

THE INTERNATIONAL NORMATIVE FRAMEWORK AND CHINA:
HIGHLIGHTS FROM UN SYSTEM ENGAGEMENT

2014

United Nations System in China



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TABLE OF CONTENTS

FOREWORD.....	1
EXECUTIVE SUMMARY	3
ACRONYMS.....	6
INTRODUCTION.....	8
PART I: The broad range of normative work performed by the UN in China	11
Definitions.....	11
Vision.....	13
Scope of work.....	13
PART II: Case studies highlighting normative successes and the value of United Nations contributions to China	18
1. Education for all children	18
2. Facilitating equitable access to healthcare for mothers and babies	21
3. Security and safety dimensions of the right to food.....	24
4. Protecting human dignity by ensuring freedom from violence for vulnerable populations.....	27
5. Promoting gender equality in the workplace.....	30
6. Equitable access to the court system to promote environmental justice	34
7. Facilitating sustainable development through elimination of ozone- depleting substances.....	37
CONCLUSION	42

FOREWORD

The idea for this report *The International Normative Framework and China: Highlights from UN System Engagement* first arose during an internal review of the UN's role in China in the 21st Century. Current conditions, including rapid economic, social and human development, and China's growing global importance, recommend strategic repositioning to ensure continued delivery of the highest value from the UN partnership with the Government of China. This report, as well as our work in Equity, Violence Against Women, Green Consumption and South-South Cooperation, is a key aspect of our repositioning commitment.

International normative framework is a core competency, as well as a unique dimension of the UN System. The strength of the UN derives from the values articulated in the UN Charter and the numerous normative instruments developed under the UN's aegis. The Government of China also welcomes UN support to facilitate alignment of national laws and practices with international standards and norms set out in UN treaties and conventions that China has signed and ratified (more than 120 in total).

The normative successes of UN System work in partnership with the Government of China are positive examples with global relevance. The importance of the work described in this report will only increase as China's global role expands. And it is based on this partnership that the UN is now also able to increasingly assist and inform China's positive engagement in international norm setting arenas.

As many traditional donors have decided to close or vastly scale down their development assistance to China, the UN System was often asked why we continued our assistance. Our first response was that China remains a developing country with many pressing development needs, and that the government has requested the UN System to continue its work here, increasingly with financing from China. In addition, virtually all UN agencies have been deeply involved in expanding our South-South and Trilateral cooperation with China, transitioning toward a dual-platform model of support: (I) for China's domestic development and (II) with China for enhanced South-South exchange.

In addition, it was felt that the unique support performed by the UN System in helping China engage on international normative frameworks was not adequately understood. This work is deeply imbedded in our development support and is vital to China's rise on the global stage and its growing global stewardship. To expand appreciation of the scope, and impact of this normative support from the UN System, this report was commissioned.



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EXECUTIVE SUMMARY

As China continues to develop, its ability to achieve its domestic and international aspirations – including enjoying sustainable economic and environmental development, alleviating poverty and social inequity, and contributing to peaceful global leadership – relates to its capacity to participate in, align its laws and regulations with, and comply with its obligations pursuant to the international normative framework. Expanding its cooperation with the United Nations (UN) is the most direct and efficient way for China to increase its capacity for normative engagement, domestically and globally.

Normative work is the moral underpinning for peaceful and equitable globalization. It is also one of the core competencies of the UN system. UN normative work in its most basic sense pertains to the elaboration, codification, implementation and enforcement of generally-accepted norms and standards. These norms and standards span a broad spectrum, ranging from ideals and values articulated in treaties, conventions, and declarations, to technical specifications set forth in codices and guidelines. These norms and standards relate to almost every vital area of social functioning and human development, including human rights, education, food security, healthcare, occupational conditions, gender equality, environmental sustainability, and industrial development. The normative work of the UN system makes meaningful contributions to the civic and pragmatic aspects of daily life around the world.

The international normative framework has aspects both of fixity and fluidity. The framework has a solid foundation comprised of principles enjoying universal international consensus. These international norms may emerge from values, practices, customs, or technological advances, and most international norms eventually find expression in internationally-negotiated instruments. Yet over the course of more than a century of application, these principles

have proved adaptable to a wide range of contexts. International norms that appear in treaties, conventions and declarations are refined, imbued with nuance, contextualized, and packaged for application through platforms, programmes of action, and implementing guidelines; from these blueprints, in turn, emerge new norms that will animate subsequent normative instruments.

At all stages of this process of developing, promoting and enforcing norms, the UN system's role is unique. Globally, as well as in China, by virtue of its impartiality and credibility, the UN system serves a bridging function to connect localized contexts to international norms, as well as to link political, civil, cultural, social and economic rights in unified, coherent programmes for sustainable development. International norms are the DNA for the UN system's programming.

To further its normative function, the UN system includes many normative agencies. These normative agencies are depositaries of one or more international normative instruments, and their general purpose is to support and monitor compliance, as well as to create a convening space in which States Parties articulate and elaborate on relevant international norms. Normative agencies include the International Labour Organization (ILO), UN Entity for Gender Equality and the Empowerment of Women (UNWOMEN), the UN Environment Programme (UNEP), the Office of the UN High Commissioner on Refugees (UNHCR), the Food and Agriculture Organization (FAO), the UN Educational, Scientific and Cultural Organization (UNESCO), and the World Health Organization (WHO). Other agencies, funds and programmes, like the UN Development Programme (UNDP), the UN Population Fund (UNFPA) and Joint United Nations Programme on HIV/AIDS (UNAIDS), also perform normative work, even though they are not depositaries of normative instruments.

Different types of authority serve as the foundation for the UN system's wide variety of normative work:

- “Legal normative work” supports implementation and enforcement of international legal instruments that have been signed and ratified by States Parties. An example of legal normative work is the ILO's support for aligning China's labor and employment laws with the norms articulated in the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which China ratified in 2006.
- “Technical normative work” supports establishment and enforcement of international standards pursuant to guidelines, resolutions and declarations that may not be binding. An example of technical normative work is the WHO's assistance to China in adopting and enforcing good manufacturing practices for pharmaceuticals.
- “Customary normative work” promotes norms that arise from long practice and common acceptance, or from agreed-upon aspirations. An example of customary normative work is the UNFPA's support to China in implementing the International Conference on Population and Development Programme of Action, a conference statement that is neither legally enforceable nor subject to ratification.

In China, the UN system embraces the following five guiding objectives: (1) to promote compliance with international obligations that China has undertaken through signing and ratifying legally-enforceable instruments; (2) to facilitate comprehension of the legal, technical and customary norms China has undertaken to uphold, including through internalization of those norms at the national and local levels, and through embodiment of those norms in informed domestic law, policy and regulations; (3) to provide strategic assistance with implementation to enhance efficiency, comprehensiveness, sustainability and context-appropriateness, with a particular focus on equity for vulnerable groups; (4) to facilitate inclusion of China's normative obligations in its South-South cooperative work and other international engagements; and (5) to support China's engagement in the global norm- and standards-setting process.

In fulfillment of these objectives, for the past several decades the UN system has consistently engaged with China. This work has yielded many successes that have materially improved the lives of Chinese people, and that have contributed to the Government of China functioning as a good global citizen. This report selects seven examples from among these successes to serve as case studies for in-depth review and analysis. These case studies illustrate normative engagement in the following areas:

- education for all children;
- facilitating equitable access to healthcare for mothers and babies;
- security and safety dimensions of the right to food;
- protecting human dignity by ensuring freedom from violence for vulnerable populations;
- promoting gender equality in the workplace;
- equitable access to the court system to promote environmental justice; and
- facilitating sustainable development through elimination of ozone-depleting substances.

Analysis of these case studies reveals four factors conducive, if not necessary, to successful normative engagement: First, the extent of China's participation in establishment of the norm being implemented is a fair predictor of the outcome, speed and vigor of implementation efforts. Second, adequate financial resources – historically provided through the UN system – have been important for the comprehensiveness and effectiveness of China's implementation efforts. Third, relationships of mutual respect and trust between the Government of China and UN agencies are more likely to yield progress on normative agendas. Fourth, good governance mechanisms typically accompany the most meaningful normative implementation.

At this important juncture of China's development, expansion of the UN system's normative engagement in China is currently a strategic focus. China's contributions and adherence to the international normative framework are increasingly important for the success of its continuing development, and for its persuasiveness, credibility and effectiveness as a global player. At the same time, the UN system's capacity to support China's normative commitment is unrivaled.

Realization of this opportunity for enhanced engagement between China and the UN system on normative issues will depend on support from the Government of China. China is already moving in this direction. For example, domestically, the Government of China contributed to an interagency project to promote implementation in China of international norms relating to equal opportunity for employment; globally, the Government of China has donated USD30 million to promote South-South cooperation on achievement of MDG5, relating to the norm of food security. More engagements of this kind will enable China to enjoy increasingly substantial and concrete benefits from its normative commitments.

China has many insights and resources to offer the world, not least with respect to the international norm-setting process that accompanies globalization. Further enhancement of the long-standing partnership between China and the UN system on international normative issues will therefore not only serve to improve China's position as responsible global citizen, but will also help increase China's ability to contribute to the international norm-setting agenda.

ACRONYMS

ACEF	All-China Environment Federation
ACFTU	All-China Federation of Trade Unions
ACLA	All-China Lawyers Association
ACWF	All-China Women's Federation
AIDS	Acquired Immune Deficiency Syndrome
CDC	China Center for Disease Control
CDPF	China Disabled Persons' Federation
CEC	China Enterprise Confederation
CEDAW	Convention to Eliminate All Forms of Discrimination Against Women
CFCs	Chlorofluorocarbons
CNCA	China National Committee on Ageing
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organization
ELDS	UNICEF Early Learning and Development Standards
ELDG	China Early Learning Development Guidelines
EPB	Environmental Protection Bureau
FAO	Food and Agriculture Organization of the United Nations
FCTC	The WHO Framework Convention on Tobacco Control
FECO	Foreign Economic Cooperation Office of the China Ministry of Environmental Protection
GHG	Greenhouse Gas
GMP	The WHO Good Manufacturing Practices
GNGO	Government-run, Non-Governmental Organization
HIV	Human Immunodeficiency Virus
HWF	Hunan Women's Federation
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPD	International Conference on Population and Development
ILO	International Labour Organization
MDG	Millennium Development Goals
MEP	China Ministry of Environmental Protection
MIPAA	Madrid International Plan of Action on Ageing
MOA	China Ministry of Agriculture
MOE	China Ministry of Education
MOH	China Ministry of Health
MOHRSS	China Ministry of Human Resources and Social Security
NGO	Non-Governmental Organization
NPC	China National People's Congress
NRA	The WHO National Regulatory Authority
ODS	Ozone-Depleting Substances
PQ	WHO Pre-Qualification standards
SFDA	China State Food and Drug Administration

UDHR	Universal Declaration of Human Rights
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNIDO	United Nations Industrial Development Organization
UNHCR	Office of the United Nations High Commissioner for Refugees
UNWOMEN	UN Entity for Gender Equality and the Empowerment of Women
WFP	World Food Programme
WHO	World Health Organization
YEM	Youth Employment for Migrants interagency programme

INTRODUCTION

Normative work is one of the core competencies and most important functions of the United Nations (UN) system. UN normative work in its most basic sense pertains to the elaboration, codification, implementation and enforcement of norms.¹ As used in the UN context, a norm is “defined ethically, to mean a pattern of behavior that should be followed in accordance with a given value system – or the moral code of a society, a generally accepted standard of proper behavior.”² Sources of norms that underlie UN normative work include treaties, conventions, declarations, guidelines, resolutions, and customary law and practice.

The international norms constituting the “generally accepted standard[s]” promoted by the UN system span civil and political rights, development and cultural rights, and technical standards. Among the array of normative areas on which the UN works in China are: human rights, education, food security and safety, equitable access to healthcare, good manufacturing practices for pharmaceuticals, occupational conditions, gender equality, elimination of ozone depleting substances and control of greenhouse gas emissions, sustainable development, preservation of cultural heritage, good governance, and biodiversity. The foregoing represents only a small sample of the various aspects of human life and society to which the UN’s normative work in China contributes.

At all stages of the process of developing, promoting and enforcing norms, the UN’s role is unique:

The UN is an essential arena in which states actually codify norms in the form of resolutions and declarations (soft law) as well as conventions and treaties (hard law). As a universal organization, it is an exceptional forum to seek consensus about normative approaches to address global challenges.³

In recognition of its critical function as facilitator in respect of the international normative framework, the UN commits substantial resources to supporting development of norms at the international level, facilitating their implementation at the national level through assistance to countries towards alignment of domestic laws, policies and regulations with relevant UN norms, as well as enforcement of these national norms. The UN system’s normative mission suffuses its organizational structure, and certain agencies have specific normative missions. These normative agencies are depositaries of one or more international normative instruments (i.e., treaties or conventions). As depositaries, these agencies are the custodians of the instrument, which requires them to discharge duties enumerated in the instrument, as well as to undertake those duties required by the Vienna Convention on the Law of Treaties, including accepting notification of a signatory’s intent to be bound by the treaty, assuming responsibility for custody of the original text of the treaty, and managing treaty-related communications with the signatories.⁴

In general terms, the purpose of normative agencies is to support and monitor compliance with these normative instruments by signatory member states (also known as “States Parties”), as well as to create a convening space in which States Parties collaboratively articulate and elaborate on relevant international norms. Normative agencies frequently facilitate the process of setting timelines and priorities for elaboration on international norms. In addition, normative agencies often support developing countries in meeting their reporting requirements on relevant normative instruments. A significant proportion of the work of normative agencies also entails engaging with States Parties to support the process of aligning domestic laws, policies and regulations with relevant

1. A comprehensive definition of “normative work” appears in Part I below.

2. Thomas G. Weiss, “The UN’s Role in Global Governance,” UN Intellectual History Project, Briefing Note No. 15 (Aug. 2009), available at <http://www.unhistory.org/briefing/15GlobalGov.pdf> (last visited 20 May 2013).

3. *Ibid.*

4. Vienna Convention on the Law of Treaties, arts. 16, 76 and 77 (1969), available at http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf (last visited 20 May 2013).

UN normative instruments.

The UN Country Team in China⁵ includes many normative agencies. Among them are the ILO, UNWOMEN, the UNEP, UNHCR, FAO, the UN Educational, Scientific and UNESCO, and WHO.

Other agencies, funds and programmes also perform normative work, even if they are not depositaries of normative instruments. For example, UNDP, the UN Children's Fund (UNICEF), UNFPA, the UN Industrial Development Organization (UNIDO), and UNAIDS all support compliance with various UN normative instruments in China. Overall, the majority of agencies that comprise the UN Country Team in China engage in normative work.

Despite the wide range of normative work supported by various UN agencies in China, the term "international norms" is sometimes interpreted as "human rights," a misunderstanding that can politicize discourse about the UN system's normative work. One function of this report is to describe and explain the full breath of the UN system's normative work in China, including civil and political human rights, but also including engagements in economic, scientific, educational, medical, environmental, legal, governmental, social and cultural realms.

Support for human rights is, of course, among these normative contributions. Although the Office of the High Commissioner for Human Rights is not

represented among the agencies in the UN Country Team in China, the UN's normative work encourages China to comply with its obligations under the six fundamental human rights treaties that it has signed or ratified.⁶ Underlying this work are the principles in the Universal Declaration of Human Rights, for which the Republic of China voted in favour in 1948,⁷ and which the People's Republic of China agreed to accept when it joined the UN in 1971.⁸

However, support for compliance with China's obligations pursuant to these normative instruments⁹ represents only a part of the UN system's normative work agenda. China is an active participant in the international normative framework and has signed and ratified more than 120 international normative instruments. The UN system's contributions to China's normative efforts and achievements span the full range of areas in which China has undertaken normative obligations.

Indeed, among the most prominent normative successes in China is the support provided towards establishment of rule of law through development of the legal foundation necessary for China's economic reform. Between 1992 and 1997, to facilitate China's transition from a centrally-planned economy to a market-based one, UNDP partnered with the Bureau of Legislative Affairs of the State Council and the China International Centre for Economic and Technical Exchange on an ambitious project to draft more than twenty basic economic laws,

5. "[R]epresentatives of the UN funds and programmes, specialized agencies and other UN entities accredited to a given country" compose the UN Country Team. UN Development Group, "Guidance Note on Resident Coordinator and UN Country Team Working Relations" (January 2009), available for download at <http://www.undg.org/index.cfm?P=133> (last visited 20 May 2013).

6. China ratified the International Covenant on Economic, Social and Cultural Rights in 2001, see http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en (last visited 20 May 2013); the Convention on the Rights of the Child in 1992, see http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en (last visited 20 May 2013); the Convention to Eliminate All Forms of Discrimination against Women in 1980, see http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en (last visited 20 May 2013); the Convention on the Elimination of All Forms of Racial Discrimination in 1981, see http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4&lang=en (last visited 20 May 2013); and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1988, see http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&lang=en (last visited 20 May 2013). China signed the International Covenant on Civil and Political Rights in 1998, see http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en (last visited 20 May 2013).

7. See Yearbook of the United Nations 1948-1949, at 535, available at <http://www2.ohchr.org/english/issues/education/training/docs/UNYearbook.pdf> (last visited 20 May 2013).

8. See United Nations General Assembly Resolution 2758 (1971), available at <daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/327/74/IMG/NR032774.pdf?OpenElement> (last visited 20 May 2013); see also Ann Kent, CHINA, THE UNITED NATIONS, AND HUMAN RIGHTS: THE LIMITS OF COMPLIANCE (1999), at 40, available at http://books.google.com.hk/books?id=KcPnNhCQ7gEC&printsec=frontcover&dq=ann+kent+china+united+nations+human+rights&hl=en&sa=X&ei=Zs-ZUf_zNMnUkQX1wYG4Cw&ved=0CC8Q6AEwAA#v=onepage&q&f=false (last visited 20 May 2013).

9. The United Nations Treaties Series Online Collection lists 124 UN normative instruments that China has ratified. See <http://treaties.un.org/Pages/searchActions.aspx> (search for "China" as participant and "Ratification" as action) (last visited 20 May 2013).

including a consumer protection law, banking law, fair competition law, company law, domestic investment law, budget law and foreign trade law. The results of this engagement included: (1) enhanced institutional capacity for developing legislation; (2) economic laws that responded to China's particular conditions and context, while simultaneously assimilating the lessons learned and experiences of other countries; and (3) modernization of legislation-related information management systems. This engagement materially contributed to building China's capacity to join the World Trade Organization, the leading norm-setting institution for international trade.¹⁰

The holistic perspective adopted by this report aims to facilitate a recognition of the value the UN system contributes to the broad norm setting and implementation process. This report presents an overview of the UN's normative work undertaken in partnership with the Government of China, along with case studies of important normative results achieved through this collaboration. It also highlights some of the many – and increasing – contributions that China is making to the development of global norms. Normative work is dialectic: as the UN supports normative implementation and enforcement in China, so China, with UN system support, is better able to contribute positively to global norm development. A more comprehensive understanding of this process enhances the potential for effective and rewarding collaboration and substantive normative successes.

10. Countries interested in acceding to the WTO must adopt “sound domestic and international policies that contribute to economic growth and development according to each member's needs and aspirations.” WTO Mission Statement, http://www.wto.org/english/thewto_e/whatis_e/wto_dg_stat_e.htm (last visited 31 May 2013). China's promulgation of basic economic laws with UNDP's support was a significant component of the “sound domestic” policy China needed as a prerequisite to WTO accession. See Report of the Working Party on the Accession of China, WT/ACC/CHN/49, 1 October 2001 (01-4679), available for download at http://www.wto.org/english/thewto_e/acc_e/completeacc_e.htm (last visited 31 May 2013) (“The reform package introduced in 1994, covering the banking, finance, taxation, investment, foreign exchange (‘forex’) and foreign trade sectors, had brought about major breakthroughs in China's socialist market economy. . . . A nation-wide unified and open market system had been developed. An improved macroeconomic regulatory system used indirect means and market forces to play a central role in economic management and the allocation of resources. A new tax and financial system was functioning effectively.”)

PART I: The broad range of normative work performed by the UN in China

Definitions

At the outset, this report adopts an inclusive definition of “normative work.” As discussed in the Introduction, normative work pertains to the development, promotion and enforcement of norms. These norms may derive from treaties, conventions, declarations, resolutions, technical standards, guidelines, customary law, long-standing practice, or common agreement. Within the UN Country Team in China, agencies cite different types of authority as the foundation for the wide variety of normative work they perform.

“Legal normative work” supports implementation and enforcement of international legal instruments that China has signed and ratified, or to which China has acceded.¹¹ UN normative agencies often (but not always or exclusively) perform legal normative work. Typical examples of this work include: supporting China in its preparations to negotiate, sign and ratify an international convention; supporting China’s implementation efforts through advocacy, providing technical assistance on law and policy development and reform, and facilitating international exchanges and knowledge sharing; and supporting China in meeting its reporting obligations on international conventions it has signed and ratified.

“Technical normative work” supports establishment and enforcement of international standards pursuant to guidelines, resolutions or other documents developed by panels of experts, including experts in the private sector.¹² These international standards are not

necessarily legally enforceable. Countries adopting these standards may not need to sign and ratify them, and can often adapt them for application in local contexts. Typical examples of technical normative work include: developing technical standards relating to thresholds for additives and contaminants in food (above which level is considered unsafe for human consumption); establishing protocols for the treatment of infectious diseases, like HIV, malaria and tuberculosis; capacity building and monitoring and evaluation related to technical standards; and certifying China’s implementation of global technical standards.

“Customary normative work” promotes norms that arise from long practice and common acceptance, or from agreed-upon aspirations. Like customary law, customary norms influence behaviour and expectations, and set terms of engagement, despite an absence of legislative sanction. Customary norms may augment legal norms by elaborating on the context for implementation. Customary norms are often articulated in conference declarations or other similar documents that lack legal force. For example, the United Nations Millennium Declaration articulates customary norms. Typical examples of customary normative work include: building the capacities of government officials to promote and deepen their understanding of the relevant norms; designing and running pilot projects to test methods of integrating these norms; and supporting awareness-raising and behaviour change, including through communications campaigns about norms. “Customary normative work” promotes norms that arise from long practice and common acceptance,¹³ or from agreed-upon aspirations.¹⁴ Like

11. “Accession has the same legal effect as ratification, acceptance or approval. However, unlike ratification, which must be preceded by signature to create binding legal obligations under international law, accession requires only one step, namely, the deposit of an instrument of accession.” <http://www2.ohchr.org/english/bodies/treaty/glossary.htm#accession> (last visited 20 May 2013).

12. UNIDO, for example, does work in conjunction with standards set by the International Standards Organization (ISO).

13. Customary law may be referred to as “unwritten,” but its primary characteristic is not its written or unwritten nature. Rather, customary law derives its authority, not from a legislature, but from repeat transactions between parties: “Rules [that] are the result of long practice . . . which have [become] accepted . . . as binding norms in . . . mutual relations . . . are regarded as . . . customary law.” http://treaties.un.org/Pages/Overview.aspx?path=overview/definition/page1_en.xml (last visited 22 May 2013). Customary norms may similarly arise from consistent and established practice.

14. The aspirations articulated in UN Declarations are often customary norms. See, e.g., *ibid.* (“The term ‘declaration’ . . . is often deliberately chosen to indicate that the parties do not intend to create binding obligations but merely want to declare certain aspirations.”) (last visited 22 May 2013).

customary law, customary norms influence behaviour and expectations, and set terms of engagement, despite an absence of legislative sanction. Customary norms may augment legal norms by elaborating on the context for implementation. Customary norms are often articulated in conference declarations or other similar documents that lack legal force. For example, the United Nations Millennium Declaration articulates

customary norms.¹⁵ Typical examples of customary normative work include: building the capacities of government officials to promote and deepen their understanding of the relevant norms; designing and running pilot projects to test methods of integrating these norms; and supporting awareness-raising and behaviour change, including through communications campaigns about norms.

Illustration of Legal Normative Work

The International Covenant on Economic, Social and Cultural Rights (ICESCR) obligates States Parties to “take appropriate steps to safeguard” the right to work (art. 6), which includes “the right of everyone to the enjoyment of just and favourable conditions of work which ensure . . . [r]emuneration which provides all workers, as a minimum, with . . . [f]air wages” (art. 7). China signed the ICESCR in 1997 and ratified it in 2001. China also ratified, in 2006, the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which requires States Parties “to declare and pursue a national policy designed to promote . . . equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof” (art. 3).

While China’s 1994 Labor Law recognized the right of workers “to be employed on an equal basis, . . . [and to] obtain remunerations for labour” (《中华人民共和国劳动法》, art. 3), these rights were not the reality for many, especially migrant workers. By 2001, when China ratified the ICESCR, almost 84 million workers in China were migrants, and the number climbed to more than 135 million by 2007, just after China ratified ILO Convention No. 111. In the context of China’s accelerating economy and developing legal structure, migrant workers were often vulnerable to labour exploitation. They might be paid less or later for their work, or they might be cheated of their wages altogether.

To support realization of the norm of just and favourable work conditions, including fair wages, equal opportunity and treatment for migrant workers, ILO partnered with the Government of China and the worker and employer constituents in China (the All-China Federation of Trade Unions and the China Enterprise Confederation) to support a closer alignment of China’s law, policy and real-world results with the norms articulated in ICESCR and Convention No. 111. ILO provided advice throughout the drafting process of new labour laws, made concrete recommendations, organized seminars to provide examples from international experience, and provided capacity building training for implementation of Convention No. 111. In 2007, China promulgated a Labor Contract Law (《中华人民共和国劳动合同法》) and an Employment Promotion Law (《中华人民共和国就业促进法》), both of which took effect in 2008. Together these laws further compliance with China’s obligations under the ICESCR and ILO Convention No. 111. To facilitate enforcement of the norm of fair wages, article 30 of the Labor Contract Law requires employers to “timely pay employees the full amount of remuneration,” and gives all employees the right to “apply to the local people’s court for an order of payment” in the event of non-payment. To protect migrant workers from discriminatory treatment in the terms and conditions of their employment, including wages, article 31 of the Employment Promotion Law states that, “[r]ural workers who go to cities in search of employment shall enjoy labor rights equal to those of urban workers” and prohibits “the setting of discriminatory restrictions against rural workers seeking employment in cities.”

15. In Part I.6, the UN Millennium Declaration sets forth “fundamental values” for “international relations,” including freedom, equality, solidarity, tolerance, respect for nature, and shared responsibility. See <http://www.un.org/millennium/declaration/ares552e.htm> (last visited 21 May 2013). These are non-binding customary norms that derive their authority from agreed-upon aspirations. In Part II, the Millennium Declaration articulates desired application of these norms in particular areas through resolutions relating to peace, security and disarmament; development and poverty eradication; protecting our common environment; human rights, democracy and good governance; protecting the vulnerable; meeting the special needs of Africa; and strengthening the UN system.

Illustration of Technical Normative Work

Implementation of international standards for drug manufacturing is a vital function of the WHO. These standards include good manufacturing practices (GMP). Applied at the entity-level, GMP is a stringent, globally-recognized standard. China recently adopted national GMP standards that are on par with global standards. Enforcement of GMP in China has caused sub-standard drug manufacturing companies to shut down. Another component of the drug manufacturing standards is the national regulatory authority (NRA) certified by the WHO as adequate to assess whether the international GMP has been met. The WHO recently certified China's State Food and Drug Administration (SFDA) as an NRA. The SFDA can now certify a drug manufactured by a particular company as meeting the global GMP, and the WHO will accept its assessment. Yet another aspect of the drug manufacturing standards is the prequalification (PQ) process. Applied to individual drugs manufactured by specific companies, prequalified drugs are deemed safe. Currently, China has six drugs that are prequalified, and the WHO anticipates that more drugs, including vaccines, will soon meet PQ standards, which is an advantage for international sales. Together, these standards promote the norms of consumer safety and equitable access to quality healthcare.

Vision

Commensurate with the breadth of its normative work, the UN system in China embraces the following five guiding objectives:

1. To promote compliance with international obligations that China has undertaken through signing and ratifying legally-enforceable instruments.
2. To facilitate comprehension of the legal, technical and customary norms China has undertaken to uphold, including through internalization of those norms at the national and local levels, and through embodiment of those norms in informed domestic law, policy and regulations.
3. To provide strategic assistance with implementation to enhance efficiency, comprehensiveness, sustainability and context-appropriateness, with a particular focus on equity and vulnerable groups.
4. To facilitate the inclusion of China's UN normative obligations in its South-South work and other international engagements.
5. To support China's engagement in the global norm- and standards-setting process.

Scope of work

In its efforts to translate its vision for normative work in China into initiatives that yield concrete results, the UN engages in an array of normative efforts. This work can be divided into six categories:

First, the UN supports the drafting of domestic laws, policies and regulations through which China implements international norms. This work typically involves the provision of technical assistance through the engagement of experts with extensive experience in different country contexts. UN agencies may also review drafts of laws, policies and regulations and offer feedback to government partners. In addition, agencies may support trainings for government officials on drafting laws, policies and regulations, in order to enhance their knowledge about the relevant normative instruments. Agencies also frequently conduct evidence-based advocacy in connection with the drafting of laws, policies and regulations. For example:

- UNESCO supported the development of China's 1989 Environmental Protection Law,¹⁶ 2002 Law on the Protection of Cultural Relics,¹⁷ and 2011 Law on Intangible Cultural Heritage.¹⁸ Provisions of all these laws implement aspects of the Convention Concerning the Protection of the World Cultural and Natural

16. 中华人民共和国环境保护法, available at <http://www.lawinfochina.com/display.aspx?id=1208&lib=law&SearchKeyword=Environmental%20Protection%20Law&SearchCKeyword=> (last visited 4 June 2013).

17. 中华人民共和国文物保护法, available at <http://www.chinalawedu.com/news/23223/23228/22458.htm> (last visited 4 June 2013).

18. 中华人民共和国非物质文化遗产保护法, available at <http://www.doc88.com/p-6813995984612.html> (last visited 4 June 2013).

Heritage¹⁹ and the Convention for the Safeguarding of the Intangible Cultural Heritage.²⁰

- UNHCR provided comments on draft provisions concerning asylum seekers and refugees in China's Exit-Entry Administration Law,²¹ expected to take effect in July 2013.²² These provisions promote compliance with the 1951 UN Convention Relating to the Status of Refugees.

- WHO has been conducting advocacy to support tobacco taxation legislation in China,²³ which would further China's compliance with the WHO Framework Convention on Tobacco Control (FCTC).²⁴ To support implementation of the FCTC, the WHO issued a Technical Manual on Tobacco Tax Administration²⁵ which includes a recommendation that taxes comprise 70 per cent of the retail price of cigarettes. In China, cigarette tax rates rarely exceed 40 per cent.²⁶ The

WHO's advocacy has succeeded in generating media coverage on this issue,²⁷ an important step in informing public opinion.

Second, the UN supports work to apply the domestic laws, policies and regulations that relate to international norms. This work often involves capacity building of national and local government officials. Capacity building may take the form of trainings, providing study, international exchange and knowledge sharing opportunities, and conferences. UN agencies may also contribute to pilot projects intended to demonstrate effective methods for implementing domestic laws, policies and regulations. In addition, UN agencies may provide technical assistance, develop communications campaigns, foster dialogue, conduct monitoring and evaluation in order to support implementation efforts, or serve a fiscal accountability function to support access to funding.

Illustration of Customary Normative Work

The International Conference on Population and Development (ICPD) Programme of Action covers virtually all population and development-related issues and is the framework for UNFPA's normative work in China. Formulated at the 1994 Cairo conference, the ICPD Programme of Action builds on international norms, including article 9 of the International Covenant on Economic, Social and Cultural Rights, which among other norms, "recognizes the right of everyone to social security." In addressing ageing and the needs and rights of elderly people, the ICPD Programme of Action calls on signatories to develop social security systems and strengthen safety nets for older persons. China signed the ICPD Programme of Action, but the document is not legally enforceable, nor is it subject to ratification. To promote implementation, UNFPA helps China identify approaches for healthy and active ageing, including affordable community-based care systems and long-term care solutions that would allow people to live in a dignified and productive manner for as long as possible. With government partners, UNFPA contributes to monitoring and evaluation to assess the quality of implementation of the 12th Five Year Plan on Ageing by national government entities and provincial governments. UNFPA is also contributing to a government strategy for community mobilization to support ageing with dignity, including developing mechanisms for inter-generational support.

19. China ratified the Convention Concerning the Protection of the World Cultural and Natural Heritage in 1985. See <http://whc.unesco.org/en/statesparties/> (last visited 21 May 2013).

20. China ratified the Convention for the Safeguarding of the Intangible Cultural Heritage in 2004. See <http://www.unesco.org/eri/la/convention.asp?KO=17116&language=E&order=alpha> (last visited 21 May 2013).

21. 中华人民共和国出境入境管理法, available at <http://baike.baidu.com/view/8892818.htm> (last visited 4 June 2013).

22. China ratified the 1951 Convention Relating to the Status of Refugees in 1982. See <http://treaties.un.org/pages/ViewDetailsII.aspx?src=UNTS&src=UNTS&no=V-2&chapter=5&Temp=mtdsg2&lang=en#3> (last visited 21 May 2013).

23. See, e.g., WHO News Release, "Tobacco taxation can save lives," 14 Nov. 2012, available at <http://www.wpro.who.int/china/mediacentre/releases/2012/20121114/en/index.html> (last visited 21 May 2013).

24. China ratified the WHO Framework Convention on Tobacco Control in 2005. See http://www.who.int/fctc/signatories_parties/en/index.html (last visited 21 May 2013).

25. See http://whqlibdoc.who.int/publications/2010/9789241563994_eng.pdf (last visited 21 May 2013).

26. See WHO News Release, "Tobacco taxation can save lives," 14 Nov. 2012, available at <http://www.wpro.who.int/china/mediacentre/releases/2012/20121114/en/index.html> (last visited 21 May 2013).

27. See, e.g., http://www.chinadaily.com.cn/china/2012-11/09/content_15898713.htm (last visited 21 May 2013).

Examples of successful efforts to support the application of domestic law include the work of UNAIDS to encourage China's Ministry of Health (MOH) to remove travel restrictions on people living with HIV and AIDS. The State Council's 2006 Regulations on AIDS Prevention and Treatment affirmed that "legal protection safeguards the rights of people living with Human Immunodeficiency Virus (HIV) and AIDS patients and their relatives"²⁸ and prohibits "discrimination against people living with HIV, AIDS patients and their relatives." This domestic regulation aligned Chinese law with the International Covenant on Civil and Political Rights (ICCPR),²⁹ the Universal Declaration of Human Rights (UDHR),³⁰ and the International Guidelines on HIV/AIDS and Human Rights.³¹ Nonetheless, the MOH regulation imposing travel restrictions on people living with HIV and AIDS conflicted with the 2006 State Council Regulation. To support resolution of this conflict, UNAIDS conducted high level advocacy, marshaled evidence from international experience, and facilitated dialogue about China's policy of restricting the travel of people living with HIV and AIDS. In April 2010, China repealed its travel restrictions.³²

UNICEF also contributed to the development of child-sensitive Police Investigation Guidelines for Victims of Trafficking,³³ currently being finalized. China's Law on the Protection of Minors, 2006 Revision, recognizes children's right to protection and prohibits child trafficking. This law aligns China's domestic legislation with the Convention on the Rights of the Child (CRC).³⁴ UNICEF assisted with creating guidelines and professional working procedures to facilitate effective and child-focused enforcement of China's domestic law

relating to this international norm.

In still another instance, the WHO³⁵ and China collaborated on implementing the International Health Regulations (2005) (IHR)³⁶ in connection with the 2013 outbreak of A(H7N9) avian influenza virus infections. Among its provisions, IHR obligates States Parties to "develop certain minimum core public health capacities," "to notify WHO of events that may constitute a public health emergency of international concern," and to establish "National IHR Focal Points and WHO IHR Contact Points for urgent communications between States Parties and WHO." Upon detection of the first three human infections of A(H7N9) avian influenza virus, China notified the WHO on 31 March 2013 in compliance with IHR. Working collaboratively in accordance with the IHR, WHO and China then jointly conducted a risk assessment of the A(H7N9) outbreak and developed a plan of response, including identifying critical knowledge gaps, and making provisions for reporting and ongoing monitoring.³⁷ As part of a joint epidemiological investigation and analysis of the genetic content of the virus, China published the genomic sequences of the virus on the database of the Global Initiative on Sharing Avian Influenza Data and shared relevant viral genetic information with the WHO Collaborating Centre for Reference and Research on Influenza in Beijing, and other laboratories. This analysis revealed no evidence of sustained human-to-human transmission of the virus. To protect public health in China and globally, the WHO and China are monitoring the continuing evolution of the virus and remain alert to any changes in its transmissibility profile. As a pandemic preparedness measure, China and the WHO are

28. 艾滋病防治条例, art. 3 (2006), available at <http://wenku.baidu.com/view/521db45c804d2b160b4ec03d.html> (last visited 22 May 2013).
29. ICCPR, arts. 12, 26, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx> (last visited 21 May 2013). China signed the ICCPR in 1998. See http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en (last visited 21 May 2013).
30. UDHR, arts. 7, 13, available at <http://www.un.org/en/documents/udhr/> (last visited 21 May 2013).
31. International Guidelines on HIV/AIDS and Human Rights (2006 Consolidated Version), ¶¶ 126-128, available at http://data.unaids.org/Publications/IRC-pub07/jc1252-internguidelines_en.pdf (last visited 21 May 2013).
32. See <http://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2010/april/20100427pschinatravelrestrictions/> (last visited 21 May 2013).
33. 中华人民共和国未成年人保护法 (2006 修订), arts. 3, 41 (2006), available at <http://www.lawinfochina.com/display.aspx?lib=law&id=5749&CGid=> (last visited 22 May 2013).
34. See CRC, arts. 3, 35, available at <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx> (last visited 22 May 2013).
35. WHO International Health Regulations, Foreword pp. 1-2 (2005), available at http://whqlibdoc.who.int/publications/2008/9789241580410_eng.pdf (last visited 3 June 2013).
36. See Background and summary of human infection with influenza A(H7N9) virus – as of 5 April 2013, available at http://www.who.int/influenza/human_animal_interface/latest_update_h7n9/en/index.html (last visited 3 June 2013); see also WHO provisional recommendation on influenza A(H7N9) vaccine virus (31 May 2013), available at http://www.who.int/influenza/human_animal_interface/influenza_h7n9/ProvisionalRecommendation_H7N9_31May13.pdf (last visited 3 June 2013).
37. See links to assessments, reports and recommendations on WHO Avian influenza A(H7N9) virus webpage, available at http://www.who.int/influenza/human_animal_interface/influenza_h7n9/en/ (last visited 3 June 2013).

collaborating on exploring the potential of development of a vaccine.³⁸

Third, the UN supports China's reporting on international normative instruments. Signatories to instruments that give rise to legal obligations must report regularly on their compliance to the relevant UN bodies that oversee implementation of the instrument. Often, reporting involves inputs from both the Chinese government and civil society organizations (CSOs). UN agencies may provide technical assistance and training to government officials, as well as to CSOs, in order to support competent and comprehensive reporting. Examples of this type of normative work by the UN system in China abound:

- ILO supports China in its reporting on the more than twenty ILO conventions which China has signed and ratified, including four that are fundamental to human rights: Minimum Age Convention, 1973 (No. 138),³⁹ Worst Forms of Child Labour Convention, 1999 (No. 182),⁴⁰ Equal Remuneration Convention, 1951 (No. 100)⁴¹ and Discrimination (Employment and Occupation) Convention, 1958 (No. 111).⁴²
- UNWOMEN has provided capacity building training to NGOs and CSOs, so that they can research and write sections of the shadow report on implementation of the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW).⁴³
- UNICEF conducts training and provides other support to China to assist with its reporting on the Convention

on the Rights of the Child (CRC),⁴⁴ the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography,⁴⁵ and the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict.⁴⁶

Fourth, the UN conducts advocacy relating to joining international treaties and conventions and adhering to international norms. In advance of signing and ratifying an international treaty or convention, countries often must establish, maintain or ensure a foundation sufficient for compliance. UN agencies may support this process through capacity building programming, or through awareness-raising, advocacy or behaviour-change communications campaigns.

To develop evidence-based advocacy positions relating to international norms, UN agencies often support pilot projects to generate evidence about methods for and benefits of implementing norms. Agencies also facilitate collation, organization, management and analysis of data in order to support evidence-based policy recommendations. To present these data and findings to relevant government counterparts, agencies participate in meetings, conferences, trainings and other engagements that provide opportunities for advocacy and knowledge sharing.

For example, in advance of China's signing and ratification of the Convention on the Rights of Persons with Disabilities (CRPD),⁴⁷ UNDP was instrumental in advocating China's participation. UNDP conducted

38. See WHO provisional recommendation on influenza A(H7N9) vaccine virus (31 May 2013), available at http://www.who.int/influenza/human_animal_interface/influenza_h7n9/ProvisionalRecommendation_H7N9_31May13.pdf (last visited 3 June 2013).

39. See http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C138 (last visited 5 June 2013). China ratified ILO Convention No. 138 in 1999. See http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312283 (last visited 5 June 2013).

40. See http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C182 (last visited 5 June 2013). China ratified ILO Convention No. 182 in 2002. See http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312327 (last visited 5 June 2013).

41. See http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312245:NO (last visited 5 June 2013). China ratified ILO Convention No. 100 in 1990. See http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312245 (last visited 5 June 2013).

42. See http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C111 (last visited 5 June 2013). China ratified ILO Convention No. 111 in 2006. See http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312256 (last visited 5 June 2013).

43. See *infra* n. 6.

44. *Ibid.*

45. See <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPSCCRC.aspx> (last visited 4 June 2013). China signed this Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography in 2000 and ratified it in 2002. See http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-c&chapter=4&lang=en (last visited 4 June 2013).

46. See <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRC.aspx> (last visited 4 June 2013). China signed this Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict in 2001 and ratified it in 2008. See http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&lang=en.

47. See <http://www.un.org/disabilities/convention/conventionfull.shtml> (last visited 21 May 2013).

capacity building and awareness raising work with the China Disabled Persons' Federation (CDPF). The work focused on CDPF's community rights workers. Specifically, it helped improve their knowledge about laws and regulations relating to the rights of people living with disabilities, and it provided information about international experiences. This work contributed to the cultural and political foundation necessary for China to sign and ratify the CRPD.⁴⁸

Fifth, UN normative work includes the tremendous – but sometimes less visible – impact of UN organizations like the Universal Postal Union, the International Atomic Energy Agency, the Office of the High Commissioner of Human Rights, the International Telecommunications Union, and the International Civil Aviation Organization. While these agencies are non-resident in China, all countries in the world benefit from their work. These agencies contribute to the world-wide infrastructure necessary for global communications, travel, safety and freedom from intolerable harm. The work of these agencies is comprehensive proof of the benefits derived from universal implementation of international norms.

Finally, the UN supports China's engagement in the global norm setting process. China's capacity to contribute to, and indeed to assume a leadership role in, the global norm setting process is increasing. UN agencies facilitate China's normative contributions on the global level in a variety of ways:

- With support from the World Food Programme (WFP) and other international agencies and organizations, China developed laws, policies and practices that effectively eradicated hunger in China and facilitated grain self-sufficiency on the national level. Having phased out its in-country programmes, WFP now supports China's global engagements to promote the norm of food security through international knowledge

exchange about law and policy development and good practices for implementation.

- China's Ministry of Agriculture has contributed USD30 million to an FAO-China Trust Fund⁴⁹ for implementation of South-South cooperation programmes to promote achievement of Millennium Development Goals (MDGs) relating to the international norm of food security.

- WHO has been instrumental in China's global engagement to promote the development of international standards for responding to and treating multi-drug resistant tuberculosis. Supporting China's initiative to develop a new platform for building international consensus, commitment and momentum for multi-drug resistant tuberculosis prevention and management efforts, WHO cooperated with the China Ministry of Health and the Bill & Melinda Gates Foundation in organizing a Ministerial Meeting of High Multi- and Extensively-Drug Resistant Tuberculosis Burden Countries in Beijing in April 2009.⁵⁰ The resulting Beijing "Call for Action" on Tuberculosis Control and Patient Care (Beijing Declaration) – agreed to by all twenty-seven participating countries – committed to, among other things, "universal access to diagnosis and treatment of M/XDR-TB by 2015 as part of the transition to universal health coverage," "[e]nsuring . . . that [TB patients'] rights are protected, and that they are treated with respect and dignity," and "strengthening harmonized surveillance, monitoring and evaluation systems to ensure cases of M/XDR-TB are identified and notified to the fullest extent possible."⁵¹ These normative commitments informed, and were reiterated in, the World Health Assembly's subsequent Resolution 62.15 (WHA62.15) that explicitly welcomes the Beijing Declaration, and that binds all States Parties.⁵² WHA62.15 serves as a blueprint for the global multi-drug resistant tuberculosis response, including its law and policy, and technical, diagnostic and treatment dimensions.

48. China signed the CRPD in 2007 and ratified it in 2008. See <http://www.un.org/disabilities/countries.asp?id=166> (last visited 21 May 2013).

49. "Following the signature of the Letter of Intent with FAO in May 2006, the government of China agreed to make available to FAO under a Trust Fund agreement, US\$30 million to support developing countries in improving their agricultural productivity to achieve the Millennium Development Goals. . . . The Trust Fund managed by FAO is demand-driven to respond to the increasing demand for technical expertise of the National and Regional Programmes for Food Security formulated with the assistance of FAO. On 25 September 2008, the Chinese Premier Wen Jiabao declared a package of plans to support the realization of the MDGs at the UN high-level meeting on the Millennium Development Goals. The current Trust Fund takes place as part of these plans, aiming to improve the agriculture productivity in developing countries from 2009-2011." <http://coin.fao.org/cms/world/china/SSC.html> (last visited 21 May 2013).

50. See A Ministerial Meeting of High M/XDR-TB Burden Countries, Meeting Report, available at http://whqlibdoc.who.int/hq/2009/WHO_HTM_TB_2009.415_eng.pdf (last visited 4 June 2013).

51. See http://www.who.int/tb_beijingmeeting/media/en_call_for_action.pdf (last visited 4 June 2013).

52. See http://apps.who.int/gb/ebwha/pdf_files/A62/A62_R15-en.pdf (last visited 4 June 2013).

PART II: Case studies highlighting normative successes and the value of United Nations contributions to China

For the past several decades, the UN has engaged concertedly with China on furtherance of normative agendas. This work has yielded many successes that have materially improved the lives of Chinese people, and have contributed to the Government of China functioning as a good global citizen.

For the most part, these successes have not been documented as normative achievements for China and the UN system. Instead, they tend to be discussed in the context of the relevant UN programmes and activities. These programmes are, however, internal structures for organizing UN agency work; they are means to substantive ends. Delving into these programmes and highlighting their normative DNA, as this report attempts, is therefore useful and instructive. Viewing these programmes through the lens of normative work yields two important benefits. First, it reveals the overarching consistency of the UN system's work in China with the global mission of the UN. Normative work is the moral underpinning for peaceful and equitable globalization. The UN strives to ensure the realization and enjoyment of transcendent norms in China's distinct circumstances.

Second, focusing on the normative framework highlights factors that lead to successful normative implementation. At least four conditions are conducive, if not necessary, to normative achievement. First, the extent of China's participation in establishment of the norm being implemented is a fair predictor of the outcome, speed and vigor of implementation efforts. Second, historically UN funding has been a significant factor: China implements funded normative mandates with greater comprehensiveness and effectiveness. Third, relationships of mutual respect and trust between the Government of China and UN agencies – and especially those relationships that involve technical expertise – are more likely to yield progress on normative agendas. Fourth, good governance mechanisms typically accompany the most meaningful

normative implementation; these mechanisms may include creating government institutions to oversee enforcement of normative obligations, or centralizing responsibility for implementation and creating greater accountability. One or more of these conditions tends to be present in the following successful cases described below. This analysis is instructive for the UN systems' future normative cooperative endeavours in China and globally.

Part II of this report examines seven examples – from among the many normative successes of UN system engagements with China over the past several decades – to serve as case studies for in-depth review and analysis. These case studies illustrate normative engagement in the following areas:

- education for all children;
- facilitating equitable access to healthcare for mothers and babies;
- security and safety dimensions of the right to food;
- protecting human dignity by ensuring freedom from violence for vulnerable populations;
- promoting gender equality in the workplace;
- equitable access to the court system to promote environmental justice; and
- facilitating sustainable development through elimination of ozone-depleting substances.

1. Education for all children

Ask parents of any socio-economic status, of any ethnicity, in any country, about their aspirations for their children, and quality education will likely be high on their list. What parents know reflexively finds expression in numerous international legal instruments that China has signed and ratified, including the International Covenant on Economic, Social and Cultural Rights (ICESCR) which recognizes a universal right to education “directed to the full development of

the human personality and the sense of its dignity.”⁵³

Elaborating on this universal right to education, the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW) insists on equal rights and access to education for males and females, in rural as well as urban areas.⁵⁴ For its part, the Convention on the Rights of the Child (CRC) protects children’s rights to free and equitable access to primary school education, and encourages international cooperation on educational matters.⁵⁵

To streamline efforts to implement these normative instruments, States Parties, including China, along with development agencies and civil society organizations (CSOs), participated in the World Education Forum in 2000, at which they formulated the Dakar Framework for Action. Of the six benchmarks that the Dakar Framework identifies for realizing substantive enjoyment of the right of education for all, three pertain to children’s education: (1) improving comprehensive early childhood education for vulnerable and disadvantaged children; (2) ensuring equitable and free access to quality primary school education by 2015 for all children, including ethnic minorities;⁵⁶ and (3) improving the quality of education.⁵⁷

In China, UNICEF and UNESCO have been working with the Ministry of Education (MOE) to support implementation of the norm of equitable access to comprehensive and quality education for children. Because China has largely achieved universal access to primary school education,⁵⁸ recent years have brought focused efforts to improve the quality of early childhood and basic education for vulnerable and marginalized children. Among these agencies’

engagements, UNICEF has been promoting early childhood development and education resources for children between three and six years of age, while UNESCO has been assisting efforts to improve the application of bilingual education policy and practices in ethnic minority schools.

UNICEF has been instrumental globally in promoting Early Learning and Development Standards (ELDS), a set of age-appropriate expectations of what children between the ages of 3-6 years should know and be able to do. ELDS is a powerful tool around which governments can formulate law and policy relating to early childhood development and education, with the aim of supporting school readiness, as well as children’s attainment of their highest potential. Through its “Going Global” project, UNICEF has supported countries, including China, to translate ELDS into national policy.

After a UNICEF supported ELDS workshop in Shanghai in 2005, UNICEF contributed technical support to China’s Ministry of Education (MOE) over a five-year period of drafting, validating and implementing China’s Early Learning Development Guidelines for 3-6 year olds (ELDG). Through this support MOE officials and the core technical team were able to exchange experiences with representatives of different countries, and to attend workshops where they could learn from international experts. These experts played a crucial role in supporting the development of China’s ELDG, including the validation process. The MOE released China’s ELDG in 2012. When the MOE’s steering committee met to consider the ELDG, it gave the ELDG its highest, unanimous approval.

53. ICESCR, art. 13.1 (“The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.”), available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx> (last visited 21 May 2013); see also UDHR, art. 26(1), (2) (“(1) Everyone has the right to education. Education shall be free . . . Elementary education shall be compulsory. . . (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.”), available at <https://www.un.org/en/documents/udhr/> (last visited 21 May 2013).

54. CEDAW, art. 10 (requiring States Parties to “eliminate discrimination against women in order to ensure to them equal rights with men in the field of education”); see also art. 10 (a) (calling for “[t]he same conditions for . . . access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas”), available at <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article10> (last visited 21 May 2013).

55. CRC, art. 28(1)(a) (“Make primary education compulsory and available free to all”); see also art. 28(3) (“States Parties shall promote and encourage international cooperation in matters relating to education.”), available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> (last visited 21 May 2013).

56. This benchmark largely tracks MDG2, see <http://www.un.org/millenniumgoals/education.shtml>.

57. Dakar Framework for Action, ¶ 7(i), (ii) and (vi), available at <http://www.unesco.org/education/wef/en-conf/dakframeng.shtml> (last visited 21 May 2013).

58. See <http://www.undp.org.cn/modules.php?file=article&catid=32&sid=6> (last visited 21 May 2013).

The ELDG achievement is a result of more than thirty years of cooperation between the Government of China and UNICEF. The accumulated experience of cooperating on pilot projects in more than a hundred counties laid a solid foundation and generated evidence for national policy that contributed to the development of the ELDG.

The MOE is currently implementing ELDG through nationwide teacher training programmes. “All the teachers will be trained,” says Jiang Jin, the Deputy Director of the Basic Education II department in China’s MOE. “Every province will have a pilot area, in at least one prefecture or city. China is such a huge country, so we need to first do some pilot experiments, and then expand the successful models.”

The ELDG has inspired an outpouring of public engagement from parents. “We feel really surprised and happy by the huge response from parents and grandparents,” says Deputy Director Jiang. For example, at the China Women’s University Experimental Kindergarten, where the ELDG are being implemented, parents have been meeting to develop a deeper understanding of the guidelines. One father in this group, reflecting on the holistic ELDG approach, approves: “We want to cultivate balanced development for our children, physically, mentally and spiritually – when children get strong from the heart, they will develop well in the future. We can’t depend only on the government, we have to participate, parents, family and schools, fathers and mothers, men and women.”

The holistic and child-focused approach embodied in China’s ELDG finds its parallel in the culturally-sensitive, bilingual education policies supported by UNESCO. Integrating ethnic culture and languages into teaching and learning is a key strategy for enhancing the quality of education available for ethnic minority children. Improvement of China’s existing bilingual education policies is critical and timely because the academic achievements of ethnic minority students tend to lag behind those of their Han Chinese counterparts, reports Professor Zheng Xinrong, Dean of the School of Educational Foundation at Beijing

Normal University. “The more geographically remote an ethnic minority student’s home town, and the greater his or her language difficulty, the lower the academic achievements.”

Professor Zheng adds that the school atmosphere can compound the challenges for ethnic minority students. “Han Chinese teachers are not qualified in understanding the minority culture – the class atmosphere may not be friendly to the ethnic minority children if the teachers cannot involve the children in the lessons because the children cannot follow the teaching.”

To facilitate better delivery of educational content to ethnic minority children, UNESCO has been supporting the use of ethnic minority languages in children’s education. China’s fifty-five different ethnic minority groups comprise almost 8.5 per cent of the population.⁵⁹ These communities maintain more than 10,000 schools that educate more than 6,000,000 minority children, according to Professor Su De, Dean of the School of Education at Minzu Daxue (Minorities University). As Professor Su explains, in China, “bilingual education” refers to the educational methodology in minority schools, where children receive instruction in their minority language, as well as in Mandarin.

Between 2009 and 2011, UNESCO assisted with a project that Professor Su and his team at Minzu Daxue implemented to review policies and improve practices relating to culturally-sensitive education, including bilingual education, with the goal of improving overall educational quality.⁶⁰ The project focused on pilot counties in Yunnan, Guizhou and Qinghai – all provinces with large populations of ethnic minorities – and contributed to building the capacities of teachers, educational officials and school administrators.

“We have achieved very good outcomes from these trainings,” reports Professor Su. Local teachers, administrators and education officials appreciated the close attention to, and consideration of, the challenges of educating children bilingually. “We conveyed

59. See http://www.stats.gov.cn/english/newsandcomingevents/t20110428_402722244.htm (last visited 21 May 2013).

60. For more information about this project see China Culture and Development Framework Final Evaluation, available at <http://www.mdgfund.org/sites/default/files/China%20-%20Culture%20-%20Final%20Evaluation%20Report.pdf> (last visited 21 May 2013).

the difficulties they encountered to highest level of government.”

Professor Su emphasized that UNESCO’s global reputation and authority gave credibility to the project. “The Chinese government has a very clear understanding that UNESCO’s starting point is good, and the Chinese government believes that UNESCO really wants to help the teachers and locals solve problems.” Moreover, “international training resources cannot happen without UNESCO,” says Professor Su.

Most importantly, “UNESCO provided us with a new perspective of doing research about minority education policy: the culturally-sensitive approach. UNESCO encouraged us to cultivate respect for the minorities’ cultures, and to be more sensitive to the culture when implementing policies – this was a brand new perspective for bilingual education policy.”

Professor Su described how, in the past, implementation of bilingual education policy without cultural sensitivity led to situations in which minority children did not understand or accept the curriculum. “This is the consequence of ignoring the children’s culture,” Professor Su reflected. “Only by respecting the minority culture, respecting the unique background, and integrating them into the curriculum – only in this way can you achieve the best outcome of the teaching. Only in this way will the children be receptive.”

2. Facilitating equitable access to healthcare for mothers and babies

All countries in the world have vulnerable populations, and mothers and their babies comprise a quintessential component of vulnerable populations everywhere. For this reason, mothers and babies have long been the focus of efforts to implement norms relating to healthcare. Equitable access to quality healthcare necessary for an adequate standard of living and human dignity is broadly recognized as a fundamental human right. Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁶¹ “recognize[s] the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,” and identifies reduction of infant mortality, improvement of environmental hygiene and facilitation of universal access to medical care as responsibilities of States Parties.⁶²

Both the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW) and the Convention on Child Rights (CRC) reiterate these norms in the specific context of maternal-child healthcare. Signatories to CEDAW explicitly undertake to provide “appropriate [medical] services in connection with pregnancy.”⁶³ The CRC obligates States Parties to, among other measures, deploy readily available technology in the service of combating childhood disease.⁶⁴

61. ICESCR, art. 12 (1966) (“1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; . . . (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.”), available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ICESCR.aspx> (last visited 21 May 2013).

62. See also Universal Declaration of Human Rights, art. 25 (1948) (“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including . . . medical care.”), available at <https://www.un.org/en/documents/udhr/> (last visited 21 May 2013).

63. CEDAW, art. 12 (1981) (“1. 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. 2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”), available at <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article12> (last visited 21 May 2013).

64. CRC, art. 24 (1990) (“1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services. 2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (a) To diminish infant and child mortality; (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care; (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution; (d) To ensure appropriate pre-natal and post-natal health care for mothers.”), available at <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx> (last visited 21 May 2013).

To maximize implementation efforts and facilitate realization of these health-related norms, the International Conference on Population and Development (ICPD) Programme of Action took the initiative to set a measurable benchmark for maternal health: it called for a 75 per cent reduction in maternal mortality by 2015.⁶⁵ This step “was a watershed for safe motherhood,”⁶⁶ and proved to be the first of many programmatic commitments to safe motherhood, including among them the Millennium Declaration⁶⁷ and the Millennium Development Goals (MDGs) – specifically in MDG5.⁶⁸

As a State Party to of all three relevant normative instruments – ICESCR, CEDAW and the CRC – and an active supporter of the programmatic plans for implementation of maternal and child health-related norms, including the ICPD Programme of Action and the MDGs, China has committed to the Safe Motherhood Platform. Working in conjunction with UNICEF, China’s Ministry of Health (MOH) formulated two main goals for this platform: reducing maternal mortality, and eliminating maternal and neonatal tetanus. With UNICEF support, the MOH pursued a strategy of increasing in-hospital deliveries, with a particular focus on marginalized populations in rural poor or mountainous areas.

The results of China’s implementation efforts have been impressive. Maternal mortality in China has fallen from a national average of roughly 1,500 deaths per 100,000 live births in the 1950s⁶⁹ to less than 35 deaths per 100,000 live births in 2009.⁷⁰ China represents an exemplary – and unusual – success

story in global maternal health.⁷¹

In-hospital delivery has also facilitated elimination of neonatal tetanus in China. The death rate for neonatal tetanus is high; and yet neonatal tetanus can be eliminated, either by vaccinating women of reproductive age against tetanus (the in utero fetus can receive tetanus antibodies from the mother), or by ensuring hygienic conditions for birth.⁷²

With support from the WHO and UNICEF, China opted to eliminate maternal and neonatal tetanus by fostering hygienic conditions in hospitals, rather than through mass vaccination campaigns. Because at-home birth increases risks for maternal mortality, China committed to a strategy that would both decrease risks of maternal mortality and eliminate maternal and neonatal tetanus. Moreover, its implementation was inspiring in its effectiveness: in October 2012, the WHO confirmed that China had eliminated maternal and neonatal tetanus.⁷³

China’s successful implementation of its in-hospital delivery policy created opportunities for disease prevention beyond the goals enumerated in the Safe Motherhood Platform. Prevention of hepatitis-B is a case in point. Chronic hepatitis-B infection has been a persistent problem in China. The societal costs of chronic hepatitis-B infections are enormous: the infection is a leading cause of liver cancer and cirrhosis. If a mother has chronic hepatitis-B, the chances of infecting her baby during birth are very high. Ninety per cent of children infected at birth contract chronic hepatitis-B infections.⁷⁴

65. ICPD Programme of Action, ¶¶ 8.21 and 8.22 (1994), available at http://www.unfpa.org/webdav/site/global/shared/documents/publications/2004/icpd_eng.pdf (last visited 21 May 2013).

66. Family Care International, *Safe Motherhood: A Review, The Safe Motherhood Initiative 1987-2005*, at 13 (n. 22 omitted) (“The ICPD Programme of Action was a watershed for safe motherhood: for the first time, a UN document defined a time-bound and measurable goal for maternal health: to reduce maternal deaths by 75% by the year 2015. The safe motherhood commitment included in the ICPD Programme of Action has been reaffirmed by several major global agreements negotiated since the ICPD, including the Platform for Action of the Fourth World Conference on Women, the outcome documents from the UN General Assembly Special Session on HIV/AIDS, the UN General Assembly Special Session on Children, and the Millennium Declaration.”), available at http://www.familycareintl.org/UserFiles/File/SM%20A%20Review_%20Full_Report_FINAL.pdf (last visited 21 May 2013); see also *ibid.* at 4, n.2 (“Family Care International served as the secretariat until January 2004, when the Partnership for Safe Motherhood and Newborn Health was established.”).

67. See *infra* n. 15.

68. MDG5 relates to improving maternal health. See <http://www.un.org/millenniumgoals/maternal.shtml> (last visited 4 June 2013).

69. See <http://www.who.int/bulletin/volumes/87/12/08-060426/en/index.html> (last visited 21 May 2013).

70. China Ministry of Health, *China Health Statistical Yearbook (2009)*; see also China Ministry of Health, “Background paper for the High-Level Meeting on Child Rights, Beijing, November 4 – 6, 2010: Progress towards Achieving the Millennium Development Goal 4 and 5 Targets on Child and Maternal Mortality in China, with Equity,” at 4, available at http://www.unicef.org/eapro/Background_paper_on_achieving_MDGs_4_5_with_equity_-_MoH_China_FINAL.pdf (last visited 21 May 2013).

71. See <http://www.who.int/bulletin/volumes/87/12/08-060426/en/index.html> (last visited 21 May 2013).

72. “Tetanus spores are everywhere; if they contaminate the umbilical cord – which can happen when an unclean instrument is used to cut the umbilical cord – then the baby can contract tetanus.” Interview with Dr. Lance Rodewald, Expanded Programme on Immunization Team Lead, WPRO, WHO (24 December 2012).

73. See http://www.wpro.who.int/immunization/news/china_achieves_mnte/en/index.html (last visited 21 May 2013).

74. Information provided by Dr. Lance Rodewald, see *infra* n. 72.

“It’s hard to say who made the most important contribution to this change to use the Safe Motherhood Platform for hepatitis-B vaccination,” reflects Dr. Yang Weizhong, the Deputy Director General of the Chinese Center for Disease Control and Prevention (China CDC). “In China, before hepatitis-B vaccine was included in EPI, the vaccinations were implemented by the CDC at different levels and designated vaccination sites; but for timely birth dose coverage, the newborn baby needs the first dose within 24-hours, that’s very important to stop transmission of the virus. It’s a really difficult situation and a big challenge for the CDC to find newborn babies within 24hours after birth. The MOH and the WHO collaborated on elimination of neonatal tetanus programme that helped support in-hospital birth, which provided an opportunity for CDC and MOH hospitals to cooperate cross-departmentally, as well as internationally with the WHO, to find this good combination point for us to make sure of timely birth dose of hepatitis-B vaccine in hospitals.”

With technical support from the WHO and UNICEF, China introduced a standard practice of administering hepatitis-B birth dose vaccine under a policy of “whoever delivers the baby, administers the vaccine.” Administration of a hepatitis-B birth dose vaccine is extremely effective and interrupts this chronic infection trajectory, but as Dr. Yang indicated, delivering the vaccine is complicated. The timing must be exact: the baby must receive the first dose of the vaccine within 24 hours of birth, and thereafter needs two follow-up doses. The vaccine itself requires special handling: it must be kept between 2-8 degrees Celsius and consequently requires cold chain maintenance. These factors virtually eliminate any chance that babies born at home can receive the hepatitis-B birth dose vaccine.

China’s use of the Safe Motherhood Platform as an opportunity to administer the hepatitis-B birth dose vaccine has been phenomenally successful. While the WHO set a regional goal of less than 2 per cent transmission of hepatitis-B at birth, by May 2012 China had reduced its transmission rate to below 1 per cent. The CDC credits the WHO’s support for the speed of this accomplishment: “Without the WHO, the work would have been more difficult; the WHO promoted the success of the programme. Results would have taken longer without the WHO,” says Dr. Yang.

Dr. Yang emphasizes that “China did a good job” to meet the WHO health standards within the constraints of its developing country budget and public health system. “Everyone has the right to access the public health system,” says Dr. Yang, “and we still have lots of difficulties in different areas – remote rural areas, minority areas – to reach the same coverage levels we have in the urban areas.” Part of China’s current public health reform involves “establishing a good platform for everyone to have the right to enjoy public health services,” explains Dr. Yang, and he identifies the WHO’s contribution as integral to implementing the norm of equitable access to healthcare.

“Taking hepatitis-B vaccine as the example,” Dr. Yang says, “China started the hepatitis-B vaccination programme in 1992. Between 1992 and 2002, coverage was very unequal. For people with more money and in more developed areas, the coverage was high; for rural areas, and poor children, the coverage was low, about 60 per cent. After 2002, the MOH collaborated with the WHO to make policy and also on technical support, and coverage of hepatitis-B vaccine improved substantially in remote and rural areas. By 2009, coverage in those areas was over 90 per cent.”

Dr. Yang appreciates the way that the WHO’s collaboration with China has deepened and evolved after SARS in 2003. “We have more friendly communications, and the WHO has started to accept our suggestions, in specific areas and also around the world in respect of public health. For our collaboration and relationship, we trust and believe each other more, and I think it’s a big change for us, because we start to support each other.”

Dr. Yang expressed the hope that, with continued WHO support, China can become more involved in international public health. “China wants to share its experience as a developing country implementing a public health system. We hope we can not only accept help, but also take responsibility and make a contribution globally.”

3. Security and safety dimensions of the right to food

Freedom from hunger is essential for human dignity and the development of human potential. Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees the right to food and places responsibility on States Parties to “improve methods of production, conservation and distribution of food” through, among other methods, a focus on nutrition.⁷⁵

At the 1992 International Conference on Nutrition, participants elaborated that, “[a]ccess to nutritionally adequate and safe food is a right of each individual.”⁷⁶ The first sentence of the Rome Declaration on World Food Security “reaffirm[s] the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger.”⁷⁷

To facilitate implementation and enforcement of these rights and obligations relating to safe and nutritious food, States Parties look to the Codex Alimentaris,⁷⁸ a collection of international food standards developed through the work of the Codex Alimentaris Commission, which was jointly established by FAO and the WHO. Both agencies also collaborated on Guidelines for Strengthening National Food Control Systems⁷⁹ to assist with, among other food safety issues, country-level compliance with the Codex Alimentaris.

These legal, technical and customary normative instruments together set the normative parameters for realization of the right to food and standards for food safety. In practice, securing substantive enjoyment of the right to food is a complex, multi-faceted endeavour. In accordance with the World Food Summit definition, “food security” exists when “all people, at all times,

have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life.”⁸⁰ This definition embraces three relevant dimensions for realizing the right to food: (1) availability, which pertains to the physical supply of food, (2) access, which refers to a household’s economic capacity to obtain a regular supply of food, and (3) utilization, which encompasses all aspects of a household’s use of the food, including preparation, hygiene and distribution, as well as the nutritional value of the food.⁸¹

Poverty alleviation, gender equality, environmental conservation, infrastructure development, and good governance are further factors that influence realization of availability, access and utilization of food. In consequence, fulfilling the normative mandate of upholding the right to food requires legal and policy developments coordinated with comprehensive, multi-dimensional, community-based engagements.

Together, WFP, the WHO, UNICEF and FAO have provided comprehensive support to China in its remarkably successful implementation of this normative agenda. In less than thirty years, China’s food security priorities have transitioned from food availability to food utilization, including safety and nutrition. WFP has provided critical support for China’s implementation of food security norms relating to food availability, while the WHO, UNICEF and FAO have all worked to augment realization of the food utilization component, through support for food safety and nutrition initiatives.

In 1979, when WFP first began working in China, food insecurity was not uncommon: China’s population included approximately 250 million people living in absolute poverty.⁸² By 2005, when WFP phased out its in-country programming, China had achieved national food security and maintained 95 per cent grain self-sufficiency.⁸³

75. See <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx> (last visited 21 May 2013); see also UDHR, art. 25 (“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food”), available at <http://www.un.org/en/documents/udhr/index.shtml> (last visited 21 May 2013).

76. Food and Agriculture Organization and World Health Organization, International Conference on Nutrition, World Declaration on Nutrition (1992), available at <http://www.fao.org/docrep/U9920t/u9920t0a.htm> (last visited 21 May 2013).

77. World Food Summit, Rome Declaration on World Food Security (1996), available at http://www.fao.org/wfs/index_en.htm (last visited 21 May 2013).

78. See <http://www.codexalimentarius.org/standards/en/> (last visited 21 May 2013).

79. See http://www.who.int/foodsafety/publications/capacity/en/Englsh_Guidelines_Food_control.pdf (last visited 21 May 2013).

80. World Food Summit Plan of Action ¶1 (1996), available at http://www.fao.org/wfs/index_en.htm (last visited 21 May 2013).

81. Nie Fengying, et al., Analysis of Food Security and Vulnerability in Six Counties in Rural China, China Agricultural Science and Technology Press (2011), at 7, available at <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp241211.pdf> (last visited 21 May 2013).

82. China Ministry of Agriculture and World Food Programme, World Food Programme in China 1979-1996 (1996), at 8.

83. Dr. Xiao Yunlai, Report on the Status of China’s Food Security, China Agricultural Science and Technology Press (2009), at v, available at <http://documents.wfp.org/stellent/groups/public/documents/ena/wfp217348.pdf> (last visited 21 May 2013).

Over the course of those twenty-six years, WFP ran more than 70 projects and provided more than USD1 billion in food aid that improved the lives of more than 30 million beneficiaries across China.⁸⁴ Throughout, WFP has enjoyed a relationship of trust and mutual respect with its Chinese counterpart, the Ministry of Agriculture (MOA), which has significantly contributed to the success of the partnership. WFP's capacity to implement projects in a broad array of sectors – from irrigation to reforestation to school feeding to HIV programming – enabled it to deliver food aid tailored to community conditions, and this context-appropriateness further enhanced effectiveness.

Through its cooperation with WFP, its adoption and implementation of ambitious policies in agriculture and land reform, and by making substantial investments in research and development, China facilitated rapid achievement of grain self-sufficiency.⁸⁵ By the 2000s, China's food security agenda had shifted to focus seriously on utilization issues, including food safety and nutrition.

Collaborating with China's State Food and Drug Administration (SFDA) from 2004-2007, the WHO helped conduct an assessment and develop recommendations for a food safety regulatory framework.⁸⁶ The SFDA selected the WHO to provide this support because of the WHO's expertise and credibility. The resulting assessment identified two significant opportunities for improving governance and thereby furthering the norm of food security. First, food utilization in China would benefit from a comprehensive food safety law to regulate production, processing and distribution at every step from farm to chop sticks.⁸⁷

Second, China lacked a government institution with ultimate responsibility for food safety.⁸⁸ Fragmentation in both the regulatory and institutional environments was undermining normative implementation of the right to safe food.

The Government of China subsequently accepted and rapidly implemented both of these recommendations to strengthen its governance mechanisms. The National People's Congress passed China's Food Safety Law in 2009.⁸⁹ A year later, the government established the State Council Food Safety Commission.

While the Government of China was implementing the food safety recommendations in the WHO assessment, the costs of failing to implement norms relating to food utilization became apparent when, in 2008, thousands of babies were hospitalized after drinking milk or infant formula to which melamine had been added.⁹⁰ In this context, UNICEF has worked to support realization of the international norm of safe food through promoting breastfeeding, and by raising awareness that breast-milk is the safest and most nutritious food for babies. In partnership with the Ministry of Health (MOH), UNICEF is contributing to an ongoing pilot project that facilitates breastfeeding counseling in township-level health facilities in thirty-five counties. Support for the breastfeeding counseling has included training health workers, and providing materials like counseling cards, technical guidelines for cases involving mothers living with conditions like HIV and hepatitis-B, and an integrated breastfeeding counseling manual.

Notwithstanding China's immense normative progress with respect to the food availability and utilization

84. United Nations World Food Programme in China 1979-2009: Celebrating 30 Years of Cooperation, WFP (2009), at 2, 32, available at <http://home.wfp.org/stellent/groups/public/documents/newsroom/wfp217619.pdf> (last visited 21 May 2013); see also Shuai Chuanmin, *Management of WFP Assisted Projects in China*, China University of Geosciences Press (2006), Appendices 1-11 (providing an overview of WFP projects in China).

85. For detailed discussion of China's policy innovations that supported achievement of grain security, see Jikun Huang and Scott Rozelle, *Agricultural Development and Nutrition: the Policies behind China's Success*, WFP Occasional Paper no. 19 (2009), available at <http://documents.wfp.org/stellent/groups/public/documents/newsroom/wfp213339.pdf> (last visited 21 May 2013).

86. See China State Food and Drug Administration, Asian Development Bank and World Health Organization, *Focused Synopsis of Consultants' Findings and Recommendations on a Regulatory and Strategic Framework for Food Safety in the People's Republic of China* (2007), available at <http://www2.adb.org/Documents/Produced-Under-TA/37599/Food-Safety-FS-EN.pdf> (last visited 21 May 2013).

87. *Ibid.* at 6.

88. *Ibid.* at 8.

89. See http://www.procedurallaw.cn/english/law/200903/t20090320_196425.html (last visited 21 May 2013).

90. See Expert meeting to review toxicological aspects of melamine and cyanuric acid, 1-4 December 2008, http://www.who.int/foodsafety/fs_management/infosan_events/en/ (last visited 23 May 2013); Qiu, Liqian, et al., "Breastfeeding Practice in Zhejiang Province, PR China, in the Context of Melamine-contaminated Formula Milk," *J. Health Pop. Nutr.*, v.28(2) (Apr. 2010), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2980882/> (last visited 23 May 2013).

dimensions of food security, disparities in food utilization remain. Marginalized populations living in mountainous and remote areas, in ethnic minority communities, and in rural poverty counties have not been benefitting to the same degree from China's normative gains relating to the right to food.

FAO has been supporting China to take action at this intersection of poverty and food insecurity through a food-based nutrition pilot project in Yunnan and Guizhou. The goal of the engagement is to support implementation of the food utilization aspect of food security, relating to household use of the food: preparation, hygiene, distribution, and nutrition. FAO hoped to facilitate a 30 per cent increase in consumption of locally-sourced, micronutrient-rich foods over a three-year period between 2010 and 2013.

The pilot project combined a nutrition education platform with capacity building to enable nutrition-sensitive homestead agriculture, focusing on greenhouse-based vegetable gardening and animal husbandry. The nutrition education component included trainings of trainers and community-level nutrition education workshops that provided information about: dietary composition; consumption of a diverse array of nutrient-rich, locally-produced foods; good nutritional practices for pregnant women, infants and young children; and food storage and preservation.

To build capacity, FAO partnered with China's Ministry of Agriculture (MOA) to supply local farmers with greenhouses, agricultural tools, seeds and livestock like pigs and chickens. FAO also helped provide technical support and agricultural know-how to assist local farmers to improve their crop yields.

"Without FAO, we wouldn't have focused on nutrition," explains Li Qian, a project officer for the Foreign Economic Cooperation Center, affiliated with the MOA. "The MOA traditionally focused on agricultural production. Nutrition was mostly the responsibility of the Ministry of Health. For domestic projects, we don't usually use a multi-disciplinary approach."

Despite MOA's receptiveness to the multi-disciplinary approach, "project management was a challenge,"

Ms. Li reported. "We encountered resistance to the multi-disciplinary aspects of the project – in the form of regulations and mindset – at the national, provincial and local levels." As a result, one policy recommendation to emerge from the pilot is the idea of establishing a Chinese government institution with integrated nutrition and agriculture development responsibilities.

To help overcome the obstacles to implementation of the multi-disciplinary pilot, FAO and MOA worked together to build capacity for project management. "FAO uses international best practices for project management." Ms. Li elaborated: "FAO does baseline surveys, mid-terms evaluations, and final evaluations. For each activity, it has monitoring and evaluation, and reporting." Applying these practices to the food-based nutrition pilot, "FAO helped us meet international standards in our domestic work, which is good and useful for many reasons," said Ms. Li. "We manage agricultural projects globally. Even though this pilot was domestic in its focus, it had international ramifications. Now that we can manage multi-disciplinary programs, this pilot may influence agricultural policy with respect to international agricultural cooperation."

The results of this collaboration attest to the value of FAO's approach. An end-line survey conducted in September 2012 found that pilot areas enjoyed increased crop yields and higher household incomes. The participating population consumed a wider diversity of nutrient-rich, locally-produced foods and had increased their intake of micronutrient-rich foods by 40 per cent, exceeding the project goal.

Li Qian emphasized the impressiveness of these outcomes: "It's difficult for people at the community level to depart from their local dietary customs. Changing customs, and developing the taste for healthy food prepared in new ways – that takes time. The population in our pilot communities has a low education level. Most of the women we trained could recognize only a few characters. We had to design training manuals with pictures, rather than characters. But the results show that these communities are actually being helped by this pilot. Because this project was so successful, we want to develop more programs like it."

4. Protecting human dignity by ensuring freedom from violence for vulnerable populations

Human dignity is among the most fundamental of international norms. Bodily integrity, including physical, psychological, reproductive and sexual health, comprises a critical aspect of human dignity. Freedom from violence is a necessary precondition to bodily integrity and human dignity.

China has signed and ratified two international conventions that require States Parties to ensure freedom from violence for vulnerable groups. CEDAW⁹¹ recognizes freedom from violence as integral to the ability of women to enjoy human dignity equally with men. The Convention on the Rights of the Child⁹² calls on States Parties to engage in multi-sectoral approaches to protect children from violence.

Numerous other normative instruments restate the imperative of ensuring freedom from violence for vulnerable groups,⁹³ including older persons. Paragraph 17 of the United Nations General Assembly Resolution 46/91 on Implementation of the International Plan of Action on Ageing, for example, declares that freedom from physical and mental abuse is necessary for the dignity of older persons.⁹⁴ Article 5 of the Madrid International Plan of Action on Ageing (MIPAA) commits signatories “to enhance the recognition of the dignity of older persons and to eliminate all forms of neglect, abuse and violence.”⁹⁵

UNWOMEN, UNICEF and UNFPA have all contributed to the realization of the norm of freedom from violence for vulnerable groups in China. Collaborating as part of an interagency UN Task Force, these agencies and others have been providing technical support to the National People’s Congress (NPC) as it drafts China’s first national anti-family violence law.⁹⁶ The law will apply to women, children, older persons, and people living with disabilities. Drafting of the law is ongoing as of the publication of this report. The key issues on which the UN is providing information – concerning relevant international standards and experiences from other countries – include (a) defining “violence against women,” and “domestic violence” or “family violence,” (b) ensuring that the law proscribes sexual violence and marital rape, and (c) providing for guardianship where family violence deprives minors of parental care.

To support these drafting efforts, UNICEF has helped compile evidence about the prevalence of family violence in China. Working with the China Center for Disease Control, UNICEF contributed to a comprehensive research study about child abuse. This project includes (1) a literature review, and (2) a field study analyzing the role of health care professionals in identifying and reporting family violence, and in supporting victims to access available services.

UNICEF also sponsored a 2011 study tour of the United States for delegates from the NPC and the All-China Women’s Federation (ACWF). The study tour curriculum focused on best practices for developing legislative frameworks, institutional mandates, and

91. “The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.” CEDAW General Recommendation No. 19 (11th session, 1992), available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19> (last visited 21 May 2013); see also CEDAW, arts. 1-5, available at <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article1> (last visited 21 May 2013).

92. “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.” CRC, art. 19, cl.1, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> (last visited 21 May 2013).

93. See e.g., Declaration on the Elimination of Violence against Women, A/RES/48/104, available at <http://www.un.org/documents/ga/res/48/a48r104.htm> (last visited 21 May 2013); Intensification of efforts to eliminate all forms of violence against women, A/RES/61/143, available at http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/61/143 (last visited 21 May 2013); UN Fourth World Conference on Women, Beijing Platform for Action, strategic objective D, available at <http://www.un.org/womenwatch/daw/beijing/platform/violence.htm> (last visited 21 May 2013).

94. A/RES/46/91, available at <http://www.un.org/documents/ga/res/46/a46r091.htm> (last visited 21 May 2013).

95. See <http://social.un.org/index/Portals/0/ageing/documents/Fulltext-E.pdf> (last visited 21 May 2013).

96. More than twenty-five provinces in China have laws proscribing domestic violence. According to UNWOMEN Country Programme Manager Julia Broussard, widespread agreement exists on the necessity of a national law.

coordination and service delivery mechanisms to prevent and respond to family violence. UNICEF has additionally supported events, like ACWF's 2012 High Level Round Table Conference, and the NPC's 2013 series of consultations, to identify and address the prevalence of family violence in China, along with gaps in law and practice.

In parallel with the national-level law-making process, UNFPA and UNWOMEN have been working to support community-level implementation and internationalization of the norm of freedom from violence for older persons, and for women and children.

Older persons. Among its many contributions to improving the lives of older persons in China, UNFPA has helped with the development of a law-and-policy framework for upholding the dignity of older persons, along with an indicator system for measuring realization of the rights and benefits to which older persons are entitled. Since 1985, UNFPA has partnered with the China National Committee on Ageing (CNCA) to promote research, policies and practices that promote healthy and active ageing. This collaborative work has included capacity building for local government officials, awareness-raising at the national level, and assistance with reviewing and assessing China's implementation of MIPAA.

Ms. Xiao Hongyan, Director of the Division of International Cooperation at CNCA, reports that UNFPA's technical support has also been important for the 1996 Law on the Protection of Interests and Rights of Older Persons⁹⁷ and its 2012 amendments,⁹⁸ both of which advance the norm of dignity for older persons and freedom from abuse and neglect.⁹⁹ Separate and apart from China's pending law against family violence, this Law and its revision articulate that abuse and neglect of, and discrimination against, the elderly are legally actionable, including through criminal prosecution.¹⁰⁰

"Violence against older persons more often takes the form of neglect and abuse within the family," says Mr. Wu Qiufeng, Director of the Department of Program Development at CNCA. "Traditionally, elder members of society might seek help through their Older Persons Association, a network that provides peer support. Occasionally, older people seek help through China's civil dispute mediation system. Resorting to a court of law to uphold their rights is very rare, and the percentage of cases with older person victims as plaintiffs has been very low. Still, new circumstances and contexts arising from the rapid changes in China have shown the need to revise the law protecting the elderly."

Director Wu oversees the development of an indicator system to measure implementation of China's Twelfth Five Year Plan on Ageing. The system uses twenty-three concrete indicators that are relevant to China's context, and it measures results at the national, provincial and local levels. One indicator relevant to safeguarding older persons from violence is the percentage of the population of older persons with access to grassroots legal support. "Coverage has to reach 75 per cent of the population," reports Director Wu.

With UNFPA's support, CNCA is currently piloting the indicator system in four provinces and a provincial city. "Through collaboration with UNFPA, we absorbed the evidence-based approach, and now we use quantitative economic metrics," says Director Wu, explaining the critical role of the pilot project. "It's not enough to know what to do, we must also know how to do it. It is even more important to be clear about who should do what, and how results can be measured and validated." Director Wu reflects that the methodologies UNFPA introduced "lead to improved outcomes, but this kind of approach is not easy to carry out in China. In local communities, at first they don't understand, and they are not so supportive, but after a period of communication, we show them that it's a good

97. See <http://law.npc.gov.cn/page/browseotherlaw.cbs?rid=en&bs=97919&anchor=0> (last visited 21 May 2013).

98. The revised law takes effect on 1 July 2013. See http://news.xinhuanet.com/english/china/2012-12/29/c_132069983.htm (last visited 21 May 2013).

99. Chapter 1 of the 1996 law and its 2012 revision both prohibit abuse of the elderly. See <http://law.npc.gov.cn/page/browseotherlaw.cbs?rid=en&bs=97919&anchor=0> (1996 law) ("禁止歧视、侮辱、虐待或者遗弃老年人。") (last visited 21 May 2013); http://www.gov.cn/flfg/2012-12/28/content_2305570.htm (2012 revision) (text remains the same) (last visited 21 May 2013).

100. See <http://law.npc.gov.cn/page/browseotherlaw.cbs?rid=en&bs=97919&anchor=0> (1996 law, chapter V, articles 43, 46, 48); http://www.gov.cn/flfg/2012-12/28/content_2305570.htm (2012 revision, chapter VIII, articles 72, 75) (last visited 21 May 2013).

approach, and we achieve high levels of acceptance.” In addition to the improved outcomes from using evidence-based methodologies, the partnership with UNFPA has yielded other benefits, says Director Wu. “Now we understand the concept of dignity more extensively and more comprehensively. We understand that a rights-based approach promotes the norm of dignity for all members of society. Our collaboration with UNFPA corresponds to a change of mindset and culture, and to raised awareness.”

Director Wu also reflected that the indicator system pilot “is the most cost-effective project that I’ve ever collaborated on with any national or international partner. Almost 200 million rural-dwelling older people can benefit from the outputs and deliverables of our project, and it costs about USD200,000.” Director Wu expressed optimism about the potential for such an affordable approach: “If what we are doing allows each individual older person to feel a little warmth, then it will create a great fire that will warm all of humankind.”

Women and children. UNWOMEN, meanwhile, has focused on the roles of Hunan provincial judges and law enforcement personnel in the prevention of, and response to, family violence. In 2000, Hunan passed a provincial Resolution on the Prevention and Control of Domestic Violence (“Resolution”).¹⁰¹ Paragraph 13 of the Resolution defines “domestic violence” as “acts occurring between family members who use battery, binding, confinement, intentional injury or other means to harm or cripple another family member physically, mentally or sexually.”¹⁰² The Resolution places responsibility on the government to protect women, children, older persons, and people living with disabilities from domestic violence. Specifically, the Resolution requires the police to respond to domestic violence complaints, for prosecutors to bring criminal charges against perpetrators of domestic violence where appropriate, and for courts to adjudicate domestic violence cases.¹⁰³

To build capacity for implementation and enforcement of Hunan’s domestic violence resolution, UNWOMEN partnered with the Hunan Women’s Federation (HWF). Peng Di is the Director of the Department of Women’s Rights and Protection at the Hunan Women’s Federation. She has managed implementation of two collaborative projects with UNWOMEN relating to violence against women.

The first project, from 2007-2009, facilitated development of judicial guidelines for protecting women victims of domestic violence who appear in court in civil or criminal matters. The second project, from 2011-2013, supported the Hunan Public Security Bureau to develop guidelines for police responses to domestic violence.

Director Peng explained that HWF focused on judges and police because they are the government representatives who interface with victims of domestic violence and can therefore offer women victims of domestic violence timely and critical assistance. Both programmes included training to raise awareness about human rights, gender equality, and basic concepts relating to preventing and eliminating domestic violence; the programme curriculum also provided examples from international experiences. The training for the judges included a segment on CEDAW. Because recruiting former victims to speak publicly about their experiences remains a challenge because of concerns about stigma and the psychological stress of recalling bad memories, HWF provided second-hand accounts of domestic violence.

After the trainings sessions, each group – judges and police – discussed actual cases they had encountered and brainstormed about how to respond to and resolve the cases. Building on this feedback and distilling lessons learned, the judges developed the guidelines for protecting women victims of domestic violence in court. Using the same process, the police compiled a handbook for responding to domestic violence complaints. Experts from HWF worked with a multi-

101. See 湖南省人民代表大会常务委员会关于预防和制止家庭暴力的决议, available at http://www.law-lib.com/law/law_view.asp?id=35506 (last visited 5 June 2013); see also All-China Women’s Federation, “Stamping out Domestic Violence in Hunan” (15 May 2013), available at <http://www.womenofchina.cn/html/womenofchina/report/152393-1.htm> (last visited 4 June 2013).

102. 湖南省人民代表大会常务委员会关于预防和制止家庭暴力的决议, available at http://www.law-lib.com/law/law_view.asp?id=35506 (last visited 5 June 2013).

103. Ibid.

stakeholder group, including law professors and representatives from the Supreme People's Court and the Public Security Bureau, to finalize the judicial guidelines and the police handbook.

Director Peng reports that both programmes are already having an influence at the provincial level. For example, although the handbook has not yet been finished, attitudes about domestic violence have evolved at the Public Security Bureau. Director Peng cited one official as an example: "His approach with me shifted from, 'the Public Security Bureau has done enough, we have done a lot on domestic violence,' to 'the Public Security Bureau has room to improve, what else can we do?' His interest in preventing and eliminating domestic violence has increased."

In Hunan's courts, the judicial guidelines, titled Instruction on Strengthening the Protection of Women Victims of Domestic Violence ("Guidelines"), have also exerted a significant influence.¹⁰⁴ In November 2011, in accordance with article 18 of the Guidelines, a Hunan court issued the first restraining order in China to protect a woman victim of domestic violence from her husband. Moreover, pursuant to articles 19 and 20 of the Guidelines, a Hunan woman survivor of domestic violence who killed her husband out of fear for her own life received a three-year prison sentence, suspended for five years, rather than life imprisonment or the death penalty, which were the preexisting sentencing options under China's criminal law.¹⁰⁵

Hunan's Guidelines have served as a positive example for other provinces as well. Guangdong province used Hunan's experience as a point of departure for developing its own domestic violence guidelines for family affairs coordinators working out of police stations and courts.

Director Peng emphasized that CEDAW was an important instrument for China and for Hunan.

"CEDAW sets the long-term goals for gender equality," she said. "The reporting process is very useful." CEDAW is also a powerful tool in HWF's work to promote gender equality in the form of freedom from violence against women. "Citing concepts from CEDAW helps to introduce new perspectives and to promote new views of the situation of women's rights. More trainings on CEDAW, greater technical support, and additional exposure to international experience and knowledge sharing would all be useful."

Director Peng herself learned about CEDAW in a training offered by UNWOMEN. "I benefitted tremendously from UNWOMEN's programming about CEDAW," she explained. "I now have a much better understanding of women's rights and methods for addressing discrimination against women." She applauded the close relationship that UNWOMEN has fostered with HWF: "We work closely together, and the relationship has helped us manage our programmes better."

5. Promoting gender equality in the workplace

Gender equality is an international norm recognized in numerous international conventions and treaties that China has signed and ratified. Two such normative instruments – CEDAW¹⁰⁶ and the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111)¹⁰⁷ – require signatories to facilitate gender equality in the workplace by prohibiting discrimination against women.

Domestic application of these instruments begins, in part, with legislative and regulatory development. Beginning in 1988, China implemented the norm of gender equality in the workplace through the State Council Regulations Concerning Labor Protection for Women Workers.¹⁰⁸ Developed to meet the needs of

104. See http://www.unwomen-eseasia.org/China/evaw_china.html (last visited 5 June 2013).

105. *Ibid.*

106. "States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights." CEDAW, art. 11, available at <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article1> (last visited 21 May 2013). China ratified CEDAW in 1980. See *infra* n. 6.

107. "Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof." ILO Convention No. 111, art. 2, available at http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID:312256 (last visited 21 May 2013). China ratified ILO Convention No. 111 in 2006. See http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312256 (last visited 21 May 2013).

108. 1988 女职工劳动保护规定, available at <http://www.lawinfochina.com/display.aspx?id=447&lib=law&SearchKeyword=&SearchKeyword=%C5%AE%D6%B0%B9%A4%C0%CD%B6%AF%B1%A3%BB%A4%B9%E6%B6%A8> (last visited 21 May 2013).

women workers in a centrally-planned economy, and animated by concerns for gender protection, rather than gender equality, over time the 1988 Regulation did not function effectively to promote workplace gender equality in China's increasingly market-based economy.

To support more substantive enjoyment of workplace gender equality for women workers, China amended its Law on Protection of Women's Rights and Interests¹⁰⁹ in 2005 to prohibit another manifestation of gender discrimination¹¹⁰: workplace sexual harassment.¹¹¹ China has recognized that preventing and eliminating sexual harassment in the workplace is an important dimension of its implementation and enforcement of both CEDAW and ILO Convention No. 111.¹¹² Although local governments subsequently elaborated on the law in their implementing regulations,¹¹³ the national law does not define "sexual harassment." Nor does it specify criteria for admissible evidence, create employer liability or allow for punitive damages.

China then proscribed gender-based workplace discrimination in the fair employment chapter of the 2008 Employment Promotion Law.¹¹⁴ Despite this broad prohibition, the law did not define "gender discrimination." As a result, concrete application to protect vulnerable workers subject to gender-based discrimination has proved difficult.

Because of these shortcomings, and to help China's women workers to enjoy meaningful realization of the gender equality norms guaranteed in CEDAW and ILO Convention No. 111, the State Council undertook a years-long process to revise the 1988 Regulation on Labor Protection for Women Workers. UNWOMEN and ILO provided technical support for this process by providing feedback on draft legislation and regulations, providing international examples for comparison, and making recommendations, especially with respect to the legal definitions of "sexual harassment" and "gender discrimination." They also provided seminars and trainings about maternity rights and labour law compliance to government officials, non-governmental organizations (NGOs) and civil society organizations (CSOs). This capacity building work contributed to multi-sector advocacy for domestic laws that further enforce the norms in CEDAW and ILO Convention No. 111.

As part of this process, and to support its partnerships with the Ministry of Human Resources and Social Security (MOHRSS), the All-China Federation of Trade Unions (ACFTU), and the China Enterprise Confederation (CEC),¹¹⁵ ILO contributed to an empirical study in five provinces to ascertain the conditions of women workers. The resulting *Survey Report on the Revision of the Regulation on the Labor Protection for Women Workers*¹¹⁶ provided valuable insights, especially with regard to women's maternity rights.

109. 妇女权益保障法, available at <http://www.lawinfochina.com/display.aspx?id=4492&lib=law&SearchKeyword=women&SearchCKey word=> (last visited 21 May 2013).

110. "Since sexual harassment damages women's dignity, it is a form of gender-based discrimination." Liu Minghui, "Towards Legislation to Prevent Sexual Harassment in China: Practice and Experience," Womenwatch-China (May 20, 2011), available at <http://www.womenwatch-china.org/en/newsdetail.aspx?id=4429> (last visited 21 May 2013).

111. 妇女权益保障法, arts. 40, 58, available at <http://www.lawinfochina.com/display.aspx?id=4492&lib=law&SearchKeyword=wom en&SearchCKeyword=> (last visited 21 May 2013).

112. "The prevention and eradication of sexual harassment at work has become an important agenda for the creation of harmonious intersexual relations and realization of equality between men and women, and also an important part of the work China is engaged in to fulfill the UN Convention on the Elimination [sic] of All Forms of Discrimination against Women and Convention No. 111 of ILO." "Research Report on Sexual Harassment at Workplace," Womenwatch-China (May 2010), available at <http://www.womenwatch-china.org/Upload/fck/9058E3D9552CD738DCB96961149FE9BAE1DC84B4.pdf> (last visited 28 May 2013); see also Liu, *infra* n. 111 ("As a contracting party of the Convention on the Elimination [sic] of All Forms of Discrimination against Women and the Discrimination (Employment and Occupation) Convention, 1958 (No.111), China has also the obligation to eliminate discrimination.").

113. See Sichuan Province Approaches to Enforce the Law on Protection of Women's Rights, art. 47, ¶ 2 ("[T]he employer [must] pay civil damages to the female employee who is sexually harassed in the workplace and, thereby, physically, mentally and reputationally harmed due to the employers' fault."), cited in Liu, *infra* n. 111.

114. 就业促进法, available at <http://www.lawinfochina.com/display.aspx?lib=law&id=6382&CGid=> (last visited 21 May 2013).

115. The ILO Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), which China ratified in 1990, calls on ILO Member States to ensure effective consultations among representatives of government, of employers and of workers. See ILO C144, http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO:12100:P12100_INSTRUMENT_ID:312289 (last visited 21 May 2013); see also list of ratifying countries, available at http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312289 (last visited 21 May 2013). MOHRSS, ACFTU and CEC are ILO's tripartite constituents in China, representing the Chinese government, workers and employers respectively. ILO has worked extensively with its tripartite constituents in China to build capacity for collective bargaining, including the development and implementation of collective contracts.

116. See http://www.ilo.org/beijing/what-we-do/publications/WCMS_166057/lang-en/index.htm (last visited 21 May 2013).

“Women didn’t know that they had rights relating to maternity,” explains Ms. Huang Qun, of ILO’s Beijing office. “They thought maternity was their personal issue, and they automatically quit their jobs when they got pregnant.” The report also found dramatic disparities between conditions in state-owned enterprises, where compliance was better, and in the private and informal work sectors, where compliance with labour laws and regulations was poor.

The report made numerous recommendations, including: to extend maternity leave to 14 weeks as required by the ILO Maternity Protection Convention, 2000 (No. 183)¹¹⁷; to promote women’s maternity rights through a collective contract for women workers; to equalize maternity insurance coverage in the public and private sectors; to ensure access to workplace or public facilities for breastfeeding to support working mothers to breastfeed their babies for six months in accordance with ILO, WHO and UNICEF guidance; and to place responsibility on employers for preventing and redressing workplace sexual harassment.

Based on the survey results and report recommendations, ILO provided formal written submissions suggesting revisions to each article of the draft regulation. ILO shared these recommendations with MOHRSS, ACFTU and CEC, as well as directly with the State Council.

In April 2012, the State Council issued its Special Provisions on Labor Protection for Female Employees.¹¹⁸ Incorporating ILO’s recommendation, article 7 extends maternity leave to 14 weeks. Moreover, article 11 reflects inputs from both ILO and UNWOMEN: it places responsibility on employers to prevent and prohibit sexual harassment against women workers.

Notwithstanding this important regulatory advance, the absence of legal definitions of “gender discrimination” and “sexual harassment” impairs enforcement efforts. To help alleviate uncertainty and to facilitate implementation, ILO and UNWOMEN have supported

partner organizations to develop various non-litigation means to help women realize the norm of workplace gender equality. This case study examines two such methods: collective bargaining contracts for women workers, and sexual harassment policies for enterprises.

Collective bargaining agreements for women workers. ACFTU has followed through on the recommendations in the ILO Survey Report and developed a collective contract for women workers that it has refined and modified with technical support from ILO. Every year, ILO provides capacity building programming to ACFTU to facilitate improvements in collective bargaining skills, substantive representation of workers, and the quality of the collective contracts.

The collective bargaining agreement for women workers covers five main topics: (1) pregnancy and maternity leave and benefits, (2) menstruation leave, (3) breastfeeding rights, (4) prohibited areas of labour for women, and (5) equal pay. Enterprises¹¹⁹ that sign the general collective contract must also sign the collective contract for women workers.

ACFTU and its provincial and local affiliates have focused on industries with large numbers of women workers. Currently, ACFTU or its affiliate organizations have signed more than 1 million collective contracts for women workers with nearly 2.5 million enterprises, providing protection to more than 71 million women workers.¹²⁰ ACFTU has undertaken a campaign to cover all eligible female workers by the end of 2014.

Sun Jianfu, the Deputy Chief of the International Organization Division at ACFTU, says that the collective contract for women workers represents, “a breakthrough of traditional attitudes about women workers, and also of approaches to promote gender equality in the workplace.”

According to Deputy Chief Sun, the collective contract for women workers has had three dramatic impacts: (1) it has raised employers’ awareness of women’s

117. China has not ratified Convention No. 183.

118. 女职工劳动保护特别规定 (2012), available at http://www.gov.cn/zwqk/2012-05/07/content_2131567.htm (last visited 21 May 2013).

119. As explained by ACFTU’s Deputy Chief Sun and ILO’s Ms. Huang, all registered companies, whether privately- or state-owned, constitute enterprises.

120. All figures provided by ACFTU in April 2013.

rights, (2) it has enhanced the capacity of trade union representatives to guarantee women workers their rights, and (3) it has educated the women workers themselves about their rights. It also has the benefit of ease of enforcement: “Enforcement of the labour laws or regulations is not very easy,” says Deputy Chief Sun, “but this kind of agreement is easy to implement and can easily be enforced.”

Deputy Chief Sun ascribes tremendous importance to ILO’s contributions to the collective contract for women: “ILO introduced us to the gender equality standards under Convention No. 111. These standards now are very important to us.” Deputy Chief Sun identified this educational function as being among ILO’s most important contributions ACFTU, along with two others: “ILO helped us to build a network to integrate gender equality at the provincial and local levels. It has also helped us catch the attention of the state leaders on the issue of gender equality. Gender equality is one of the aspects of decent work, and the state leaders now speak of the importance of ‘decent work.’”

Over the years of ACFTU’s partnership with ILO, Deputy Chief Sun has observed an important shift in the dynamics of the relationship: “Before ILO began providing seminars and trainings, our staff had a large demand to learn from other countries’ experiences. At the workshops held in earlier years, the content was lectures from foreigners. Now when we hold a seminar, it’s a two-way experience. We have successes to contribute to help other countries. We now have experts on gender equality.”

Asked how the ACFTU’s work to promote gender equality in the workplace would have been different if the ILO had not been a partner, Deputy Chief Sun smiled and shook his head: “I can’t imagine what would happen without ILO.”

Sexual harassment policies for enterprises. Both UNWOMEN and ILO have worked directly with local legal aid organizations to facilitate practical improvements in workplaces. This approach has focused on capacity building and corporate governance reform as methods to promote internalization of the norm of workplace gender equality. This strategy has

proved successful, and the efforts of these agencies and their partners are contributing to increased awareness, behaviour change, and social support for stronger legal and regulatory prohibitions of sexual harassment.

An important legal aid organization with which both UNWOMEN and ILO partner is the Beijing Zhongze Women’s Legal Counseling and Service Center (“Zhongze”).¹²¹ Guo Jiemei is Zhongze’s director and founder.

Since founding Zhongze, sexual harassment has been the focus of Director Guo’s work. “The research indicates the reality: sexual harassment is a severe problem in the world of work,” says Director Guo. The breadth of harms that victims of sexual harassment suffer ranges from impairments to their “physical and psychological health” to deprivations of their “rights to be employed, to property and to their reputation,” explains Director Guo. Moreover, women in China need public advocates, she says. Anonymous feedback in response to a Zhongze advocacy campaign about sexual harassment on China’s micro-blog site, Weibo, was overwhelming, but Director Guo reports that, “when women have to speak in their own names, they go silent.”

CEDAW and ILO Convention No. 111 are valuable tools to promote workplace gender equality. “The Conventions are very significant for China because they are international law, and States Parties have to respect the principles within them.”

Zhongze’s staff received its initial training about CEDAW from UNWOMEN. “The UN’s mandate, and the forward-thinking international norms and principles that it promotes, guide Zhongze’s work,” says Director Guo.

Through its collaborations with UNWOMEN and ILO, Zhongze has benefitted from trainings by international experts, exposure to international experiences, and receipt of training materials and strategic support. Indeed, Director Guo identifies UN encouragement as instrumental to Zhongze’s growth. “Progress on implementing international norms in China would have been much slower without the UN’s engagement.”

121. <http://www.womenwatch-china.org/en/> (last visited 28 May 2013).

Zhongze raises awareness about CEDAW and ILO Convention No. 111, and promotes on-the-ground implementation. When training prosecutors, judges and officials in various branches of the All-China Women's Federation (ACWF), Zhongze always includes a segment on China's obligations under international conventions and treaties. Director Guo estimated that, "99 per cent of the judges do not know about this international legal framework." The fact that China has signed and ratified CEDAW and ILO Convention No. 111 influences the trainees, but Director Guo believes that, "there is a long way to go before these international norms are internalized at the local level." She observes that Chinese officials may believe that the norms need adaptation or localization for the Chinese context. Nonetheless, "these conventions are a most helpful tool as a trigger for raising issues with Chinese authorities."

International norms also provide a useful framework for comments and feedback on new domestic laws. When the government invites input from NGOs and CSOs on potential legislation, Zhongze's responses situate the law in the context of relevant international norms.

While the international norms in CEDAW and ILO Convention No. 111 have influenced China's domestic sexual harassment law, enforcement through litigation remains a challenge. The Supreme People's Court of China has yet to identify "sexual harassment" as a cause of action under which plaintiffs can bring suit. While the recent State Council regulations placing responsibility on employers to prevent and prohibit sexual harassment might guide a judge's decision about the plaintiff's legal claims, they remain a fairly weak litigation tool: "The knife is supposed to cut food, but it's blunt," says Director Guo.

For this and other reasons, Zhongze, with support from ILO and UNWOMEN, developed a capacity-building programme to facilitate adoption and implementation by enterprises of corporate mechanisms to prevent and

eliminate workplace sexual harassment. One step in developing this programme was collaborating with ILO on a Guide on the Prevention of Sexual Harassment in the Workplace.¹²² An international seminar in 2007 contributed to this process by creating an opportunity for knowledge exchange and experience sharing between Zhongze staff and employment experts from Great Britain, the United States, Germany and Hong Kong. The idea for the Guide emerged from that seminar, and Zhongze worked with ILO to articulate practical measures to enable enterprises to implement the norm of workplace gender equality. The Guide now serves as a tool in Zhongze's work with private enterprises to develop policies and mechanisms to prevent and eliminate sexual harassment.

Zhongze has thus far trained numerous enterprises in a range of fields,¹²³ and their work has generated significant media exposure. Though Zhongze monitors the enterprises with which it works, at present they have no feedback about the operation of the corporate mechanisms they have helped to establish. "No complaints have been filed," reports Director Guo.

6. Equitable access to the court system to promote environmental justice

Realization of fundamental rights often depends on people's abilities to access redress in court. For this reason, access to justice has been described as "the most basic human right, of a system which purports to guarantee legal rights."¹²⁴

Meaningful and equitable access to competent legal tribunals is an indicator of a functioning rule of law system, and a hallmark of good governance. China recognized these values when it affirmed the Universal Declaration of Human Rights (UDHR), which includes equitable access to justice as a fundamental human right.¹²⁵

122. See http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-beijing/documents/publication/wcms_157626.pdf (last visited 21 May 2013).

123. The enterprises include lingerie company Aimu, liquor manufacturer Hengshui Laobaigan, pharmaceuticals company Huabei Zhiyao, international beauty salon Weimeiju, and the office building Cuiwei Dasha.

124. Mauro Cappelletti, Bryant G. Garth, Nicolò Trocker, "Access to Justice: Comparative General Report," 40 RABELS ZEITSCHRIFT 669, 672 (1976).

125. "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law." UDHR, art. 8, available at <http://www.un.org/en/documents/udhr/> (last visited 21 May 2013).

Implicit within the norm of equitable access to justice are other norms, including transparency, accountability, free availability of information, and participatory and inclusive governance. The UN Framework Convention on Climate Change (UNFCCC) requires signatories to uphold these norms of public access to information and public participation in the context of a signatory country's response to climate change, and efforts to protect the environment in the service of sustainable development.¹²⁶

UNDP has been supporting access to justice in the environmental context through its work with the All-China Environment Federation (ACEF). Supervised by the Ministry of Environmental Protection (MEP), ACEF is a government-run, non-governmental organization (NGO).

When ACEF formed in 2005, China's national Civil Procedure Law did not recognize the right of civil society organizations (CSOs) to bring lawsuits for victims of pollution, environmental degradation, or the effects of climate change. "Back in 2005, public interest litigation was just a concept," explains Mr. Ma Yong, one of ACEF's lead litigators. "We didn't have any laws or regulations or guidelines that supported public interest litigation."

Nonetheless, opportunities to develop public interest litigation existed. For example, responding to public pressure stemming from pollution scandals, the government of the city of Guiyang in Guizhou province established a specialized environmental tribunal within the local court, staffed by judges trained in environmental matters. The Guizhou Qingzhen environmental tribunal gave CSOs standing to serve as plaintiffs on behalf of pollution victims. ACEF decided

to try to help local pollution victims through litigation in the Guizhou Qingzhen environmental tribunal.

To connect with pollution victims in need of legal assistance, ACEF established a national telephone hotline. ACEF consults with UNDP to determine which complaints received through the hotline may be most promising for public interest litigation. "UNDP's democratic governance team has great experience and provides international technical support for helping the general public access justice in environmental matters," says Ms. Wang Yuming, who heads the Department of International Cooperation at ACEF.

This process led to ACEF's involvement in 2011 in a high profile case to stop pollution by the Haoyiduo Dairy Company in Xiuwen County, Guizhou. An individual called the ACEF hotline to report that Haoyiduo was discharging its factory waste water into the river. ACEF decided to initiate a civil suit against Haoyiduo. To prove its case, ACEF first sought the environmental impact assessment conducted by the local Environmental Protection Bureau (EPB).

Although the EPB was required to make the environmental impact assessment publicly available,¹²⁷ it refused to do so. "The EPB had been failing to assess and supervise Haoyiduo properly, so it didn't want to release the documents which would reveal its own failures," Mr. Ma said. "The EPB gave no good reason for not making the environmental impact assessment public, it just argued that our request was improper."

ACEF responded by filing an administrative action against the EPB in the Guizhou Qingzhen environmental tribunal. UNDP's support was

126. "The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities," UNFCCC, art. 3, cl. 1, available at http://unfccc.int/essential_background/convention/background/items/1349.php (last visited 21 May 2013); see also *ibid.* art. 3, cl. 4 ("The Parties have a right to, and should, promote sustainable development"); see also *ibid.*, art. 4, cl. 1(d), 1(i) ("All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, shall: . . . (d) Promote sustainable management, and promote and cooperate in the conservation and enhancement, as appropriate, of sinks and reservoirs of all greenhouse gases not controlled by the Montreal Protocol, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems;" "(i) Promote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in this process, including that of non-governmental organizations"); see also *ibid.*, art. 6 ("In carrying out their commitments under Article 4, paragraph 1(i), the Parties shall: (a) Promote and facilitate at the national and, as appropriate, subregional and regional levels, and in accordance with national laws and regulations, and within their respective capacities: . . . (ii) Public access to information on climate change and its effects; (iii) Public participation in addressing climate change and its effects and developing adequate responses.").

127. Both MEP regulations and the State Council's 2008 "Regulations of the People's Republic of China on the Disclosure of Government Information" required disclosure. See 中华人民共和国政府信息公开条例, <http://www.lawinfochina.com/display.aspx?lib=law&id=6011&CGid=> (last visited 21 May 2013).

instrumental in this decision. “Because ACEF is a GNGO, suing the local branch of government created difficulties, lots of sensitivities,” recalled Mr. Ma. “UNDP’s encouragement gave us an incentive to try this approach. Without UNDP, the pressure would be very intense.”

Once ACEF filed its administrative action, the environmental tribunal responded swiftly, issuing an opinion the same day requiring the EPB to produce the environmental impact assessment. Even though both ACEF and the EPB have institutional connections to the MEP, Mr. Ma reports that the MEP “is actually happy that ACEF sued the local bureau because the action helped supervision of the local bureaus. MEP’s intention is to provide information transparency.”

With the environmental impact assessment – powerful evidence of Haoyiduo’s polluting practices – ACEF gained the advantage in its civil suit against Haoyiduo, and Haoyiduo opted to settle with ACEF on favorable terms. Haoyiduo has agreed to stop polluting, and to fund a local NGO that independently monitors Haoyiduo’s operations.

ACEF experienced one more triumph in connection with the case when the Supreme People’s Court published the environmental tribunal’s opinion in the Supreme People’s Court gazette, as a model case to which other courts can refer. “The Haoyiduo case contributed a precedent for resolving environmental issues through the court system, rather than through the petitioning system,” reports Mr. Ma.

To further this progress on implementing the norm of equitable access to legal tribunals for environmental justice, ACEF sought opportunities to promote development of public interest law. With assistance from UNDP, ACEF held seminars addressing a range of topics including specialized environmental tribunals, environmental public interest litigation, proposals for amending China’s Civil Procedure and Environmental Protection laws, and rule of law capacity building.

UNDP additionally supported ACEF’s participation in UNDP regional and global workshops on Access

to Justice and Environmental Governance. These opportunities enabled ACEF staff to build capacity through international information exchange and knowledge sharing, and to learn about international good practices for environmental public interest litigation. ACEF has also benefited from a UNDP international technical advisor. These seminars and trainings provided a forum for debate and dialogue that generated the ideas underlying ACEF’s, “Suggestion on establishing an environmental public interest litigation system,” a policy brief that it submitted to the Chinese People’s Political Consultative Conference, as well as its “Suggestion on amendment of Civil Procedure Law by ACEF,” that ACEF submitted to the National People’s Congress.

Article 55 of China’s revised Civil Procedure Law¹²⁸ shows the success and influence of the approach ACEF undertook with UNDP support. The title of revised Article 55 is: “Regarding the tort behavior of environment pollution, collective consumer rights violation, public authorities and relevant organizations stipulated by law can initiate litigation.”¹²⁹ The law, which took effect on 1 January 2013, recognizes standing for CSOs like ACEF to act as plaintiff on behalf of pollution victims.

“ACEF’s cooperation with UNDP is very important,” affirms Mr. Ma. “During the period of our collaboration, public interest litigation in the environment really got established. Today, public interest practices are supported by the law and are practiced in places like Guiyang and Jiangsu. UNDP really influenced the development of this process through the rights and results approach.”

“With UNDP’s help, CSOs are now able to collaborate with the pollution victims to access justice in environment matters,” says Ms. Wang. “This collaboration has a synergy effect. The victims are vulnerable, and the CSO supplies professional expertise, assistance and protection. It’s very important that the CSOs promote public access to information. Victims now know they have a channel to access environmental justice.”

128. 中华人民共和国主席令, available at http://www.gov.cn/flfg/2012-09/01/content_2214662.htm (last visited 5 June 2013).

129. Ibid. (“对污染环境、侵害众多消费者合法权益等损害社会公共利益的行为，法律规定的机关和有关组织可以向人民法院提起诉讼。”)

7. Facilitating sustainable development through elimination of ozone-depleting substances

Environmental rights arise from the fundamental rights of humans to “freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being.”¹³⁰ Because humans “are entitled to a healthy and productive life in harmony with nature,”¹³¹ sustainable development is a basic right and international norm.¹³² From the right to sustainable development also derives the “responsibility to protect and improve the environment for present and future generations.”¹³³ Adverse environmental and climate conditions are palpably and obviously the “common concern of humankind.”¹³⁴

Among the normative instruments critical for sustainable development that China has signed

and ratified, two merit particular focus: the Montreal Protocol,¹³⁵ and the United Nations Framework Convention on Climate Change (UNFCCC).¹³⁶ The Montreal Protocol requires signatories to eliminate ozone-depleting substances (ODS) according to a schedule, while the UNFCCC obligates signatories to reduce greenhouse gas (GHG) emissions and their precursors, and to promote sustainable management and development. Both instruments are critical for protecting and maintaining an environment suitable for thriving human existence, and for safeguarding environmental rights.¹³⁷

Implementation and enforcement of environmental rights is one of the great success stories of the UN’s normative work with the Chinese government¹³⁸—a reality that is often lost in the overall description of China’s environmental situation. Two-and-a-half years in advance of the Montreal Protocol schedule, China phased out production and consumption of

130. Declaration of the United Nations Conference on the Human Environment, principle 1 (1972) (“Stockholm Declaration”), available at <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=97&articleid=1503> (last visited 21 May 2013).

131. Rio Declaration on Environment and Development, principle 1 (1992) (“Rio Declaration”), available at <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163> (last visited 21 May 2013).

132. “The Parties have a right to, and should, promote sustainable development,” UNFCCC, art. 3, cl. 4, available at http://unfccc.int/essential_background/convention/background/items/1349.php (last visited 21 May 2013). China signed the UNFCCC in 1992 and ratified it in 1993. See http://unfccc.int/essential_background/convention/status_of_ratification/items/2631.php (last visited 21 May 2013).

133. Stockholm Declaration, *infra* n. 131, principle 1.

134. UNFCCC, *infra* n. 127, Preamble.

135. “The Parties shall co-operate . . . in promoting . . . research, development and exchange of information on: best technologies for improving the containment, recovery, recycling, or destruction of controlled substances or otherwise reducing their emissions; possible alternatives to controlled substances, to products containing such substances, and to products manufactured with them; and costs and benefits of relevant control strategies. The Parties, individually, jointly or through competent international bodies, shall co-operate in promoting public awareness of the environmental effects of the emissions of controlled substances and other substances that deplete the ozone layer.” Montreal Protocol, art. 9, available at http://ozone.unep.org/new_site/en/Treaties/treaties_decisions-hb.php?nav_id=26 (last visited 21 May 2013); see also *ibid.* art. 2A, 2F. China acceded to the Montreal Protocol in 1991. See http://ozone.unep.org/new_site/en/treaty_ratification_status.php (last visited 21 May 2013).

136. “The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities,” UNFCCC, *infra* n. 127, art. 3, cl. 1; see also *ibid.*, art. 4, cl. 1(b), 1(c), “All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, shall: . . . (b) Formulate, implement, publish and regularly update national and, where appropriate, regional programmes containing measures to mitigate climate change by addressing anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol . . . ; (c) Promote and cooperate in the development, application and diffusion, including transfer, of technologies, practices and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol in all relevant sectors, including the energy, transport, industry, agriculture, forestry and waste management sectors.”

137. “[T]he global decline in emissions of ODS [ozone depleting substances] has brought about reductions in GHG [greenhouse gases] equivalent to several billion tonnes of CO₂ equivalent. These enormous reductions make the Montreal Protocol a key contributor to the global fight against climate change.” United Nations Development Programme, *Twenty Years of Success: Montreal Protocol on Substances that Deplete the Ozone Layer*, UNDP (2007), at 42, available at <http://www.un.org.kh/undp/knowledge/publications/20-years-of-success-montreal-protocol-on-substances-that-deplete-the-ozone-layer-2> (last visited 21 May 2013); see also United Nations Environment Programme, “China Regulates Ozone Depleting Substances,” UNEP (Bangkok /Beijing 1 June 2010) (“As many ODS are also powerful greenhouse gases, China’s ODS Regulation will further contribute to climate protection effects by reducing the emissions of thousands of millions of tons of CO₂ equivalent.”), available at http://www.unep.fr/ozonaction/information/mmcfiles/6355-e-ChinaRegulations_PR2010.pdf (last visited 21 May 2013).

138. “China’s success, by all accounts, has been a major reason why the Montreal Protocol is widely recognized as the most effective multi-lateral environmental agreement ever created. The Protocol’s success in phasing out over 98% of nearly 100 ozone-depleting chemicals in 240 industry sectors, has set the ozone layer on the path to recovery by the middle of the century.” Marco Gonzales, Executive Secretary of the Montreal Protocol and the Vienna Convention, “Celebrating China’s Leadership and Contributions,” in 中国履行《关于消耗臭氧层物质的蒙特利尔议定书》:20年回顾征文文集(第1辑)(China Produces Results “Regarding the Montreal Protocol’s Ozone Depleting Substances”: Collected Works in Review of 20 Years (1st edition)).

chlorofluorocarbons (CFCs) and halons,¹³⁹ the most serious ODS regulated by the Montreal Protocol. By 2008, China's elimination of production and consumption of ODS "account[ed] for 50 per cent of the total ODS phase-out in developing countries."¹⁴⁰

Because China was a manufacturing hub for products that consumed ODS,¹⁴¹ like refrigerators, solvents, and air conditioners, China's effective enforcement of the Montreal Protocol has made a significant contribution to global environmental sustainability. Alignment with international environmental norms is also one area in which China is contributing significantly to regional and global leadership.¹⁴²

Implementation of the Montreal Protocol is technical. Descriptions of the work can be rife with inscrutable references to chemicals and acronyms. Moreover, the activities that China undertook with support from UNDP, UNEP and UNIDO¹⁴³ to enforce the Montreal Protocol have been documented in detail.¹⁴⁴ From the normative perspective, however, three conditions are critical and deserve especial attention: (1) China's domestic institutional, legal and regulatory follow-through; (2) the Multilateral Fund for the Implementation of the Montreal Protocol; and (3) the effectiveness of the cooperation between the Chinese government and the

implementing agencies, UNDP, UNIDO and UNEP, with resulting broad-spectrum benefits, including environmental, economic, and diplomatic.

First, China facilitated implementation by laying an institutional, legal, and regulatory foundation. Upon signing and ratifying the Montreal Protocol, China's State Council established a National Leading Group for the Protection of the Ozone Layer with responsibility for overseeing China's compliance with its Montreal Protocol obligations. Within two years, China had developed a Country Programme for Ozone Depleting Substances Phase-Out. Pursuant to this Country Programme, government departments regulating relevant economic sectors formulated policies and regulations to implement a step-by-step phase-out that resulted in accelerated compliance. China subsequently formulated, and is now implementing, a phase-out strategy for second-line ODS regulated by the Montreal Protocol.

Second, the phenomenal success of Montreal Protocol enforcement in China directly relates both to the existence of the Multilateral Fund for the Implementation of the Montreal Protocol, and to the Government of China's influence in its creation.¹⁴⁵ China conditioned its signing of the Montreal Protocol upon establishment of an Interim Fund.¹⁴⁶

139. "20 Year of China-UNDP Cooperation in Montreal Protocol Implementation KEY MILESTONES," in 中国履行《关于消耗臭氧层物质的蒙特利尔议定书》:20年回顾征文集(第1辑)(China Produces Results "Regarding the Montreal Protocol's Ozone Depleting Substances": Collected Works in Review of 20 Years (1st edition)).

140. United Nations Environment Programme, "China Regulates Ozone Depleting Substances," UNEP (Bangkok /Beijing 1 June 2010), available at http://www.unep.fr/ozonaction/information/mmcfiles/6355-e-ChinaRegulations_PR2010.pdf (last visited 21 May 2013).

141. "After industrialized countries phased out CFC in 1996, China became the world's largest CFC producer." Lauren Kelly, "The Multilateral Fund for the Implementation of the Montreal Protocol Addressing Challenges of Globalization: An Independent Evaluation of the World Bank's Approach to Global Programs," World Bank (2004), available at http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2005/07/15/000160016_20050715162518/Rendered/INDEX/32914a10mlf1OEDwp.txt (last visited 21 May 2013).

142. "China's leadership has been manifest since its first country program. Indeed, when one considers China's contribution to ozone layer protection, it is full of firsts: China was the proponent of the first production sector agreement; the proponent of the first consumption sector agreement; the first country to use reverse auctions as an economic instrument to effectively achieve the phase out of any substance; the first Article 5 party to use hydrocarbons in the refrigeration sector, the first article 5 party to produce alternatives to CFCs, and, with the vision of Mr. Liu Yi and the assistance of the Fund and Italy, the first country in the world to establish a compliance center for all of its Multilateral Environmental Agreement offices to enhance learning and synergies." Paul Horwitz, "On the Occasion of the 2010 Milestone of the Montreal Protocol and the Phaseout of CFCs and Halons in China," in 中国履行《关于消耗臭氧层物质的蒙特利尔议定书》:20年回顾征文集(第1辑)(China Produces Results "Regarding the Montreal Protocol's Ozone Depleting Substances": Collected Works in Review of 20 Years (1st edition)).

143. The World Bank also supports China's work to enforce the Montreal Protocol. This report does not include the World Bank's contributions to China's normative achievements.

144. See, e.g., 中国履行《关于消耗臭氧层物质的蒙特利尔议定书》:20年回顾征文集(第1辑)(China Produces Results "Regarding the Montreal Protocol's Ozone Depleting Substances": Collected Works in Review of 20 Years (1st edition)).

145. See Lauren Kelly, "The Multilateral Fund for the Implementation of the Montreal Protocol Addressing Challenges of Globalization: An Independent Evaluation of the World Bank's Approach to Global Programs," World Bank (2004) ("[M]any developing countries were . . . not satisfied with the Protocol's initial treatment of financial compensation and technology transfer. . . . Developing countries, led by large ODS producing countries China and India, insisted that industrialized countries should pay all incremental costs incurred by developing countries to phase-out their consumption and production of ODS."), available at http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2005/07/15/000160016_20050715162518/Rendered/INDEX/32914a10mlf1OEDwp.txt (last visited 21 May 2013).

146. Ibid. ("At the London Meeting, ratification of the Protocol by China and India was made conditional on the commitment to raise the Interim Fund from US\$160 million to US\$240 million during the 1991-1993 period.")

By 2004, China had been allocated USD450 million from the Multilateral Fund;¹⁴⁷ to date, China has been allocated approximately twice that amount.¹⁴⁸ Through its engagement in the global norm setting process in the Montreal Protocol negotiations, China actively participated in defining the terms of the international normative obligations to which it was agreeing, including by securing adequate funding for compliance. China further demonstrated goodwill and trustworthiness in its compliance.

The Multilateral Fund seems to have facilitated China's successful implementation of Montreal Protocol obligations from at least one other perspective as well. UNDP, UNIDO and UNEP are all implementing agencies under contract with the Multilateral Fund Executive Committee.¹⁴⁹ From the beginning of China's Montreal Protocol enforcement efforts, the Multilateral Fund has helped to set the parameters of engagement with the multiple implementing agencies. This coordination and oversight by the Multilateral Fund seems to have augmented the effectiveness and depth of the relationships between the Chinese government and the respective UN agencies as they jointly carried out the Montreal Protocol's normative agenda. Through reciprocal transactions supporting one another to achieve a common goal, the UN agencies and their partner organizations developed relationships of unusual mutual trust and respect, as described in more detail below.

Third, as alluded to above, UNDP, UNEP and UNIDO were enormously effective in supporting implementation. These agencies provided capacity building, training, monitoring and evaluation services, and technical support in connection with negotiations with the Multilateral Fund. They established and maintained valuable working relationships with their government partners and, in particular, the Foreign Economic Cooperation Office (FECO) within the Ministry of Environmental Protection (MEP). The contributions of these UN agencies materially assisted China's comprehensive and accelerated compliance with its obligations under the Montreal Protocol and further enabled China to enjoy numerous additional benefits, including enhanced enterprise competitiveness, social development, and environmental sustainability.¹⁵⁰

UNDP, for example, worked with China to support its solvent sector phase-out plan. For the first ten years of Montreal Protocol enforcement, countries had phased out individual production lines on an investment project basis.¹⁵¹ With UNDP support, China was the first country to develop a sector-wide phase-out plan. China's demonstration of the efficiency and effectiveness of the sector-plan approach led to its broader use,¹⁵² and to greater innovation in implementation methods.¹⁵³ In addition to eliminating ODS from product manufacturing and consumption, China's sector phase-out spurred innovation in developing alternatives to and substitutes for the

147. Ibid. ("China has been allocated over US\$450 million in overall commitments – a level that represents about 50-60 percent of the Fund's committed resources.")

148. By 2009, China had received USD851 million. See Emmanuelle Bournay, "Recipients and contributors countries of the Multilateral Fund," UNEP/GRID-Arendal (2009), available at http://www.grida.no/graphicslib/detail/recipients-and-contributors-countries-of-the-multilateral-fund_c60d (last visited 21 May 2013).

149. See <http://www.multilateralfund.org/aboutMLF/Implementingagencies/default.aspx> (last visited 21 May 2013).

150. ODS phase-outs have "contributed to other aspects and dimensions of sustainable development," including "increased . . . competitiveness of enterprises in domestic and international markets," "sustained employment opportunities or improved working conditions (safety and health)," and "strengthening of management and technical skills that help absorb and adopt new technologies." Ralph Luken and Tamas Grof, "The Montreal Protocol's Multilateral Fund and Sustainable Development," UNIDO (2004), at 3, available at http://userpage.fu-berlin.de/ffu/akumwelt/bc2004/download/luken_grof_f.pdf (last visited 21 May 2013); see also *ibid.* ("Either absolutely or comparatively, such development should accomplish three things: (i) it should encourage a competitive economy with industry producing for export as well as the domestic market; (ii) it should create productive employment with industry bringing long-term employment and increased prosperity, and (iii) it should protect the environment with industry efficiently utilizing non-renewable resources and conserve renewable resources while remaining within the functional limits of the ecosystem.")

151. Ozone Secretariat, United Nations Environment Program, "Recognition of some of the Exemplary Projects that have been undertaken pursuant to Article 10 of the Montreal Protocol," UNEP (2007), at 1, available at <http://www.unep.ch/ozone/Publications/Exemplary-Projects.pdf> (last visited 21 May 2013).

152. United Nations Development Programme, *Twenty Years of Success: Montreal Protocol on Substances that Deplete the Ozone Layer*, UNDP (2007), at 14-15, available at <http://www.un.org.kh/undp/knowledge/publications/20-years-of-success-montreal-protocol-on-substances-that-deplete-the-ozone-layer-2> (last visited 21 May 2013).

153. Ozone Secretariat, United Nations Environment Program, "Recognition of some of the Exemplary Projects that have been undertaken pursuant to Article 10 of the Montreal Protocol," UNEP (2007), at 1, available at <http://www.unep.ch/ozone/Publications/Exemplary-Projects.pdf> (last visited 21 May 2013).

use of ODS in solvents that increased industry competitiveness.

UNEP also has contributed to China's realization of positive external benefits from ODS phase-out. With UNEP's assistance, China developed and implemented a sophisticated, multi-media online training system to provide distance learning to train the thousands of national and local environmental officials who are overseeing enforcement. The demonstrated success and cost-efficiency of the system has created demand outside of China, and UNEP provided assistance to ready the online training system for international use.¹⁵⁴

UNEP additionally facilitated one of the first Montreal Protocol-related bilateral dialogues between China and Mongolia to prevent illegal cross-border trade in ODS.¹⁵⁵ This diplomacy has resulted in voluntary exchanges of information, and has built trust and supported cooperation between China and Mongolia, furthering Montreal Protocol enforcement regionally. In both instances, UNEP promoted critical knowledge dissemination, both domestically and internationally, with benefits accruing to China in administrative, human resources, and diplomatic arenas.

Meanwhile, UNIDO's work has contributed to a dramatic instance of innovation: with UNIDO's support for implementation of the Montreal Protocol, China has become the world leader in using hydrocarbon technology to replace ODS in the refrigeration sector. Ms. Zhou Xiaofang, Division Director of FECO, ascribes a significant role in this success to UNIDO, which helped introduce hydrocarbon technology to China.¹⁵⁶

As Director Zhou explains, initially, hydrocarbon technology did not garner widespread support: "Not all developed countries showed interest in developing hydrocarbon technology in the nineties. Flammability was a big concern with hydrocarbon technology compared to other chemical alternatives." Director Zhou concedes, "These chemical alternatives are

strong greenhouse gases, and hydrocarbons are not. In Europe, where environmental sensibility is strong, some small-scale development of hydrocarbon technology was occurring"

Along with other organizations supporting Montreal Protocol implementation, UNIDO encouraged technology transfer of hydrocarbon-based technology from Germany to China. UNIDO's Head, Regional Office, Edward Clarence-Smith, emphasizes the strategy behind this decision: "We really thought hydrocarbon technology made the most sense. There was no patent on it, and it was commercially affordable. And hydrocarbons are not greenhouse gasses. Replacing CFCs with a chemical that is a greenhouse gas will eventually require a second-line phase-out of this greenhouse gas. Hydrocarbon technology was a technological jump and represented a bolder, single phase-out strategy."

Director Zhou explains UNIDO's numerous activities to support the technology transfer: "UNIDO helped us learn about the hydrocarbon technology in Germany, visit factories where they were using it, import machines to upgrade our production lines to use hydrocarbon technology, provided training for using these new machines, organized an annual technical forum and international technology workshop, and supported our safety certification for insurance purposes." She adds, "We thank UNIDO and especially Mr. Tamas Grof.¹⁵⁷ I think Mr. Grof visited most of the enterprises implementing the technology."

With UNIDO's support, China improved the hydrocarbon technology and is now the world leader on its use to replace ODS in the refrigeration sector. "Because we used ozone friendly and climate friendly technology, we don't have to reconvert a second time," Director Zhou says.

China also improved its global competitiveness: enterprises in China's refrigeration manufacturing sector have enjoyed productivity increases.¹⁵⁸ At

154. Ibid. at 24.

155. Ibid. at 36.

156. See also United Nations Industrial Development Organization, "Green of Industry under the Montreal Protocol," at 48, in 中国履行《关于消耗臭氧层物质的蒙特利尔议定书》:20年回顾征文文集(第1辑)(China Produces Results "Regarding the Montreal Protocol's Ozone Depleting Substances": Collected Works in Review of 20 Years (1st edition)).

157. See *infra* n. 151 and *supra* n. 159.

158. Ralph Luken and Tamas Grof, "The Montreal Protocol's Multilateral Fund and Sustainable Development," UNIDO (2004), at 7, available at http://userpage.fu-berlin.de/ffu/akumwelt/bc2004/download/luken_grof_f.pdf (last visited 21 May 2013).

one enterprise with which UNIDO worked, exports increased “from \$50,000 to \$2,000,000,” and employees benefitted from improvements in “working conditions and occupational health and safety,” which facilitated long-term employee retention.¹⁵⁹

UNIDO is now supporting China to continue the virtuous circle of technology transfer and advancement, both within China and beyond its borders. As the Montreal Protocol begins to tackle second-tier ODS, China has commenced programmes to replace ODS refrigerants in room air-conditioners. Capitalizing on their success in transitioning to hydrocarbons in refrigerators, Chinese manufacturers of these air conditioners have also decided to opt for using hydrocarbons in these products.

As for the impacts outside of China, Director Zhou relates that, “UNIDO organizes study tours to China, so that other countries can learn about China’s hydrocarbon technology. Brazil has started to come to China to visit our manufacturers.” And UNIDO’s Clarence-Smith confirms that UNIDO colleagues advise other countries that China’s hydrocarbon technology is a viable option for ODS phase-out.

“Actually, China continues to need support,” says Director Zhou. “Promotion of technologies from outside, policy dialogue, technology transfers, all are helpful. UNIDO has a continuing role in building technological capacity,” said Director Zhou.

At the same time, Director Zhou recognizes that opportunities exist for China to take more of a leadership position, “especially to support South-South cooperation. In the past, we’ve focused on north-south cooperation, but now China’s exports are substantial. UNIDO works in other developing countries, and South-South cooperation represents another good opportunity for deepening our relationship with UNIDO.”

159. Ozone Secretariat, United Nations Environment Program, “Recognition of some of the Exemplary Project that have been undertaken pursuant to Article 10 of the Montreal Protocol,” UNEP (2007), at 12, available at <http://www.unep.ch/ozone/Publications/Exemplary-Projects.pdf> (last visited 21 May 2013).

CONCLUSION

The normative role of the UN system in China over the last three decades has been both unique and imperative. Throughout this period of China's development, at a time characterized by breathtaking change, the UN has reliably and effectively supported China to implement its international normative obligations. This report provides merely an illustrative selection from a body of examples that is noteworthy for its breadth and substance.

The norms and standards supported by the UN system's normative work in China span a broad spectrum, ranging from ideals and values articulated in treaties, conventions, and declarations, to technical specifications set forth in codices and guidelines. From helping China build its legislative capacity and draft its basic economic laws – thereby supporting China's move towards establishment of rule of law to facilitating equitable access to education, healthcare, and justice for vulnerable populations; to assisting China's industrial innovation to eliminate ODS and GHG emission; to contributing to implementation of technical standards for food safety and pharmaceutical manufacturing; to supporting China's engagement in the global norm setting process on issues like food security and the rights of tuberculosis patients to receive adequate health care that respects their rights and upholds their dignity, the UN system has consistently provided China with substantial assistance, including technical support, know-how, access to international expertise and global good practice, and capacity building, in a context of partnership based on mutual respect and trust.

As suggested by this wide array of normative engagements, the international normative framework has aspects both of fixity and fluidity. The framework has a solid foundation comprised of principles enjoying universal international consensus. These international norms may emerge from values, practices, customs, or technological advances, and most international norms eventually find expression in internationally-

negotiated instruments. Yet over the course of more than a century of application, these principles have proved adaptable to a wide range of contexts. International norms that appear in treaties, conventions and declarations are refined, imbued with nuance, contextualized, and packaged for application through platforms, programmes of action, and implementing guidelines; from these blueprints, in turn, emerge new norms that will animate subsequent normative instruments. The international normative framework is thus continually evolving.

The evolving nature of the international normative framework creates opportunities for China, and its commitment to international norms is critical for its domestic and global engagements. China's contributions and adherence to the international normative framework are increasingly important for the success of its current stage of development, and for its persuasiveness, credibility and effectiveness as a good global citizen.

The UN's capacity to support China's normative commitment is unrivaled. This core competency stems from the UN system's mandate, its distinctive method of engagement, and from its intrinsic characteristics, including its impartiality. Globally, as well as in China, the UN system serves a bridging function to connect localized contexts to international norms, as well as to link political, civil, cultural, social and economic norms in a unified, coherent programme for sustainable development.

UN programming is thus critical to the international normative framework. International norms are the DNA of the UN system's programming. While the distinction between UN programme work and UN normative work has its uses, the dialectic described above may be more important than the differences: without community-based implementation, the normative framework is static. The relevance of the international normative framework depend on the feedback loop

between (1) community engagements that give rise to (2) research and analysis, which forms the basis of (3) evidence-based law and policy, that finds application and implementation through (4) good governance mechanisms. The UN system's involvement in every aspect of this dialectic gives life to abstract norms and delivers concrete benefits in societies.

Analysis of the case studies identifies four success factors for normative undertakings in China: (1) direct involvement by China in defining the parameters of the international normative obligation, (2) facilitation of access to funding, (3) fostering relationships of mutual respect and trust between UN representatives and China's implementing agencies, and (4) encouraging good governance mechanisms that promote successful normative implementation. The core competency of the UN system is its ability to create conditions that give rise to these success factors.

The UN succeeds in this role through constructive, non-confrontational, empathetic and objective approaches that emphasize building consensus through dialogue – domestically among leaders, constituents and stakeholders, as well as internationally, with the global community. The UN system is able to facilitate this painstaking process because, by design and function, it exerts influence that is simultaneously international, national and hybrid, and government responses are accordingly multi-faceted.

For these reasons – the importance of China's normative commitments, and the UN's capacity to support normative achievement – the current expansion of the UN's normative engagement in China is strategic. China's rapidly changing conditions, both at home and on the international stage, necessitate this deepening of the partnership between China and the UN with respect to normative work.

The success of this reorientation will depend on support from the Government of China. China is already moving in this direction. For example, domestically, the Government of China contributed to the UN system in support of the Youth Employment for

Migrants (YEM) project¹⁶⁰ to promote implementation in China of international norms relating to equal opportunity for, and non-discrimination in, employment. Engaging globally, the Government of China donated USD30 million to promote South-South cooperation on achievement of MDG5, relating to the norm of food security.¹⁶¹ More engagements of this variety will enable China to enjoy more substantial and concrete benefits from its normative commitments.

China has many insights and resources to offer the world, not least with respect to the international norm-setting process that accompanies globalization. Further enhancement of the long-standing partnership between China and the UN system on international normative issues will therefore not only serve to improve China's position as responsible global citizen, but will also help increase China's ability to contribute to the international norm-setting agenda.

160. For more information about YEM, see <http://www.mdgfund.org/content/protectingandpromotingrightschinasvulnerablemigrants> (last visited 21 May 2003).

161. For more information, see *infra* n. 49.



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