

United Nations: China says NO to democracy and human rights

China unashamedly rejects the recommendations of 19 countries, including ALL the EU member states

By Willy Fautré

On 9 February 2009, China's human rights report was scrutinized during the fourth session of the Working Group of the Universal Periodic Review (UPR) at the UN in Geneva. China's failures were extensively highlighted in the Compilation of the UN Information by the Office of the High Commissioner for Human Rights and in the NGOs' submissions as well as during the interactive dialogue with the UN Member States. Unfortunately, China turned a deaf ear to repeated calls for more democracy, better respect of the rule of law and human rights.

The true face of China: NO to democracy and human rights!

The Chinese delegation has rejected almost all the recommendations aiming at promoting democracy and human rights made by ALL the EU member states and by Argentina, Australia, Brazil, Mexico, New Zealand, Switzerland. See the excerpts from the "Conclusions and/or Recommendations" of the Draft Report of the UPR Working Group.(*)

NO to Australia's following recommendations

(...) Noting grave concerns about reports of harassment, arbitrary arrest, punishment and detention of religious and ethnic minorities, including Tibetans, it recommended that China:

(...) (b) abolish the death penalty and, as interim steps, reduce the number of crimes for which the death penalty can be imposed and publish figures on executions.

Welcoming the softening of media regulations for foreign journalists and encouraging China to ensure restrictions are not imposed on journalists' access to the Tibetan Autonomous Region and to rural areas, it recommended

(c) that the new regulations be extended to Chinese journalists.

Australia further recommended that China

(d) respond positively to outstanding visit requests by special procedures and issue a standing invitation;

(e) ratify the International Covenant on Civil and Political Rights (ICCPR) as quickly as possible and with minimal reservations;

(f) establish a national human rights institution, in accordance with the Paris Principles; and

(g) investigate reports of harassment and detention of human rights defenders, including alleged mistreatment while in police custody, with a view to ending impunity.

NO to all of Canada's recommendations

(...) Canada expressed deep concern about reports of arbitrary detention of ethnic minorities members, including Tibetans, Uighurs and Mongols as well as religious believers, including Falun Gong practitioners, without information about their charges, their location and wellbeing.

Canada recommended that China:

- (a) accelerate legislative and judicial reforms, particularly on death penalty and administrative detention, to be in compliance with the ICCPR;
- (b) reduce the number of crimes carrying the death penalty and
- (c) regularly publish detailed statistics on death penalty use;
- (d) abolish all forms of administrative detention, including "Re-Education Through Labour";
- (e) eliminate abuse of psychiatric committal;
- (f) provide those held on State-security charges with all fundamental legal safeguards, including access to counsel, public trial and sentencing, and eligibility for sentence reduction and parole;
- (g) take immediate measures to implement the recommendations of November 2008 of the Committee against Torture, particularly on the inadmissibility in court of statements made under torture and the non-refoulement of refugees from the Democratic People's Republic of Korea;
- (h) respond positively to outstanding requests made by several United Nations Special Procedures, including the Special Rapporteur on freedom of religion or belief, to visit China, and
- (i) facilitate an early visit by the High Commissioner for Human Rights.

NO to The Netherlands' following recommendations

(...) It recommended that China:

- (...) (b) ratify the ICCPR as soon as possible and bring its legislation into line with its provisions; and
- (c) extend a standing invitation to all United Nations special rapporteurs. It said it looked forward to the publication of the Human Rights Action Plan 2009-2010.

NO to all of Switzerland's recommendations

(...) It welcomed the inclusion of an article on the protection of human rights in the Constitution and the promulgation of a number of laws that protect human rights and recommended that China

- (a) amend the criminal procedure code in order to ensure the right to a lawyer and put in place a law for the protection of witnesses. It requested more information on the process and timeframe for ratification of the ICCPR, which China signed in 1998. It further

welcomed the systematic revision of the death penalty by the People's Supreme Court effective from January 2007, which resulted in a decrease in executions,

and recommended that China

(b) publish the statistics of the total number of executions since the introduction of its revision to allow measurement of the decline in numbers;

(c) install a moratorium on the death penalty as a first step towards its total abolition.

While stressing that the rights and the particularities of minorities should be recognized and protected, and that their economic development should be supported, Switzerland expressed concern over the situation of ethnic minorities in Xinjiang and Tibet. Switzerland recommended that the Chinese authorities:

(d) respect the fundamental rights of these ethnic minorities, notably freedom of religion and movement.

NO to all of Mexico's recommendations

(...) Mexico also noted that it would be desirable to continue fostering cooperation with international mechanisms and for this reason recommended that China

a) respond positively to requests from Special Procedures on the right to food, human rights defenders, adequate housing, health, extrajudicial executions and toxic waste to visit China; and

b) give positive consideration to ratifying the Optional Protocol to the Convention against Torture (OP-CAT), the Convention on the Rights of Persons with Disabilities (CRPD) and the International Convention for the Protection of All Persons from Enforced Disappearance (CED).

Mexico commended China for having implemented additional safeguards concerning the application of the death penalty. This being a subject to which it attaches the utmost importance, Mexico recommended that China that consider positively declaring a moratorium on the application of the death penalty with a view to abolishing it.

NO to all of the recommendations of the United Kingdom of Great Britain and Northern Ireland

(...) It expressed concern about the human rights situation in the Tibet Autonomous Region and other Tibetan areas, particularly as regards cultural rights, including religious rights, and the use and teaching of minority languages, history and culture. It asked about plans to strengthen protections for Chinese media, who face non-official obstacles to reporting freely, in line with the ICCPR. It asked also how China intends to implement recommendations by the Committee against Torture on re-education through labour, the treatment of human rights defenders, and protection for defence lawyers.

It recommended that China: (a) release a clear timetable for work towards ICCPR ratification; (b) reduce the scope of application of the death penalty, and publish statistics to show that the use of the death penalty is falling in China; (c) issue a standing invitation to the Special Procedures of the Human Rights Council; and (d) grant greater access to Tibetan areas for OHCHR and other United Nations bodies, as well as diplomats and the international media.

NO to Germany's following recommendations

(...) Germany recommended that China:

- (a) abolish administrative detention and forced labour without proper trial, access to legal representation and independent supervision;
- (b) ensure every detainee has the right to regularly see visitors and has permanent access to legal counsel and effective complaint mechanisms; (...)
- (e) continue efforts to change its legal practice in a way which is conducive to markedly reducing the number of the death sentences being imposed and persons executed;
- (f) consider an early release of detainees who are of old age or in fragile health;
- (g) review its approach towards religious groups and practitioners, including those not organized in the officially recognized churches;
- (h) and guarantee all citizens of China, including its minority communities and religions, the exercise of religious freedom, freedom of belief and the freedom of worshipping in private.

NO to all of France's recommendations

France noted that NGOs' reports frequently referred to various methods of confinement, such as detention, house arrest, secret prisons and re-education through labour centres. It asked about any planned reforms on this matter and of what progress has been made in improving the situation of re-education through labour. France enquired about progress in adopting a law to ensure the legal protection of mentally ill persons. It asked about the new role played by the Supreme People's Court regarding the pronouncement of death penalty sentences.

Noting that the law on the work of foreign journalists was the first step towards creating respect for freedom of movement and information, France recommended that (a) provisions of this law be extended to Chinese journalists. France enquired about progress in adopting legislative and regulatory texts for the ratification of ICCPR

and recommended that China

- (b) state a precise calendar for ratification and adoption of the necessary measures for the ratification of the ICCPR.

France recommended

(c) the reduction of the great number of crimes which are subject to capital punishment, specifically, first of all, economic crimes, as well as abolishing the death penalty and increasing transparency on this issue by publishing national official statistics. It recommended that China (d) become a party to the Rome statute of the ICC.

NO to Finland's following recommendations

(...) Finland recommended that China

(a) take effective measures to ensure that lawyers can defend their clients without fear of harassment and can participate in the management of their own professional organizations (...)
(c) withdraw its reservation to the article 6 of the Convention on the Rights of the Child.

NO to Latvia's following recommendation

(...) Latvia recommended that China consider extending a standing invitation to all special procedures of the Human Rights Council.

NO to all the recommendations of the Czech Republic (presidency of the EU)

(...) The Czech Republic recommended that China:

(a) accede to the OPCAT, improve its national implementation of the CAT, establish an independent and effective complaints procedure for victims of torture and review its compliance with the principle of "non-refoulement";
(b) revise its legislation and practice that violate the right to freedom of expression and release all persons held in this connection, e.g., Mr. Paljor Norbu and persons arrested in connection with Charter 08.

In relation to the right to a fair trial, Czech Republic recommended that China

(c) reform its State secrets Law and definitions of crimes as incitement to subversion of state power so that they cannot be abused for persecution of human rights defenders in particular petitioners or journalists; (d) ensure the independence of judiciary and lawyers;
(e) abolish the system of re-education through labour and black jails.

With regard to protection of human rights of national minorities, including Tibetans and Uyghurs, Czech Republic recommended that China

(f) review laws and practices in particular with regard to ensuring protection of their freedom of religion, movement, protection of their culture and language.

In relation to Tibet, Czech Republic recommended that China

- (g) end the "strike hard campaign" associated with numerous serious violations of human rights;
- (h) investigate all cases of police brutality and torture, e.g., death of Mr. Pema Tsepak in Chambo in January this year; and
- (i) ensure protection of the right of peaceful assembly and release all persons arrested in this connection, e.g., Ms. Tashi Tao and Ms. Dhungtso in Kardze County.

NO to New Zealand's following recommendations

(...) Noting that the establishment of a fully funded and independent national human rights institution has proved helpful in a number of countries, it recommended

- (a) establishing a national human rights institution, in accordance with the Paris Principles.

It noted with concern continuing allegations around the use of forced labour as a corrective measure, torture, detention without trial and ill-treatment of suspects in police custody, harassment of lawyers and human rights defenders, and ongoing restrictions on freedom of religion, information and expression.

It recommended (...)

- (c) continued reform towards the eventual abolition of the death penalty, including greater transparency around its use.

It further recommended

- (d) conducting a review of its application of the 1984 safeguards, as adopted by ECOSOC 1984/50.

It noted an OHCHR report referring to human rights concerns in Tibet raised by special rapporteurs and by various treaty bodies. New Zealand has been a consistent supporter of dialogue to achieve meaningful outcomes that address the interests of all communities in Tibet and it understands that China intends to resume this dialogue and recommended that (e) it do so.

It recommended that

- g) the national action plan on human rights reflect concrete steps towards the ratification of the ICCPR.

NO to Argentina's following recommendation

(...) Argentina recommended (a) analysing the possibility of ratifying human rights instruments which are considered relevant in strengthening its promotion and protection, highlighting: ICCPR, International Convention for the Protection of All Persons Against Enforced Disappearances, and assess the possibility of accepting the competency of the Committee on Enforced Disappearances in accordance with the Convention, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the Convention against Transnational Organised Crime;

NO to Portugal's following recommendation

(...) Portugal recommended that China (b) ensure that primary education attains the constitutionally guaranteed universal compulsory status. In spite of all the progresses in the field of education, Portugal expressed concern over programmes like "Work and Study" as the regulations failed to provide a clear definition of the acceptable kind, intensity and overall time duration of this special category of work. It welcomed the ratification of the ICRPD and the accessibility improvements witnessed during the Beijing Olympics and Paralympics.

NO to Austria's following recommendations

(...) Austria recommended

(b) further reducing the applicability of the death penalty, in particular for non-violent crimes, and to provide statistics on the number of death sentences as well as on the SPC review procedure (how many cases are returned for retrial; in how many cases are defendants heard by the SPC).

It further recommended

(e) strengthening cooperation through open invitations to Special Procedures.

NO to Sweden's following recommendations

(...) Sweden further recommended

(b) removing restrictions on freedom of information and expression;

(c) taking urgent steps to abolish the various systems of arbitrary detention;

(d) ensuring that any reformed prison or compulsory care system meets international human rights standards;

(e) continuing and deepening judicial reform, including by adopting measures to address the institutional weakness and lack of independence of the judiciary;

(f) abolishing or reforming the current hukou residency system to ensure that all citizens are ensured basic access to education, health care and other relevant social welfare systems on an equitable basis and in line with the principles of non-discrimination; and
(g) lifting the current reservation to article 8.1(a) of the ICESCR, which ensures the right of everyone to form trade unions and join the trade union of his or her choice and welcomed more information on possible reforms in this area.

Sweden also recommended

(h) establishing an independent national human rights institution in line with the Paris principles.

NO Brazil's following recommendations

(...) Brazil recommended to China, bearing in mind resolution 9/12 entitled "Human Rights Goals", (...) to adhere to both the

(b) Rome Statute of the ICC and
(c) the OP-CAT.

It further recommended that China

(d) consider establishing a moratorium on death penalty; adopt specific legislation on domestic violence; and continue its cooperation with OHCHR.

NO to all of Italy's recommendations

(...) Italy recommended that China

(a) lift secrecy on figures and statistics concerning death penalty; restrict its application to the most serious crimes according to international minimum standards; and to consider the establishment of a moratorium on the use of death penalty with a view to its abolition;
(b) simplify requirements for official approval of religious practices in order to allow more individuals to exercise their freedom of religion and belief and to better respect the religious rights of minorities; and
(c) respond positively to requests of visits made by United Nations special procedures and to consider issuing a standing invitation to them.

NO to all of Hungary's recommendations

Hungary expressed concern that forced labour could be a corrective measure in China, such as child labour in school, and that these could result in exploitation of children. (...)

It also fully acknowledged the importance of the fact that, according to the provisions of the Constitution, Chinese citizens have the right to freely express their opinion. Hungary recommended that China accept different opinion if it is expressed by human rights defenders through peaceful demonstration.

Recommendations already implemented?

(...) China indicated that the following recommendations are pertaining to measures already being implemented or which had already been implemented:

1. Guarantee that all detainees, regardless of their crimes, are held in facilities with decent standard and treatment (**Germany**);
2. Develop and adopt a comprehensive policy to combat child labour (**Finland**);
3. Strengthen the protection of ethnic minorities' religious, civil, socio-economic and political rights (**Australia**); In accordance with the Constitution, allow ethnic minorities to fully exercise their human rights, to preserve their cultural identity and to ensure their participation in decision-making; (and address these issues in the National Plan of Action) (**Austria**).

Delayed answers to the following recommendations

The following recommendations will be examined by China which will provide responses in due time. The responses of China to these recommendations will be included in the outcome report adopted by the Human Rights Council at its eleventh session:

1. Inscribe a legal definition of discrimination in its national law (**Portugal**)/Evaluate the possibility of establishing a legal description of discrimination taking into account international legal standards in this area (**Argentina**);
2. Reduce the number of crimes carrying the death penalty (**Australia, Canada**);
3. Adopt specific legislation on domestic violence (**Brazil**);
4. Follow-up on this UPR (**Austria**).

HRWF Int'l Conclusions

Now that the Olympics are over, China has shown its true face: NO to democracy, the rule of law, human rights international standards.

However, after the review of its human rights record, China claimed victory (!)

Commenting on the U.N. human rights report published two days after its review, Foreign Ministry spokeswoman Jiang Yu said most countries had endorsed China's rights record - and those that did not were simply "politicizing" the process.

"A majority of countries spoke highly of China's human rights policies and achievements, and support China continuing the followed path in line with its national conditions," Jiang said at a regularly scheduled news conference.

"A few countries attempted to politicize the review and made some accusations. They were rebuked by most countries," Jiang said.

The report, on the other hand, did include praise from a number of countries with very dubious human rights records themselves who felt compelled to congratulate the Beijing government's dismal performance in this respect.

Here are some of the praises as compiled by The Associated Press:

--Cuba urged its fellow communist country to crack down on self-appointed human rights defenders "attacking the interests of the state and the people of China."

--Pakistan blamed the clashes during last year's anti-government protests in Tibet on criminals who had "disturbing links to external perpetrators with ulterior motives."

--Sri Lanka rejected malignant criticisms by those who tore China into little pieces in the period of colonialism and noted China had achieved independence and self-determination for its people, according to the report.

The EU and its member states should now draw their conclusions for their human rights dialogues with China and drastically revise their strategies.

(*) See full report of the Working Group of the UPR at http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CN/A_HRC_WG6_4_L11_CHN_E.pdf