

China's replies to the joint communication sent by the mandate holders of the Special Procedures of the Human Rights Council

We have received the letter (AL CHN 2/2015) sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of “human rights defenders “ on the 16th of April, 2015. The Chinese government provides the following replies:

1. Ever since China's reform and opening up, there has been a big increase of its exchange and cooperation with the outside world. We have seen increasingly frequent overseas non-governmental organizations coming to China to conduct their activities. The overwhelming majority of these organizations carry out legitimate activities and they cooperate with China while contributing proactively to China's economic development and social progress. China has always been welcoming and supporting overseas non-governmental organizations which come to China for conducting friendly exchange and cooperation.

China is a country ruled by law. The formulation and the establishment of the “Overseas NGO Management Law” is a specific demonstration of China's strategic deployment of “running the country according to law”. The purpose of this law is to regulate and guide overseas non-governmental organizations' activities in China, guaranteeing their legitimate rights while promoting exchange and cooperation between the peoples of China and other countries.

In December 2014, the State Council of China put forward the draft “Overseas NGO Management Law” for the review by the Standing Committee of the National People's Congress. At present, the draft text has been reviewed twice by the Standing Committee. The Standing Committee of the National People's Congress adheres to legislation in a scientific and democratic way, consulting with various parties involved, including having face-to-face meetings with people who are experts in these issues and with academia, collecting their view points. Some of the overseas NGOs put forward their opinions and suggestions on the draft via members of the NPC Standing Committee or members of the National Committee of CPPCC. On the 5th of May this year, through the official website of the Standing Committee of the National People's Congress, www.npc.gov.cn, the draft text of the “Overseas NGO Management Law” was open for consultation with all members of the Chinese society, in order to improve and finalize the law.

2. The “Overseas NGO Management Law (draft)” stipulates clearly that the overseas non-governmental organizations enjoy legal protection when they carry out activities in accordance with the law of the country; that recognition and appreciation are accorded to those overseas NGOs which make outstanding contributions to Chinese society by doing public good; and that governments at the different levels should facilitate overseas NGOs in their work within China in accordance with the law of the country. The draft law also stipulates that, to carry out activities in China, overseas NGOs should get approval from the relevant authorities and should go through a registration procedure - it is the same management methods we use for our domestic social organizations.

According to the draft law, the organs for managing overseas NGOs’ registration and control are our public security offices. This is a practice that is taken from positive experience abroad and stems from China’s particular country situation. In China, it is the public security offices which are in charge of various work concerning foreigners’ activities in the country, providing services, control, registration of their nationality, their entry and exit at border control. The public security offices also work to prevent, stop and investigate on any possible law infringement and crime. They are, therefore, adequately experienced in providing such social services and management. In view of the fact that there are a large numbers of overseas NGOs in China whose activities cover wide areas, the public security offices are the appropriate institutions to manage registration of all the overseas NGOs in China. These offices have advantages in their functions to provide efficient and rapid services for overseas NGOs in China, protecting these organizations and their staff against any possible violation of their legitimate rights in China.

China’s Constitution lays down that China protects legitimate rights and interests of foreigners within its territory. Foreigners in China must act according to Chinese law. “Overseas NGOs Management Law (draft)”, while protecting legitimate rights of overseas non-governmental organizations, at the same time stipulates clearly that overseas non-governmental organization must not carry out any activities that might undermine the unity of the country, or prove harmful to national security and ethnic solidarity. They must not harm China’s national interests, social public interests and the legitimate rights of other organizations and citizens. These are the necessary requirements for a society ruled by law and these requirements are consistent with relevant provisions contained in various international human rights treaties.

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The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the latter's communication 【AL CHN 2/2015】 dated 16 April 2015, has the honour to transmit herewith the attached reply by the Chinese Government.

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Office of the High Commissioner for Human Rights
GENEVA

共 2 页

中国对人权理事会有关特别机制 联合来文的答复材料

联合国人权理事会言论自由问题特别报告员、和平集会与结社自由问题特别报告员和“人权卫士”问题特别报告员 2015 年 4 月 16 日函[AL CHN 2/2015]收悉。中国政府对来函答复如下：

一、改革开放以来，中国对外交往与合作增多，境外非政府组织来华开展活动日趋频繁。绝大多数组织从事正当交往与合作，为促进中国人民与世界各国人民之间的友好交流、推动中国经济发展和社会进步作出了积极贡献。中方一贯欢迎和支持境外非政府组织来华开展友好交流与合作。

中国是法治国家，制定出台《境外非政府组织管理法》是中国贯彻落实“依法治国”战略部署的具体体现，其目的是规范和引导境外非政府组织在中国开展活动，保障其合法权益，促进中外民间交流与合作。

2014 年 12 月，中国国务院将《境外非政府组织管理法（草案）》提请全国人大常委会审议。目前，草案已经全国人大常委会两次审议。全国人大常委会坚持科学立法、民主立法，认真听取各方面意见，包括与专家学者进行座谈交流，当面听取意见。有的非政府组织通过全国人大常委会委员、全国人大代表和政协委员就草案内容提出意见、建议。今年 5 月 5 日，全国人大常委会通过中国人大网向全社会公开征

求对《境外非政府组织管理法（草案）》的意见，为修改完善草案提供参考。

二、《境外非政府组织管理法（草案）》明确规定，境外非政府组织在中国境内依法开展活动受法律保护；国家对为中国公益事业发展做出突出贡献的境外非政府组织给予表彰；各级人民政府应当为境外非政府组织在中国境内依法开展活动提供便利。草案还规定，境外非政府组织在中国境内开展活动要经业务主管单位同意并办理登记手续，这与中国目前对国内社会组织的管理方式是一致的。

草案确定公安机关为境外非政府组织登记管理机关，既借鉴了国外的经验做法，也符合中国国情。在中国，公安机关负责外国人在华活动服务、管理、国籍、入境出境以及预防、制止和查处违法犯罪等工作，对涉外组织、机构和人员具有比较丰富的社会服务管理经验。鉴于在华活动的境外非政府组织数量多、活动区域广，由公安机关负责登记管理，有利于发挥公安机关的职能优势，为在华活动的境外非政府组织提供高效快捷的服务，切实保护境外非政府组织及其工作人员在华合法权益不受侵犯。

中国宪法规定，中国保护境内外国人的合法权利和利益，在中国境内的外国人必须遵守中国法律。《境外非政府组织管理法（草案）》在保护境外非政府组织合法权益的同时，也明确规定境外非政府组织不得危害中国的国家统一、安全和民族团结，不得损害中国国家利益、社会公共利益以及其他组织和公民的合法权益。这是法治社会的必然要求，也符合国际人权条约的规定。