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.
<table>
<thead>
<tr>
<th>Assessment</th>
<th>Indicator</th>
</tr>
</thead>
</table>
| Strong     | Protection of populations from atrocity crimes  
Participate in international peer review processes, including the Universal Periodic Review (UPR) of the UN Human Rights Council  
Ensure a legitimate, effective and civilian controlled security sector  
Participate in international, regional and national discussions on the further advancement of R2P  
Contribute to United Nations peacekeeping operations (especially those with a protection of civilians mandate) |
| Fair       | Reduction of atrocity crime risks  
Sign, ratify and implement relevant instruments of international law  
Ensure equal access to justice  
Take measures to counter and prevent violent extremism  
Enact and implement laws protecting vulnerable groups, particularly in relation to sexual and gender-based violence  
Prevent nationals committing atrocity crimes overseas  
Encourage and assist States to fulfil their R2P in situations of emerging and ongoing crisis, such as good offices and preventive diplomacy  
Strengthen the role and capacity of regional organisations  
Develop the capacities needed to support civilian protection, including through the training of military and civilian personnel for peacekeeping |
| Weak       | Ensure domestic promotion and protection of human rights, focusing on the elimination of discrimination  
Cooperate fully with UN Human Rights mandate holders and those of relevant regional organisations  
Criminalise incitement to commit genocide, war crimes, ethnic cleansing and crimes against humanity  
Ensure the education system reflects the ethnic, national and cultural diversity of society, and sets examples of inclusiveness  
Leverage existing mechanisms and institutions (including regional and sub-regional organisations) to encourage States to fulfil their responsibility to protect  
Strengthen regional and international networks for atrocity crime prevention  
Support atrocity prevention through development and assistance partnerships  
Support the early warning and capacity building efforts of the UN Office on Genocide Prevention and R2P |
| Very Weak  | Dealing with past atrocities  
Appoint national R2P Focal Point  
Incorporate atrocity crime risks and dynamics into conflict analysis and/or development partnerships  
Establish domestic mechanisms to hold the government accountable for upholding its responsibility to protect  
Sign and ratify the Rome Statute of the International Criminal Court and cooperate fully with the Court |
| Establish and maintain National Human Rights Institutions in accordance with the Paris Principles
| Protect individuals and groups fleeing atrocity crimes and their risk, in accordance with International Refugee Law
| Conduct a national assessment of risk and resilience
| Cultivate and protect an active, diverse and robust civil society
| Support the development and work of regional human rights and other preventive capacities
| Support the strengthening of the UN’s capacity for atrocity prevention, including through the UN Human Rights system
| Support preventive actions on atrocity crimes
| Support the Kigali Principles
| Support UN Security Council veto restraint on issues relating to atrocity prevention

**China Score: 28.5**

As a permanent member of the UN Security Council, China has special international responsibilities in addition to the responsibilities held by other States. Despite initial misgivings, it has displayed an openness to R2P but has looked to limit and sometimes outright block its implementation. On the domestic front, significant challenges remain especially with respect to human rights, the promotion of civil society and accountability. Atrocity risks remain a concern.
<table>
<thead>
<tr>
<th>Thematic Area</th>
<th>Indicator</th>
<th>Assessment</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic Compliance</td>
<td>Protection of populations from atrocity crimes.</td>
<td>Strong</td>
<td>Chinese citizens, for the most part, are protected from the commission of atrocity crimes. It must be mentioned however that those living in some areas of China, in particular Xinjiang and Tibet, face strong curtailment of their human rights and systematic persecution by the State.</td>
</tr>
<tr>
<td></td>
<td>Reduction of atrocity crime risks.</td>
<td>Fair</td>
<td>The Chinese government’s lacklustre adherence to international human rights regimes means there is a significant risk of atrocity crimes being committed against Chinese citizens. The government and security forces have a wide remit to enforce order, and a lack of clear legislation means they may do so with a degree of impunity. Religious and ethnic minorities are at particular risk.³</td>
</tr>
<tr>
<td></td>
<td>Dealing with past atrocities.</td>
<td>Very Weak</td>
<td>There is little to no official recognition of past atrocities in China. Government control of the media (see relevant Indicator below) sees discussions on such issues shut down in favour of the Party-led narrative. The Tiananmen Square massacre of 1989 stands as an explicit example, with the government never publicly acknowledging the anniversary of the event, and those who wish to do so marking the occasion subtly due to fear of reprisals.²</td>
</tr>
<tr>
<td>Policy Mechanisms</td>
<td>Appoint national R2P Focal Point.</td>
<td>Very Weak</td>
<td>China has not appointed a national R2P Focal Point.³</td>
</tr>
<tr>
<td></td>
<td>Incorporate atrocity crime risks and dynamics into conflict analysis and/or development partnerships.</td>
<td>Very Weak</td>
<td>China has not incorporated atrocity perspectives and analyses into their formal policy processes.</td>
</tr>
<tr>
<td></td>
<td>Establish domestic mechanisms to hold the government accountable for upholding its responsibility to protect.</td>
<td>Very Weak</td>
<td>The Chinese government lacks domestic mechanisms that enable it to be held accountable in upholding its responsibility to protect.</td>
</tr>
<tr>
<td>International Human Rights Obligations</td>
<td>Sign, ratify and implement relevant instruments of international law.</td>
<td>Fair</td>
<td>China has ratified nine and signed one further treaty of the key international human rights laws (IHRL) most relevant to R2P.⁴ These are:</td>
</tr>
</tbody>
</table>

---


- **Geneva Conventions**
  - (Ratification/Accession: 1956).
- **Geneva Protocol I**
  - (Ratification/Accession: 1983).
- **Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** [CAT]
  - (Ratification/Accession: 1988).
- **Convention on the Elimination of All Forms of Discrimination against Women** [CEDAW]
  - (Ratification/Accession: 1980).
- **Convention on the Elimination of All Forms of Racial Discrimination** [CERD]
- **Convention on the Rights of the Child** [CRC]
  - (Ratification/Accession: 1992).

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** [Rome Statute] or the **Arms Trade Treaty** [ATT].\(^8\)

<table>
<thead>
<tr>
<th>Action</th>
<th>Rating</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sign and ratify the Rome Statute of the International Criminal Court</td>
<td>Very Weak</td>
<td>China is not a state party to the Rome Statute of the International Criminal Court.</td>
</tr>
<tr>
<td>Establish and maintain National Human Rights Institutions in accordance with the Paris Principles.</td>
<td>Very Weak</td>
<td>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.</td>
</tr>
<tr>
<td>Ensure domestic promotion and protection of human rights, focusing on the elimination of discrimination.</td>
<td>Weak</td>
<td>Article 4 of the constitution states: “All nationalities in the People’s Republic of China are...</td>
</tr>
</tbody>
</table>

\(^7\) International Criminal Court, n.d. *The State Parties to the Rome Statute*.
equal,” and that “Discrimination against and oppression of any nationality…” is prohibited.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{14}

\begin{tabular}{|l|l|}
\hline
Participate in international peer review processes, including the Universal Periodic Review (UPR) of the UN Human Rights Council. & Strong \tabularnewline
\hline
Cooperate fully with UN Human Rights mandate holders and those of relevant regional organisations. & Weak \tabularnewline
\hline
\end{tabular}

China has participated in three cycles of the UPR.\textsuperscript{15} In 2014 at its second UPR, China accepted 204 out of 252 recommendations, taking note of the remaining 48. Of interest of the recommendations not accepted were calls by the Republic of Korea and the Czech Republic, respectively, to provide adequate protection to asylum seekers and cross border refugees, and to protect North Korean refugees in accordance with international law.\textsuperscript{16}

China has also been a part of troikas reviewing numerous countries during all three cycles of the UPR so far.\textsuperscript{17}

China currently has two overdue reports, both less than one year (CEDAW and CRC).\textsuperscript{18}


\textsuperscript{11} Ibid., Chapter II, Article 45, 48 and 49.

\textsuperscript{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.


\textsuperscript{14} Ibid.

\textsuperscript{15} UNOHCHR, 2018. Universal Periodic Review – China, \url{http://www.ohchr.org/EN/HRBodies/UPR/Pages/CNindex.aspx}.


\textsuperscript{17} UNOHCHR, 2018. UPR Sessions, \url{http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRSessions.aspx}.

\textsuperscript{18} UNOHCHR, n.d. Late and non-reporting States, \url{https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/LateReporting.aspx}. 
| Ensure equal access to justice. | Fair | 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.

| Criminalise incitement to commit genocide, war crimes, ethnic cleansing and crimes against humanity. | Weak | China has no domestic laws specifically designed to criminalise genocide, ethnic cleansing or crimes against humanity.

| Take measures to counter and prevent violent extremism. | Fair | 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.

| Enact and implement laws protecting vulnerable groups, particularly in relation to sexual and gender-based violence. | Fair | Chinese criminal law contains numerous provisions for protecting people from and criminalising sexual and gender-based violence. Rape is illegal with penalties ranging from three years in prison to death, but the law does not address spousal rape. In December 2015 China passed its first national law against domestic violence. It legally defined “…domestic violence as physical and psychological abuse of family members and cohabiting non-family members.” However, this Family Violence Law does not apply to same-sex partnerships nor does it apply to divorced couples or former partners. It also fails to address sexual abuse or economic control.

Sexual harassment is illegal, but not clearly defined. This makes it difficult for victims to file

---

26 U.S. Department of State, China (Includes Tibet, Hong Kong, and Macau) 2016 Human Rights Report, p. 51.
28 Ibid.
### Domestic Implementation

<table>
<thead>
<tr>
<th>Protect individuals and groups fleeing atrocity crimes and their risk, in accordance with International Refugee Law.</th>
<th>Very Weak</th>
<th>Despite signing the <a href="https://freedomhouse.org/report/freedom">1951 Refugee Convention</a> 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.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conduct a national assessment of risk and resilience.</td>
<td>Very Weak</td>
<td>China has not undertaken a national assessment of atrocity crime risk.</td>
</tr>
<tr>
<td>Cultivate and protect an active, diverse and robust civil society.</td>
<td>Very Weak</td>
<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. 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’. 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>
</tr>
</tbody>
</table>

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:  
| Bilateral and Multilateral Relations | Strong | China has participated in all the UN General Assembly Informal Interactive Dialogues on R2P. Regionally, there has been four China-Australia Dialogue 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). |
| 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. China has ratified the Convention against Discrimination in Education. However, concern has been expressed over discrimination against ethnic minorities, migrant workers, (particularly rural) women and persons with HIV/AIDS regarding access to 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. |
| | Weak | China has been a member of the UN Human Rights Council three times: 2006-2009, 2009-2012 and 2016-2019. |

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**
As a permanent member of the Security Council, China has voted extensively on resolutions regarding atrocity prevention and the protection of civilians. Examples include:

- 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.

---

UN General Assembly Resolutions

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.

Fair

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 UNHCR 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.

Weak

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.

Fair

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 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.65 |
| 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 2019.66 Of the eight missions Chinese peacekeepers have a presence in, four have a protection of civilians mandate (MONUSCO, UNAMID, UNIFIL and UNMISS).67 In 2016, China was the second-largest financial contributor to peacekeeping operations.68 |
| Develop the capacities needed to support civilian protection, including through the training of military and civilian personnel for peacekeeping. | Fair | China has stated that it will provide technical assistance to countries in need, including providing US$100 million of free military assistance to the African Union over the next five years. This assistance will go towards supporting the establishment of the African Standby Force and the African Capacity for Immediate Response to Crisis.70 |
| Support the Kigali Principles. | Very Weak | China has not signed the Kigali Principles.71 |
| Support UN Security Council veto restraint on issues relating to atrocity prevention. | Very Weak | China is not a signatory to the Code of Conduct regarding Security Council action against genocide, crimes against humanity or war crimes,72 nor has it signed the declaration to support the “French/Mexican initiative on Veto restraint in case of Mass atrocities”.73 |


