OHCHR 2012.

²⁸ Gaer 2018, p.1182

²⁹ Gaer 2018, p. 1171

³⁰ A /C.3/67/SR.20

³¹ Submissions by States parties in the context of the UNTB strengthening process, 2012. Available at www.ohchr.org/sites/default/files/english/bodies/HRTD/docs/submissions2011-12/states/ChinaSubmission.doc

*A responsible international agency should be subject to appropriate supervision and accountability while performing its functions under the authority, and human rights treaty bodies are no exception. The treaty bodies should engage in constructive dialogue with States parties within the mandate of the Convention to avoid acting beyond the mandate of the Convention and politicization and selectivity. The Chinese side noted that there are experts of human rights treaty bodies and officials of the Secretariat (OHCHR), bypassing normal working procedures and channels, and privately accepting media or non-governmental organizations to interview and express irresponsible and unsubstantiated comments on the State party. Serious violations of the Convention's mandate and the basic norms of "fair performance" seriously undermine the credibility of treaty bodies and experts, OHCHR and its officials. The treaty bodies and OHCHR should take measures to prevent such erroneous acts from recurring.*³²

The 2019 Chinese submission goes on to affirm that:

*Unverified material and information of unconfirmed sources are arbitrarily relied on. Some questions posed in the reviews by some treaty bodies are not based on States parties' reports, rather, random expansion of the scope of the reviews, putting disproportionate and excessive focus on individual cases, is commonplace which is not only beyond the mandate from the treaties, but also uncondusive to the objective and comprehensive consideration of States parties' compliance with the treaties.*³³

Then it focuses on the role of the Secretariat in handling information provided by civil society, espousing a view that OHCHR staff must ensure 'conformity' of the materials to the UN Charter – despite the fact that these are not UN documents.

*When publishing on the website or otherwise disseminating materials submitted by relevant civil society and other stakeholders, the treaty bodies should ensure that such materials conform to the purposes and principles of the Charter of the United Nations, and do not contain content that directly or indirectly advocate terrorism, extremism, or undermine the sovereignty and territorial integrity of the State party.*³⁴

As a result of this independent information, the submission concludes, some treaty bodies 'relied on unverified materials and information from non-governmental organisations and made irresponsible and impractical recommendations.'³⁵

³² Submissions by States parties in the context of the UNTB strengthening process, 2012. Available at www.ohchr.org/sites/default/files/english/bodies/HRTD/docs/submissions2011-12/states/ChinaSubmission.doc

³³ Submissions by States parties in the context of the UNTB strengthening process, 2012. Available at www.ohchr.org/sites/default/files/english/bodies/HRTD/docs/submissions2011-12/states/ChinaSubmission.doc

³⁴ Submissions by States parties in the context of the UNTB strengthening process, 2012. Available at www.ohchr.org/sites/default/files/english/bodies/HRTD/docs/submissions2011-12/states/ChinaSubmission.doc

³⁵ Ibid.

UNTB working methods and procedures

The Chinese formal submission to the 2020 review process³⁶ emphasises that UNTBs:

...should operate strictly within the terms of their mandates provided for under the respective treaties... The States parties' views in this regard should be fully respected and considered.

Such comments have not been limited to the mandated discussions of the UNTB system reform. In other opportunities, Chinese delegations expressed their views about the conduct of specific Committees, generally in response to their own review. For example, responding to the presentation of the CAT annual report at the UNGA in 2020, a Chinese diplomat noted that

The Committee (does) not have a mandate to issue general comments of an interpretive nature. The only reference to general comments in the Convention was in article 19, pursuant to which the Committee was allowed to make general comments on national reports. The Committee should act in accordance with the original meaning of the Convention and refrain from inappropriate or overly broad interpretations of its provisions, in order to avoid changing the nature and scope of the obligations of States parties. Moreover, when addressing topics on which States parties had diverging views, the Committee should exercise caution and solicit views from a wide range of stakeholders, in particular States parties.³⁷

Taken together, these statements are part of a concerted effort to reduce or limit the powers of the Committee (e.g., its ability to issue general comments that provide interpretation to the Articles of the Convention) with a clear implication that, among stakeholders, the Committee should privilege information from States parties over and above that from independent civil society. This does not, however, preclude a role for government-organised NGOs, or 'GONGOs', who are vocal in their support for Chinese government policies domestically and at the UN.

The role of Chinese GONGOs

At the same time that Chinese diplomats seek to silence independent voices, there appears to be an increase in participation – implicitly allowed or even fostered – by GONGOs.

Chinese GONGOs broadly stem from two categories: the first includes organisations established by active government officials, while the second category includes academic institutions, all of which receive governmental funding and report to the government. They actively work to promote China's human rights achievements internationally. GONGOs in China – as in other, similar national contexts – can be easily identified by the extent to which their leadership holds simultaneous positions in political institutions or organs; their staff and members enjoy a privileged position in the policymaking process; they are, or are seen to be, carrying out work (e.g., making statements) on

³⁶ Submission of China to the 2020 review of UNTBs, op.cit.

³⁷ A/C.3/74/SR.18. Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/314/54/PDF/N1931454.pdf?OpenElement>

the state's behalf; and their inputs endorse and praise official positions and policies. In the context of the UNTBs, this is most evident in reports offering at worst lavish praise for government efforts to comply with treaty provisions, furnishing at best mild criticisms or encouragement for the authorities to 'continue' their work to protect rights enshrined in the treaty.

The power and influence of Chinese GONGOs should not be underestimated. Take, for instance, the China Society for Human Rights Studies (CSHRS) – a sort of omnibus organisation that blends academic or think tank work with international advocacy, on a range of rights issues and often with the explicit support of the State Council Information Office (SCIO), a branch of the CPC. The content and presentation of their website³⁸ raises questions to the initial observer about the extent of their independence; verbatim repetition of Chinese government talking points is present throughout much of the content, while resources and news articles are nearly exclusively populated by official documents, political and ideological materials, and state media reporting. CSHRS General Secretary Lu Guangjin has regularly contributed to *Global Times*, an English-language state media, as well as *Qiushi*, a Chinese-language journal of the CPC Central Committee. He also spent 20 years working in the SCIO. The current CSHRS leadership also includes Padma Choling and Qiangba Puncog, both former heads of government and chairmen of the regional CPC in Tibet.

CSHRS is a member of the international umbrella Conference of Non-Governmental Organizations in Consultative Relationship with the United Nations,³⁹ which seeks to coordinate some NGO engagement with UN human rights bodies in Geneva. Through this participation, the organisation gains legitimacy and skills or tactics for occupying the limited space available; the Chinese government benefits from having (nominal) civil society actors who can make statements at the UN Human Rights Council, or host side events, that reaffirm the official State narrative on international human rights standards overall, and specific human rights challenges in particular (for example, the situation in Xinjiang Uyghur Autonomous Region). In at least one instance, in dialogue with the UN Special Rapporteur on contemporary forms of slavery, a CSHRS intervention appeared to equate their position with the position of the Chinese state.⁴⁰

The presence and participation of Chinese GONGOs in UNTB reviews not only undermines the potential credibility of NGOs broadly. It also contributes to reduce the time and space available for independent NGOs to interact with UNTBs; it can confuse the expert bodies to whom the distinction between GONGO and independent NGO may not be evident; and it can imperil the participation of independent NGOs and individual activists by creating a chilling effect, on the (well-grounded) assumption that information about their actions could be shared with government officials. As a result, across all human rights communities in China (and more recently, in Hong Kong), independent NGOs are increasingly reluctant to participate in UNTB sessions.

There have been efforts to address this risk of intimidation and reprisal, as well as increase options for secure or confidential communication with the UNTB Secretariats and members. However, the Chinese government's tolerance or even encouragement of the engagement of GONGOs is in practice an effective way of ensuring that official Chinese perspectives are reinforced, without being seen as 'interfering' or seeking to influence the procedures or methods of work themselves.

³⁸ The site is available at www.chinahumanrights.org/

³⁹ For more information see <https://ngocongo.org/member-organizations>

⁴⁰ CSHRS, September 2021. Available at http://www.chinahumanrights.org/html/2021/JE_0924/17104.html



RESTRICTIONS TO CIVIL SOCIETY ENGAGEMENT

China's attempts to restrict, control and censor independent NGO inputs to UNTB is not limited to rhetoric in official statements to UN bodies, nor to a passive approach that outsources implied or actual disinformation, threats and intimidation to GONGOS. There are a number of practical examples where intimidation and reprisals have occurred throughout the review process of China by several UNTBs, stemming from the express action of Chinese officials and delegation members. After discussing China's record on reprisals overall, as well as the efforts of the UNTBs to establish clear guidelines for the prevention and response to cases of reprisals, this section concludes with three illustrative anecdotes. The incidents recounted, while qualitative in nature, provide compelling evidence of China's ability to effectively and unrelentingly restrict civil society engagement with UNTBs in the context of specific reviews, and deter independent sources from speaking up.

Publication of NGO reports on the OHCHR website

Many of the actions and positions summarised above are perhaps exemplified by China but are shared by a number of other UN member states. However, China is relatively unique in its repeated and targeted attempts to deter the publication of independent NGO reports on the OHCHR website. As part of a UNTB review process, the Secretariat will normally upload all civil society submissions received to a publicly accessible website, insofar as authors provide approval. At the CAT, Gaer reports that China pressured – unsuccessfully – the Secretariat for the removal of

reports from Tibetan and Uyghur groups from the Committee's website.⁴¹ It is clear when considering the situations described below that similar pressure is exercised privately by China whenever it is due to be reviewed by a UNTB.

Threats and reprisals against Chinese organisations engaging with UN Treaty Bodies

China is, alongside Saudi Arabia, the country most often mentioned in the UN Secretary-General's annual report on reprisals against individuals and groups cooperating or seeking to cooperate with the UN. These reprisals have a deeply chilling effect on civil society activism and engagement – as exemplified, and amplified, by the tragic case of Cao Shunli.⁴²

Despite clear documentation that they have carried out reprisals, the Chinese government continues to adopt a public approach which asserts, superficially, concern about reprisals and intimidation. During the Human Rights Council adoption of a landmark resolution on reprisals, in 2017, the delegation declared:

*[China] encourage[s] more delegations to constructively and actively take part in work and to engage in genuine dialogue and cooperation. We are against reprisals against those cooperating with the mechanisms.*⁴³

However, they continued to say that despite this fact, they did not view it as in the Council's interest, or mandate, to pursue interactive dialogue with the UN Assistant Secretary-General on this issue.

Similarly, the Chinese official perspective on the UNTBs' ability or mandate to address reprisals is clearly illustrated in a 2017 UNGA statement by a Chinese diplomat focused on a set of guidelines on reprisals recently adopted by the Chairs of the UNTBs (known as the 'San José Guidelines'):

*The provisions of the San José Guidelines (are) not in line with the Convention, resulting in additional obligations for State Parties. The treaty bodies should not act unilaterally, but should consult with State Parties and fully solicit and take in their views. The Guidelines should not be promoted or enforced until consensus was reached.*⁴⁴

Staff members of the international non-governmental organisation Network of Chinese Human Rights Defenders (NCHRD) faced intimidation and harassment for sharing information with the UN. Between February and July 2018, repeated anonymous emails in Chinese reportedly threatened NCHRD and its staff members with 'severe consequences' if the organisation held planned

⁴¹ Demarche from Permanent Mission of the PRC to the UN Office at Geneva, Nov. 5, 2008. Cited in Gaer, 2018, p. 1192.

⁴² See ISHR, 2014. Available at <https://ishr.ch/latest-updates/un-human-rights-council-must-demand-accountability-death-cao-shunli/>.

⁴³ UN Human Rights Council, 36th session, 41st meeting. Available on UNWebTV at 2:02:00.

⁴⁴ A/C.3/71/SR.39.

trainings on the UN human rights mechanisms. Based on accounts of Chinese activists inside the mainland, such threats have in practice included physical assault, abduction at airports and forcible return to their cities of residence. The last reported email was sent weeks before the Committee on the Elimination of Racial Discrimination (CERD) review of China in August 2018. An article published in a Chinese newspaper denounced NCHRD's trainings and efforts to engage the UPR and treaty body reviews.⁴⁵

Despite the documentation of such instances in the annual report of the UN Secretary General, official harassment continued unabated, with news coverage criticising the contributions of NCHRD to the CERD review in state media in December 2019 and January 2020.⁴⁶

⁴⁵ UN. A/HRC/42/30, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights. 9 September 2019.

⁴⁶ UN. A/HRC/45/36, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights. 25 September 2020.



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ILLUSTRATIVE CASES

While it can be a challenge to provide a ‘smoking gun’, Chinese pressure and influence behind the scenes appears to be correlated with changes to procedures and practices of the UNTBs and the Secretariat. These changes can and do have damaging impacts on the ability of the UNTB system to fulfil its mandate independently.

The below examples aim to demonstrate, with respect to specific incidents documented in specific Committees and review processes, the real-world challenges arising from Chinese presence in and influence over the UN TB system. They show how Chinese attempts to influence Committee members, procedures and civil society engagement have been successful in discouraging participation of at least some independent Chinese organisations. The similarities between the incidents paint a picture of the normalisation of practices which are not common across the UNTBs, yet become both common and accepted in the context of China.

Case 1: China and CAT

The Committee against Torture (CAT) appears to be a particular focus for Chinese pressure. This is possibly due to the level of seriousness of the violations under review, the prohibition of which is recognised as a peremptory norm of international law. It may also, however, have to do with a

lengthy history of civil society engagement with the Committee and clear, specific and unflinching critiques of Chinese law enforcement and judicial practices in past Concluding Observations.

From the very first review, China made no secret of its discontent with the Committee's consideration of independent sources. In 1996, a Chinese ambassador to the UN had 'complained during the review about the "undue weight" given by the Committee to the views of "so-called dissidents" and charged that the critiques by NGOs amounted to "an abuse of their privileged status".'⁴⁷

China's defiant attitude toward the Committee was reiterated at each subsequent review. For instance, during the 2008 review the government delegation attacked the Committee's country rapporteurs as 'politically biased', stating that the information sources they used were 'fabricated'. Chinese officials at the time stated that the rapporteurs had 'groundlessly accuse[d] China of attacking so-called human rights defenders' and 'strongly reject[ed] all of these slanders and untrue allegations.'⁴⁸

I can recall threats to NGO representatives who were present at human rights meetings who were 'engaged' by China with warnings, hostile photo-taking, and public denunciations, solely because they were present and concerned about human rights in China. ⁴⁹

The last review of China in 2015 provides one of the worst examples of Chinese repression against independent sources. The 2015 CAT concluding observations noted with concern 'allegations that seven human rights defenders, who were planning to cooperate with the Committee in connection with [the review], were prevented from travelling, or were detained on the grounds that their participation could "endanger national security."⁵⁰ These cases were later reported in the report of the UN Secretary General on reprisals.⁵¹

During the dialogue between the Committee and the Chinese delegation, the Chinese member of CAT – who was recused from participating in the proceedings due to the obvious conflict of interest – remained present in the UN conference room and proceeded to seek interaction with, and take digital photographs of, the members of civil society observing the review. The Committee Chair ultimately asked the Chinese member to leave the room following concerns and complaints.

One of the mainland activists present that day declined to return to China, citing threats and harassment against his colleagues and family members during his time in Geneva. Another, who did return to China, was arrested in 2017 on trumped up charges related to his rights activism and spent three years in prison, including time served prior to his sentencing.

⁴⁷ Gaer 2018, p. 1171.

⁴⁸ Gaer 2018, p.1181.

⁴⁹ Op.cit.

⁵⁰ CAT/C/CHN/CO/5, para. 38.

⁵¹ A/HRC/33/19.

Case 2: China and CEDAW

On the occasion of the 2014 review of China by CEDAW, the experts' observations note that 'some reports that were submitted to the Committee by NGOs were censored by State agents and... some NGO representatives who submitted reports to the Committee fear(ed) reprisals ... as a result of their participation in the review of the State party's report.' CEDAW also took note of 'travel restrictions imposed on at least one woman human rights activist who intended to brief the Committee and to observe the constructive dialogue of the State party.'⁵² Given this public chastisement of the Chinese state, civil society expected that the Committee would play a strong role in calling for concrete progress in addressing key recommendations and in empowering civil society voices in the process.

However, the Committee's apparent support for the role of Chinese civil society had limits. During the follow-up to this review in 2017, the Committee undertook to assess the state party's compliance with its priority or urgent recommendations, including a recommendation to enhance the independence of the judiciary.⁵³ The lack of independence of the judiciary in China is well documented, including by UN human rights mechanisms;⁵⁴ unsurprisingly, the Chinese government submission to the follow-up process nonetheless highlighted steps intended to demonstrate that independence of the judiciary had been improved.⁵⁵

Independent NGOs also seeking to contribute information to the follow-up process faced hurdles in doing so. The organisations were not provided with advance and adequate notice of the upcoming assessment by the Committee, and requests to the Secretariat asking for a clear timeline were mostly unsuccessful. As a result, the follow-up assessment on the level of state compliance with the priority recommendations was carried out by the Committee in the *absence of any alternative perspectives*.

In their public assessment, the Committee made the extraordinary and dubious determination that the recommendation to enhance the independence of the judiciary had been implemented.⁵⁶

This assessment by the Committee asserted a situation blatantly at odds with any independent expert analysis of the situation on the ground. Given that it was based on one-sided information – not informed by independent contributions, despite efforts of civil society to make such contributions – the assessment was considered 'outrageous' by Chinese human rights activists.

In two private letters sent to the Committee in October 2017 and July 2018, human rights groups highlighted what they considered to be a biased process.⁵⁷ The letters underlined a 'lack of understanding about actual conditions inside China with regard to the government's level of compliance with the Convention.' The July 2018 letter considered it 'highly regrettable' that the Committee did not consider any NGO submission to the follow-up process, and concluded:

⁵² CEDAW/C/CHN/CO/7-8

⁵³ CEDAW/C/CHN/CO/7-8 para 15.b

⁵⁴ For example, the CAT noted in 2016 the ability of the CCP to undertake "inappropriate or unwarranted interference with the judicial process" (CAT/C/CHN/CO/5)

⁵⁵ CEDAW/C/CHN/CO/7-8/Add.1

⁵⁶ Letter from Permanent Mission of China to the UN in Geneva. Reference *DB/follow-up/China/67*. 21 September 2017. Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2fFUL%2fCHN%2f28950&Lang=en

⁵⁷ NGO letters to the Committee dated 10 October 2017 and 20 July 2018

The Committee's lack of understanding about such foundational issues as judicial independence and the lack of civil society participation in follow-up processes could lead members of civil society in China, and other stakeholders internationally, to lose confidence in CEDAW's follow-up processes, and perhaps the mechanism itself.

In order to raise concerns about the exclusion of Chinese civil society perspectives from the process, international NGOs and Chinese activists sought a meeting in late 2017 with senior OHCHR staff responsible for the UNTBs. The expected interlocutor (D2 level) cancelled at the last minute their participation; a more junior OHCHR official was called upon and was unable to do more than read a prepared general statement on the role of OHCHR and the CEDAW follow-up procedure. Subsequently, during a private meeting between Chinese human rights activists and the member of CEDAW in charge of follow-up, the Committee member offered merely an apology for having failed to consider independent perspectives in forming the Committee's assessment. No reasoning was given for the failures of procedure that resulted in the Committee taking an ill-informed and problematic position in the follow-up.

Adding insult to injury, the detailed NGO submissions to the CEDAW follow-up process – those that were sent to the Secretariat in response to the problematic assessment's release – remain unavailable on the Committee website, despite the express request of authors to publish their reports. Although the NGOs had the liberty to publish the submissions on their own website, this does not afford those reports the visibility that standard UNTB practice would have, nor assist researchers, diplomats and other stakeholders in understanding the full scope of the CEDAW's work on China.⁵⁸

The sustained refusal or inability of OHCHR to take decisive action to mitigate the incident continues to be problematic. It establishes a negative precedent, signalling to States that some assessments by UNTBs may occur in the absence of any alternative or credible source of information. While it is hard to substantiate claims of direct influence or lobbying by China, such failures within the system are vanishingly rare, and highly unlikely to be the result of unintentional decisions or oversight.

Case 3: China and CERD

The similarities between the incidents related to the follow up of China by CERD, and by CEDAW are quite striking, and together contribute to evidence that practices which are normally not common across the UNTBs become common or acceptable when it comes to China.

The August 2018 CERD review of China has become a touchstone for analysts and others examining UN engagement on the country, namely for members' hard-hitting questions about the situation in the Xinjiang Uyghur Autonomous Region (Uyghur Region). This was the first time a Chinese government delegation was effectively forced to answer questions about the existence of

⁵⁸ Network of Chinese Human Rights Defenders, 'Joint civil society report'. 7 October 2017. Available at: <https://www.nchrd.org/2017/10/civil-society-follow-up-report-submitted-to-un-committee-for-the-elimination-of-discrimination-against-women-september-2017/>

mass surveillance, detention and disappearance of Uyghurs and other Turkic Muslims, and shaped the evolution of responses to these allegations that continues to the present.

As with the follow up review by CEDAW, independent NGOs struggled to be able to have their reports made public on the CERD's website. The standard or default practice in UNTBs is that they are published on the corresponding UNTB website, unless NGO authors specific request for their reports to be private/confidential, or if there are safety concerns requiring additional consent from mentioned victims (unless where their cases are already in the public domain). In 2018, barriers included concern expressed by Secretariat members about the nature of language in the reports upon their submission prior to the review, specifically targeting reports drafted by Uyghur and Tibetan groups.

A group of six NGOs wrote to a senior OHCHR official to express concerns with a range of issues NGOs faced as part of the process, including the affirmation from the Committee Secretariat that staff would have discretion to decide on whether a report from a Tibetan NGO would be made publicly available on the website.⁵⁹

The joint NGO letter also noted that 10 follow-up assessments had been adopted by the Committee during its August 2020 session,⁶⁰ and yet, as at November 2020, only the assessment of China was not publicly available. The assessment or follow-up letter adopted by the Committee was only made public following substantial pressure put on the Committee by civil society actors. OHCHR's justifications for failing or refusing to upload NGO reports, and for the delay in publication of the CERD follow-up letter, were not convincing. It may be worth noting that the incidents occurred during the time when the position of Chair of the CERD was held by the Chinese member, Ms. LI Yanduan.

Compared to the concerns raised with CEDAW and described above, the CERD review case has been largely resolved. The NGO reports were eventually made available on the Committee's website,⁶¹ as was a robust assessment by the Committee of China's inability to comply with the Committee's urgent recommendations,⁶² notably in relation to the widespread violations targeting Uyghur, Tibetan and other ethnic minorities in China.

Within its mandate, CERD has a unique and valuable procedure to address serious violations of the Convention that occur outside the regular periodic review process: the early warning and urgent action procedure.⁶³ The Committee makes regular use of this procedure to raise the alarm when blatant violations of the Convention are documented (urgent action), or where there's a risk that such violations would occur (early warning).⁶⁴ Over the past five years, the Committee has adopted an average of 13 to 14 decisions per year – or 4 to 5 per session – under this procedure.⁶⁵

Since the 2018 CERD review, the worsening crackdown on ethnic minorities in Xinjiang has continued to be documented, including by OHCHR and UN human rights mechanisms and by a

⁵⁹ "Ensuring timeliness and transparency in the follow-up of China's review by the Committee on the Elimination of Racial Discrimination". Joint private letter to Mahamane Cissé-Gouro, Director of the Human Rights Council and Treaty Mechanisms Division, OHCHR. 16 November 2020.

⁶⁰ CERD/C/SR.2805

⁶¹ Including the report from the Tibet Advocacy Coalition which originally was not made available despite repeated requests from the authors to do so. Available at: https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CHN/INT_CERD_NGS_CHN_43689_E.pdf

⁶² CERD/101st session/FU/MK/ks. Available at https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CHN/INT_CERD_FUL_CHN_43684_E.pdf

⁶³ <https://www.ohchr.org/en/treaty-bodies/cerd/about-early-warning-measures-and-urgent-procedures>

⁶⁴ <https://academy.ishr.ch/learn/treaty-bodies/early-warnings-and-urgent-actions---what-do-the-treaty-bodies-do>

⁶⁵ All of which are available on the dedicated webpage of the Committee: <https://www.ohchr.org/en/treaty-bodies/cerd/decisions-statements-and-letters>

wide range of academics, rights experts, international NGOs, communities and survivors. In June 2020, 50 Special Procedures experts reiterated grave concern at a range of issues including forced labour and the 'collective repression of the population, especially in Xinjiang and Tibet.'⁶⁶ These allegations constitute clear violations of the basic principles of the Convention.

On at least three distinct occasions, initially in August 2018, and subsequently in March 2021 and July 2022, the Committee was presented with compelling evidence about ongoing violations of the Convention in China, which clearly warranted urgent action. In March 2021, under the Chairpersonship of the Chinese member Yanduan Li the Committee responded to petitioners that 'the issues outlined ...have been addressed in the Committee's latest concluding observations...(and) while being concerned by these continuing allegations, the Committee considers that, for the moment, it should suspend the consideration of information received until new substantial developments are brought to its attention.'⁶⁷

The argument that the issues raised are already covered in the concluding observations does not hold, as the Committee has taken action on other countries by referring to previous Concluding Observations in the adoption of an early warning, and for violations of the Convention much less serious in scale compared to China's.⁶⁸

It was not until a new Chairperson took office⁶⁹ that CERD finally adopted an urgent action on Xinjiang, in November 2022⁷⁰.

⁶⁶ UN experts call for decisive measures to protect fundamental freedoms in China. 26 June 2020. Available at <https://www.ohchr.org/en/press-releases/2020/06/un-experts-call-decisive-measures-protect-fundamental-freedoms-china>

⁶⁷ Private letter of the Committee to the authors of a request for urgent action, dated 25 August 2021. Reference: CERD/EWUAP/104th session/2021/CS/ks

⁶⁸ For instance, in a letter adopted by the Committee in December 2018 with regards to a situation in French Guyana, the Committee built upon their previous Concluding Observations to request an urgent action to the State party which, like China, is a permanent member of the UN Security Council. Reference CERD/EWUAP/France/2018/JP/ks. Available at https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/FRA/INT_CERD_ALE_FRA_8820_E.pdf

⁶⁹ Verene Albertha Shepherd (Jamaica) was elected as Chairperson for a two-year term in April 2022 <https://www.ohchr.org/en/press-releases/2022/04/committee-elimination-racial-discrimination-opens-its-one-hundred-and-sixth>

⁷⁰ "China: UN Committee on the Elimination of Racial Discrimination calls for probe into Xinjiang rights violations" 24 November 2022 <https://www.ohchr.org/en/press-releases/2022/11/china-un-committee-elimination-racial-discrimination-calls-probe-xinjiang>



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CONCLUSION

The documentation of Chinese attitudes and official positions vis-a-vis the UNTBs sketches out a worrying tendency towards increased oversight and decreased autonomy of the UN human rights mechanisms, resulting in restrictions to their work. This mirrors positions and views of other States as well, whose ‘mutually beneficial cooperation’ for a less robust system for human rights monitoring has been outlined in academic studies about ‘authoritarian collaboration’.⁷¹ The documentation of intimidation and reprisals, against both members of international and national-level civil society organisations and individual activists, shows that such policies are not simply on paper, but enacted both at home and in the spaces of the UN itself.

However, this does not imply that the system is inevitably corrupt, weak or ‘doomed to fail’. It rather reinforces the need for all relevant actors to act to strengthen the system. To this end, this report concludes with recommendations for how specific, concrete action may help to insulate the UNTBs from undue influence; empower them to fulfill their mandates in a changing environment; and ensure that civil society actors can safely and effectively engage with the UNTBs, and the UN human rights system writ large.

⁷¹ For example, see Inboden, Rana S. *China and the International Human Rights Regime*. 2021.

Recommendations to UN member states

- Resist the nomination and appointment of candidates to UNTBs who are not independent. This can be done notably by:
 - Establishing a vetting process in line with the practice in fellow UN mechanisms such as Special Procedures, in regional mechanisms or other international bodies.⁷² Such vetting should be undertaken by qualified and independent experts.⁷³
 - Establishing an 'ethical charter' or common pledge of states through which signatories will appoint nominees through a set of agreed principles (such as, for example, open and fair nomination processes domestically).⁷⁴
 - Working with likeminded states to counter the appointment of clearly non-independent candidates.
 - Leading by example and identifying nominees on the basis of good practices, e.g., open, transparent and equitable processes.
- Speak up publicly in instances where members clearly fail to abide with requirements of independence, using such opportunities as the meetings of States parties with UNTBs; interactive dialogues on annual reports of specific treaty bodies; or annual meetings of UNTB chairpersons.⁷⁵
- Provide substantial funding to the OHCHR budget for the UNTB secretariat, including through relevant bodies such as the 5th Committee of the UN General Assembly and the Advisory Committee on Administrative and Budgetary Questions (ACABQ).
- Ensure public statements and encouragement to UNTBs, emphasising their important role and independence, and raise concerns where there are substantial allegations of undue influence.
- Model best practices in government and civil society cooperation during the UNTB process, for example by collaborating to disseminate and follow-up on recommendations received, and ensuring that civil society stakeholders have full, transparent and timely information and are not subject to – indeed, are actively protected against – reprisals or intimidation.

⁷² See 'New Independent Panel Will Monitor Election of Inter-American Human Rights Commissioners and Judges', April 2015, for progress in this regard in the Inter-American system. Available at: <https://www.justiceinitiative.org/newsroom/new-independent-panel-will-monitor-election-inter-american-human-rights-commissioners>. Similarly, the International Criminal Court has been pushed to develop a 'due diligence process'. See <https://www.coalitionfortheicc.org/cc-registrar-election>.

⁷³ See 'ISHR submission to OHCHR Questionnaire in relation to General Assembly resolution 68/268'. May 2019. Available at https://ishr.ch/wp-content/uploads/2021/07/ishr_submission_to_questionnaire_on_tb_strengthening.pdf

⁷⁴ See 'The UN Human Rights Treaty Body Review Agenda 2020: Scope for Local and National Engagement', October 2018. Available at <https://www.geneva-academy.ch/joomlatools-files/docman-files/Oslo%20Consultation%20-%20Final.pdf>

⁷⁵ As illustrated, for instance, by the dissociation from several States on the occasion of the nomination of a Russian member to CESCR who had supported the aggression war against Ukraine while speaking in his capacity as member of the Committee. April 2022. Readout available at: <https://media.un.org/en/asset/k1/k1tmwrtq4>

Recommendations to Chairpersons of UN treaty bodies

- Uphold the implementation of and compliance with the Addis Ababa Guidelines within your Committee. Make sure that failures to comply are reprimanded through appropriate action.⁷⁶
- Call out incidents and instances where members fail to comply with basic requirements of independence, including in relation to periodic reviews, reviews of individual communications, as well as other activities including meetings with NGOs.

Recommendations to the High Commissioner and OHCHR

- Ensure that staff of the UNTB Secretariat are aware of the definitions of, and protected from, undue political influence; stand up for them when there are instances of pressure; and promptly and seriously address allegations of misbehaviour or conflicts of interest.
- Increase efforts to publicise the profiles of candidates ahead of elections, including by contributing or initiating live, public and open interviews with candidates.⁷⁷
- Support initiatives to preserve and improve the independence of UNTB membership, and respond adequately to incidents and instances where members fail to comply with basic requirements of independence.
- Envisage the provision of a detailed note on the interpretation or actual meaning of independence to Member States ahead of UNTB elections.

⁷⁶ As illustrated, for instance, by the action taken by the CEDAW Bureau in response to threatening and defamatory remarks made by a member of the Committee during a side event held at the UN against national NGOs in June 2019.

⁷⁷ As illustrated, for instance, with the first ever online meeting with UNTB candidates organised by APT and OHCHR for SPT candidates in October 2020. Details available at https://www.apt.ch/en/news_on_prevention/first-meet-and-greet-un-treaty-body-candidates

ANNEX

Overview of Chinese members of UNTBs

Committee on the Elimination of Racial Discrimination (CERD)				
2016-Present	Li Yanduan	李燕端	Finishes current term in 2024; Chairperson (2020-2022); Vice Chair (2018-2020)	Visiting Scholar at China University of Political Science and Law, CUPL (2019- current)
				Member of China's Society of Diplomatic Affairs (2011-at least 2016)
				Member of Chinese Society of International Law (1993-at least 2016)
				Ambassador of the PRC to the Independent State of Samoa (2013-2015)
				Special Representative of Ministry of Foreign Affairs of the PRC for Climate Change (2011-2013)
				Deputy Consul-General of the PRC in Sydney, Australia (2006-2010)
2012-2016	Huang Yong'an	黄永安		Board Member, Asia-Africa Development and Exchange Society, Ambassador of PRC to the State of Eritrea (2003-2006)
				Permanent Representative of PRC to UN ESCAP (1999-2003)
Committee against Torture (CAT)				

2020-Present	Liu Huawen	柳华文	Finishes current term in 2025	Professor, CUPL (2018-current)
				Director of CASS - Italian National Research Council Project (2014-2020)
				Advisor of CASS Shadow Reports (2008, 2013, 2014)
				Expert Group for Drafting Chinese Second NHRAP (2011-2012)
				Chief of the UN OHCHR Country Project on the Justiciability of Economic, Social, and Cultural Rights (2008)
				Chief of the EU Project on the Promotion and Protection of the Vulnerable Children in China (2007-2008)
2018-2019 (resigned)	Zhang Honghong	张红虹		Adjunct Professor, CUPL - Institute for Human Rights
				Director-General, Department of Treaty and Law, Office of the Commissioner of the MFA in the HKSAR (2009-2011)
				Legal Expert and Counsellor, Mission of PRC to the EU (2007-2009)
				Deputy Director-General, Department of International Judicial Cooperation and Foreign Affairs, Ministry of Justice of the PRC (2005-2006)

2014-2017	Zhang Kening	张克宁		Legal Advisor, Department of Treaty and Law, Ministry of Foreign Affairs of the PRC (2013-2014)
				Legal Officer, Senior Legal Officer, Principal Legal Officer and Interim Director General of the International Seabed Authority; Secretary to the Assembly, the Council and the Credentials Committee (1997-2013)
2005-2013	Wang Xuexian	王学贤		Vice President of the UN Association of China (as of 2014)
				China's Senior Official for Asia-Europe Meeting (2001-Present)
				Ambassador Extraordinary and Plenipotentiary of the PRC to the Republic of South Africa (1997-2001)
				Deputy Permanent Representative and Ambassador Extraordinary and Plenipotentiary of the PRC to the United Nations (1994-97)
Committee on Economic, Social and Cultural Rights (CESCR)				
2021-Present	Shen Yongxiang	沈永祥	Finishes current term in 2024	Vice President of the China Society for Human Rights Studies (CSHRS) and professor of the Institute for Human Rights at CUPL
				Ambassador Extraordinary and Plenipotentiary of the PRC to the Republic of Rwanda (2013-2015)
				Ambassador Extraordinary and Plenipotentiary of the PRC to the

				Republic of Madagascar (2009-2013)
2014-2020	Chen Shiqiu	陈士球		Chinese Society of International Law (2012-at least 2014)
				Deputy Chair of the UN Association of China (2004-at least 2014)
				Deputy Chair of the CSHRS (2002-at least 2014)
				Ambassador, Department of International Organizations and Conferences of the Ministry of Foreign Affairs of the PRC (2002-2006)
				Ambassador of PRC to Indonesia (1998-2002)
2010-2014	Cong Jun	从军		Deputy Secretary-General of the China Center for International Economic Exchanges (2008-2010)
				Minister Counsellor of the Permanent Mission of the PRC to the United Nations (2003-2008)
2008-2010	Zhan Daode	詹道德		Ambassador of the PRC to Vanuatu (1993-1996)
				Ambassador of the PRC to Barbados and Antigua (1997-1999)

Committee on the Elimination of Discrimination against Women (CEDAW)

2021-Present	Xia Jie	夏杰	Finishes current term in 2024	Vice President/Chairperson and Member of the Secretariat of the All-China Women's Federation (2017-current)
				Deputy to the 12th National People's Congress of the PRC
				Director-General of Organization Department and Member of the Standing Committee of Henan Province CPC
				Director-General of Organization Department and Member of the Standing Committee of Heilongjiang Provincial CPC
2017-2020	Song Wenyan	宋文艳		Deputy Director-General, International Department of All-China Women's Federation
				Board Member of the Chinese People's Association for Peace and Disarmament
				Board Member of the UN Association of China
2013-2016; 2009-2012; 2005-2008	Zou Xiaoqiao	邹晓巧	Vice chairperson, 2009-2010	Director General, International Liaison Department of All-China Women's Federation
				Board member, CSHRS
				Board member, China NGO Network for International Exchanges

				Council member, UN Association of China
				Member, China UNESCO National Committee
Committee on the Rights of Persons with Disabilities (CRPD)				
2015-2018	You Liang	尤亮		Director of Liaison Division of International Affairs Department, China Disabled Persons' Federation (2009-2015)
				Deputy Director General of International Affairs Department, Guangzhou Organizing Committee for the Guangzhou 2010 Asian Paralympic Games (2010)

