

IMPLEMENTATION OF THE  
CONVENTION ON THE RIGHTS OF  
PERSONS WITH DISABILITIES IN THE  
PEOPLE'S REPUBLIC OF CHINA

NGO Submission by Human Rights in China  
July 2012

*Submitted to the Committee on the Rights of Persons with Disabilities in advance  
of its review of the Initial Report of the People's Republic of China on  
implementation of the Convention on the Rights of Persons with Disabilities*



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## INTRODUCTION

Human Rights in China (HRIC) presents this submission to the Committee on the Rights of Persons with Disabilities (“the Committee”) in advance of the Committee’s review of the Initial Report of the Government of the People’s Republic of China’s (“the PRC” or “State Party”) on the Implementation of the Convention on the Rights of Persons with Disabilities.<sup>1</sup> The PRC signed the Convention on the Rights of Persons with Disabilities (“the Convention”)<sup>2</sup> on March 30, 2007, and ratified it on August 1, 2008,<sup>3</sup> effective in China on August 31, 2008.<sup>4</sup> Pursuant to Article 35 of the Convention, the PRC submitted its initial report on August 30, 2010 to the Committee.<sup>5</sup> The PRC report provides detailed statistics and information and describes the progress made on obligations under each article of the Convention, including relevant laws, regulations, and policies.

HRIC notes with appreciation the list of issues prepared by the Committee to be considered during the examination of the State Party’s Initial Report in September. To contribute to the review of the State Party’s report and the dialogue, HRIC’s submission addresses several issues:

- **The role of civil society organizations** within the PRC regulatory and political framework, with a focus on the organizations identified in the State Party report as part of its consultations with civil society. (Convention Art. 33)
- Challenges presented by the **PRC’s State Secrets Law and regulations** and impact on the constructive dialogue with the PRC delegation and review of the State Party Initial report.
- **Rule of law challenges** in the PRC and impact on ensuring **liberty and security of the person**. (Convention Art. 14)
- **Definition of discrimination** and anti-discrimination provisions in relevant PRC laws and impact on monitoring, data collection, development of effective measures and assessment of these measures.(Convention Art. 1-4)

HRIC’s submission also presents recommendations and suggestions for advancing a constructive review by the Committee.

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<sup>1</sup> United Nations’ Committee on the Rights of Persons with Disabilities, “Implementation of the Convention on the Rights of Persons with Disabilities: Initial reports submitted by States Parties under article 35 of the Convention – China,” UN Doc. CRPD/C/CHN/1, August 30, 2010 (English translation, February 8, 2011) (“PRC Report”).

<sup>2</sup> Convention on the Rights of Persons with Disabilities (CRPD), G.A. Res. 61/106, U.N. Doc. A/RES/61/106 (2006), entered into force May 3, 2008.

<sup>3</sup> See United Nations Treaty Collection, “Convention on the Rights of Persons with Disabilities,” [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-15&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&lang=en) (China ratified the Convention on August 1, 2008).

<sup>4</sup> See PRC Report, p. 3.

<sup>5</sup> See PRC Report, p. 3.

## RECOMMENDATIONS

### ➤ **Consultation process reported by the PRC**

- HRIC urges the Committee to press the PRC to respond to the clear lack of a transparent, diverse, and accessible consultation process that includes persons with disabilities and their representative organizations, and other non-governmental civil society organizations.
- Specifically, the PRC should provide clarification on how public consultation was solicited, what accessible mechanisms were used, and what were the specific outcomes (e.g. number of persons including persons with disabilities participating, input and views).

### ➤ **Pending revisions of the Implementation regulations of the State Secrets Law**

- The PRC should clarify and provide additional information regarding the status of the revisions of the Implementation regulations of the State Secrets Law and the efficacy or revisions in progress of existing substantive regulations, including many areas identified by the Committee's List of issues, such as family planning, public health, women, trade union, and civil and judicial administration work.

### ➤ **Persons rendered physically or psychologically disabled following abuse, mistreatment, or torture while in prison, detention, or forcibly disappeared**

- The PRC should provide clarification and information on what if any resources, compensation, treatment, or other rehabilitation measures are afforded to persons rendered physically or psychologically disabled following abuse, mistreatment, or torture while in prison, detention, or forcibly disappeared.

### ➤ **Lack of a legal definition of discrimination**

- The PRC should provide information on steps taken to draft and implement a legal definition of discrimination that comprehensively applies to persons with disabilities in compliance with the Convention.

## PROGRESS UNDER SPECIFIC ARTICLES OF THE CONVENTION

### **The role of civil society organizations within the PRC regulatory and political framework, with a focus on the organizations identified in the State Party report as part of its consultations with civil society. (Convention Article 33)**

1. As stated in Article 33, paragraph 3 of the Convention on the Rights of Persons with Disabilities, “civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.” As the committee has noted in paragraph 2 of the List of Issues to be taken up in connection with the PRC’s submission, more information is needed regarding “how the State Party consults and engages directly with a diversified range of persons with disabilities.”
2. Human Rights in China (HRIC) is providing the Committee with further information about the specific organizations identified in the PRC report as groups part of the consultation process including background information about each group. In addition, HRIC discusses concerns about inadequate civil society consultation, including disabled persons organizations, in the preparation of the PRC report.

### **Background on organizations**

3. The People’s Republic of China’s initial State Party report on the Implementation of the Convention on the Rights of Persons with Disabilities, states in the preface, “In the course of compiling the report, the working party solicited the views of a range of NGOs and academic institutions, as well as the general public.” (CRPD/C/CHN/1, pg. 3) In Appendix 1 of the report, member bodies of the State Council Working Committee on Disability are listed. Among the list are four mass organizations which are clearly not government ministries or departments—the All-China Federation of Trade Unions (ACFTU), the Central Committee of the Communist Youth League of China (CYLC), the All-China Women’s Federation (ACWF), and the China Disabled Persons’ Federation (CDPF). All four of these organizations are involved in an important range of functions including direct services, mobilization, education, official development policy and program implementation.
4. **All-China Federation of Trade Unions (ACTFU):** According to the Constitution of the Chinese Trade Unions (2008), ACTFU consists of “mass organization of the Chinese working class under the leadership of the Communist Party of China (CPC) and formed by the workers of their own free will.”<sup>6</sup> The ACFTU is also the only workers’ federation allowed to operate in the PRC, representing 135 million workers in 31 provincial, autonomous regional and municipal federations and 10 national industrial trade unions. Any union established must be registered under the ACFTU. The federation is considered

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<sup>6</sup> Constitution of the Chinese Trade Unions, see General Principles <http://english.acftu.org/template/10002/file.jsp?cid=141&aid=470>

a bridge connecting the party with the masses, with its supreme organ of power being the National Congress along with the ACFTU Executive Committee it elects.<sup>7</sup>

5. **Central Committee of the Communist Youth League of China (CYLC):** As stated in the Guiding Principles of its rules and regulations, the Communist Youth League of China is a mass organization led by the CPC, and is meant to aid the party in disseminating socialist thought with Chinese characteristics and communism to the youth, and is the ‘backup’ of the CPC.<sup>8</sup> The leader of the youth league is its First Secretary, who will also always be a member of the Central Committee of the CPC. Many youth involved in the league become members of the actual CPC, and often assume leadership roles as well. Hu Jintao, current general secretary of the CPC Central Committee, was once the head of the CYLC, from 1984 to 1985.<sup>9</sup>
  
6. **China Disabled Persons’ Federation (CDPF):** A national organization established in March of 1988 to aid in the representation and protection of the rights and interests of the PRC’s 83 million persons with disabilities. As of 2009, the federation had approximately 568,000 associations nationwide to provide persons with disabilities with various services. According to the Law on the Protection of Persons with Disabilities, “the CDPF and its local organizations shall conduct work on disability and mobilize social forces in developing the undertakings for persons with disabilities in accordance with laws, regulations and its constitution or as commissioned by the government.”<sup>10</sup>
  
7. **All-China Women’s Federation (ACWF):** Founded on April 3, 1949, the ACWF is a mass organization dedicated to advancing the lives of PRC women of all ethnic groups, formed by female nationals under the leadership of the CPC. The federation represents and protects the rights and interests of PRC women, and promotes nationwide programs to eliminate female illiteracy, develop community services, aid women in gaining employment. The highest level of ACWF governance is the National Congress of Chinese Women, which decides the work plans and goals for the national women’s movement.<sup>11</sup> The Executive Committee of the ACWF is directly involved in the decision-making of the CPC, and the goals of the federation include encouraging women to “take part in China’s reform, opening-up and socialist modernization programs.”<sup>12</sup>

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<sup>7</sup> About ACTFU <http://english.acftu.org/template/10002/file.jsp?cid=63&aid=1>.

<sup>8</sup> Guiding Principles of the Communist Youth League of China [http://www.gqt.org.cn/ccylmaterial/regulation/200612/t20061224\\_12147.htm](http://www.gqt.org.cn/ccylmaterial/regulation/200612/t20061224_12147.htm).

<sup>9</sup> China’s Communist Youth League has 73.496 million members (2007) [http://www.chinadaily.com.cn/china/2007-05/04/content\\_865669.htm](http://www.chinadaily.com.cn/china/2007-05/04/content_865669.htm).

<sup>10</sup> Law of the People’s Republic of China on the Protection of Persons with Disabilities, see Article 8 [http://www.cdcpf.org.cn/english/lawsdoc/content/2008-04/10/content\\_25056081.htm](http://www.cdcpf.org.cn/english/lawsdoc/content/2008-04/10/content_25056081.htm).

<sup>11</sup> About the ACWF <http://www.women.org.cn/english/english/aboutacwf/mulu.htm>

<sup>12</sup> Goals and Missions of ACWF <http://www.womenofchina.cn/html/womenofchina/folder/84-1.htm>

## Consultation Concerns

8. Each of these organizations is involved in important work that addresses important issues facing different sectors of civil society in the PRC, but work under the direct supervision of the authorities and are tasked with implementing official policies and programs. According to Article 3 of the Regulation on Registration and Administration of Social Organizations of the People's Republic of China, "to become established, social organizations must be approved by the authorized department and follow the registration procedure set out in these regulations [...] these regulations do not apply to the following organizations: Peoples organizations which participate in the Chinese Peoples Political Consultative Conference; organs under the administration of the authorized State Council departments; and state organs and groups, enterprises and institutional units, and their internal bodies or groups."<sup>13</sup>
9. Under this framework, the All-China Federation of Trade Unions (ACFTU), the Central Committee of the Communist Youth League of China (CYLC), the All-China Women's Federation (ACWF), and the China Disabled Persons' Federation (CDPF), are all mass organs directly under the administration of various official government ministries or councils, and are thus subject to the supervision of the CPC. Therefore, they are not subject to the restrictive regulatory framework that governs other civil society organizations, as they already closely supervised by the authorities.
10. As part of official efforts to control civil society through funding restrictions, new guidelines were issued in 2010 governing the acceptance or making of foreign donations by domestic institutions. The four organizations identified in the PRC report are not subject to the more restrictive procedures set out in those guidelines.<sup>14</sup> The All-China Federation of Trade Unions, the Communist Youth League of China, All-China Women's

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<sup>13</sup> Regulation on Registration and Administration of Social Organizations (社会团体登记管理条例), see Article 3.

<sup>14</sup> On March 1, 2010, the State Administration for Foreign Exchange (SAFE) issued the "Circular of the SAFE on Relevant Issues Concerning the Administration of Donations in Foreign Exchange by Domestic Institutions," which regulates required processes for accepting or making foreign donations for domestic enterprises and organizations. Article 5 of the SAFE circular requires submission of an application, business license, notarized donation agreement specifying purpose, and legal registration documents of overseas enterprise or organization with Chinese translations. Article 6, however, states that "when donations are made/accepted by government organs at or above the county level and some social organizations" (listed in an annex), they are not subject to this restrictive procedure and are simply required to follow a much simpler process. Circular of the SAFE on Relevant Issues Concerning the Administration of Donations in Foreign Exchange by Domestic Institutions[关于境内机构捐赠外汇管理有关问题的通知], issued by the State Administration for Foreign Exchange (SAFE), March 1, 2010, official English translation, see [http://www.safe.gov.cn/model\\_safe\\_en/laws\\_en/laws\\_detail\\_en.jsp?ID=3060000000000000.58](http://www.safe.gov.cn/model_safe_en/laws_en/laws_detail_en.jsp?ID=3060000000000000.58); in Chinese, see [http://www.safe.gov.cn/model\\_safe/laws/law\\_detail.jsp?ID=8030300000000000.24&id=4](http://www.safe.gov.cn/model_safe/laws/law_detail.jsp?ID=8030300000000000.24&id=4); for more information on this circular and the list organizations mentioned in article 6 of this Circular, see "HRIC Briefing Note: Tighter Regulation of Foreign Funding Support of Chinese Civil Society Groups", May 27, 2010, <http://hrichina.org/content/403>.

Federation and China Disabled Persons' Federation are all included in this group<sup>15</sup> and therefore they are able to receive/transfer foreign donations through a less onerous process distinct from other civil society organizations.

11. The ACFTU and the ACWF are also responsible for developing and issuing regulations that implement the **PRC's State Secrets Law** (see discussion below). These regulations set forth specific information and classification levels for a diverse universe of information, including information related to specific issues and requests for information identified by the Committee in its List of Issues. HRIC has compiled a summary chart of the relevant State Secrets regulations issued by various bodies and mapped them to the relevant items of information requested by the Committee (see Annex A). Two examples from our chart are:

- The regulation on state secrets and trade union work,<sup>16</sup> jointly **issued by All-China Federation of Trade Unions** and National Administration for the Protection of State Secrets, classifies undisclosed compiled information and statistical data **held by the ACFTU concerning major dangerous accidents and occupational illness** as “**secret**,” and **investigations concerning worker casualties** as “**internal**,” which cannot be publically disseminated without prior approval.
- The regulation on state secrets and women's work,<sup>17</sup> jointly **issued by All-China Women's Federation** and the National Administration for the Protection of State Secrets, classifies data regarding **major cases that involve the killing or injuring of women and children** as “**secret**.”

In carrying out this regulatory role, especially with respect to control of information flow, these organizations are functioning instruments of state governance.

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<sup>15</sup> Circular of the SAFE on Relevant Issues Concerning the Administration of Donations in Foreign Exchange by Domestic Institutions[关于境内机构捐赠外汇管理有关问题的通知], issued by the State Administration for Foreign Exchange (SAFE), March 1, 2010, official English translation, see [http://www.safe.gov.cn/model\\_safe\\_en/laws\\_en/laws\\_detail\\_en.jsp?ID=30600000000000000000\\_58](http://www.safe.gov.cn/model_safe_en/laws_en/laws_detail_en.jsp?ID=30600000000000000000_58); in Chinese, see [http://www.safe.gov.cn/model\\_safe/laws/law\\_detail.jsp?ID=80303000000000000000\\_24&id=4](http://www.safe.gov.cn/model_safe/laws/law_detail.jsp?ID=80303000000000000000_24&id=4); for more information on this circular and the list organizations mentioned in article 6 of this Circular, see “HRIC Briefing Note: Tighter Regulation of Foreign Funding Support of Chinese Civil Society Groups”, May 27, 2010, <http://hrichina.org/content/403>.

<sup>16</sup> Regulation on State Secrets and the Specific Scope of Each Level of Secrets in Trade Union Work [工会工作中国家秘密及其密级具体范围的规定], issued by All-China Federation of Trade Unions (ACFTU) and National Administration for the Protection of State Secrets [全国总工会、国家保密局] on May 27, 1996.

<sup>17</sup> Regulation on State Secrets and the Specific Scope of Each Level of Secrets in Women's Work [妇女工作中国家秘密及其密级具体范围的规定], issued by All-China Women's Federation and National Administration for the Protection of State Secrets [中华妇女联合会、国家保密局] on April 24, 1991.

## **Challenges presented by the PRC's State Secrets Law and regulations and impact on the constructive dialogue with the PRC delegation and review of the State Party Initial report.**

12. State Parties should consider the reporting process as a means to ensure compliance with their international obligations and to take stock of their domestic human rights situation.<sup>18</sup> HRIC would like to provide information on the PRC state secrets system and its impact on the PRC's reporting process and the Committee's review. This comprehensive and non-transparent system<sup>19</sup> sweeps a vast universe of information into an ambiguous vague and discretionary system that includes retro-active classification of information. (See Annex B and C).
13. The overarching reach makes it exceedingly difficult to obtain accurate, comprehensive and reliable information that is necessary for a constructive assessment of the new measures and progress cited in the PRC's initial report, in part because relevant information may be classified or designated as *neibu* (internal). (For a list of the types of information classified as state secrets or designated as internal matters, see Annex C). Some of the specific data requested by the Committee in its List of Issues implicate information that is be classified under the PRC state secrets system. (See Annex A).
14. According to the Guidelines on treaty-specific document to be submitted by state parties under article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities ("the Guidelines"), state parties should consider the reporting process as a means to ensure compliance with their international obligations and to take stock of their domestic human rights situation.<sup>20</sup> In doing so, they should:
  - (a) conduct a comprehensive review of the measures taken to harmonize national law and policy with relevant international human rights law;
  - (b) monitor the progress made in promoting the rights set forth in the Convention;
  - (c) identify concerns in the approaches taken to implement the Convention; and
  - (d) plan and develop appropriate policies to achieve goals in the Convention.<sup>21</sup>
15. Pursuant to the Annex of the Guidelines, the PRC, in its treaty-specific document, should indicate, among others, the following:<sup>22</sup>

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<sup>18</sup> United Nations' Committee on the Rights of Persons with Disabilities, "Guiding on treaty-specific document to be submitted by states parties under article 35, paragraph 2, of the Convention on the Rights of Persons with Disabilities," U.N. Doc. CRPD/C/2/3, para. 3, November 18, 2009.

<sup>19</sup> See Law of the People's Republic of China on Guarding State Secrets [中华人民共和国保守国家秘密法]. Promulgated September 5, 1988, effective May 1, 1989; revised April 29, 2010, effective October 1, 2011. See also Human Rights in China, State Secrets: China's Legal Labyrinth (New York: Human Rights in China, 2007), <http://www.hrichina.org/public/contents/41421>.

<sup>20</sup> United Nations' Committee on the Rights of Persons with Disabilities, "Guiding on treaty-specific document to be submitted by states parties under article 35, paragraph 2, of the Convention on the Rights of Persons with Disabilities," U.N. Doc. CRPD/C/2/3, para. 3, November 18, 2009.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid., para. A.3.2.

- (c) mechanisms in place to monitor the progress of the full realization of the rights under the Convention;
- (g) structural or other significant obstacles arising beyond the State Party's control in fully realizing the Convention rights; and
- (h) statistical data on the realization of each Convention right, disaggregated by sex, age, type of disability, ethnic origin, urban/rural population and other relevant categories.

16. Comprehensive, accurate, and accessible data and information are critical to assessing progress, understanding the current surrounding issues, and developing effective solutions to complex challenges. Information, data, or statistics relevant to specific articles of the Convention that may be classified under the State Secrets Law include:

- **“Statistics on criminal cases, arrested, captured, sent for reeducation-through-labor or juvenile rehabilitation, or taken in for shelter and investigation”** that have not yet been made public are classified as “secret.”<sup>23</sup> (Article 14)

- **“Statistics on prisoners”** currently in detention is also classified as “secret.”<sup>24</sup> (Article 14)

**“Statistics and specific case details regarding the use of torture to extract confessions and corporal punishment abuse that led to serious consequences”** are classified as “highly secret.”<sup>25</sup> (Article 15)

- **“Data on police officers causing injuries or disabilities to prisoners or reeducation-through-labor inmates”** is also regarded as **“Internal (Neibu)”** which cannot be made public without authorization.<sup>26</sup> (Articles 15 and 16)

17. Pending revisions of the Implementation regulations of the State Secrets Law raises questions about the efficacy of the existing substantive regulations, including many areas identified by the Committee's List of issues, including family planning, public health, women, trade union, and civil and judicial administration work.

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<sup>23</sup> *Regulation on State Secrets and the Specific Scope of Each Level of Secrets in the Work of the People's Procuratorates* [人民检察院工作中国家秘密秘密及其密级具体范围的规定], Jointly issued by Supreme People's Procuratorates, National Administration for the Protection of State Secrets [最高人民法院、国家保密局], January 15, 1996, article 3.3.2. Also, see *Regulation on State Secrets and the Specific Scope of Each Level of Secrets in Public Security Work* [公安工作中国家秘密秘密及其密级具体范围的规定], jointly issued by Ministry of Public Security, National Administration for the Protection of State Secrets [公安部、国家保密局], March 28, 1995. Article 2.3.2.

<sup>24</sup> *Regulation on State Secrets and the Specific Scope of Each Level of Secrets in Judicial Administration Work* [司法行政工作中国家秘密秘密及其密级具体范围的规定], jointly issued by Ministry of Justice, National Administration for the Protection of State Secrets [司法部、国家保密局] August 31, 1995. Article 2.3.2.

<sup>25</sup> *Regulation on State Secrets and the Specific Scope of Each Level of Secrets in the Work of the People's Procuratorates* [人民检察院工作中国家秘密秘密及其密级具体范围的规定], Jointly issued by Supreme People's Procuratorates, National Administration for the Protection of State Secrets [最高人民法院、国家保密局], January 15, 1996, article 3.2.5.

<sup>26</sup> *Regulation on State Secrets and the Specific Scope of Each Level of Secrets in Judicial Administration Work* [司法行政工作中国家秘密秘密及其密级具体范围的规定], jointly issued by Ministry of Justice, National Administration for the Protection of State Secrets [司法部、国家保密局] August 31, 1995. Article 4.8.

## **Rule of law challenges in the PRC and impact on the Convention’s provisions ensuring liberty and security of the person.**

### **Article 14: Liberty and Security of the Person**

18. As discussed above, the State Secrets Law may present challenges to accessing reliable and comprehensive data. In addition to social stigmatization and discrimination, many persons are rendered physically or psychologically disabled following abuse, mistreatment, or torture while in prison, detention, or forced disappearances. HRIC is providing information on this additional group of persons with disabilities that has not been addressed by the PRC report nor in the Committee’s List of Issues.
19. The Committee has requested additional information regarding:<sup>27</sup>
- data on the number of persons with disabilities detained in Chinese prisons and civil and administrative institutions;
  - “psychological programmes and psychological guidance aimed at ‘correcting’ and ‘curing’ prisoners with disabilities;”
  - steps taken to repeal legislation allowing for detention based on disabilities and to develop community-based services and support for persons with disabilities.
20. However, there are obstacles to getting accurate current information on the situation. For example, Article 4(8) of the *Regulation on State Secrets and the Specific Scope of Each Level of Secrets in Judicial Administration Work*, data relating to police brutality, which results in injuries and disabilities to prisoners, is classified as an internal matter and must not be made public without authorization.<sup>28</sup>
21. In addition to persons with disabilities detained or imprisoned, there is an additional group of persons that present concerns: **persons who, after a period of detention or imprisonment, suffer physical and psychological disabilities resulting from abuses, torture, or harsh detention conditions.** Some of these persons are human rights defenders or political activists who have been imprisoned for participating in peaceful protests against the government or exercising their fundamental right to freedom of expression.
22. Some specific cases are described below:
- **Li Wangyang (李旺阳)** is a long term activist from Hunan Province. Li was among the first labor rights activists who called for the establishment of independent unions

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<sup>27</sup> United Nations’ Committee on the Rights of Persons with Disabilities, “List of Issues,” UN Doc. CRPD/C/CHN/Q/1, paras. 13-15, May 16, 2012.

<sup>28</sup> Regulation on State Secrets and the Specific Scope of Each Level of Secrets in Judicial Administration Work [司法行政工作中国家秘密及其密级具体范围的规定], issued by Ministry of Justice and the National Administration for the Protection of State Secrets, promulgated August 31, 1995 and effective as October 15, 1995. For further information, see Human Rights in China, *State Secrets: China’s Legal Labyrinth*, 156-157, (New York: Human Rights in China, 2007), <http://www.hrichina.org/content/4082>.

in China. For his participation in the 1989 Democracy Movement, on October 25, 1989, Li was convicted of counterrevolutionary propaganda and incitement and was sentenced to 13 years in prison. As a result of **years of torture and confinement in a cramped cell, Li lost his sight, his hearing, and had difficulty walking.** In addition, when he was first imprisoned, his height was 182 cm, when he was released, his height was 173 cm.<sup>29</sup>

Upon his release, Li **petitioned the local Shaoyang government to pay for his medical treatment** of conditions he developed in prison.<sup>30</sup> In 2001, he staged a hunger strike to protest the lack of compensation and appealed for international attention. As a result of this activity, he was convicted of “inciting subversion of state power” and sentenced to 10 years of imprisonment. He was released in May 2011.<sup>31</sup> Wang’s sudden death in early June 2012 while receiving treatment in a hospital led to calls for investigations into his alleged suicide. In July 2012, an official investigation concluded that his death was a suicide. His supporters continue to question and protest this conclusion.<sup>32</sup>

- **Ni Yulan (倪玉兰)** is an award winning Chinese rights activist and lawyer from Beijing.<sup>33</sup> She graduated from China University of Political Science and Law (中国政法大学) and used her legal knowledge to advocate for vulnerable people. In 2001, she advocated for Beijing residents whose homes were demolished in preparation for the 2008 Beijing Olympics. As a result, in **2002, police authorities detained and beat her so severely that she suffered from incontinence, a fractured tailbone, and now cannot walk without crutches or a wheelchair.**<sup>34</sup> After her release on

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<sup>29</sup> Human Rights in China, “Prisoner Profile: Li Wangyang,” China Rights Forum, Fall 2011, <http://www.hrichina.org/content/4761>; Human Rights in China, “Relatives Question Hunan Activist’s “Suicide”; Demand Autopsy,” June 6, 2012, <http://www.hrichina.org/content/6093>.

<sup>30</sup> Human Rights in China, “Relatives Question Hunan Activist’s “Suicide”; Demand Autopsy,” June 6, 2012, <http://www.hrichina.org/content/6093>.

<sup>31</sup> Ibid.

<sup>32</sup> As a case update, on June 6, 2012, Li was found dead in his hospital room. Authorities determined that he committed suicide. Li was found hanging from the window of his hospital room with his feet on the ground. Li’s sister, **Li Wangling [李旺玲], brother-in-law, Zhao Baozhu [赵宝珠]**, his supporters, and fellow activists refute governmental reports of suicide and began online petitions calling for an immediate official investigation. In response, authorities have placed his supporters under police surveillance. On June 7, 2012, Li’s sister and brother-in-law were detained and their current whereabouts are unknown. According to Western media, in July 2012, Chinese government authorities released official findings into Li’s death and confirmed that he committed suicide. For more information on his case, see: Human Rights in China, “Relatives Question Hunan Activist’s “Suicide”; Demand Autopsy,” June 6, 2012, <http://www.hrichina.org/content/6093>; and Human Rights in China, “Relatives of Li Wangyang Being Held by Authorities,” June 7, 2012, <http://hrichina.org/content/6108>; Amnesty International, “Urgent Action: Dissident’s Relatives Disappear,” July 11, 2012, [http://www.amnestyusa.org/sites/default/files/uaa19212\\_0.pdf](http://www.amnestyusa.org/sites/default/files/uaa19212_0.pdf); “Findings of Li Wangyang’s death lead to questions and protest” [李旺阳死亡调查结果再引质疑和抗议], Deutsche Welle, July 12, 2012, <http://www.dw.de/dw/article/0,,16095327,00.html>.

<sup>33</sup> In December 2011, the Dutch government announced her winner of the 2011 Human Rights Defenders Tulip Award. See Human Rights in China, “No Verdict Issued in Ni Yulan’s Case,” December 29, 2011, <http://www.hrichina.org/content/5748>.

<sup>34</sup> Human Rights in China, “No Verdict Issued in Ni Yulan’s Case,” December 29, 2011, <http://www.hrichina.org/content/5748>.

parole in July 2002, she **petitioned the government to redress her maltreatment and permanent disability**. Authorities responded by convicting and sentencing her to one year in prison for “obstructing official business.”<sup>35</sup> After her release, Ni continued her advocacy work against demolition of homes in Beijing. She has since been convicted twice and is currently serving a two year and eight month sentence for trumped up charges of “picking quarrels and provoking troubles,” and “fraud.”<sup>36</sup>

- **Bao Junsheng (鲍俊生)** is a rights activist from Sichuan Province. On February 23, 2009, Bao gathered a group of people outside the main gates of the Chengdu Municipal Intermediate People’s Court to protest against a stalled multi-year law suit. Bao and the group displayed banners, shouted slogans, wore hats emblazoned with the words “defend rights” and “injustice” and used iron chains to link themselves together. This protest gained public attention and was coined as the “Chain Gate Incident” (链子门). For this activity, Bao and nine other protesters were convicted of “gathering a crowd to disturb social order” and sentenced to three years of imprisonment. He was released on February 22, 2012.<sup>37</sup> After his release from prison, **Bao was institutionalized in a psychiatric facility**. On April 27, 2012, he was forced to leave the psychiatric facility soon after invited to have “tea” (chat) with local public security officials. In a moment of mental clarity, Bao stated that he recognized the official who tortured him (on the “tiger bench” [老虎凳]) to confess to his crimes. According to his daughter, **currently Bao’s moods continue to be very unstable and he often displays manic behavior.**<sup>38</sup>

It is not clear what if any resources, compensation, treatment, or other rehabilitative measures are afforded to persons in this category.

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<sup>35</sup> As a case update, Human Rights in China, “No Verdict Issued in Ni Yulan’s Case,” December 29, 2011, <http://www.hrichina.org/content/5748>.

<sup>36</sup> For more details on her current situation, please see Human Rights in China, “No Verdict Issued in Ni Yulan’s Case,” December 29, 2011, <http://www.hrichina.org/content/5748>; Human Rights in China, “Ni Yulan’s Appeal,” April 13, 2012, <http://www.hrichina.org/content/5975>; “They Had to Make Cuts,” Radio Free Asia, June 22, 2012, <http://www.rfa.org/english/women/ni-yulan-06222012173437.html>. In 2008, Ni protested the demolition of her own home and was convicted and sentenced to two years for “obstructing official business.” While in prison, Ni’s home was demolished because she refused to admit her guilt and her crutches were confiscated by prison officials. Upon her release in April 2010, she was left homeless and her family was forced to live in a tent in a Beijing park. In April 2011, as part of a governmental crackdown against rights defenders, Ni and her husband were criminally detained in Beijing for “picking quarrels and provoking troubles.” By July 2011, an additional charge of “fraud” was added to Ni’s case. She was convicted on both charges on April 10, 2012, fined 1000 *yuan* (approx. US\$159), and sentenced to two years and eight months in prison. On April 13, 2012, Ni’s lawyer filed an appeal challenging the conviction and verdict.

<sup>37</sup> Human Rights in China, “Leader of ‘Chain Gate’ Protest, Bao Junsheng, Released from Prison,” February 23, 2012, <http://www.hrichina.org/content/5889>.

<sup>38</sup> Chinese Human Rights Defenders [维权网], “‘Chain Gate’ Protester Bao Junsheng Released from Psychiatric Institution Recognized Security Officials who Tortured Him” [“链子门”首犯鲍俊生从精神病院出院后认出对他实施虐待的国保], May 12, 2012, [http://wqw2010.blogspot.com/2012/05/blog-post\\_6859.html](http://wqw2010.blogspot.com/2012/05/blog-post_6859.html).

**Definition of discrimination and anti-discrimination provisions in relevant PRC laws and impact on monitoring, data collection, development of effective measures and assessment of these measures.**

23. As recognized by the Committee and underscored by concerned civil society disability groups, the lack of a definition of discrimination in the *Law of the People's Republic of China on the Protection of Disabled Persons* (“Disability Law”) raise concerns for State Party’s full compliance with the Convention. Based upon the Committee’s request for additional information, HRIC is providing further information on “the legal prohibition of disability-related discrimination under Chinese law, the definition of discrimination in this regard, and whether it covers denial of reasonable accommodation.”<sup>39</sup>
24. Although the Disability Law prohibits discrimination against persons with disabilities, it does not provide a definition of discrimination.<sup>40</sup> The impact of the lack of a clear definition of discrimination in Chinese law has also been recognized by other treaty body reviews including:
- CEDAW in the 2006 Concluding Observations on China: “The Committee remains concerned that **Chinese domestic legislation still does not contain a definition of discrimination against women**[.] . . . [T]he Committee is concerned that the State party is still not aware of the importance of such a definition and that the lack of a specific legal provision may constrain the application of the full scope of the Convention’s definition of discrimination in the State party.”<sup>41</sup>
  - CERD in the 2009 Concluding Observation on China: “[T]he Committee reiterates its concern . . . that **the domestic legislation of the State party does not contain a definition of racial discrimination** in full conformity with the definition set out in article 1 of the Convention . . . . The Committee **recommends that the State party adopt a comprehensive definition** of racial discrimination . . . prohibiting discrimination on the basis of race, colour, descent, or national or ethnic origin.”<sup>42</sup>
25. In addition, specific anti-discrimination provisions leave open the question of applicability of anti-discrimination provisions in other areas, Article 3 of the Disability Law states that “discrimination on the basis of disability shall be prohibited.”<sup>43</sup> In

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<sup>39</sup> United Nations’ Committee on the Rights of Persons with Disabilities, “List of issues to be taken up in connection with the consideration of the initial report of China,” UN Doc. CRPD/C/CHN/Q/1, para 4. May 16, 2012.

<sup>40</sup> Ibid.

<sup>41</sup> United Nations’ Committee on the Elimination of Discrimination against Women, “Concluding Observations of the Committee on the Elimination of Discrimination against Women: China,” UN Doc. CEDAW/C/CHN/CO/6, para. 9. August 25, 2006.

<sup>42</sup> United Nations’ Committee on the Elimination of Racial Discrimination, “Concluding Observations of the Committee on the Elimination of Racial Discrimination: China,” UN Doc. CERD/C/CHN/CO/10-13, para. 10. September 15, 2009.

<sup>43</sup> Law of the People's Republic of China on the Protection Persons with Disabilities [中华人民共和国残疾人保障法], issued by the Standing Committee of the National People's Congress [全国人民代表大会常务委员会], promulgated on December 28, 1990, revised on April 24, 2008, and effective on July 1, 2008, Art. 3.

particular, discrimination is expressly prohibited in the area of employment,<sup>44</sup> and Article 64 sets out sanctions for discriminatory practices in job recruitment.<sup>45</sup> However, the Disability Law does not include specific anti-discrimination provisions or corresponding sanctions in areas such as cultural life, social security, and education. The lack of clear and comprehensive discrimination provisions raises concerns as to the legal protections afforded to persons with disability in areas other than employment-related claims.

26. The lack of a clear definition in Chinese law that is in conformity with Article 2 of the Convention presents challenges for policy planning, relevant data collection and reporting, advancing effective implementation, and ensuring compliance with the Convention. It also undermines access to remedies, especially for women, ethnic minorities, or rural populations with disabilities, who often face double or triple discrimination in both public and private spheres.

## CONCLUSIONS

- The consultation process reported by the PRC does not adequately include a diversified range of persons with disabilities and their representative organizations, or with non-governmental civil society organizations in general.
- Pending revisions of the Implementation regulations of the State Secrets Law raises questions about the efficacy of the existing substantive regulations, including many areas identified by the Committee's List of issues, including family planning, public health, women, trade union, and civil and judicial administration work.
- It is not clear what if any resources, compensation, treatment, or other rehabilitative measures are afforded to persons rendered physically or psychologically disabled following abuse, mistreatment, or torture while in prison, detention, or forced disappearances.
- The lack of a legal definition of discrimination undermines the PRC's compliance with the Convention, domestic policy planning, relevant data collection and reporting, effective implementation, and ensuring access to remedies.

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<sup>44</sup> Ibid. art. 38.

<sup>45</sup> Ibid. art. 64.