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### **An Alternative Submission**

to

**the Committee on the Elimination of Discrimination against Women,**

**United Nations**

on

**the Implementation of the Convention on the Elimination of All Forms of**

**Discrimination against Women**

in

**the People's Republic of China**

by

**China Human Rights Lawyers Concern Group**

**October 9, 2014**

#### **Introduction**

1. This submission is a compilation of different sources of information by China Human Rights Lawyers Concern Group (hereafter referred to as CHRLCG). It aims to provide the Committee on the Elimination of Discrimination against Women (hereafter referred to as the Committee) a civil society perspective about the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (hereafter referred to as CEDAW) in the People's Republic of China.
2. CHRLCG is a Hong Kong-based non-profitable organization. It was founded in 2007 by a group of lawyers, legislative councilors, scholars and non-governmental organizations (NGOs) activists. CHRLCG aims to defend and enable lawyers in China to duly exercise their lawyers' duties so as to protect the basic rights of citizens in China. CHRLCG also helps promote the rule of law and legal reforms through legal aid to rights-based litigations, empower Chinese lawyers through exposure trips to other countries, and develop and consolidate local and international support to the human rights lawyers movement in China by advocacy work.

3. This submission is mainly divided into two parts, violence against women and the rights of disabled women. The first part covers three areas, i) violence against female human rights defenders, ii) violence against human rights defenders' families and iii) sexual violence against girls. Recommendations are listed in each big area.

## **A. Violence against women**

### **Articles 1 and 3**

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

4. In its General Recommendation No. 19 (11<sup>th</sup> session, 1992), the Committee clearly points out that "gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men".
5. Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include:
  - (a) The right to life;
  - (b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment;
  - (c) The right to equal protection according to humanitarian norms in time of international or internal armed conflict;
  - (d) The right to liberty and security of person;
  - (e) The right to equal protection under the law;

- (f) The right to equality in the family;
  - (g) The right to the highest standard attainable of physical and mental health;
  - (h) The right to just and favourable conditions of work.
6. The Committee is very concerned about the growth of violence against women in China. In Article 22 of its concluding comments in August 2006, the Committee states:

The Committee urges the State party (the Chinese authorities) to adopt a comprehensive law on violence against women and to ensure that all forms of violence against women and girls, both in the public and private spheres, constitute a crime punishable under criminal law. It calls upon the State party to provide immediate means of redress and protection to women and girls victims of violence, in accordance with the Committee's general recommendation 19. The Committee also encourages the State party to enhance victims' access to justice and redress, for example, through training aimed at judicial officers, including judges, lawyers and prosecutors, in order to enhance their capacity to deal with violence against women in a gender-sensitive manner and ensure that claims are investigated expeditiously, including incidents of violence against women in detention centre. It also calls upon the State party to strengthen its system of data collection in regard to all forms of violence against women and to include such information in its next report.

7. Today, eight years after, a comprehensive law on violence against women is still not yet in place in China. It is particularly absent in dealing with sexual violence. In its country reports 7-8 in 2012, the Chinese authorities have still limited its policies in domestic violence, violence in private area, and have neglected the violence against women in public sphere. No positive public policy has been conducted to prevent all forms of violence against women, especially underage girls.

**I. Violence against female lawyers and human rights defenders**

8. Increasing government attack against human right lawyers in China has seriously concerned the local and international community. Since the arrest of Xu Zhiyong in 2013, a law professor and a leading figure of the New Citizens Movement in China, government suppression against human rights lawyers has been intensified. More than 20 lawyers have been detained or arrested, and at least four of them are still being detained.

- 9.** In March 2014, three lawyers were detained and physically tortured when they went with their clients' families to visit the so-called "black jail", the Jiansanjiang Legal Education Centre, in which numerous Falun Gong practitioners have been detained. After medical examination, all three lawyers were found fractured ribs.
- 10.** Numerous conflicts with the police occurred in police station, detention centres and even in the court when human rights lawyers exercise their lawyers' duties. Some lawyers were physically attacked or were detained for a short period. One of the common conflicts between lawyers and the police and the court is security check in the court.
- 11.** Today, the court in China usually requests all persons to go through security check before going in the court. Human rights lawyers, however, see the security check as legally ungrounded, unreasonable and humiliated because the law only requests a lawyer to show three documents, lawyer license, certificate of the lawyer's law firm and client's authorization letter, before going in the court. Most human rights lawyers refuse to go through security check and are often stopped to go in the court. Physical attack against lawyers sometimes occurs.
- 12.** On April 4, 2014, Lawyer Wang Yu, a female lawyer, refused to go through security check in Zhongshan Court, Dalian. The judge ordered the court police to attack Lawyer Wang. Several male police caught Lawyer Wang's shoulders and arms and force her to go through security check. Usually only female police would take security check against women, but this time, the police not only physically attacked Lawyer Wang, but also did sexual violence against her. Lawyers are worried that such situation will happen in other places. Female lawyers will face physical and sexual violence in the court.
- 13.** Huang Yin, a friend of Gao Zhisheng, a prominent human rights lawyers in China, helped Lawyer Gao to take care of his nephew in 2015. The police kidnapped her on the same day Gao's nephew came to Huang's shop. Two days later, Huang was released but her landlord requested her to leave her apartment immediately. The police also forced her to leave Beijing. They even fought her seriously, but she was determined to stay in Beijing. Since then, Huang was kidnapped and detained by the police many times and received serious physical violence each time. Huang was forced to move home for nine times.

**14.** On March 4, 2013, a day after receiving chemical treatment of cancer, Huang was kidnapped by the police again. It lasted for 15 days. During the detention, she was dressed off and turned naked while she was forced to clean the floor in front of male customary staffs. Sanitary napkin was not offered when she was menstruating. She was bleeding and blood shed out on the floor. As a human rights defender, Huang suffered from serious physical and sexual violence.

## **II. Violence against families of human rights defenders**

**15.** Families of human rights defenders in China have suffered various forms of violence due to their family members' political beliefs, association and actions. Many of them are women or little girls.

**16.** Gao Gege, the daughter of human rights lawyer Gao Zhisheng, was under severe surveillance since 2005 when he was 12 years old. She was constantly harassed by the police. The police followed her in 24 hours no matter she was in school or at home. It made her under serious psychological threat. Moreover, Gao Gege was beaten by the police more than once when she tried to contact other people by phone. Gao Gege was stopped to contact with outside by phone or through the Internet. When she was under surveillance, she could not even close the door when she went to toilet. The culmination of such traumatic experiences left Gao Gege on the edge of breakdown where reportedly, she attempted to starve herself and tried to commit suicide several times.

**17.** Zhang Anni, the 10-year-old daughter of human rights activist Zhang Lin, was forcibly removed by police from her school in Hefei on 27 February 2013. She was detained in police custody for more than three hours alone without any access to her parents or lawyers. No necessity such as water and food was provided during the detention. The Chinese authorities wanted, by detaining Zhang Anni, to force Zhang Lin to go back to Bengbu.

**18.** Wang Zang, a poet in Beijing, was criminally arrested because he openly supported the "Occupy Central" campaign in Hong Kong in October 2014. His wife and her little girl (under the age of two) were also detained from 4pm on October 8 to 1am on October 9 in Songzhuang police station. They were not given any food and the baby's face was also hurt.

### **Recommendations:**

**19.** The Committee should demand that the Chinese authorities have to stop any

measures against women or girls due to their and their family members' beliefs and actions, and vice versa. No women, especially little girls, can be used as a tool to control the behaviours of their family members.

**20.** The Committee should demand that the Chinese authorities should establish an independent human rights institution immediately to evaluate and monitor how the provisions of CEDAW are implemented in China. The Chinese authorities have failed to fully implement the provisions of CEDAW and there is no measure to monitor the activities of the authorities. An independent human rights institution, under the monitoring of non-governmental organizations, provides a protection mechanism to enhance women's rights. The independent human rights institution in China should be able to receive, investigate and handle complaints about any forms of violations of women's rights and to advise and monitor the behaviours of government bodies and of their officials.

### **III. Sexual Violence against Girls in School**

**21.** In Article 22 of its concluding comments in August 2006, the Committee urges the Chinese authorities to adopt a comprehensive law on violence against women and to ensure that all forms of violence against women and girls, both in the public and private spheres, constitute a crime punishable under criminal law.

**22.** Since 2013, the cases of sexual violence against underage girls in school have been frequently reported in media. In 2013, the cases of sexual violence against underage girls reported in media are 125 cases. General teachers are the largest criminal population in those cases, 33 cases reported, and then headmasters, the second largest group, 10 cases reported, and then government officers, the third, 6 cases reported<sup>1</sup>.

**23.** In its country reports 7 and 8 in 2012, the Chinese authorities have still limited its policies in domestic violence, violence in private area, and have neglected the violence against women in public sphere. Comprehensive public policies have not been introduced to prevent all forms of violence against women, especially underage girls.

**24.** In Ruichang City, Jiangxi Province, 7 girls were sexually molested by a 62-year-old supply teacher from September 2012 to May 2013, and later they were infected with venereal diseases.

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<sup>1</sup> *New Beijing News*, "A sexual Violence Case Reported Every Three Days in 2013" (in Chinese), March 3, 2014, [http://epaper.bjnews.com.cn/html/2014-03/03/content\\_497652.htm?div=-1](http://epaper.bjnews.com.cn/html/2014-03/03/content_497652.htm?div=-1)

25. Similar incidents occurred throughout the country. In Guizhou Province, four government officials were part of a group of seven men who forced 10 young girls into prostitution in 2007 and 2008. In October 2011, four village officials in Shaanxi Province raped a young girl under the age of 12. In southern Guangzhou Province, a former deputy police chief raped at least 23 young girls.
26. On May 9, 2013, six primary school girls in Wanning City, Hainan Province, were drugged and sexually molested at a hotel by their school principal and another official. The girls aged 11 to 14 went to a karaoke bar with the principal and a government official till early morning, when two of the girls left with the official and four with the principal to a hotel. Each girl had been examined and found a ruptured hymen. A girl even had profuse vaginal bleeding when she was found. Moreover, the girls appeared doozy and drowsy when she was found. Their parents believed that their daughter had been drugged.
27. Initially, the local authorities charged the suspects “the crime of prostituting girls under the age of 14” instead of “the crime of rape” because the local authorities said that the principal had given presents to the girls as rewards. The girls were regarded as prostitutes only. It is a much less serious crime. Under serious criticism by the victims’ families and the media, the local authorities charged the two suspects “the crime of rape” and the principal was sentenced for imprisonment for 13.5 years, and the government official, 11 years.

**Recommendations:**

28. **The Committee should strongly urge the Chinese authorities again to adopt a comprehensive law on violence against women and to ensure that all forms of violence against women and girls, both in the public and private spheres, constitute a crime punishable under criminal law.**
29. **The Committee should urge the Chinese authorities to abolish “the crime of prostituting girls under the age of 14” and make new laws and regulations for sexual violence against children.**
30. The Committee remains concerned by “the lack of statistical data concerning all forms of violence against women. The Committee is also concerned about reported incidents of violence against women in detention centres” (Article 21 of the Committee’s concluding comments in August 2006). The Committee also

urges the Chinese authorities to strengthen its system of data collection in regard to all forms of violence against women and to include such information in its next report.

31. In Appendix 37 of its country reports 7 and 8 in 2012, the Chinese authorities submitted the Committee the data of the rape cases whose criminals had been arrested, but the data of the sexual violence against underage persons are not reported, including the victims' gender and region differences and the number of sexual violence in school.
32. A field research was conducted in the late 2013. 182 units of the Public Security Bureau and the Education Ministry in six provinces in China, Shanxi, Henan, Guangdong, Yunnan, Zhejiang and Gansu, were requested to release the information about the cases of sexual violence in school in their areas in 2009-2013 and their follow-up plans. Only 62 units replied. Among them, four units admitted that sexual violence happened in school in their areas in 2009-2013, totally 13 cases. 12 units replied that no sexual violence occurred in their areas in 2009-2013. Two units had no such data and 44 units replied that those data were not classified as the information to open to the public.
33. The research shows that the Chinese authorities, especially the Public Security Bureau and the Education Ministry, have not seen the release of sexual violence information as a part of their job duties. So the general public has had no access to the information of sexual violence in the schools of their communities. Lack of information makes the public difficult to monitor the administration how to handle and follow up sexual violence cases.

**Recommendation:**

34. **The Committee should strongly urge the Chinese authorities again to strengthen its system of data collection in regard to all forms of violence against women and to adopt a system for the public to have free access to the concerned information, including the number of sexual violence in school, gender and region differences of the victims and the follow-up plans.**

**Article 10**

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education.



- 35.** To ensure women to enjoy the equal rights with men in the field of education, a safe and gender-friendly environment with zero tolerance of sexual violence in school is very crucial. In terms of education rights of women, however, the Chinese authorities mention the school admission rate of women and girls in its country report in 2012. It does not cover the data of sexual violence in school and the information how the authorities ensure the victims of sexual violence the right to education.
- 36.** In 2014, the Chinese Education Ministry announced “Handling Methods of Primary and Secondary School Teachers Who Violate Career Ethics”. The document advocates for prohibition of sexual harassment against students and of indecent relationship with students. It constitutes the actions punishable<sup>2</sup>.
- 37.** “Teachers’ Ethical Practices File System” has been developed by the local education authorities in many places in China. Sexual harassment against students is listed in Article 14 of teachers’ ethical practices. Once a teacher violates the ethical practices, it will be recorded in the teacher’s ethical practices file. It constitutes the teacher incapable of being employed as a teacher again.
- 38.** In the abovementioned research in 2013 (see para 32 of this report), 182 units of the Public Security Bureau and the Education Ministry were asked about their policies and mechanism to prevent and handle sexual violence in school. Only 19 units answered this question. Among them, 16 units stated that “Develop teachers’ ethical practices” and “Develop teachers’ ethical practices files” were the main ways to prevent sexual violence in school. Moreover, “No man allowed going in women dormitories” was also a way to prevent women from sexual violence in school.
- 39.** Such preventive measures, however, reduce sexual violence in school to a matter of teachers’ personal ethical practices. It does not recognize that sexual violence in school is fundamentally rooted in gender inequality. Sexual violence in school is a structural issue, not only a personal issue. Prevention, monitoring, handling and follow-up of sexual violence in school request cooperation across government departments.
- 40.** Since the education authorities is not obliged to provide follow-up rehabilitation

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<sup>2</sup> Education Ministry, People’s Republic of China, “Handling Methods of Primary and Secondary School Teachers Who Violate Career Ethics” (in Chinese), January 11, 2014, [http://www.gov.cn/gzdt/2014-01/28/content\\_2577296.htm](http://www.gov.cn/gzdt/2014-01/28/content_2577296.htm)

services to the victims of sexual violence in school. The victims may undergo further sufferings from both verbal and physical attack of teachers, schoolmates and the community when they go back to school. This eventually forces the victims to leave school and to discontinue their studies.

- 41.** In the sexual violence against six school girls in Hainan in May 2013 (see para 26 of this report), the local community and the victims' school had known the incident because of the wide coverage of local media. Four of the six victims refused to go back to the school and sought assistance of the local education authorities to look for new schools in other communities and to request an exemption of corresponding charges. But the local education authorities have hitherto had no answer to them. Therefore, the four girls are forced to stay at home and to cease their studies eventually.

**Recommendations:**

- 42.** The Committee should urge the Chinese authorities to amend the existing laws for protection of children from sexual violence in school. Amendments should include the "Law on the Protection of Minors", the "Compulsory Education Law" and the "Law on the Protection of Rights and Interests of Women". Duties of the local education authorities in prevention and follow-up of sexual violence in school should be stated clearly. So the victims can act on the laws to hold the concerned government departments accountable.

- 43.** The Committee should urge the Chinese authorities to introduce sex education with gender equality and education against sex violence.

**Article 12**

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

- 44.** In Article 22 of its concluding comments in August, 2006, The Committee calls upon the Chinese authorities "to provide immediate means of redress and protection to women and girls victims of violence, in accordance with the Committee's general recommendation 19". The General Recommendation 19 also stipulates that women enjoy the "right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment" and the "right to the highest

standard attainable of physical and mental health”.

45. In paragraphs 98-99 of the country reports 7 and 8 of the Chinese Government in 2012, the medical aid and the examination of the victims of sexual violence jointly done by the Public Security Bureau and the Health Ministry are limited at domestic violence. The services do not cover sexual violence in public sphere, especially in school. The authorities do not provide the victims of sexual violence in school any follow-up rehabilitation services, medical support and mental health or counselling services.
46. In “Baidu News”, a search engine in China, when the key word, “性侵” (sexual violence in Chinese) is typed in, 581 cases of sexual violence are listed from January 2013 to April 2014. The victims of 260 cases are aged under 14 (44.8%). None of the victims of the 260 cases has received mental rehabilitation services from government.
47. The research shows that the local authorities do not provide any mental health services and follow-up rehabilitation services to the underage victims of sexual violence. Experience of sexual violence causes long-term adverse impacts in physical and mental development of young victims.
48. The Hainan case (see para 26 of this report) has shown clearly the sufferings of the victims of sexual violence and their further damage because the local authorities ignore the needs of the victims. Four of the six victims refused to go back to the school and requested the local education authorities to help them to change school in other areas. It seems that they have spoken to the air. The girls have long been under mental and social sufferings and have received no mental health or counselling services. One of them even tried to commit suicide, but was saved fortunately.

#### **Recommendation**

49. **The Committee should urge the Chinese authorities to establish a specific government unit to take a holistic approach to provide comprehensive physical, psychological and social rehabilitation services to the underage victims of sexual violence.**

## **B. Disabled Women in China**

**50.** In its General Recommendation No. 18 (tenth session, 1991), the Committee “recommends that States parties provide information on disabled women in their periodic reports, and on measures taken to deal with their particular situation, including special measures to ensure that they have equal access to education and employment, health services and social security, and to ensure that they can participate in all areas of social and cultural life”.

**51.** In Article 14 of its concluding comments in August 2006, the Committee states,

The Committee calls upon the State party (the Chinese authorities) to study obstacles to data collection and to enhance the collection and the wide availability of sex-disaggregated statistical information, by region and by ethnic group, in regard to each of the provisions of the Convention, so as to enhance its capacity to design and implement targeted policies and programmes aimed at the promotion of gender equality and women’s enjoyment of their human rights. It also recommends that the State party strengthen its monitoring and assessment of the impact of such policies and programmes and to take corrective measures whenever necessary. It requests the State party to provide such statistical information and trends over time in its next periodic report so that an in-depth assessment of the progress in the implementation of the Convention can be made.

**52.** Although the data of disabled women are not mentioned above, but it is reasonably believed that it covers the data of disabled women because the General Recommendation 18 does request States parties to provide information on disabled women in their periodic reports.

**53.** In its country reports 7 and 8 in 2012, the Chinese authorities provide few of data about disabled women in the fields of education, employment and health care. In the areas of education, employment, health care, economic and social interests, marriage and family lives and public participation, none or few words are found about the special needs of disabled women and relevant policies towards their needs. In China, the needs of disabled women are not identified, so their rights are not fully protected.

54. Although the Chinese authorities emphasizes the equal rights of disabled women in “China Disabled ‘Eleventh Five-Year’ Development Program 2006-2010” (2006)<sup>3</sup>, disabled women in China have been still suffering from gender inequality in the fields of education and employment.

**Recommendations:**

55. **The Committee should demand the Chinese authorities to provide the sex-disaggregated statistical information of disabled women, by region and by ethnic group, in regard to various aspects, education, employment, health care, economic and social interests, marriage and family lives, and public participation.**

56. **The Committee should urge the Chinese authorities to make temporary special measures to improve the social and economic status of disabled women.**

**Article 10**

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education.

57. Article 10 (b) of CEDAW is to ensure the equal right to education of women as same as the right men enjoy. Disabled women, however, have long suffered from unequal right to education.

58. In a report of disabled women’s survival and development examination in 2010, the data from Heilongjiang show us a sad picture. The data show that 50% of disabled persons are illiterate and 2/3 of them are women. There is a big gap between disabled men and disabled women on social development. In 2010, disabled women who had had no education shared 55.3% among total disabled women in China. It is 27.9% higher than that of disabled men.

59. 4.5% of disabled women in China had received senior high school education or above, less 5.1% than that of disabled men. 26.4% of disabled women in China got employed, less 12.4% than that of disabled men. The Heilongjiang data show that, in 2010, the average annual income of disabled women was RMB 3,501, 85.9% of that of disabled men<sup>4</sup>.

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<sup>3</sup> “China Disabled ‘Eleventh Five-Year’ Development Program 2006-2010” (2006) (in Chinese, [http://www.cdpcf.org.cn/zcfg/content/2011-06/09/content\\_30341608.htm](http://www.cdpcf.org.cn/zcfg/content/2011-06/09/content_30341608.htm))

<sup>4</sup> “Disabilities and Sex: Report of Disabled Women’s Survival and Development Examination (in Chinese), August 9, 2013, <http://www.chinadevelopmentbrief.org.cn/newsview.php?id=7765>

**Recommendation:**

**60. The Committee should urge the Chinese authorities by all measures to ensure disabled girls the right to education, including economic and policy support.**

**Article 11**

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment, ....., on a basis of equality of men and women

**61.** The research on Heilongjiang shows that the unemployment rate of disabled persons was 26.0% in 2010, but less than 20% of disabled women got employed. Disabled women face more discrimination than disabled men. 62.8% of disabled women shared that they had experienced discrimination on employment, 5.4% higher than that of disabled men. The situation of disabled women in urban area goes worse. 72.1% of the disabled women in urban area faced discrimination on employment, 11.5% higher than that of disabled men. Disabled women face multi-discriminations on employment due to their gender, disability or village backgrounds.

**62.** In June 2012, *Peninsular Metro*, an official press in China, reported a story how Ms. Liu Shuwen, a disabled college student, faced difficulties in getting employed. After graduation, Ms. Liu sent out 1,476 job applications totally. Since she stated in the application letter that she had disability in walking, no reply came to her. When she deleted the information of her disability, notices of interview came, but no further news after interview. When she called the companies she had had interviews before, she got different replies. Some enterprises told her they would not employ persons with disabilities. Some even blamed her why she had not stated her disability in application letter.

**63.** Similar situation happened to another college student. Ms. Guo has looked for a job since graduation in 2012, but she was rejected more than a hundred times due to her disability.

**64.** In Article 25 of its concluding comments in 2006, the Committee recommends that the Chinese authorities should utilize “temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee’s general recommendation 25 to accelerate the practical realization of the goal of de facto or substantive equality of women with men in all areas of the

Convention”.

65. The Chinese authorities, however, has not utilized any temporary special measures to improve the employment rate of disabled women. Disabled women indeed need policy support of government and concrete facilities assistance so as to improve their employment opportunity.

**Recommendation:**

**66. The Committee should urge the Chinese authorities to utilize temporary special measures and government policies to provide assistance to disabled women on employment.**