



## **Input for Report: Impact of Thematic Reports by the Special Rapporteur on Torture**

Civil Society submission to Prof. Nils Melzer,  
United Nations Special Rapporteur on Torture and Other Cruel,  
Inhuman or Degrading Treatment or Punishment

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HRIC was founded in March 1989 by overseas Chinese students and scientists with a mission to support rights defenders and advance the institutional protection of international human rights in the People's Republic of China.

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## I. Introduction

1. Human Rights in China (HRIC) welcomes the opportunity to provide input into the next thematic report by the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SRT), on the global impact analysis of the SRT's thematic reports as a driver of change in laws, policies, and practices towards the eradication of torture and ill-treatment.
2. HRIC's submission focuses on the relevance and impact of four reports by the SRT in the context of torture-related challenges in the People's Republic of China (PRC or China), concerning:
  - extra-custodial use of force in the Hong Kong Special Administrative Region (HKSAR),
  - corruption-related torture and ill-treatment in the mainland,
  - psychological torture in Xinjiang Uyghur Autonomous Region (XUAR), and
  - effectiveness of the cooperation of China with the mandate holder.
3. Unfortunately, due to complex interrelated structural, ideological, and political challenges in China that impact on transparency and accountability, the SRT's important recommendations have had limited impact on the PRC's laws, policies, and practices.<sup>1</sup> We also advance suggestions for strengthening the future impact of the SR's recommendations.

## II. Impact Analysis of SRT Thematic Reports & the PRC

### A. Extra-Custodial Use of Force in Hong Kong

4. International standards define torture and ill-treatment as inclusive of excessive police violence.<sup>2</sup> While the July 2017 report by the SRT on extra-custodial use of force<sup>3</sup> did not mention the PRC, it is highly relevant to Hong Kong. The disproportionate use of force by state agents in extra-custodial settings, particularly police brutality in the course of policing of assemblies<sup>4</sup> during the 2019 *Anti-Extradition Law Amendment Bill* protests (**Anti-ELAB**),<sup>5</sup> has been widely documented, and has greatly eroded public trust in the Hong Kong Police Force.<sup>6</sup>
5. The instances of extra-custodial use of force by the police during the 2019 Anti-ELAB protests included: unnecessarily tackling demonstrators to the ground, including pregnant women, children, and older people;<sup>7</sup> beating protestors even when already restrained<sup>8</sup> or "powerless";<sup>9</sup> improper use of riot control agents like pepper spray,<sup>10</sup> water cannons,<sup>11</sup> and tear gas<sup>12</sup> in dangerous or enclosed situations;<sup>13</sup> shooting<sup>14</sup> and blinding several;<sup>15</sup> and sexual violence against female protestors.<sup>16</sup> "Less-lethal" weapons such as batons and rubber bullets were also used unlawfully,<sup>17</sup> in addition to the use of live fire.<sup>18</sup> Most alarming of all is how detailed protocols on the use of force in police guidelines and manuals were routinely ignored by the police.<sup>19</sup>

6. Given the overwhelming documentation of police misconduct,<sup>20</sup> which contributed to the escalation of the protests,<sup>21</sup> the SRT's recommendations for proper training, instruction, and prompt and impartial investigations<sup>22</sup> were critical and relevant. However, in Hong Kong, actions taken by the authorities have in fact run counter to these recommendations
  - Updated police guidelines in October 2019 removed this line: “officers will be accountable for their own actions,” stating only that “officers on the ground should exercise their own discretion to determine what level of force is justified in a given situation.”<sup>23</sup>
  - Instead of an independent inquiry, the government-backed Independent Police Complaints Council (IPCC)<sup>24</sup> released a report<sup>25</sup> in May 2020 which basically exonerated the police.<sup>26</sup> Compounding the wide concerns regarding the lack of impartiality and limited competence of the IPCC,<sup>27</sup> five foreign experts recruited to provide international experience and advice on police practices and procedures had stepped down from the panel on December 11, 2019, citing doubts over IPCC's independence and capacity to conduct independent investigation into police conduct.<sup>28</sup>
  - Beijing-backed Chief Executive Carrie Lam repeatedly insisted the existing mechanism is sufficient,<sup>29</sup> in line with the authorities' collective denial,<sup>30</sup> despite a November 2020 court ruling that the current system is inadequate for investigating police violations and runs contrary to Hong Kong's *Bill of Rights* prohibiting torture and ill-treatment.<sup>31</sup>

## **B. Corruption-related Torture and Ill-Treatment in the Mainland**

7. The SRT's report on corruption-related torture and ill-treatment<sup>32</sup> did not mention the PRC. However, “political corruption,” i.e., the “manipulation of policies, institutions and procedures by political decision makers . . . to sustain their power, status and wealth or to secure undue benefits for their relatives and political entourage”<sup>33</sup> is a key driver of anti-corruption campaigns in mainland China. In 2012, Chinese President Xi Jinping's “war on corruption” saw the downfall of high-ranking politicians like Zhou Yongkang<sup>34</sup> and prosecution of thousands of members of the Communist Party of China (CPC).<sup>35</sup> The campaign was widely believed to be a political witch hunt in disguise.<sup>36</sup>
8. Since 2018, entrepreneurs or public figures perceived to have gained too much wealth or influence have been targeted.<sup>37</sup> The anti-corruption drive has been linked to secret torture, unlawful detentions, enforced disappearances, and other ill-treatment.<sup>38</sup> Corruption-related torture and ill-treatment also needs to be viewed within the context of forced confessions in a formal criminal justice system with a conviction rate of over 99.99%.<sup>39</sup>
9. The problem of torture is further exacerbated by the information control regime and the lack of transparency. In 2020, China was ranked 78th out of 180 countries in Transparency International's Corruption Perception Index.<sup>40</sup> Despite repeated requests for statistics and other information by human rights mechanisms, China's *State Secrets*

*Law*<sup>41</sup> shields information including national statistics on torture, hampering a clear understanding of the full extent of torture practices and effective remedial actions.

10. Among CPC members subjected to the *shuanggui* internal disciplinary system, operated by the CPC Central Commission on Discipline Inspection (CCDI),<sup>42</sup> at least 11 people were reported to have died under a system that has no basis in Chinese law.<sup>43</sup> In 2018, the National People’s Congress (NPC) created a super-sized anti-corruption body called the National Supervision Commission and adopted a *Supervision Law* to govern its operations, essentially legalizing the *shuanggui* system. Critics point out that the law fails to subject anti-corruption work to the due process requirements of China’s criminal justice and administrative law systems.<sup>44</sup> While the CCDI has grown to become one of the most powerful institutions in the country,<sup>45</sup> corruption has only become more entrenched and more rampant, if only less visible.<sup>46</sup> Recent state media reported that in 2020 alone, “disciplinary inspection and supervisory organs across the country investigated about 618,000 corruption cases, leading to the punishment of over 600,000 people.”<sup>47</sup>
11. While the SRT’s recommendations on addressing corruption-related torture and ill-treatment were relevant to China, they did not have discernible impact on the law and practices of China. Instead, on the international stage, the PRC continues to push for broadening its form of anti-corruption governance,<sup>48</sup> most recently at the UN General Assembly Special Session on Corruption in June 2021.<sup>49</sup>

### **C. Psychological Torture in Xinjiang**

12. The SRT’s March 2020 report on psychological torture<sup>50</sup> expressly mentioned China, focusing on the psychological torture of Uyghurs and other Turkic Muslims in Xinjiang in the “alleged mass internment for purposes of political ‘re-education’”<sup>51</sup> and “forcible internment for the ‘re-education’ of political or religious dissidents.”<sup>52</sup> The report also mentions “state-sponsored vilification”—“systematic denial of justice and serious threats or intimidation”—as a form of psychological torture.<sup>53</sup>
13. Ongoing media and NGO reports document the abuses suffered by Uyghurs and other Turkic Muslims incarcerated in camps, prisons, and other penal institutions<sup>54</sup> under the guise of counter-terrorism.<sup>55</sup> Detainees’ psychological maltreatment leading to cumulative psychological effects<sup>56</sup> includes: ideological political indoctrination;<sup>57</sup> forcing detainees to sing propaganda songs and chant phrases like “long live Xi Jinping” to get food;<sup>58</sup> severe verbal abuse;<sup>59</sup> or attacks on Uyghur culture and the religion of Islam.<sup>60</sup> Detainees often recount that witnessing others’ abuse and torment was equally if not more agonizing than their own experiences. Psychological torment also led to health conditions such as high blood pressure and post-traumatic stress with symptoms including extreme anxiety, nightmares, and depression.<sup>61</sup> Not knowing how long the physical and psychological torture would last compounds the psychological torture detainees experience.<sup>62</sup>

14. The treatment of Uyghurs and other Turkic Muslims in Xinjiang is one of China's most alarming examples of human rights violations and abuses, widely condemned by UN member states at the Human Rights Council<sup>63</sup> and the Third Committee of the General Assembly. The UN High Commissioner for Human Rights Michelle Bachelet has requested unfettered access to the region for a fact-finding mission.<sup>64</sup> Despite official assertions that the PRC's legislative, administrative, and judicial departments have adopted measures against torture in the mainland, China has never acknowledged these human rights violations and abuses.
15. The PRC's official position regarding torture is that all such allegations are "sheer lies"<sup>65</sup> and "fake news" meant to interfere with China's sovereignty and judicial independence.<sup>66</sup> The authorities also use Uyghurs in Xinjiang to refute the allegations.<sup>67</sup> Disinformation and propaganda by the authorities lead many Chinese citizens to believe Uyghurs are happily living their lives.<sup>68</sup> In response to the trade restrictions adopted by some governments, including sanctions from the U.S. government,<sup>69</sup> PRC authorities have retaliated by encouraging Chinese consumers to boycott companies that have publicized or expressed concerns over Xinjiang.<sup>70</sup>
16. Despite intensified international attention on the ill-treatment of Uyghurs in Xinjiang, the SRT's important recommendations have produced limited impact due to the PRC's persistent denial of the violations and abuses, and its aggressive propagation of counter-narratives and retaliatory sanctions.

#### **D. Effectiveness of the Cooperation of China with the Mandate Holder**

17. As highlighted above, while the SRT's reports are relevant to the national context of China, the impact of the general recommendations on national regulations, laws, policies, and practices is limited. This is primarily due to significant structural, ideological, and political challenges presented by an authoritarian party-state that asserts party leadership over law, the opacity of the criminal justice system, and the lack of effective accountability mechanisms.
18. As with recommendations by other human rights mechanisms, the effective implementation of the recommendations by the Special Rapporteur relies upon a range of factors beyond the control of the mandate, chief among which is political will on the part of the states. However, to contribute to strengthening future impact, we suggest the following recommendations to states:
  - disseminate all recommendations by the SRT on their official websites (especially relevant for China, which has prioritized digital governance);
  - develop targeted modalities (e.g., public education, social media campaigns) to promote implementation; and
  - report on implementation steps taken in state reports to the Committee Against Torture and in UPR progress and periodic reports.

19. We also offer the following recommendations for the SRT's consideration:

- follow up with states through questionnaires and surveys regarding the steps taken in response to the Special Rapporteur's recommendations; and
- complement the mandate's reports to the Human Rights Council and the General Assembly with civil society consultations and workshops aimed at enhancing implementation of recommendations in specific rights restrictive contexts.

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<sup>1</sup> [https://www.hrichina.org/sites/default/files/hric-cat-2015\\_report.pdf](https://www.hrichina.org/sites/default/files/hric-cat-2015_report.pdf); <https://www.hrichina.org/en/implementation-convention-against-torture-cat-peoples-republic-china>; [https://www.hrichina.org/sites/default/files/PDFs/Submissions/HRIC\\_CAT-2000.pdf](https://www.hrichina.org/sites/default/files/PDFs/Submissions/HRIC_CAT-2000.pdf); <https://www.hrichina.org/sites/default/files/cat-report-1996.pdf>.

<sup>2</sup> A/72/178, July 20, 2017, Para. 34, Pg. 14.

<sup>3</sup> A/72/178, July 20, 2017.

<sup>4</sup> <https://www.scmp.com/news/hong-kong/politics/article/3085775/hong-kong-protests-police-used-disproportionate-force-and>; <https://foreignpolicy.com/2019/11/11/police-killing-protests-beijing-lam-xi-hong-kong-violence-will-get-worse/>.

<sup>5</sup> The Anti-ELAB movement refers to the months of protests in Hong Kong in response to a highly controversial proposed law amendment that would allow extraditions to the mainland, which may potentially expose Hong Kong to the mainland's markedly different justice system and lead to the erosion of judicial independence. <https://www.bbc.com/news/world-asia-china-47810723>.

<sup>6</sup> <https://www.theatlantic.com/international/archive/2019/09/hong-kong-police-lost-trust/597205/>.

<sup>7</sup> <https://hongkongfp.com/2020/09/01/video-pregnant-woman-pepper-sprayed-and-pushed-to-ground-by-hong-kong-police-during-mong-kok-demo/>; <https://www.bbc.com/news/av/world-asia-china-54065743>.

<sup>8</sup> <https://foreignpolicy.com/2019/11/11/police-killing-protests-beijing-lam-xi-hong-kong-violence-will-get-worse/>.

<sup>9</sup> A/72/178, July 20, 2017, Conclusions.

<sup>10</sup> <https://www.scmp.com/news/hong-kong/politics/article/3036002/hong-kong-police-criticised-over-close-range-use-pepper>.

<sup>11</sup> [https://www.washingtonpost.com/world/asia\\_pacific/hong-kong-police-brutality-black-lives-matter-george-floyd-protests/2020/06/18/911454a4-ae4e-11ea-98b5-279a6479a1e4\\_story.html](https://www.washingtonpost.com/world/asia_pacific/hong-kong-police-brutality-black-lives-matter-george-floyd-protests/2020/06/18/911454a4-ae4e-11ea-98b5-279a6479a1e4_story.html).

<sup>12</sup> <https://www.bbc.com/news/av/world-europe-49315367>.

<sup>13</sup> <https://www.scmp.com/magazines/post-magazine/long-reads/article/3022942/truth-about-tear-gas-how-hong-kong-police>.

<sup>14</sup> <https://www.nytimes.com/2019/10/03/world/asia/hong-kong-protests-police.html>.

<sup>15</sup> <https://www.theguardian.com/world/2019/dec/31/hong-kong-reporter-blinded-covering-protests-on-her-bid-to-sue-police>.

<sup>16</sup> <https://www.amnesty.org.hk/en/sexual-violence-against-hong-kong-protesters-whats-going-on/>.

<sup>17</sup> <https://policehumanrightsresources.org/how-not-to-police-a-protest-unlawful-use-of-force-by-hong-kong-police>.

<sup>18</sup> <https://foreignpolicy.com/2019/11/11/police-killing-protests-beijing-lam-xi-hong-kong-violence-will-get-worse/>.

<sup>19</sup> <https://www.washingtonpost.com/graphics/2019/world/hong-kong-protests-excessive-force/>.

<sup>20</sup> <https://www.thenation.com/article/archive/hong-kong-police-brutality/>.

- <sup>21</sup> <https://hongkongfp.com/2020/11/19/hong-kong-police-played-pivotal-role-in-radicalising-protests-in-build-up-to-poly-u-seige-policing-expert-report-says/>.
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- <sup>23</sup> <https://www.reuters.com/article/us-hongkong-protests-police-idUSKBN1WI0TX>.
- <sup>24</sup> [https://www.washingtonpost.com/world/asia\\_pacific/hong-kong-watchdog-absolves-police-over-protest-crackdown-dimming-prospects-of-accountability/2020/05/15/2df17f7e-9679-11ea-87a3-22d324235636\\_story.html](https://www.washingtonpost.com/world/asia_pacific/hong-kong-watchdog-absolves-police-over-protest-crackdown-dimming-prospects-of-accountability/2020/05/15/2df17f7e-9679-11ea-87a3-22d324235636_story.html).
- <sup>25</sup> <https://hongkongfp.com/wp-content/uploads/2020/05/IPCC.pdf>.
- <sup>26</sup> <https://www.legco.gov.hk/research-publications/english/1920in14-policy-on-police-use-of-force-in-public-order-events-in-selected-places-20200713-e.pdf>; <https://time.com/5837300/hong-kong-police-ipcc-report/>.
- <sup>27</sup> <https://www.amnesty.org/en/documents/asa17/1868/2020/en/>; <https://hongkongfp.com/2020/05/15/in-full-hong-kong-police-watchdog-releases-report-on-protest-conduct-but-no-evidence-of-yuen-long-mob-attack-collusion/>.
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- <sup>29</sup> <https://www.voanews.com/east-asia-pacific/calls-grow-police-accountability-hong-kong>.
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- <sup>32</sup> A/HRC/40/59, January 16, 2019, <https://undocs.org/A/HRC/40/59>.
- <sup>33</sup> A/HRC/40/59, January 16, 2019, Para. 16, Pg. 5.
- <sup>34</sup> <https://www.bbc.com/news/world-asia-china-26349305>.
- <sup>35</sup> <https://www.npr.org/2021/03/04/947943087/how-chinas-massive-corruption-crackdown-snares-entrepreneurs-across-the-country>.
- <sup>36</sup> <https://edition.cnn.com/2016/12/06/asia/china-shuanggui-communist-party-torture/index.html>.
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- <sup>38</sup> <https://www.reuters.com/article/us-china-rights-idUSKBN13V0LQ>.
- <sup>39</sup> <https://www.chinajusticeobserver.com/a/what-is-the-conviction-rate-in-china#:~:text=In%20China%2C%20the%20conviction%20rate,2019%20and%2099.969%25%20in%202018>.
- <sup>40</sup> Transparency International's Corruption Perception Index (2020), <https://www.transparency.org/en/cpi/2020/index/chn#>.
- <sup>41</sup> <https://www.hrichina.org/sites/default/files/cat-report-1996.pdf>.
- <sup>42</sup> <https://www.hrw.org/report/2016/12/06/special-measures/detention-and-torture-chinese-communist-partys-shuanggui-system>.
- <sup>43</sup> <https://www.rfa.org/english/news/china/torture-shuanggui-12062016132512.html>.
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- <sup>45</sup> <https://thewalrus.ca/corruption-chinas-false-war-on-corruption/>.
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- <sup>47</sup> <https://news.cgtn.com/news/2021-06-21/How-is-China-curbing-the-spread-of-corruption--11hl7KWRUEU/index.html>.
- <sup>48</sup> <https://news.cgtn.com/news/2021-06-03/China-outlines-four-point-proposal-on-global-fight-against-corruption-10MJFoSPSog/index.html>.
- <sup>49</sup> The PRC also adopted APEC's *Beijing Declaration on Fighting Corruption*<sup>49</sup> and G20's *High-Level Principles on Cooperation on Persons Sought for Corruption as well as the Asset Recovery*. [https://www.apec.org/Meeting-Papers/Annual-Ministerial-Meetings/2014/2014\\_amm/annexh](https://www.apec.org/Meeting-Papers/Annual-Ministerial-Meetings/2014/2014_amm/annexh); <https://www.unodc.org/unodc/en/corruption/g20-anti-corruption-resources/by-thematic-area.html>; <https://www.un.org/press/en/2021/ga12329.doc.htm>.
- <sup>50</sup> A/HRC/43/49, March 20, 2020.
- <sup>51</sup> A/HRC/43/49, March 20, 2020, Para. 12, Pg. 6.
- <sup>52</sup> A/HRC/43/49, March 20, 2020, Para. 37, Pg. 11.
- <sup>53</sup> <https://enduyghurforcedlabour.org/call-to-action/>; <https://www.foreignaffairs.com/articles/china/2021-02-10/roots-cultural-genocide-xinjiang>; A/HRC/43/49, March 20, 2020, Para. 69, Pg. 18.
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- <sup>61</sup> <https://www.bbc.com/news/world-asia-china-50511063>.
- <sup>62</sup> <https://www.varsity.co.uk/interviews/19990>.
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