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Submission to UN Universal Periodic Review of China

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1. Since the review of China's human rights record by the UN Human Rights Council during the third cycle of the Universal Periodic Review (UPR) in 2018, the Chinese government has, in accordance with recommendations 28.56¹, 28.214² and 28.215³ of the 2018 Report of the Working Group on UPR, made great efforts to strengthen the role of the judiciary in human rights protection, especially by establishing the system and extensively carrying out activities of procuratorial public interest litigation, thereby achieving significant progress in the judicial guarantee of the right to life, the right to an adequate standard of living, the right to personal information, and the right to environment and in the judicial protection of vulnerable groups such as women, children and persons with disability, and effectively implementing Recommendation 28.110 in the Report.⁴ Procuratorial public interest litigation focuses on the handling of similar cases, can effectively prevent the occurrence of similar infringements on rights, provides an important means to identify and eliminate institutional discrimination, and, as such, is an effective measure for

¹ Human Rights Council, Report of the Working Group on the Universal Periodic Review: China, A/HRC/40/6, December 26, 2018, para. 28.56: Keep improving its legal system for the protection of human rights and effectively improve judicial guarantees for human rights (Nigeria).

² Ibid., para. 28.214: Continue to implement initiatives for a comprehensive and far-reaching reform of the judicial system with a view to strengthening judicial guarantees in the field of human rights (Democratic Republic of the Congo).

³ Ibid., para. 28.215: Continue to strengthen the role of the judiciary in the protection of human rights (Egypt).

⁴ Ibid., para. 28.110: Make further efforts to strengthen the protection of the rights of children, persons with disabilities and other vulnerable groups (Bulgaria). See also para. 28.59 and paras. 28.61-64, in which recommendations are made by Hungary, Togo, Italy, and Mauritius for China to continue to strengthen the protection of vulnerable groups.

strengthening the judicial guarantee of human rights.

2. We note that, in 2017, the Chinese legislature amended the Civil Procedure Law and the Administrative Procedure Law to confirm in the form of law the right of procuratorial organs to initiate civil and administrative public interest litigation in the fields of ecological environment and natural resource protection and food and drug safety. Since then, procuratorial public interest litigation has been successively provided for in such laws as the Law on the Protection of Minors, the Work Safety Law, the Law on the Protection of Personal Information, and the Law on the Protection of Women's Rights and Interests, thereby continuously expanding the fields in which procuratorial organs can protect human rights through public interest litigation. In 2021, the Supreme People's Procuratorate promulgated the Rules for the Handling of Public Interest Litigation Cases by People's Procuratorates, which aim to standardize the conditions and procedures for instituting public interest litigation and ensure that the public interest litigation system effectively plays its role in safeguarding public interests.

3. We note that China has achieved outstanding results in protecting the environmental rights of the public through procuratorial public interest litigation. Protection of the ecological environment is the first field in which procuratorial organs carry out public interest litigation. According to a report released by the Supreme People's Procuratorate, procuratorial organs in China filed a total of 394,894 public interest litigation cases in the field of protection of the ecological environment and natural resources, including 343,394 administrative public interest litigation cases and 51,500 civil public interest litigation cases, during the period from 2018 to 2022. Procuratorial organs urge administrative organs to fully perform their duty of ecological environment supervision in accordance with law by such means as consultation, pre-litigation procuratorial recommendation and institution of lawsuits,

thereby effectively preventing and remedying ecological environment damages and safeguarding the environmental rights of the public.

4. The efforts made by procuratorial organs to protect people's right to an adequate standard of living and right to health through procuratorial public interest litigation in the field of food and drug safety are laudable. Procuratorial organs throughout the country began to carry out the work of procuratorial public interest litigation in the field of food and drug safety in July 2017, filing nearly 69,000 cases from July 2017 to August 2019, more than 29,000 cases in 2021, and 20,341 cases in 2022.

5. We note that procuratorial organs throughout the country have focused their food safety-related procuratorial public interest litigation work on five key fields, namely the safety of food in farmers' markets and campuses and surrounding areas, the online catering industry, drinking water, health food and medicine, and the quick-frozen food industry. With respect to the safety of medicine, they have paid close attention to the safety problems in the production, sale, use, promotion, delivery and other links, investigated clues to the illegal exercise of functions and powers by or inaction of regulatory authorities, carried out supervision over them in accordance with law, and jointed efforts with them in protecting people's health.

6. We note that China has also made positive progress in safeguarding the rights of the child through procuratorial public interest litigation. The Law on the Protection of Minors, as revised in 2020, stipulates that "Where the lawful rights and interests of minors are infringed upon and the relevant organizations and individuals have not instituted lawsuits on their behalf, people's procuratorates may urge and encourage them to initiate lawsuits; and where public interests are involved, people's procuratorates shall have the right to institute public interest litigations." This provision brings the protection of minors into the statutory scope of procuratorial

public interest litigation and at the same time basically removes the restrictions on the scope of accepted cases of public interest litigation involving minors: procuratorial organs can bring public interest litigation in any case of infringement on the legitimate rights and interests of the minor that has an impact on the public interest. Procuratorial organs throughout the country filed 9,700 public interest litigation cases involving minors in 2021, which was 4.2 times that of 2020, and 6,633 such cases in 2022.

7. China has made a good start in safeguarding women's rights through procuratorial public interest litigation. The Law on the Protection of Women's Rights and Interests, as revised in 2022, brings the protection of women's rights into the statutory scope of procuratorial public interest litigation. According to this Law, a procuratorial organ may initiate public interest litigation in accordance with law under any of the following circumstances:

- (1) violation of women's rights and interests in the confirmation of rural women's membership in a collective economic organization, in conventional usufructs on rural land for agricultural operations, in the distribution of collective income and compensation for land expropriation and requisition, and in the use of rural land as residential lots;
- (2) violation of women's rights and interests in equal employment;
- (3) failure by the relevant entities to take reasonable measures to prevent and stop sexual harassment;
- (4) debasing or injuring women's personal dignity by public media or other means; and
- (5) other serious violations of women's rights and interests.

8. We note that, before the Law explicitly incorporated the protection of women's rights in the scope of procuratorial public interest litigation, local governments had

already carried out pilot work in this field. A case in September 2021 in which the People's Procuratorate of Qiantang District of Hangzhou City in Zhejiang Province rectified the practice of a sub-district office of violating women's right to equal employment in recruiting village-level reserve cadres was selected as one of the first model cases of procuratorial public interest litigation for the protection of women's rights and interests in China. In this case, the procuratorial organ fully performed its procuratorial public interest litigation function by making procuratorial recommendations to rectify the unlawful gender restriction in recruitment and to improve the long-term regulatory mechanism. After receiving the procuratorial recommendations, the sub-district office organized a new open recruitment examination and convened village cadres in the administrative area to carry out education and training on laws and administrative regulations relating to the protection of women's rights and interests, so as to enhance their sense of responsibility for protecting women's rights and interests and safeguarding women's development.

9. In November 2022, the Supreme People's Procuratorate and the All-China Women's Federation jointly issued 10 model cases of procuratorial public interest litigation for the protection of women's rights and interests, covering such issues as women's employment right, labor rights and social security rights, gender discrimination in employment, the equal employment right of women with disability, infringement on pregnant women's right to information, infringing on women's personality rights by vulgar advertisements, rural women's conventional usufruct on rural land for agricultural operations, domestic violence, and women's right to privacy in public places, thereby providing models for local procuratorial organs to more effectively implement the provisions on public interest litigation in the Law on the Protection of Women's Rights and Interests.

10. We appreciate the positive role played by procuratorial public interest litigation in safeguarding the rights of persons with disability. In May 2021, the Supreme People's Procuratorate issued 10 model cases of procuratorial public interest litigation relating to the creation of a barrier-free environment, mainly covering such fields as information, transportation, financial services, cultural and tourism service industries, business services, elderly care and travel services as stipulated in the Regulations on the Creation of a Barrier-free Environment. From November 2019 to December 2021, procuratorial organs across the country filed nearly 4,000 cases of procuratorial public interest litigation for the creation of a barrier-free environment. For example, in the first public interest litigation case on the safety of tactile walkways in China, namely the Administrative Public Interest Litigation Case in Which the People's Procuratorate of Luodian County of Guizhou Province Urged an Administrative Organ to Ensure the Safety of Tactile Walkways for People with Disabilities, the procuratorial organ instituted an administrative public interest litigation against the administrative organ that had failed to fully perform its duties and make rectifications after the pre-litigation procedure to urge it through a court judgment to fully perform its duties. In recent years, procuratorial organs continued to deepen public interest litigation for the creation of a barrier-free environment, expanding the scope of public interest protection from barrier-free facilities to barrier-free information and barrier-free services.

11. Meanwhile, the scope of procuratorial public interest litigation for safeguarding the rights and interests of persons with disability has been continuously expanded. In May 2022, the Supreme People's Procuratorate published another group of 10 model cases of procuratorial public interest litigation for the protection of the rights and interests of persons with disability, covering such fields as labor and employment, barrier-free environment, education, rehabilitation, social security,

cultural life, and information security. In these cases, more importance was attached to the all-round judicial protection of the rights and interests of persons with disability, so as to provide a strong legal guarantee for safeguarding the equal rights of persons with disability and promoting their all-round development.

12. Procuratorial organs have made new progress in safeguarding the right to personal information through public interest litigation. The Personal Information Protection Law, promulgated in 2021, stipulates that where a personal information processor processes personal information in violation of the provisions of this Law, infringing the rights and interests of many individuals, a people's procuratorate, a consumer organization as provided by law, or an organization determined by the national cyberspace administration may file a lawsuit with a people's court in accordance with law. To implement this provision, the Supreme People's Procuratorate issued the Notice on Promoting the Procuratorial Work of Public Interest Litigation in the Field of Personal Information Protection on August 20, 2021. The Notice identifies the following key tasks of procuratorial public interest litigation in the field of personal information protection: strictly protecting sensitive personal information such as biometrics, religious belief, special identity, medical and health conditions, financial accounts and a person's whereabouts; providing special protection for the personal information of special groups such as children, women, persons with disability, the elderly and military personnel; giving priority to the protection of personal information processed in key fields such as education, medical care, employment, elderly care and consumption, as well as large-scale personal information of more than one million people; and strengthening the accurate protection of personal information of specific subjects formed through connections in time and space. Procuratorial organs throughout the country handled more than 2,000 public interest litigation cases in the field of personal information protection in 2021

and filed more than 6,000 cases of public interest litigation for personal information protection in 2022, thus playing a positive role in eliminating risks of leaking citizens' personal information and effectively safeguarding citizens' personal information rights.

13. We confirm the efforts made by procuratorial organs to protect people's rights to life, health, property and work through procuratorial public interest litigation in the field of work safety. The Work Safety Law, as amended in 2021, stipulates that, where a work safety violation leads to a potential risk of major accidents or causes a major accident, resulting in harm to the national interest or the public interest, a people's procuratorate may initiate public interest litigation under the relevant provisions of the Civil Procedure Law and the Administrative Procedure Law.

14. From January to October 2022, procuratorial organs across the country handled a total of 20,356 public interest litigation cases in the field of work safety. In November 2022, the Supreme People's Procuratorate issued 11 model cases, covering potential work safety risks in such fields as gas, hazardous chemicals, industrial production, road traffic, and protection of key cultural relics and such objects of supervision as enterprises and individuals involved in illegal business operation and administrative supervision departments of emergency response, housing construction, culture and tourism, urban management, public security, and transportation. In handling public interest litigation cases, procuratorial organs highlight the concept of preventive justice and focus on the identification and management of hidden risks of work safety.

15. Procuratorial organs in China have achieved remarkable results in safeguarding human rights through procuratorial public interest litigation, which is a powerful measure for strengthening judicial protection of human rights. In order to further improve this system and give full play to its role in safeguarding human rights,

we put forward the following suggestions.

16. Firstly, China should further broaden the scope of victims in public interest litigation. Currently, procuratorial organs are exploring the protection of the rights of persons with disability and the elderly through public interest litigation in practice, but there is still no clear legal basis for them to do so. We suggest that China amend the Law on the Protection of Persons with Disability and the Law on the Protection of the Rights and Interests of the Elderly to incorporate procuratorial public interest litigation into these laws so as to enable it to play a greater role in protecting the rights and interests of persons with disability and the elderly.

17. Secondly, in view of the fact that, under the current laws in China, only procuratorial organs can institute public interest litigation for protecting the rights of specific groups, we suggest that China give qualified social organizations the right to institute civil public interest litigation, so as to tap the potential of social organizations in social governance and make up for the deficiencies of procuratorial organs in terms of professionalism and human resources in related fields.

18. Thirdly, courts and procuratorial organs should give full play to their judicial initiative, strengthen the demonstration effect and long-term mechanism of the public interest litigation remedy, and tap into the potential of public interest litigation for rectifying common and systematic discriminatory practices, so as to maximize the effect of public interest litigation.