CHINA

BASELINE ASSESSMENT OF R2P IMPLEMENTATION

Asia-Pacific Centre for the Responsibility to Protect

r2pasiapacific.org  r2pinfo@uq.edu.au
The following Baseline Assessment Annex provides an overview of China’s efforts in implementing R2P as of 2019. For a full description of the methodology used in this study, see Part II of ‘Implementing the Responsibility to Protect in the Asia Pacific: An Assessment of Progress and Challenges’, available here.
Over the past few decades, China has made significant progress in reducing the incidence and risk of atrocity crimes, but it continues to perform weakly in relation to human rights, civil society, and accountability. Like many other states in the region, China performs most poorly (‘Very Weak’) with respect to the adoption of R2P specific policy mechanisms due to the fact that it has not yet appointed an R2P Focal Point, nor does it appear to incorporate atrocity specific analysis into its foreign aid and defence policies. China also confronts significant challenges with respect to its national resilience to atrocity crimes. In particular, it performs poorly with respect to human rights and the protection of civil society freedoms. China has ratified nine (and signed another) of the twelve key international human rights instruments considered most relevant to R2P. Of particular concern is evidence of declining media and civil society freedom and the arbitrary detention of up to one million Muslim Uighurs.

China’s international record is quite mixed. On the positive side, it is an increasingly important contributor of troops to UN peacekeeping, including missions with robust protection of civilians mandates, but it has yet to support the Kigali Principles. China is amongst the world’s top financial contributors to United Nations peacekeeping operations, having significantly increased support for peacebuilding over the last decade through the adoption of ‘developmental peacebuilding’. China provides troops, police and advisors to numerous peacekeeping operations with a protection of civilian mandate and is in the top contributors of female police peacekeepers. China supports regional organisations and finding regional solutions to regional problems, and has increased financial support to the African Union to establish an African Standby Force and the African Capacity for Immediate Response to Crisis.

It is an active participant in international debates on R2P, both in the General Assembly and Security Council, though it opposed the inclusion of R2P on the General Assembly’s main agenda. It has also participated actively in the Universal Periodic Review of the Human Rights Council. China has also demonstrated a willingness to support action to protect civilians and implement R2P, voting in support of UN Security Council action in Cote d’Ivoire, Yemen, Mali, the Central African Republic and other places.

However, China remains unwilling to support prevention and protection measures that do not enjoy the support of the host state. It blocked collective action to fulfil R2P in Syria and Myanmar, and delayed the imposition of an arms embargo on South Sudan by a number of years, contributing significantly to the international community’s failures in those cases. It has looked to limit the scope of the Human Rights Council’s work, especially on country situations and including those where atrocity crimes are committed. China has not yet adopted specific R2P or atrocity prevention measures.
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<th>Assessment</th>
<th>Indicator</th>
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<tr>
<td><strong>Strong</strong></td>
<td>Protection of populations from atrocity crimes</td>
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<td></td>
<td>Participate in international peer review processes, including the Universal Periodic Review (UPR) of the UN Human Rights Council</td>
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<td>Ensure a legitimate, effective and civilian controlled security sector</td>
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<td>Participate in international, regional and national discussions on the further advancement of R2P</td>
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<td>Contribute to United Nations peacekeeping operations (especially those with a protection of civilians mandate)</td>
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<td><strong>Fair</strong></td>
<td>Reduction of atrocity crime risks</td>
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<td></td>
<td>Sign, ratify and implement relevant instruments of international law</td>
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<td></td>
<td>Ensure equal access to justice</td>
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<td></td>
<td>Take measures to counter and prevent violent extremism</td>
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<td></td>
<td>Enact and implement laws protecting vulnerable groups, particularly in relation to sexual and gender-based violence</td>
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<td></td>
<td>Prevent nationals committing atrocity crimes overseas</td>
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<td></td>
<td>Encourage and assist States to fulfil their R2P in situations of emerging and ongoing crisis, such as good offices and preventive diplomacy</td>
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<td>Strengthen the role and capacity of regional organisations</td>
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<td>Develop the capacities needed to support civilian protection, including through the training of military and civilian personnel for peacekeeping</td>
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<td><strong>Weak</strong></td>
<td>Ensure domestic promotion and protection of human rights, focusing on the elimination of discrimination</td>
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<td>Cooperate fully with UN Human Rights mandate holders and those of relevant regional organisations</td>
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<td>Criminalise incitement to commit genocide, war crimes, ethnic cleansing and crimes against humanity</td>
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<td>Ensure the education system reflects the ethnic, national and cultural diversity of society, and sets examples of inclusiveness</td>
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<td>Leverage existing mechanisms and institutions (including regional and sub-regional organisations) to encourage States to fulfil their responsibility to protect</td>
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<td>Strengthen regional and international networks for atrocity crime prevention</td>
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<td>Support atrocity prevention through development and assistance partnerships</td>
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<td>Support the early warning and capacity building efforts of the UN Office on Genocide Prevention and R2P</td>
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<td><strong>Very Weak</strong></td>
<td>Dealing with past atrocities</td>
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<td></td>
<td>Appoint national R2P Focal Point</td>
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<td>Incorporate atrocity crime risks and dynamics into conflict analysis and/or development partnerships</td>
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<td>Establish domestic mechanisms to hold the government accountable for upholding its responsibility to protect</td>
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<td>Sign and ratify the Rome Statute of the International Criminal Court and cooperate fully with the Court</td>
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<td>Establish and maintain National Human Rights Institutions in accordance with the Paris Principles</td>
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<td>Protect individuals and groups fleeing atrocity crimes and their risk, in accordance with International Refugee Law</td>
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<td>Conduct a national assessment of risk and resilience</td>
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<td>Cultivate and protect an active, diverse and robust civil society</td>
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<td>Support the development and work of regional human rights and other preventive capacities</td>
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<td>Support the strengthening of the UN's capacity for atrocity prevention, including through the UN Human Rights system</td>
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<td>Support preventive actions on atrocity crimes</td>
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<td>Support the Kigali Principles</td>
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<td>Support UN Security Council veto restraint on issues relating to atrocity prevention</td>
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<td>Thematic Area</td>
<td>Indicator</td>
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<tr>
<td>Basic Compliance</td>
<td>Protection of populations from atrocity crimes.</td>
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<td></td>
<td>Reduction of atrocity crime risks.</td>
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<td></td>
<td>Dealing with past atrocities.</td>
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<tr>
<td>Policy Mechanisms</td>
<td>Appoint national R2P Focal Point.</td>
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<td>Incorporate atrocity crime risks and dynamics into conflict analysis and/or development partnerships.</td>
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<td></td>
<td>Establish domestic mechanisms to hold the government accountable for upholding its responsibility to protect.</td>
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<tr>
<td>International Human Rights Obligations</td>
<td>Sign, ratify and implement relevant instruments of international law.</td>
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The State is the only permanent member of the Security Council that has not ratified the *International Covenant on Civil and Political Rights* [ICCPR] (Signature date: 1998).

China has expressed reservations concerning aspects of most of the treaties it has ratified. Regarding the *Genocide Convention*, China does not consider itself bound by Article IX, meaning it cannot be referred to the International Court of Justice.\(^5\) It does not recognise paragraph 1 of Article 29 of CEDAW; is not bound by paragraph 1 of Article 30 of CAT and is not bound by Article 22 of CERD.\(^6\)

China has neither signed or ratified the *Rome Statute of the International Criminal Court* or the *Arms Trade Treaty* [ATT].\(^7\)

| Sign and ratify the Rome Statute of the International Criminal Court and cooperate fully with the Court. | Very Weak | China is not a state party to the *Rome Statute of the International Criminal Court*. |
| Establish and maintain National Human Rights Institutions in accordance with the Paris Principles. | Very Weak | While Hong Kong, administered by China, does have an Equal Opportunities Commission (given a ‘C’ rating by GANHRI), mainland China does not possess a national human rights institution.\(^8\) |
| Ensure domestic promotion and protection of human rights, focusing on the elimination of discrimination. | Weak | Article 4 of the constitution states: “All nationalities in the People’s Republic of China are |

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equal,” and that “Discrimination against and oppression of any nationality…” is prohibited.\(^\text{10}\)

The constitution further stipulates that it is the State’s obligation to materially assist those who are old, ill or disabled (Article 45), recognises the equality of men and women in all spheres of life, obligates the State to protect the rights and interests of women (Article 48), and prohibits the maltreatment of old people, women and children (Article 49). However, it does not specifically condemn discrimination.\(^\text{11}\)

Despite the incorporation of the principle of non-discrimination in the constitution and other laws, China does not possess a comprehensive anti-discrimination law that protects all marginalised and disadvantaged groups. There is evidence of widespread and persistent discrimination against ethnic minorities, particularly in western regions of the country.\(^\text{12}\) Chinese authorities have been accused of ethnic and religious discrimination against Muslim Uighurs and Han Chinese migrants in Xinjiang. Tibetans are also denied basic freedoms of speech, assembly, movement and religion.\(^\text{13}\)

In Hong Kong, there is widespread and prevalent discrimination especially against migrants, asylum seekers and refugees. Discrimination based on sexual and gender identity is also prevalent, especially in the areas of employment, education, health care and housing.\(^\text{14}\)

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Participate in international peer review processes, including the Universal Periodic Review (UPR) of the UN Human Rights Council. & Strong \\
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Cooperate fully with UN Human Rights mandate holders and those of relevant regional organisations. & Weak \\
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\(^\text{11}\) Ibid., *Chapter II, Article 45, 48 and 49.*
\(^\text{12}\) United Nations, Economic and Social Council, Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China, 13 June 2014, E/C.12/CHN/CO/2.
\(^\text{14}\) Ibid.
<table>
<thead>
<tr>
<th>Ensure equal access to justice.</th>
<th>Fair</th>
<th>Article 33 of the constitution states that “All citizens of the People’s Republic of China are equal before the law.” However, numerous issues regarding equal access to an impartial judiciary remain. Numerous international human rights bodies state that the judiciary continues to be subject to a variety of internal and external controls that significantly limit its ability to engage in independent decision making. Torture, arbitrary detention and other degrading punishment has been reported. The judiciary itself reject the goal of an independent judiciary and the separation of powers.</th>
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<tbody>
<tr>
<td>Criminalise incitement to commit genocide, war crimes, ethnic cleansing and crimes against humanity.</td>
<td>Weak</td>
<td>China has no domestic laws specifically designed to criminalise genocide, ethnic cleansing or crimes against humanity.</td>
</tr>
<tr>
<td>Take measures to counter and prevent violent extremism.</td>
<td>Fair</td>
<td>In terms of intent to counter violent extremism, Chinese authorities have arrested foreigners and Chinese citizens for allegedly helping the illegal immigration of ethnic Uighurs to fight alongside Islamic militants. The Chinese government has also arrested returning foreign fighters.</td>
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26 U.S. Department of State, China (Includes Tibet, Hong Kong, and Macau) 2016 Human Rights Report, p. 51.


28 Ibid.
Protect individuals and groups fleeing atrocity crimes and their risk, in accordance with International Refugee Law. | Very Weak |
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Despite signing the *1951 Refugee Convention* and its associated Protocol, China’s policy on refugees and its adherence to international law is ambivalent as best. Regarding North Koreans who flee across the border in an effort to be eventually settled in South Korea, China routinely deports them back to North Korea (see Democratic People’s Republic of Korea Baseline Assessment of R2P Implementation for more information). There are over 300,000 refugees in China (mostly from Southeast Asia) as counted by the UN’s High Commissioner for Refugees (UNHCR). This number could be substantially higher, as while the State does not ban UNHCR’s actions within the country, potentially many more refugees remain undocumented due to governmental restrictions. China has accepted and settled a minimal amount of refugees and does not see taking on refugees as part of its humanitarian duties.\(^\text{30}\)

**Domestic Implementation**

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<th>Conduct a national assessment of risk and resilience.</th>
<th>Very Weak</th>
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<tr>
<td>China has not undertaken a national assessment of atrocity crime risk.</td>
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<tr>
<th>Cultivate and protect an active, diverse and robust civil society.</th>
<th>Very Weak</th>
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<tr>
<td>Article 35 of the constitution stipulates “Citizens of the People’s Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration”. The constitution also permits Chinese citizens to criticise any State organ or functionary, without fear of suppression or retaliation.(^\text{31}) However, in practice China is considered one of the world’s most restrictive media environments. China is ranked at 177 (out of 180 countries) in the World Press Freedom Index, and Freedom House classes China’s press freedom as ‘Not Free’.(^\text{34}) RSF provides various examples of journalists, bloggers and human rights activists being arrested for antagonising the ruling Communist Party and allegedly forced to give confession, which is then broadcasted by the state-owned television broadcaster. Freedom of assembly is also severely restricted, particularly in regards to expression dissenting.</td>
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\(^{29}\) U.S. Department of State, *China (Includes Tibet, Hong Kong, and Macau) 2016 Human Rights Report*, p. 53.


\(^{35}\) For examples of detention and harassment, both in China and overseas, see the following links:

Ensure a legitimate, effective and civilian controlled security sector. Strong
The civilian authorities in China maintain control over their security and military forces. Officials can be prosecuted for abuses of power; however, such charges are rarely pursued. Due to paucity of data, the degree of impunity within the security forces is unknown, but social media reports suggest there is a prevalence of unchecked abuse. China has renewed efforts to crack down on internal political dissent on levels described by some as unprecedented, evidencing the use of security forces to enforce regime superiority.

Ensure the education system reflects the ethnic, national and cultural diversity of society, and sets examples of inclusiveness. Weak
The constitution stipulates all Chinese citizens have the right and hold a duty to receive an education.

Prevent nationals committing atrocity crimes overseas. Fair
As already mentioned, China has not signed the Rome Statute. However, it has taken steps to prosecute returning foreign fighters.

Bilateral and Multilateral Relations
Participate in international, regional, and national discussions on the further advancement of R2P. Strong
China has participated in all the UN General Assembly Informal Interactive Dialogues on R2P. Regionally, there has been four China-Australia Dialogues on the Responsibility to Protect (2015, 2016, 2017 and 2018), which is hosted by the China Institute of International Studies (administered by the Ministry of Foreign Affairs).

Leverage existing mechanisms and institutions (including regional and sub-regional organisations) to encourage Weak
China has been a member of the UN Human Rights Council three times: 2006-2009, 2009-2012 and 2012-2015.

36 U.S. Department of State, China (Includes Tibet, Hong Kong, and Macau) 2016 Human Rights Report, p.35.
39 U.S. Department of State, China (Includes Tibet, Hong Kong, and Macau) 2016 Human Rights Report, p. 1.
States to fulfil their responsibility to protect.

2013-2016. During this time, it voted on the following resolutions relevant to atrocity prevention.

**Human Rights Council Resolutions**
- A/HRC/RES/S-18/1: voted against.
- A/HRC/RES/19/22: voted against.
- A/HRC/RES/S-19/1: voted against.
- A/HRC/21/26: voted against.
- A/HRC/RES/30/10: voted against.
- A/HRC/RES/31/17: voted against.
- A/HRC/RES/33/19: abstained.
- A/HRC/RES/33/23: voted against.

**United Nations Security Council Resolutions**
- S/RES/1653: yes.
- S/RES/1674: yes.
- S/RES/1706: abstained.
- S/RES/2040: yes.
- S/RES/2085: yes.
- S/RES/2093: yes.
- S/RES/2095: yes.
- S/RES/2100: yes.
- S/RES/2109: yes.
- S/RES/2117: yes.
- S/RES/2121: yes.
- S/RES/2127: yes.
- S/RES/2134: yes.
- S/RES/2139: yes.
- S/RES/2149: yes.
- S/RES/2150: yes.
- S/RES/2155: yes.
- S/RES/2165: yes.
- S/RES/2170: yes.
- S/RES/2171: yes.
- S/RES/2185: yes.
- S/RES/2196: yes.
- S/RES/2206: yes.
- S/RES/2211: yes.
- S/RES/2217: yes.

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China has voted against all resolutions that have referenced R2P.

Encourage and assist States to fulfil their R2P in situations of emerging and ongoing crisis, such as good offices and preventive diplomacy.

In 2016 China was the 39th largest contributor to the UN High Commissioner for Refugees (US$2,808,971) whilst private donors in China were the 35th largest contributor (US$5,236,533).

China contributed US$800,000 to the UNOHCHR in 2015, but was not part of the lists of voluntary contributors in 2016 or 2017.

China donated US$1.86 million to UN Women in 2016.

Strengthen regional and international networks for atrocity crime prevention.

Chinese delegates participate in an annual dialogue with APR2P on R2P. The country has not however, participated in official government-to-government diplomacy about atrocity prevention.

Strengthen the role and capacity of regional organisations.

China has supported the growth in capacity of regional organisations particularly in the Asia Pacific. Chinese efforts seem to move towards a goal of creating a stable and prosperous region which in turn, will allow China’s own development
Support the development and work of regional human rights and other preventive capacities. | Very Weak | China does very little to support human rights domestically, and the same applies to regional initiatives.

Support atrocity prevention through development and assistance partnerships. | Weak | In recent years China has increased its development assistance to many countries, most notably through the Belt and Road Initiative, particularly in the Asia Pacific and in Africa. It is now the largest contributor of ‘south-south’ assistance including financing, technical assistance and capacity building. However, there is no evidence of resources being directly provided for atrocity prevention.

Support the early warning and capacity building efforts of the UN Office on Genocide Prevention and R2P. | Weak | In its 2009 statement at the UN Informal Interactive Dialogue on R2P, China questioned whether there was a need for early warning and assessment. However, in its 2014 statement, the Chinese delegation stipulated that “States should increase their investment in early prevention and in conflict resolution and to mediate conflict to resolve differences.”

In short, despite the initial reservations it may have had in fully backing a UN early warning system, China does endorse early warning systems at the regional level.

It should, however, be noted that China abstained from voting in support of the Fifth Committee of the General Assembly to fund three additional posts in the Office of the Special Adviser on the Prevention of Genocide.

Support the strengthening of the UN’s capacity for atrocity prevention, including through the UN Human Rights system. | Very Weak | China has done little to further human rights and, in turn, atrocity prevention capacities. There is evidence that China’s role in the international human rights architecture is used by the

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| Support preventive actions on atrocity crimes. | Very Weak | While China has warmed up to the idea of early warning mechanisms and has supported diplomatic actions to prevent the onset of violence, the State has shown little concrete action beyond rhetoric.  
| Contribute to United Nations peacekeeping operations (especially those with a protection of civilians mandate). | Strong | China is one of the world’s largest contributors to peacekeeping missions, ranked at 11 in early 2019. Of the eight missions Chinese peacekeepers have a presence in, four have a protection of civilians mandate (MONUSCO, UNAMID, UNIFIL and UNMISS). In 2016, China was the second-largest financial contributor to peacekeeping operations. China is in the top five countries for contributing a proportion of women for police peacekeeping roles.  