

**UNITED STATES DISTRICT COURT  
OF THE DISTRICT OF CONNECTICUT**

CHEN GANG, DOES, 1-3, ZOU  
WENBO, AND OTHERS SIMILARLY  
SITUATED.

PLAINTIFFS,

V.

ZHAO ZHIZHEN, & DOES, 1-5  
INCLUSIVE

DEFENDANTS

TORT CIVIL LIABILITY CLAIM

Civil Action No. 3:04CV01146(RNC)

JURY DEMAND

**DECLARATION OF TERRI E. MARSH**

I, Terri E. Marsh, declare as follows:

1. I am counsel of record in this action for all plaintiffs.
2. I make this declaration in support of Plaintiffs' Opposition to Defendant's Motion to Dismiss ("Plaintiff Opposition").
3. Attached to this declaration are affidavits, reports and documents in support of Plaintiff Opposition.
4. Exhibit A is a true and accurate copy of sample titles and sources of material displayed on the CACA website, which were reprinted from the URLs indicated therein.
5. Exhibit B is a true and accurate copy of an article, dated August 5, 2001, from the *Washington Post* entitled "Torture is Breaking Falun Gong: China Systematically Tries to Eradicate the Group," reprinted from URL

<http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&contentId=A33055-2001Aug4&notFound=true>.

6. Exhibit C is a true and accurate copy of an Amnesty International Report, dated 2001 (covering period from January to December 2000), reprinted from URL

[http://web.amnesty.org/web/ar2001.nsf/bed8009ca83e16c780256a4f00344f2f/f53b148239c3c8c280256a48004ab743/\\$FILE/china.pdf](http://web.amnesty.org/web/ar2001.nsf/bed8009ca83e16c780256a4f00344f2f/f53b148239c3c8c280256a48004ab743/$FILE/china.pdf).

7. Exhibit D is a true and accurate copy of United Nations Commission of Human Rights Report, dated March 10, 2006, reprinted from URL  
<http://www.unhcr.org/refworld/country,,MISSION,CHN,,45377b160,0.html>.

8. Exhibit E is a true and accurate copy of United Nations Commission on Human Rights Report, dated January 25, 2001, reprinted from URL  
[http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/90826bb67fa905b1c1256a2300464476/\\$FILE/G0110682.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/90826bb67fa905b1c1256a2300464476/$FILE/G0110682.pdf).

9. Exhibit F is a true and accurate copy of former Party Chief, Jiang Zemin's speech to the elite core of the Chinese Communist Party, dated June 7, 1999, reprinted from online magazine "Beijing Spring," at URL  
<http://www.bjzc.org/bjs/bc/97/09>.

10. Exhibit G is a true and accurate copy of a CNN.com article, dated February 9, 2001, entitled "China's Suppression Carries a High Price," reprinted from URL  
[http://www.fofg.org/news/news\\_story.php?doc\\_id=179](http://www.fofg.org/news/news_story.php?doc_id=179).

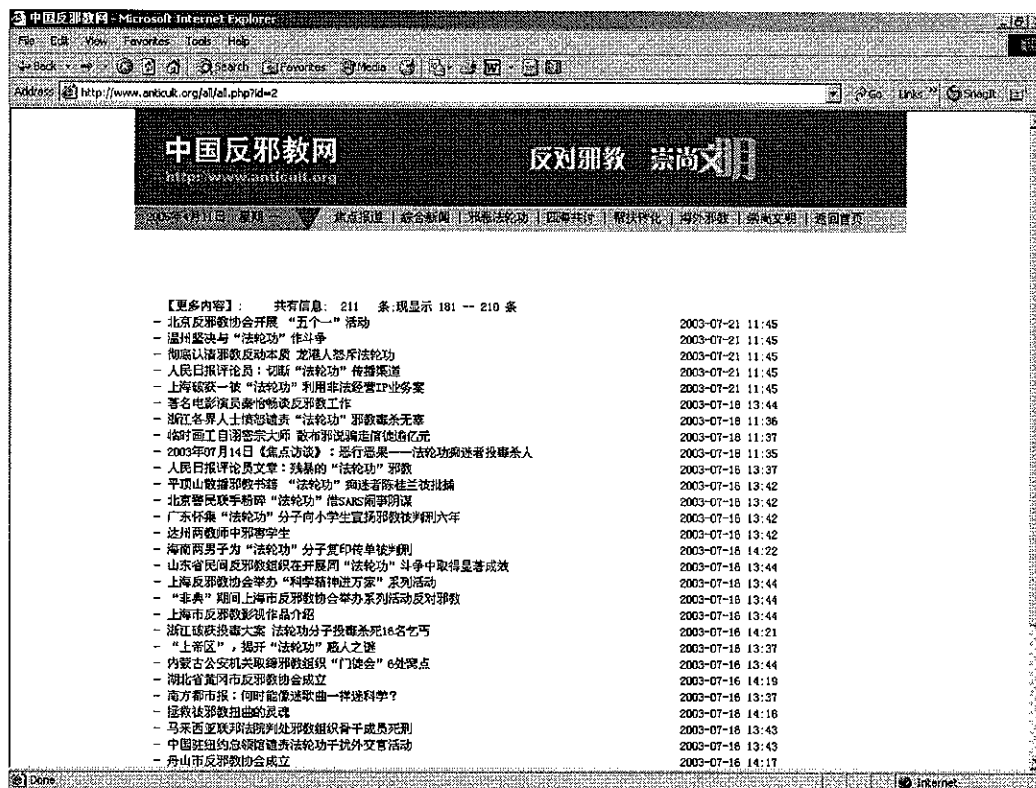
11. Exhibit H is a true and accurate copy of a speech of Li Lanqing, dated February 27, 2001, reprinted from URL [http://english.peopledaily.com.cn/english/200102/26/eng20010226\\_63448.html](http://english.peopledaily.com.cn/english/200102/26/eng20010226_63448.html).
12. Exhibit I is a true and accurate copy of anti-Falun Gong persecutory statements authored or disseminated by the Defendant Zhao Zhizhen, reprinted from URLs indicated therein.
13. Exhibit J is a true and accurate copy of an affidavit of Falun Gong adherent Wang Ben.
14. Exhibit K is a true and accurate copy of the expert affidavit of China expert Qinglian He.
15. Exhibit L is a true and accurate copy of an affidavit of retired member of the British Diplomatic Service and British House of Lords, Lord Thurlow, dated April 11, 2005.
16. Exhibit M is a true and accurate copy of an affidavit of Professor Eugene Perry Link, Jr.
17. Exhibit N is a true and accurate copy of the Freedom House article “Undermining Democracy” by Joshua Kurlantzick and Perry Link.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on January 16, 2012.

By:       /s/ Terri E. Marsh        
Terri E. Marsh

# **EXHIBIT A**



Line 4

人民日报评论员：切断“法轮功”传播渠道

(来源：2003.07.20 人民网)

People's Daily Commentary: Cut off the channels of spreading Falun Gong

(Source: People's web [People's Daily Online], July 20, 2003)

Line 9

2003年07月14日《焦点访谈》：恶行恶果——法轮功痴迷者投毒杀人

(来源：央视国际 2003年07月14日)

July 14, 2003 "Focus point": Falun Gong follower commits killing

(source: CCTV July 14, 2003)

URL: <http://www.anticult.org/article.html?id=5858>

Line 10

人民日报评论员文章：残暴的“法轮功”邪教

(来源：2003年07月14日 中国新闻网)

People's Daily Commentary: the cruel evil cult Falun Gong

(Source: China News Services, July 14, 2003)

URL: <http://www.anticult.org/article.html?id=5754>

Line 20

浙江破获投毒大案 法轮功分子投毒杀死 16 名乞丐

(来源: 2003 年 07 月 02 日 中国新闻网)

Zhejiang Falun Gong follower kills 16 beggars

(Source: China News Services, July 2, 2003)

URL: <http://www.anticult.org/article.html?id=5744>

Line 27

中国驻纽约总领馆谴责法轮功干扰外交官活动

(来源: 2003 年 06 月 25 日 中国新闻网)

Chinese consulate in New York City condemns Falun Gong interferes diplomatic activity

(Source: China News Services, June 25, 2003)

URL: <http://www.anticult.org/article.html?id=5735>

## **EXHIBIT B**

# **Torture Is Breaking Falun Gong**

China Systematically Eradicating Group

By John Pomfret and Philip P. Pan  
Washington Post Foreign Service  
Sunday, August 5, 2001; Page A01

BEIJING -- Expanding its use of torture and high-pressure indoctrination, China's Communist Party has gained the upper hand in its protracted battle against the banned Falun Gong spiritual movement, according to government sources and Falun Gong practitioners. As a result, they say, large numbers of people are abandoning the group that presented the party with its most serious challenge since the 1989 student-led protests in Tiananmen Square.

After a year and a half of difficulties in suppressing the movement, the government for the first time this year sanctioned the systematic use of violence against the group, established a network of brainwashing classes and embarked on a painstaking effort to weed out followers neighborhood by neighborhood and workplace by workplace, the sources said.

They said the crackdown has benefited from a turn in public opinion against Falun Gong since five purported members set themselves on fire in Tiananmen Square, leading many Chinese to conclude the group is a dangerous cult.

In recent interviews, the sources and practitioners described for the first time in detail the methodical efforts being used to eradicate the Falun Gong movement, efforts that the Chinese call "reeducation." They told of believers being beaten, shocked with electric truncheons and forced to undergo unbearable physical pressure, such as squatting on the floor for days at a time. Many adherents are also sent to intensive classes where the teachings of Falun Gong leader Li Hongzhi are picked apart by former believers, sometimes friends who have already been tortured into submission.

"I am a broken man," said James Ouyang, 35, an electrical engineer who was forced by labor camp guards to stand facing a wall for nine days and then sent to a brainwashing class for 20 more. "I have rejected Falun Gong. . . . Now, whenever I see a policeman and those electric truncheons, I feel sick, ready to throw up."

Two years ago, the Chinese government outlawed Falun Gong, a nonviolent movement that mixes Buddhist beliefs with slow-motion martial-art-type exercises, and denounced the group as an evil cult and a threat to society. But the underlying reason for the crackdown is the leadership's view that Falun Gong is an independent organization that threatens the Communist Party's monopoly on power.

The crackdown's recent gains have been a boost to both President Jiang Zemin, the Chinese leader most closely associated with the campaign, and the party, which some experts had thought was too fractured and ineffectual to defeat the unusually well-organized group.

"This campaign should teach us not to underestimate the Communist Party," said one party official who has advised the government on the crackdown, but opposes its use of violence. "The party has a powerful ability to synthesize experience and come up with methods to deal with challenges. All the brutality, resources and persuasiveness of the Communist system is being used -- and is having an effect."

**A Strategy for Success**



At the start of the crackdown, government officials estimated that between 3 million and 6 million people were serious followers of Falun Gong, which translates roughly as Wheel of the Law. About 10 percent, up to 600,000, were considered willing to fight the government crackdown, Chinese officials said. Estimates outside the government have put membership much higher -- in the tens of millions, but exact numbers are not available.

The government's campaign against Falun Gong, launched in July 1999, struggled at first, hampered by uneven enforcement and a split between central government leaders, who viewed the group as a threat to the party's rule, and local officials, who did not. But over the past six months, China's security forces have regrouped and devised an approach they say is producing results.

That approach has three ingredients, according to another government adviser.

The first, he said, is violence. The crackdown has always been associated with police and prison brutality, but the adviser said it was only this year that the central leadership decided to sanction the widespread use of violence against Falun Gong members. Citing government reports, he said practitioners who are not beaten generally do not abandon the group.

The adviser said the second element, a high-pressure propaganda campaign against the group, has also been critical. As Chinese society turned against Falun Gong, pressure on practitioners to abandon their beliefs increased, and it became easier for the government to use violence against those who did not. The self-immolation of five purported members in Tiananmen Square on Jan. 23 was a turning point. A 12-year-old girl and her mother died, and the party made the incident the centerpiece of its campaign to discredit Falun Gong. By repeatedly broadcasting images of the girl's burning body and interviews with the others saying they believed self-immolation would lead them to paradise, the government convinced many Chinese that Falun Gong was an "evil cult."

Finally, the security apparatus has begun forcing practitioners to attend intense study sessions in which the teachings of the Falun Gong leader are picked apart by former followers. These brainwashing classes have been key to persuading members to quit practicing Falun Gong, the government adviser said.

"Each aspect of the campaign is critical," he said. "Pure violence doesn't work. Just studying doesn't work either. And none of it would be working if the propaganda hadn't started to change the way the general public thinks. You need all three. That's what they've figured out."

Some local governments had experimented with brainwashing classes before, but in January, Beijing's secret 610 office, an interagency task force leading the charge against Falun Gong, ordered all neighborhood committees, state institutions and companies to begin using them, government sources said. No Falun Gong member is supposed to be spared. The most active members are sent directly to labor camps where they are first "broken" by beatings and other torture, the adviser said.

At the same time, Beijing is getting more efficient at forcing local officials to carry out its orders on Falun Gong. Internal polls conducted by the Central Party School show county-level officials placing a greater priority on eradicating the group, the government adviser said. The 610 office also dispatches teams of investigators to check up on local officials, and a "proper attitude" toward Falun Gong is now required for any promotion, he said.

**No One Spared**

Neighborhood officials have compelled even the elderly, people with disabilities and the ill to attend the classes. Universities have sent staff to find students who had dropped out or been expelled for practicing Falun Gong, and brought them back for the sessions. Other members have been forced to leave sick relatives to go to class.

A university student in Beijing, Alex Hsu, said he was on his way to a computer lab earlier this year when a school official stopped him and told him he had to take the class. The school had confronted him before about his faith in Falun Gong, but he had never participated in protests and had never been arrested.

Six men surrounded him, forced him into a car and drove him to a hotel near a labor camp outside Beijing. About 20 practitioners were there, all of them students, teachers, university staff members or retired professors. Hsu later learned the class was organized by the Education Ministry. "We were all very scared," Hsu said. "We didn't know what was going to happen next."

By relying on "work units," to which all state employees are assigned, and neighborhood committees to ferret out and convert believers, the government is taking a page from the mass campaign tactics used by the Communist Party under the leadership of Mao Zedong. The plan has been surprisingly effective, especially given other changes that have undermined the party's control over Chinese society, such as the rise of a private business sector and looser rules governing migration and housing.

Each work unit is responsible for paying the "tuition" of its practitioners. And township governments that have been successful in converting Falun Gong members, most notably in Shandong province, have been encouraged to sell their services to other townships, Chinese sources said.

Hsu said school officials told him they paid about \$800 to send him to the brainwashing class. The morning after he was picked up, the class began in a cafeteria inside the labor camp. The first lesson was a threat.

"They said if they didn't achieve their goals, if we didn't give up our beliefs, we'd be taken to the labor camp," Hsu said. "Reeducation through labor is a frightening thing to a Chinese person. We all knew we would be harmed and our lives would be in danger. We all knew someone who had died in the camps."

In the cafeteria, Hsu sat at a table with three former Falun Gong members, all of them still detained at the camp. For 12 hours a day, they tried to persuade him to abandon Falun Gong. As the days passed, more "teachers" joined his table, analyzing the writings of Falun Gong leader Li Hongzhi and refusing to let Hsu rest.

"It was mental torture. . . . The pressure just kept growing," Hsu said. "And the threat was always there. You could see these people all had suffered, and you knew what would happen to you if you didn't give in too."

Practitioners are forced to remain in the classes until they renounce their beliefs in writing and then on videotape. On average, the government adviser said, most people abandon Falun Gong after 10 to 12 days of classes, but some resist for as long as 20.

"It was like being drugged with a potion. They came at you fast, frightening you and confusing you," said Sydney Li, a practitioner who escaped from a class organized by neighborhood officials in which he was beaten about the head. "If you weren't a strong believer, it would be easy to be tricked."

The turning point for Hsu came in the third week. He looked up one morning and recognized one of the "teachers" at his table -- a friend, classmate and fellow practitioner who had disappeared earlier in the year. The student looked thin and sickly. He later told Hsu he had been tortured.

"It was a shock. I didn't know he had been sent to the labor camp, and he looked so different," Hsu said. "He didn't say much at first, but the others made him talk. I felt so sad."

A few days later, Hsu signed a statement promising not to practice Falun Gong again and another attacking the group as an evil cult. He read them aloud to his class and in front of a video camera. He wept on the ride back to his university.

"I'm not sure about the others, but I never believed what I was writing," he said. "It was very painful. They forced us to lie. We knew Falun Gong is good, but they forced us to say it was evil."

Hsu has since dropped out of school and gone into hiding because he wants to continue practicing. But he acknowledged many followers have given up Falun Gong completely. There are no reliable estimates of how many followers have abandoned the group.

Those who refuse to submit in the classes are sent to the labor camps, where members face a more systematic regime of violence than in the past, according to practitioners and government sources.

### **Days of Beatings**

The sting of torture was felt by James Ouyang, a slight man with thick glasses and crooked teeth. On the sixth day of beatings this April, he recalled, he began to denounce the Falun Gong.

"I cursed and cursed Falun Gong, but the police said it wasn't enough," he said, running a trembling hand through thinning hair. "They continued beating me for three more days until they were satisfied."

When Ouyang, who asked to be identified only by his Chinese last name and an English name he calls himself, was first arrested in early 2000 for going to Tiananmen Square to unfurl a banner praising Falun Gong, police roughed him up but released him after a week. At the time, the government adviser said, China's security services were inflicting only a "normal amount" of abuse on Falun Gong practitioners. And in many parts of China, police ignored Falun Gong as long as practitioners did not go to Beijing to protest.

The adviser, contradicting some Western reports, said the government previously had no systematic campaign of violence to break Falun Gong. "Before this year, practitioners were beaten if they broke rules in jail or if the police were normally brutal," he said. "It must be understood that anyone in a Chinese jail will get beaten for breaking the rules. Deaths in custody are commonplace."

But the adviser said the policy changed after the Jan. 23 self-immolations and a Communist Party work conference in early February. At that time, party officials concluded the self-immolations and the unrelenting propaganda campaign that followed had turned the public against Falun Gong. The self-immolations seemed to show that Falun Gong was a bizarre cult, and that freed the party's hand, he said.

"The immolations had a huge effect," he said. "Previously, most Chinese thought the crackdown was stupid, like a dog catching a mouse. After those people burned themselves and the party broadcast that little girl's face on TV for almost a month straight, people's views here changed. Now many agree that it's an evil cult. That was a huge defeat for Li Hongzhi."

Li also played into the party's hands. His spokesmen in the United States denied the people who burned themselves were Falun Gong members, disappointing some in China who felt he was rejecting his flock. And Li continued to issue circulars encouraging his followers to confront the authorities, upsetting people because he seemed unmoved by the growing casualties. So far, Falun Gong says more than 250 followers have died in government custody.

Ouyang was arrested again in April after going to Tiananmen Square to show his support for Falun Gong. This time, he said, police methodically reduced him to an "obedient thing" over 10 days of torture.

At a police station in western Beijing, Ouyang was stripped and interrogated for five hours. "If I responded incorrectly, that is if I didn't say, 'Yes,' they shocked me with the electric truncheon," he said.

Then, he was transferred to a labor camp in Beijing's western suburbs. There, the guards ordered him to stand facing a wall. If he moved, they shocked him. If he fell down from fatigue, they shocked him.

Each morning, he had five minutes to eat and relieve himself. "If I didn't make it, I went in my pants," he said. "And they shocked me for that, too."

By the sixth day, Ouyang said, he couldn't see straight from staring at plaster three inches from his face. His knees buckled, prompting more shocks and beatings. He gave in to the guards' demands.

For the next three days, Ouyang denounced Li's teachings, shouting into the wall. Officers continued to shock him about the body and he soiled himself regularly. Finally, on the 10th day, Ouyang's repudiation of the group was deemed sufficiently sincere.

He was taken before a group of Falun Gong inmates and rejected the group one more time as a video camera rolled. Ouyang left jail and entered the brainwashing classes. Twenty days later after debating Falun Gong for 16 hours a day, he "graduated."

"The pressure on me was and is incredible," he said. "In the past two years, I have seen the worst of what man can do. We really are the worst animals on Earth."

## **EXHIBIT C**

# CHINA

## PEOPLE'S REPUBLIC OF CHINA

Head of state: Jiang Zemin

Head of government: Zhu Rongji

Capital: Beijing

Population: 1.2 billion

Official language: Standard Chinese or Mandarin

Death penalty: retentionist

2000 saw continued repression of peaceful dissent throughout the country. There was no sign of any relaxation of the 1999 crack-down on fundamental freedoms. Thousands of people were arbitrarily detained for peacefully exercising their rights to freedom of expression, association or religion. Some were sentenced to long prison terms after unfair trials under national security legislation; others were detained without trial and assigned to up to three years' "re-education through labour". Torture and ill-treatment of prisoners continued to be widespread. The limited and incomplete records available showed that at least 1,511 people were sentenced to death and 1,000 executed; the true figures were believed to be far higher. In the autonomous regions of Xinjiang and Tibet, religious freedom continued to be severely restricted and people suspected of nationalist activities or sympathies were subjected to particularly harsh repression.

### Background

The government's campaign of repression against those it deemed a threat to political stability and public order continued against a background of growing public criticism of official corruption. The government intensified its anti-corruption campaign and several high-ranking officials were convicted of corruption following highly publicized trials; some were sentenced to death.

Although implementation of the law continued to be arbitrary in many cases, the government renewed efforts to encourage implementation of 1997 legal changes, including some aimed at improving the fairness of trials. Further legal reform was debated with reference to international human rights treaties which China had signed but not yet ratified. In November, the government signed a Memorandum of Understanding with the UN High Commissioner for Human Rights, designed to set up a program of technical cooperation in the field of human rights.

At the UN Commission on Human Rights, China again blocked debate on a draft resolution by using a procedural motion "not to take action". In May, the UN Committee against Torture recommended that China adopt a definition of the crime of torture consistent with the UN Convention against Torture and abolish all forms of administrative detention.

In September survivors of the 1989 massacre which followed pro-democracy protests in Tiananmen Square filed a civil lawsuit in New York, USA, against Li Peng, the then Chinese Premier, for human rights violations including crimes against humanity and torture.

### Labour unrest and repression

The enormous social costs of economic restructuring continued to provoke social unrest during 2000. The absence of effective social welfare provisions left many of the millions of workers who had lost their jobs in recent years facing acute poverty. A severe drought also brought hardship and disquiet among the country's rural population. Tens of thousands of demonstrations were believed to have taken place during the year, although most were not reported by China's tightly controlled official media. China's expected entry into the World Trade Organization was set to increase economic and social challenges.

☞ In May, nearly 50 people were reportedly injured when several hundred police dispersed a demonstration of up to 5,000 steel workers from the Liaoyang Perroalloy Factory, Liaoning province. Workers were protesting that some had not been paid since 1998 and that 2,000 workers who had been laid off and 1,000 retired workers had not received their benefits for up to six months.

☞ Peasants from eight rural towns in Shaanxi province were beaten and illegally detained for refusing to pay excessive taxes imposed by local Communist Party officials. Ma Xiaoming, a journalist investigating the story, was detained for several hours by police in August. The peasants were campaigning for the release of Ma Wenlin, a paralegal who was imprisoned for five years in 1999 after lodging a formal complaint against the taxes with the central government.

### Repression of spiritual and religious groups

Followers of the *Falun Gong* spiritual group faced detention, unfair trials, torture and imprisonment as part of the government's continuing crack-down on groups it considered to be "heretical organizations". Legislation was used retroactively to convict alleged leaders of the *Falun Gong* on politically driven charges and new regulations were introduced to further restrict fundamental freedoms. Since the *Falun Gong* was banned in July 1999, at least 93 adherents were believed to have died in police custody. Some of the deaths were a result of suicide or injuries inflicted during forcible feeding, but most were reported to have died as a result of torture. New arrests and detentions were reported daily throughout 2000. Thousands, possibly tens of thousands, of practitioners were believed to remain in detention at the end of the year. Many were assigned without trial to "re-education through labour" and some were detained in psychiatric hospitals.

The clamp-down on "heretical organizations" increasingly encompassed other *Qi Gong* and religious groups. Evangelical Protestants and Roman Catholics who worshipped outside the official "patriotic" churches were the victims of a continuing

pattern of arrests, fines and harassment. Scores arrested in recent years remained in prison or labour camps.

☞ In August, 130 evangelical Christians were detained in Henan province. All were members of the *Fangcheng* Church, one of many Protestant "house churches" which are not recognized by the authorities. According to reports, 85 of those detained were subsequently charged with joining an "heretical organization". However, in September official sources claimed that all those detained had been "re-educated and sent back to where they came from".

☞ In September, 24 Roman Catholics, including a priest and 20 nuns, were detained in Fujian province when police found them holding church services in a mushroom-processing factory. According to reports, Father Liu Shaozhang was so severely beaten by police during arrest that he vomited blood. Two of the nuns were allegedly released the following day after parishioners paid a large sum of money to the police; the whereabouts of the other 22 detainees remained unknown at the end of the year.

### Repression of Internet users

People continued to be arrested and charged with serious offences for using the Internet to spread information about human rights or other politically sensitive issues. Attempts by the authorities to control access and use of the Internet in China included the closure in August of what was described as the first ever pro-democracy website. In October and November, the government issued regulations to control news sites and chat-rooms and combat "internet crimes", including the expression of views deemed "harmful to the state".

☞ Huang Qi was arrested in the southwestern city of Chengdu in June for publishing information on the Internet about the 1989 crack-down on pro-democracy protests. He was charged with "subverting state power", but was not known to have been tried by the end of the year.

### Repression of reformers and dissidents

People continued to be detained and sentenced to terms of imprisonment or "re-education through labour" for peacefully promoting reforms. These included political dissidents, such as members of the banned China Democratic Party, and anti-corruption and environmental campaigners.

☞ In September dissident writer Qi Yanchen was sentenced to four years' imprisonment for "subversion" by a court in Hebei province. He was one of the founders of an environmental movement, the China Development Union, which was banned in 1998. His imprisonment was believed to be connected with his writings, in particular his book, *China's Collapse*, which argues that China must introduce political reforms if it wants to avoid widespread social unrest.

☞ In April, An Jun, an anti-corruption campaigner, was sentenced to four years' imprisonment for "anti-government activities" by a court in Xinyang, Henan province. The evidence against him was reportedly based on four essays he had written but never published. Prior to his arrest in July 1999, An Jun had formed an independent anti-corruption group which claimed to have uncovered over 100 cases of corruption.

### Tiananmen Square anniversary

The authorities once again suppressed all attempts to mark the anniversary of the June 1989 crack-down on pro-democracy activists when hundreds of civilians were massacred and tens of thousands of others were injured or arrested. Every year since 1989, the anniversary has sparked further arrests and detentions of those seeking justice for the victims and their families.

Eleven years on, no public inquiry had been instituted into the events and no compensation had been granted to the families of the victims. At the end of 2000 more than 200 people were believed to remain in prison for their activities in connection with the 1989 protests.

### Torture/ill-treatment

Torture and ill-treatment of detainees remained widespread. Victims included both political detainees and criminal suspects. Incidents were reported in police stations, detention centres, prisons, labour camps, repatriation centres and drug rehabilitation centres. There were also frequent reports of the use of torture during non-custodial control measures such as "residential supervision" and during the "special isolation" of officials being investigated for alleged corruption.

Torture during interrogation was perpetrated against all types of detainees and was a component part of some high-profile anti-crime or political campaigns such as the crack-down on the *Falun Gong*.

The extent of deaths in custody as a result of torture remained largely unacknowledged by the authorities. In many cases, particularly those involving political prisoners or perceived enemies of the government, officials simply denied responsibility and no proper investigation was undertaken.

☞ Chen Zixiu, a 60-year-old *Falun Gong* practitioner, reportedly died under torture in February while held by police in Weifang, Shandong province. Fellow detainees testified in detail about how she was tortured. According to her daughter, when the family came to fetch Chen Zixiu's body, it was covered in bruises, her teeth were broken and blood was coming out of her ears. Local police reportedly later claimed that she had "died of a heart attack".

Prison conditions remained harsh and the routine denial of medical care posed a serious threat to many prisoners.

☞ Zhang Shanguang, a former teacher and labour rights activist held in Hunan Province No. 1 Prison, was forced to continue doing heavy physical work in fetters despite suffering from a serious lung illness. When he tried to stop working, he was reportedly beaten. He had been detained in July 1998 and one of the charges against him was based on an interview he gave to a US-funded radio station in which he spoke, among other things, about peasant demonstrations in Hunan province. He was sentenced to 10 years' imprisonment and five years' deprivation of political rights following a trial behind closed doors that lasted just over two hours. By the end of the year, Zhang Shanguang had reportedly been held for four months in solitary confinement as punishment for "refusing to confess his crimes". He had also reportedly been denied family visits.

### Denial of due process and unfair trials

The authorities continued to flout the Criminal Procedure Law in many cases. Political defendants were routinely denied their right to due process and their lawyers were often subjected to pressure by the authorities.

☞ Li Xiaobing and Li Xiaomei, two sisters from Beijing, were tried in secret in Beijing in January and sentenced to seven and six years' imprisonment respectively. The sisters were convicted of "illegal trading" in connection with the sale of *Falun Gong* publications. However, they were arrested on 20 July 1999 — two days before the *Falun Gong*, and therefore its literature, were banned. The two women were held for more than three months without charge, in violation of Chinese law, and denied access to their family. In August 1999, before formal charges had been laid, the official *Xinhua* news agency published accusations against them, showing clearly that they were already considered guilty. According to unofficial sources, their lawyer was put under pressure not to present a plea of "not guilty" at their trial.

### Death penalty

The death penalty continued to be used extensively and arbitrarily. Political interference was common. Often mass executions were carried out before major events or public holidays as a warning to others. Execution was by shooting or lethal injection and sometimes took place within hours of sentencing. The limited and incomplete records available to AI at the end of the year showed that at least 1,511 death sentences had been passed and at least 1,000 executions carried out in 2000. These were believed to be only a fraction of the true figures as death penalty statistics remained a state secret in China. Many cases were reported in which death sentences were passed on the basis of contentious evidence, including confessions extracted under torture.

☞ Zhuo Xiaojun was sentenced to death on 14 January after a blatantly unfair trial. He had been detained in December 1989 and sentenced to death. However, the conviction was overturned on appeal and a retrial ordered. This began in January 1993 but was adjourned for seven years. The latest trial in January 2000 lasted only a few hours. No witnesses were called; no new evidence was reportedly presented; and a confession — which Zhuo Xiaojun testified was extracted under torture and which had been undermined by forensic evidence — was central to the prosecution's case. No visits by Zhuo Xiaojun's family had ever been permitted. He was reported to suffer from hepatitis, a bleeding stomach and ulcerating skin. Both while under the initial and the second death sentences, he was reported to be held with hands and feet shackled together at all times. Zhuo Xiaojun's appeal was heard on 28 November. No decision had been reported by the end of the year.

### Xinjiang Uighur Autonomous Region (XUAR)

Executions of Uighur political prisoners labelled as "separatists" or "terrorists" by the authorities continued. Most were passed after secret or summary trials where convictions were based on confessions extracted under torture. The XUAR was the only region of China where political prisoners

were known to have been executed in recent years. The pattern of gross human rights violations reported from the XUAR included prolonged arbitrary incommunicado detention, torture and ill-treatment and unfair trials. The targets of abuses were mainly Uighurs, the majority ethnic group among the predominantly Muslim local population. There was an increase in religious persecution by the authorities. Islamic groups and prominent individuals in the Muslim community were subjected to repressive and often brutal measures. Thousands remained imprisoned.

☞ Rebiya Kadeer, an Uighur businesswoman and mother of 10, was sentenced to eight years' imprisonment after a secret trial in March. She was charged with "providing secret information across the border" for sending copies of publicly available newspapers to her husband, a former political prisoner living abroad. Rebiya Kadeer, a prominent campaigner promoting Uighur women's rights, had been detained in August 1999 in Urumqi, capital of the XUAR, while on her way to meet a visitor from the US Congressional Research Service. Her appeal against her sentence was rejected in November by the XUAR High People's Court, following which she was transferred to the Baijiahu prison in Urumqi. She was reported to be in poor health.

### Tibet Autonomous Region (TAR)

In January the 17th Karmapa — the highest profile religious leader to leave the TAR in recent years — escaped into exile. Repression of religious activities in the TAR intensified during 2000. Hundreds of Buddhist monks and nuns were believed to remain in prison at the end of the year. Many prisoners were forced to work long hours in harsh conditions. Inadequate and poor quality food combined with insanitary conditions caused health problems for many inmates. Few escaped torture and ill-treatment, particularly during the early stages of custody.

☞ Ngawang Choephel, a Tibetan ethno-musicologist, continued to serve an 18-year prison sentence. He had been convicted in 1996 of "espionage and counter-revolutionary activities". At the time of his detention he had been gathering material for the production of a documentary film about traditional Tibetan performing arts. Ngawang Choephel was held in Powo Tramo prison and was reported to be in poor health, suffering from "bronchitis, hepatitis and respiratory infections". In August, his mother was given permission by the Chinese authorities to travel from India to Tibet to visit her imprisoned son for the first time since his arrest in 1995.

### Asylum-seekers

In April some 50 North Korean nationals were forcibly returned by the Chinese authorities to North Korea (Democratic People's Republic of Korea) where they were feared to be at serious risk of human rights violations. They were among thousands of others reportedly returned to North Korea in previous months without being granted access to any asylum procedure.



### Hong Kong Special Administrative Region

Continuing litigation over the right of abode stipulated in the Basic Law fuelled debate over the role and autonomy of Hong Kong courts when interpreting constitutional rights under the "One Country Two Systems" model.

#### Freedom of expression and the right to peaceful assembly

Frequent demonstrations were held against a wide range of government policies.

☞ In May, activist Leung Kwok-hung was sentenced to 14 days' imprisonment for "contempt" after shouting a slogan during an October 1999 legislative council meeting.

☞ In August and September, 16 demonstrators, including seven student leaders, were arrested under the controversial 1997 Public Order ordinance for failing to give seven days' notice prior to a demonstration in June. Participants had formally complained of excessive use of force by police who had used pepper spray and punched and kicked protesters. The arrests triggered large unauthorized solidarity marches and renewed public scrutiny of the ordinance. In October, the charges were dropped.

☞ A public investigation which substantiated allegations of official interference in academic freedom at the University of Hong Kong led to the resignation of the vice-chancellor and pro-vice-chancellor in September.

☞ Staff of the Central Government Liaison Office (formerly the New China News Agency or *Xinhua*) told the Hong Kong media not to report the views of pro-independence Taiwanese, and warned Hong Kong businesses of the risks of choosing such trading partners.

#### Alleged illegal immigrants and asylum-seekers

Two officials and an interpreter were charged with perverting the course of justice after several people were wrongfully detained for immigration offences after allegedly being pressurized or misled into making false confessions. They included a teenage girl and a female tourist from Viet Nam. A severely mentally disabled boy went missing in mainland China after immigration officials allowed him to cross the border alone without papers and then blocked his attempts to return.

In January, the jury at a coroner's inquest into the August 1999 death of Prince Evis Ose in a fire in his cell in Victoria Prison called for "serious action" across government departments. The prison was used to detain alleged overstayers, illegal immigrants and asylum-seekers under the Immigration Ordinance, potentially without trial and for an unlimited period. The inquest heard that recommendations made in 1987 to install fire-fighting equipment and remove flammable fittings had been largely ignored by officials because they considered prisons had no public access.

In May the UN Committee against Torture recommended that Hong Kong's laws and practices to outlaw torture and to protect refugees be brought into conformity with the UN Convention against Torture.

### Macao Special Administrative Region (MSAR)

Rising unemployment undermined high expectations of economic recovery and government reform under the Chinese regime. Unemployed workers staged several large marches, culminating in a violent confrontation on 2 July when police used tear gas to disperse stone-throwing demonstrators and arrested several alleged organizers.

The police reported a significant decrease in triad-gang related violence. Several defendants complained they had been falsely charged and denied any right to bail under wide-ranging 1999 legislation against organized crime. Severe overcrowding was reported at the MSAR's one prison.

In December, on the eve of President Jiang Zemin's visit to celebrate the first anniversary of the MSAR, police occupied the home of *Falun Gong* organizer Lam Yatming, claiming they were searching for banned items, and detained democracy activist Lee Kinyuen. Peaceful *Falun Gong* gatherings were forcibly dispersed, and many local and foreign practitioners were detained. The Chief Executive promised to investigate allegations that police had beaten practitioners while removing them from the MSAR. President Jiang Zemin urged Macao to take concrete measures to defend Beijing's authority and prohibit activities against the central government.

### AI country reports

- Women's Rights are Human Rights – China: Arbitrary detention of Rebiya Kadeer – a women's human rights defender and prisoner of conscience (AI Index: ASA 17/004/2000)
- People's Republic of China: The crack-down on *Falun Gong* and other so-called "heretical organizations" (AI Index: ASA 17/011/2000)
- People's Republic of China: Tiananmen – 11 years on and still no government inquiry: "forgotten prisoners" (AI Index: ASA 17/017/2000)
- People's Republic of China: Death Penalty Log 1999 (AI Index: ASA 17/049/2000)

# **EXHIBIT D**



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Sixty-second session  
Item 11 (a) of the provisional agenda

**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION  
OF TORTURE AND DETENTION**

**Report of the Special Rapporteur on torture and other cruel, inhuman or  
degrading treatment or punishment, Manfred Nowak**

**MISSION TO CHINA\***

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\* The summary of this mission report is being circulated in all official languages. The report itself is contained in the annex to the summary and is being circulated in the language of submission and in Chinese. The appendices are available in English only and are circulated as received.

## Summary

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment undertook a visit to China from 20 November to 2 December 2005, at the invitation of the Government. He expresses his appreciation to the Government for the full cooperation it provided him throughout the visit. The report contains a study of the legal and factual aspects regarding the situation of torture or ill-treatment in China.

The Special Rapporteur bases his finding on a thorough analysis of the legal framework, individual communications and on written information from and interviews with a wide array of sources, including Government officials, non-governmental organizations, lawyers, victims and witnesses, as well as from on-site inspections of detention facilities. Accordingly, he recommends a number of measures to be adopted by the Government in order to comply with its commitment to prevent and suppress acts of torture and other forms of ill-treatment.

Though on the decline, particularly in urban areas, the Special Rapporteur believes that torture remains widespread in China. He welcomes the willingness of the Government to acknowledge the pervasiveness of torture in the criminal justice system and the various efforts undertaken in recent years at the central and provincial levels to combat torture and ill-treatment. In the opinion of the Special Rapporteur, these measures have contributed to a steady decline of torture practices over recent years.

Many factors contribute to the continuing practice of torture in China. They include rules of evidence that create incentives for interrogators to obtain confessions through torture, the excessive length of time that criminal suspects are held in police custody without judicial control, the absence of a legal culture based on the presumption of innocence (including the absence of an effective right to remain silent), and restricted rights and access of defence counsel. The situation is aggravated by the lack of self-generating and/or self-sustaining social and political institutions including: a free and investigatory press, citizen-based independent human rights monitoring organizations, independent commissions visiting places of detention, and independent, fair and accessible courts and prosecutors.

While the basic conditions in the detention facilities seem to be generally satisfactory, the Special Rapporteur was struck by the strictness of prison discipline and a palpable level of fear and self-censorship when talking to detainees.

The criminal justice system and its strong focus on admission of culpability, confessions and re-education is particularly disturbing in relation to political crimes and the administrative detention system of "Re-education through Labour". The combination of deprivation of liberty as a sanction for the peaceful exercise of freedom of expression, assembly and religion, with measures of re-education through coercion, humiliation and punishment aimed at admission of guilt and altering the personality of detainees up to the point of breaking their will, constitutes a form of inhuman or degrading treatment or punishment, which is incompatible with the core values of any democratic society based upon a culture of human rights.

**Annex**

**REPORT OF THE SPECIAL RAPPORTEUR ON TORTURE AND OTHER  
CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT,  
MANFRED NOWAK, ON HIS MISSION TO CHINA  
(20 November to 2 December 2005)**

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### **Abbreviations and acronyms**

|       |  |
|-------|--|
| CAT   | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| CDP   | Chinese Democratic Party   |
| CL    | the Criminal Law   |
| CPL   | the Criminal Procedure Law   |
| ICCPR | International Covenant on Civil and Political Rights                                     |
| MPS   | Ministry of Public Security  |
| NPC   | National People's Congress   |
| OPCAT | Optional Protocol to the Convention against Torture                                      |
| PSB   | Public Security Bureau   |
| RTL   | Re-education through Labour  |
| SPC   | Supreme People's Court   |
| SPP   | Supreme People's Procuratorate   |
| TAR   | Tibet Autonomous Region  |
| TOR   | terms of reference   |
| XUAR  | Xinjiang Uighur Autonomous Region  |

## Introduction

1. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, undertook a mission to China from 20 November to 2 December 2005, at the invitation of the Government. The mission to China, which included visits to Beijing; Lhasa, Tibet Autonomous Region (TAR); and Urumqi, Xinjiang Uighur Autonomous Region (XUAR), materialized nearly 10 years after the initial request for a visit from the Special Rapporteur.<sup>1</sup> Over the course of the visit, he examined the legal framework and governmental activities relating to the prohibition of torture and other forms of ill-treatment. He also examined the response of the Government to allegations of violations, particularly in relation to inquiry, impunity and prevention. The Special Rapporteur has based his findings on the situation of torture and ill-treatment in China on written information from and interviews with a wide array of sources, including Government officials, non-governmental organizations, lawyers, victims themselves, and witnesses, as well as from on-site inspections of detention facilities.
2. The main purposes of the visit were to assess the prevailing situation of torture and other cruel, inhuman or degrading treatment or punishment, to promote preventive mechanisms to eradicate torture and ill-treatment, and to begin a process of cooperation with the Government.
3. While visits were also planned for Jinan in Shandong Province and Yining in the XUAR, the Special Rapporteur sincerely regrets that he had to cancel these visits owing to time constraints, and expresses his gratitude to the Ministry of Foreign Affairs and the respective leaderships of Shandong Province and Yining Autonomous Prefecture for accommodating these last-minute changes to the programme.
4. While in Beijing, the Special Rapporteur met with officials of the Government, including Assistant Foreign Minister Shen Guofang; Vice-Minister of Justice Fan Fangping; Vice-Minister of Public Security Meng Hongwei; and Deputy Procurator-General Wang Zhenchuan. In Lhasa and Urumqi, the Special Rapporteur met with the Vice-Chairman of the Tibet Autonomous Region, Nima Cering, the Vice-Chairman of Xinjiang Uighur Autonomous Region, Jiapar Abibula, and with local officials, including from the Office of Foreign Affairs, the People's Court, the Procuratorate, and the Departments of Justice and Public Security.
5. In Beijing, the Special Rapporteur visited No. 2 Municipal Detention Centre, Prison No. 2 (twice) and the Municipal Women's Re-education through Labour (RTL) Facility. In Lhasa he visited Lhasa Prison, Tibet Autonomous Region Prison (also known as Drapchi Prison), and the recently opened Qushui Prison. In Urumqi, he visited Prisons No. 1, No. 3, and No. 4, as well as the Liu Dao Wan Detention Centre. In all facilities, the Special Rapporteur met with prison management and interviewed detainees in private.
6. The Special Rapporteur also met with prominent members of civil society, including the All China Lawyers' Association, the Beijing Lawyers' Association, China University for Political Science and Law, Renmin University, Tsinghua University, Beijing University, the Chinese Academy of Social Sciences and the Beijing Child Legal and Research Centre. Meetings were also held with individual lawyers, human rights defenders, academics, and members of the diplomatic corps and United Nations Country Team.

7. A preliminary version of this report was sent on 3 January 2006 to the Government for comments. On 25 January 2006 the Government provided detailed comments on the preliminary report, which have been carefully studied and taken into account.

8. The Special Rapporteur extends his appreciation for the support provided to him by the United Nations Resident Coordinator, Mr. K. Malik; the Office of the High Commissioner for Human Rights; and Ms. N. Hughes and Ms. E. McArthur, of the Ludwig Boltzmann Institute of Human Rights.

## **I. PARTICULAR CIRCUMSTANCES OF FACT-FINDING**

9. The Special Rapporteur wishes to express his deep appreciation to the Government, and in particular the Ministry of Foreign Affairs, for its professionalism, cooperation and shared commitment to the objectives of the mission. The Ministry of Foreign Affairs team, headed by Dr. Shen Yongxiang, accompanied the Special Rapporteur throughout the visit to official meetings and detention facilities. The Special Rapporteur credits the Ministry for its great efforts in ensuring that the mission proceeded as smoothly as possible and that his terms of reference (TOR) were in principle respected. All meetings with detainees were carried out in privacy and in locations designated by the Special Rapporteur. No request for a meeting or interviewing of a particular individual nor for a visit to any particular detention centre was refused. Prison staff were generally cooperative and helped the Special Rapporteur meet with prisoners on his list, even those who had been transferred to different facilities.

10. The Special Rapporteur feels, however, compelled to point out that security and intelligence officials attempted to obstruct or restrict his attempts at fact-finding, particularly at the outset of the visit when his team was followed in their Beijing hotel and its vicinity. Furthermore, during the visit a number of alleged victims and family members, lawyers and human rights defenders were intimidated by security personnel, placed under police surveillance, instructed not to meet the Special Rapporteur, or were physically prevented from meeting with him.<sup>2</sup>

11. Prison officials restricted interviews to their own working hours, which limited the number of facilities visited and detainees interviewed. The Special Rapporteur and his team were also prevented from bringing photographic or electronic equipment into prisons. Furthermore, as the Special Rapporteur was unable to obtain a letter of authorization from the relevant authorities to visit detention centres alone (in contrast to his previous country visits), officials from the Ministry of Foreign Affairs accompanied him to detention centres to ensure unrestricted access. As the authorities were generally informed approximately an hour in advance, the visits could not be considered to have been strictly “unannounced”. Nonetheless, this practice significantly improves upon the modalities employed in previous visits to China of the special procedures of the Commission on Human Rights.

12. Under these conditions, and taking into account the size and complexity of China as well as the limited duration of the mission, the Special Rapporteur acknowledges the limitations in drawing up a comprehensive set of findings and conclusions on the situation of torture and ill-treatment in China. His conclusions therefore also draw upon interviews conducted before his visit, as well as on information received through the mandate’s individual communication procedures and from various non-governmental and other sources.



## II. LEGAL AND ORGANIZATIONAL FRAMEWORK

### International level

13. China is a party to five of the seven major international human rights treaties.<sup>3</sup> Of these, the following expressly prohibit torture and ill-treatment: the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Convention on the Rights of the Child (CRC). The competence of the Committee against Torture to receive individual complaints has not been recognized by China under article 22 of CAT. Further, China has declared that it does not consider itself bound by articles 20 and 30, paragraph 1, of CAT. China has signed and is preparing to ratify the International Covenant on Civil and Political Rights (ICCPR).

### National level

#### *Constitutional amendment on human rights*

14. On 14 March 2004, the National People's Congress (NPC) amended the Constitution to add the provision, "The State respects and safeguards human rights", providing for the first time in its history a constitutional protection of human rights.<sup>4</sup> The Special Rapporteur was informed that, as a consequence of this decision, the Criminal Law (CL), the Criminal Procedure Law (CPL) and the framework governing administrative detention are under consideration by the NPC Standing Committee in order to bring them into line with the new provisions of the Constitution.<sup>5</sup>

#### *Definition and prohibition of torture*

15. While there is no explicit definition of torture in Chinese domestic legislation, basic elements of the definition of torture under CAT are reflected in several provisions of the Criminal Law<sup>6</sup> (CL) which prohibit: extortion of a confession under torture by a judicial officer (*xingxun bigong*) (art. 247); extraction of testimony by the use of force by a judicial officer (*baoli quzheng*) (art. 247); physical abuse of inmates as well as instigation of detainee-on-detainee violence by a policeman or other officer of an institution of confinement like a prison, a detention house or a custody house (art. 248). The CL also lists several other offences related to the prohibition of torture and other forms of ill-treatment.<sup>7</sup>

16. However, Chinese legislation does not fully reflect all aspects of the definition of torture as outlined in article 1 of CAT and as required by its article 4. Article 94 of the revised CL defines "judicial officers" as "persons who exercise the functions of investigation, prosecution, adjudication and supervision or control" leaving room for uncertainty as to whether those hired temporarily, or seconded from non-judicial departments to assist in criminal investigations can be prosecuted for these offences.<sup>8</sup> In addition, the Supreme People's Procuratorate (SPP), which directly handles all investigations of torture, further restricted the application of article 247 of the CL to: cruel methods or evil impact; resulting in suicide or mental disorder; causing unjust, false or erroneous cases; coercing confessions/extorting testimony by violence more than three times or against more than three people; or instigating, instructing or forcing others to coerce

confessions/extract testimony by violence.<sup>9</sup> In the same decision, the SPP held that prosecution under article 248 was limited to causing injury (*qingshang*) to the detained person; instigating the suicide of the detained person or mental disorder or other serious consequences; beating or corporally punishing and maltreating more than three times or more than three detainees; using cruel methods (*canren shouduan*), having an evil impact; or instigating detainees to beat, corporally punish or maltreat other detainees involving the above.<sup>10</sup>

17. The CL does not clearly reflect the following elements of torture as defined in article 1 of CAT: mental torture;<sup>11</sup> the involvement of a public official directly or at the instigation or consent or with the acquiescence of a public official or another person acting in an official capacity; and infliction of the act for a specific purpose, such as extracting a confession, obtaining information, punishment, intimidation, discrimination.

#### *Penalization of acts of torture and other forms of ill-treatment*

18. The penalization of acts of torture is stipulated in articles 247 and 248 of the CL.<sup>12</sup> Other regulations complement the CL,<sup>13</sup> including the Regulations on the Use of Police Instruments and Weapons by the People's Police.<sup>14</sup> The Supreme People's Court (SPC) has also issued Measures concerning the Punishment of Judicial Personnel of the People's Court Who Break the Law during Trials, and a set of Disciplinary Measures Concerning Judicial Personnel of the People's Court.<sup>15</sup> The Rules on the Handling of Criminal Cases by Public Security Authorities<sup>16</sup> aim at ensuring a correct implementation of the Criminal Procedure Law and contain a number of safeguards for detainees.

19. However, the Public Security Organs Regulations on Pursuing Responsibility for Policemen's Errors in Implementing the Law and other regulations stipulate that "responsibility for 'errors', including forcing confessions (*bigong*) or testimony, will not be pursued where the law is unclear or judicial interpretations inconsistent; where the errors are made as a result of unforeseen or irresistible reasons; where the policeman was carrying out an order from a superior; or where the policeman was handling a case according to regulations on cooperation with other units".

#### *Safeguards during arrest and pretrial detention*

20. The Criminal Procedure Law (CPL) was revised in 1996<sup>17</sup> with a view to, inter alia, strengthening guarantees against torture and was supplemented in 1998 by a document on the comprehensive interpretation of certain sensitive and controversial issues.<sup>18</sup>

#### *Notification of custody*

21. Articles 64 and 71 of the CPL stipulate that, in case of detention or arrest, the detained or arrested person's family or work unit must be informed of the reason for the detention or arrest and the whereabouts within 24 hours. However, this safeguard may be limited in cases of possible impediment to investigation or impossibility to notify. Rule 108 of the Rules on the Handling of Criminal Cases by Public Security Authorities also stipulates that detention notification may be withheld in certain cases.<sup>19</sup>

***Right to be informed of the reasons for the arrest and on the rights entitled to while in custody***

22. Rule 36 of the Rules on the Handling of Criminal Cases by Public Security Authorities stipulates that, from the day a criminal suspect is first interrogated or subject to compulsory measures by a public security authority, he/she must be informed on record of his/her rights to engage a lawyer.

***Access to legal representatives***

23. Article 96 of the CPL provides that access by a lawyer is possible following the first interrogation, but not immediate access to the public security case file.<sup>20</sup> The role of the lawyers in criminal cases is also codified in the Lawyers Law.<sup>21</sup> Rule 11 of the Rules concerning Several Issues Encountered in the Implementation of the CPL<sup>22</sup> provides that a visit with a suspect requested by a lawyer must be arranged within 48 hours. However, in the case of detainees suspected of being organizers, leaders or members of a criminal ring, terrorist movements or smuggling, drug-dealing or embezzlement conspiracy involving more than two accomplices, a visit request by his lawyer must be arranged within five days.<sup>23</sup>

24. Although access to a lawyer is guaranteed by Chinese legislation, this safeguard is seriously limited in practice and particularly in cases where a State secret is involved, as lawyers must obtain approval of the investigating organ pursuant to article 96 of CPL. Neither the CPL nor other regulations provide a clear-cut definition of this concept. Article 8 (6) of the Law on Preservation of State Secrets also stipulates that details of the investigation of crimes are to be protected as “State secrets”. The Rules on State Secrets and Detailed Classification Levels for Issues in Public Security Work<sup>24</sup> also state that all details of criminal cases under investigation should be considered “State secrets”. As no law provides a clear definition of “State secrets”, the Special Rapporteur is particularly concerned about the restriction on the right to defence imposed by regulations issued by public security departments, prison administrations or prosecutors when a case involves national security or State secrets, following on the concern expressed by the Working Group on Arbitrary Detention after its 2004 visit.<sup>25</sup>

25. In addition to the requirement to obtain permission, lawyers and defendants face another series of obstacles triggered either by rules and regulations issued by public security departments and prosecutors which impose further restrictions on the access to lawyers, or by individual crime investigators who can independently prevent lawyers from meeting with their clients. Several defence lawyers, as well as leading legal academics interviewed by the Special Rapporteur, claimed that meetings between lawyers and detainees were closely supervised by the authorities and were often subjected to strict time limits, that lawyers could hardly obtain the necessary information from the prosecution, that lawyers who have too vigorously defended their clients can be detained and convicted of various crimes. Indeed, under article 306 of the CL, lawyers can be sentenced to up to seven years’ imprisonment for destroying or fabricating evidence, forcing or inciting a witness to change his or her testimony or committing perjury. Article 38 adds to this provision by making “interfering with the proceedings before judicial organs” an offence. This “sword of Damocles”, as it is known, can be invoked to harass, intimidate and sanction lawyers. Under it, any lawyer who counsels a client to repudiate a forced confession, for example, could risk prosecution. Finally, witnesses rarely appear in court,

and the prosecution generally reads out their statements, depriving the accused of the opportunity to cross-examine them, as per the 1996 CPL revision.<sup>26</sup> Rules of evidence are rudimentary, and illegally obtained evidence is often admitted in practice.<sup>27</sup>

### ***Access to medical examination and care***

26. While Chinese law and prison and detention centre regulations cover medical attention for detainees quite comprehensively, none of the provisions establish prisoners' rights to independent medical examinations.

### ***Right to habeas corpus***

27. Domestic legislation does not provide for any process similar to the system of habeas corpus or any other legal recourse for imprisoned persons to challenge decisions on pretrial detention before a court. At the most, suspects, defendants, lawyers and relatives may request the release of suspects or defendants upon finding that their detention has exceeded time limits (article 75 of the CPL).

### ***Length of detention without charge***

28. There are three types of custodial pretrial detention and two types of non-custodial pretrial restriction.

29. Custodial detention includes coercive summons (*juchuan*), a measure by which public security departments, prosecutors and courts may forcibly take in a suspect for questioning for a period of up to 12 hours.<sup>28</sup> Another form of custodial detention is criminal detention (*juliu*),<sup>29</sup> and the third is arrest (*daibu*).<sup>30</sup>

30. Other forms of pretrial restriction without charge or judicial review include supervised residence (*jianshi juzhu*), and taking a guarantee and awaiting trial (*qubao houshen*). Pursuant to article 57 of the CPL, those subjected to supervised residence are forbidden to leave their home or their designated place of residence or meet other persons without permission. Interpretations of the CPL have extended the period of supervised residence to up to three years.

### ***Length of detention for investigation after charge***

31. According to the CPL, once the procuratorate has approved a formal arrest, a suspect may be held for up to a total of seven months in investigative detention<sup>31</sup> or, in the exceptional case of the discovery of "new crimes", indefinitely.<sup>32</sup> In addition, the suspect could be held in detention for a total of an additional six and a half months after the initial post-arrest investigative detention period has ended and before an indictment is issued in the case where the procuratorate requests supplementary investigations to be carried out.<sup>33</sup>

32. The Special Rapporteur has been informed by China that the public security, procuratorial, and court departments place a high level of importance on and have taken strong measures to rectify and prevent the problem of extended custody in China.<sup>34</sup>

### *Re-education through Labour*

33. Re-education through Labour (RTL) is one type of administrative detention.<sup>35</sup> There is no law underpinning the system of RTL; rather, the regulatory framework is comprised of a patchwork of administrative regulations<sup>36</sup> contrary to the 2000 Legislation Law, which states that only the National People's Congress, and in some cases its Standing Committee, can pass legislation on matters relating to the deprivation of liberty of Chinese citizens.<sup>37</sup> According to article 10 of the 1982 Regulations, six categories of petty offenders are identified as not deserving criminal sanctions: counter-revolutionaries or elements who oppose the Communist Party or socialism; those who commit minor offences relating to group crimes of murder, robbery, rape or arson; those who commit minor offences such as hooliganism, prostitution, theft, or fraud; those who gather together to fight, disturb social order, or instigate turmoil; those who have a job but repeatedly refuse to work, and disrupt labour discipline, complain endlessly, as well as disrupt the production order, work order, school and research institute order and people's normal life; and those who instigate others to commit crimes. Terms for RTL are fixed at between one and three years with the possibility of an extension of one year.<sup>38</sup> Decisions on RTL are supposed to be taken by an Administrative Committee comprised of officials from the bureaux of civil affairs, public security and labour. In practice, however, public security officials dominate the decision-making process.<sup>39</sup>

### *Political crimes*

34. While the crimes of "counter-revolution" and "hooliganism" were removed from China's CL in 1997, they were replaced with equally vague crimes such as "endangering national security" which is applied to a broad range of offences (arts. 102-123),<sup>40</sup> "splitting the State or undermining the unity of the country" (art. 103), "armed rebellion or armed riot" (art. 104), "subverting the State power or overthrowing the socialist system" (art. 105), "espionage" (art. 110) and "stealing, spying, buying or unlawfully supplying State secrets or intelligence to individuals outside the territory of China" (art. 111). The vague definition of these crimes leaves their application open to abuse particularly of the rights to freedom of religion, speech, and assembly.<sup>41</sup>

35. In the report of its 2004 visit to China, the Working Group on Arbitrary Detention expressed concern regarding definitions in criminal law legislation having such vague, imprecise or sweeping elements like "disrupting social order", "endangering national security", "violating the unity and integrity of the State", "subverting public order", "affecting national security" and the like. The Working Group recommended that these crimes be defined in precise terms and an exception be introduced into the CL to the effect that the peaceful activity in the exercise of the fundamental rights guaranteed by the Universal Declaration of Human Rights not be considered criminal.<sup>42</sup> To date, this recommendation has not been implemented.

### *Complaints and investigation*

36. Legal provisions dealing with the right of detainees to make a complaint include: article 41 (2) of the Chinese Constitution which states: "In case of complaints, charges, or exposures made by citizens, the State organ concerned must deal with them in a responsible

manner after ascertaining the facts. No one may suppress such complaints, charges and exposures, or retaliate against the citizens making them”; article 22 of the Prison Law;<sup>43</sup> article 46 of the Regulations on Detention;<sup>44</sup> article 153 of the Regulations on the Procedures of Public Security Organs in Handling Criminal Cases;<sup>45</sup> and article 254 of the CL.<sup>46</sup> According to article 18 of the CPL, the SPP is the mechanism responsible for investigating and prosecuting crimes committed by State functionaries (see article 18 of the CPL).<sup>47</sup>

#### *Use of confessions and statements extracted through torture*

37. Article 43 of the CPL stipulates that “it shall be strictly forbidden to extort confessions by torture and to collect evidence by threat, enticement, deceit or other unlawful means”. However, the CPL does not explicitly prohibit the use of confessions extracted through torture as evidence before the courts as required by article 15 of CAT. In the Decision on Specific Issues in the Implementation of the CPL of 8 September 1998, the SPC held that confessions under torture could not become the basis for determining a case (*buneng zuowei ding'an de genju*). In the Rules on implementing the CPL, of 18 January 1999, the Supreme People's Court held: “Criminal suspects' confessions, victims' statements, and witness testimonies collected through torture to extract a confession (*xingxun bigong*), or threats, enticement, cheating and other illegal methods cannot become the basis for a criminal charge (*buneng zuowei zhikong fanzui de genzhu*)”. Therefore, while such confessions shall not form the basis for charges and convictions, the SPC decision does not exclude their admissibility in judicial proceedings. Further, the SPC Rules are only binding for judicial organs and do not apply to administrative organs.

#### *Compensation*

38. Article 41 of the Chinese Constitution provides that citizens who have suffered losses through infringement of their civil rights by any State organ or functionary have the right to compensation in accordance with the law. The right to compensation is further developed in articles 3 and 15 of the Law on State Compensation.<sup>48</sup>

39. However, article 17.1 of the Law on State Compensation stipulates that those detained or sentenced to criminal punishment who “intentionally fabricate confessions or falsify other evidence of guilt” will not be granted compensation by the State.

### **III. THE SITUATION OF TORTURE AND ILL-TREATMENT**

#### **Analysis of communications of the Special Rapporteur**

40. The Special Rapporteur recalls that over the last several years his predecessors have received a number of serious allegations related to torture and other forms of ill-treatment in China, which have been submitted to the Government for its comments. He cautions that such information does not necessarily illustrate the state of torture and ill-treatment in a given country, but rather reflects the state of information brought to the attention of the Special Rapporteur. Nevertheless, over a period of time, the number and consistency of the allegations received may be informative.

41. Since 2000, the Special Rapporteur and his predecessors have reported 314 cases of alleged torture to the Government of China. These cases represent well over 1,160 individuals.<sup>49</sup> Over the past five years, the Special Rapporteur has received 52 responses from the Government of China relating to a total of 90 cases.<sup>50</sup>

42. The following table indicates the typology of the victims of alleged torture and ill-treatment.

**Table 1**  
**Victims of alleged torture**

| Victims  | Percentage |
|--|------------|
| Falun Gong practitioners   | 66         |
| Uighurs  | 11         |
| Sex workers  | 8          |
| Tibetans   | 6          |
| Human rights defenders   | 5          |
| Political dissidents   | 2          |
| Other (persons infected with HIV/AIDS and members of religious groups) | 2          |

43. The following table indicates the locations where alleged torture and ill-treatment took place.

**Table 2**  
**Locations of alleged torture**

| Places   | Percentage |
|--|------------|
| Pretrial detention centres   | 27         |
| Re-education through labour (RTL) camps  | 25         |
| Police stations  | 17         |
| Psychiatric hospitals ( <i>ankang</i> )  | 8          |
| Public places  | 5          |
| Other (police transit, birth control offices, army barracks, private residences) | 18         |

44. The following table indicates the typology of the alleged perpetrators.

**Table 3**  
**Typology of alleged perpetrators**

| Perpetrators  | Percentage |
|---|------------|
| Police and other public security officers                                       | 47         |
| RTL staff   | 21         |
| Prison staff  | 13         |
| Pretrial detention centre staff   | 7          |
| Psychiatric hospital ( <i>ankang</i> ) staff                                    | 7          |
| Fellow prisoners at the instigation or acquiescence of detention facility staff | 5          |

45. The methods of torture alleged include, among others: beatings with sticks and batons; use of electric shock batons; cigarette burns; hooding/blindfolding; guard-instructed or permitted beatings by fellow prisoners; use of handcuffs or ankle fetters for extended periods (including in solitary confinement or secure holding areas); submersion in pits of water or sewage; exposure to conditions of extreme heat or cold; being forced to maintain uncomfortable positions, such as sitting, squatting, lying down, or standing for long periods of time, sometimes with objects held under arms; deprivation of sleep, food or water; prolonged solitary confinement; denial of medical treatment and medication; hard labour; and suspension from overhead fixtures with handcuffs. In several cases, the techniques employed have been given particular terminologies, such as the “tiger bench”, where one is forced to sit motionless on a tiny stool a few centimetres off the ground; “reversing an airplane”, where one is forced to bend over while holding legs straight, feet close together and arms lifted high; or “exhausting an eagle”, where one is forced to stand on a tall stool and subjected to beatings until exhaustion. Several of these forms of torture have been corroborated by studies carried out by Chinese academics.<sup>51</sup> On the basis of the information he received during his mission, the Special Rapporteur confirms that many of these methods of torture have been used in China.

### **Efforts to combat torture**

46. In recent years, the issue of torture has become a subject of public concern and debate within China, particularly after several prominent wrongful-conviction cases came to light in 2005.<sup>52</sup> The growing willingness of officials and scholars to acknowledge China’s torture problem is a significant step forward. Chinese scholars and journalists are increasingly publishing detailed critiques on the practice of torture in China and related problems in the criminal justice system, including weak investigations, lack of professionalism in the police, and confessions extorted by torture.<sup>53</sup> Chinese officials and analysts have characterized the torture problem as “widespread” in basic level organs; “deeply entrenched”, a “stubborn illness”, and a “malignant tumour” that “is difficult to stop” in practice, with forced confessions characterized as “common in many places in China because the police are often under great pressure from above to solve criminal cases”.<sup>54</sup>

47. The Government’s willingness to acknowledge the pervasiveness of torture was confirmed when the Supreme People’s Procuratorate published *The Crime of Tortured Confession (Xingxun Bigong Zui)* in late 1997, including China’s first public official statistics on criminal cases of tortured confession - reporting an average of 364 cases per year between 1979 and 1989, upward of 400 cases per year for most years in the 1990s, and the admission that 241 persons had been tortured to death over the two-year period 1993-1994.<sup>55</sup>

48. Following on from its recognition of the problem, the Government has undertaken a number of measures to tackle torture, in particular the SPC, the SPP and the Ministry of Public Security (MPS). In August 2003, the Minister of Public Security, Zhou Yongkang, issued a set of unified regulations on the standardization of law enforcement procedures for public security institutions entitled “Regulations on the Procedures for Handling Administrative Cases”, including procedures defining police powers in respect of time limits for confiscation of property, legal means for gathering evidence, time limits on investigation and examination of suspects, etc. In 2004, the Ministry issued regulations prohibiting the use of torture and threats to gain confessions and initiated a nationwide campaign to improve policemen’s criminal investigation capacity. In the same year, the SPP launched a nationwide campaign to crack



down on officials who abuse their powers. The SPP announced in 2005 that eliminating interrogation through torture was a priority of its work agenda and has instructed procurators that confessions obtained as a result of torture cannot form a basis for the formal approval of arrests and that prosecutors must work to eliminate illegally obtained evidence.<sup>56</sup>

49. In addition to initiatives at the central level, several promising initiatives have been taken in several parts of the country. The Zhejiang provincial Public Security Department issued regulations on forced confessions stating that local police chiefs will be expected to resign in any district where there are more than two cases of forced confessions resulting in injuries, miscarriages of justice or public order problems. In mid-April 2005, Sichuan law enforcement and judicial authorities issued a joint opinion prohibiting the use of illegally obtained evidence, and requiring courts to exclude coerced statements and confessions if police cannot provide a rational explanation of the alleged coercion or refuse to investigate allegations of abuse. Following the Special Rapporteur's December 2005 visit, he learned that the Hebei provincial procuratorate, high court, and public security bureau issued a joint opinion prohibiting the use of torture to obtain evidence against a criminal suspect.<sup>57</sup> As well, the Hubei provincial procuratorate, high court, justice department, public security bureau and State security bureau together issued regulations on criminal evidence, including the prohibition of the use of testimonies acquired through torture.

50. Practical measures to combat torture have included piloting systems of audio and video recording in interrogation rooms,<sup>58</sup> strengthening representation during the investigative and pretrial phase of the criminal process by placing lawyers on a 24-hour basis in pilot police stations, designing interrogation rooms which separate suspects from interrogators, and placing resident procurators in places of detention and near public security bureaux to supervise law enforcement personnel.

51. The Special Rapporteur also observes positive developments at the legislative level, including the planned reform of several laws relevant to the criminal procedure, which he hopes will bring Chinese legislation into greater conformity with international norms, particularly the fair trial standards contained in the International Covenant on Civil and Political Rights (ICCPR) which China signed in 1998 and is preparing to ratify. He also welcomes the resumption by the Supreme People's Court (SPC) of its authority to review all death penalty cases,<sup>59</sup> particularly given the fact that the quality of the judiciary increases as one ascends the hierarchy. The Special Rapporteur suggests that China might use the opportunity of this important event to increase transparency regarding the number of death sentences in the country, as well as to consider legislation that would allow direct petitioning to the SPC in cases where individuals do not feel that they were provided with adequate relief by lower courts in cases involving the use of torture, access to counsel, etc.

### **Effectiveness of efforts to combat torture**

52. The Special Rapporteur notes that China was among the first States to ratify the Convention against Torture (CAT) in 1988, which requires States parties to take measures for the prevention of torture and to punish every act of torture with appropriately serious penalties. Although Chinese law prohibits gathering evidence through torture and provides for punishment of those guilty of torture, the Chinese definition of torture does not fully correspond to the international standard contained in article 1 of CAT. In particular, physical or psychological

torture that leaves no physical trace is difficult if not impossible to punish with appropriate penalties in China (indeed, the Chinese word for torture, *kuxing*, principally connotes physical torture).

53. Although the central Government has made significant efforts to reduce the practice of torture (as noted above), the effectiveness of these efforts is significantly hampered by the degree of localism inherent in policing and criminal procedure at the grass-roots level, which impedes the effective implementation of central regulations, guidance, training, prohibitions, etc.<sup>60</sup> Although the Ministry of Public Security formally exercises leadership over nationwide public security work, local Party Committees enjoy substantial authority to interpret and implement policy in their regions including by exercising leadership over respective Public Security Bureaux (PSBs). This results in localized and semi-autonomous police forces shaped by local power balances and economic resources, with accountability to local political leaders. This situation is aggravated by problems of underfunding and poor remuneration for police, particularly in the more economically disadvantaged western provinces.<sup>61</sup>

54. Combating torture in China is further impeded by the absence of essential procedural safeguards necessary to make its prohibition effective, including: the effective exclusion of evidence from statements established to be made as a result of torture; the presumption of innocence;<sup>62</sup> the privilege against self-incrimination; the right to remain silent;<sup>63</sup> timely notice of reasons for detention or arrest; prompt external review of detention or arrest; granting of non-custodial measures, such as bail; the right of habeas corpus; timely access to counsel; and adequate time and facilities to prepare a defence.

55. The presence of a lawyer is not only a right guaranteed under international human rights law but also an important means to prevent the use of torture. Not only do lawyers ensure supervision of investigators' behaviour during interrogation, but they facilitate prosecution of investigators who have utilized torture. They also enable witnesses to provide evidence to court that statements were acquired through illegal means. Yet in China, most suspects are interrogated without lawyers.<sup>64</sup>

56. Other serious shortcomings are the lack of an independent monitoring mechanism of all places of detention and a functional complaints mechanism. While there is no shortage of internal oversight mechanisms in China's law enforcement system, it must be noted that these are not independent, nor are they publicly perceived as independent. These include the Communist Party Committee that, along with Government's political and personnel departments, oversees hiring, firing, review and promotion in every Public Security Bureau department; the public security branches of the Party's Discipline Inspection Committee and the Government's Ministry of Supervision; the "Masses Letters and Visits Office" that accept and investigate citizens' complaints within each Public Security Bureau department; and the Procurators. In addition to their lack of independence, these mechanisms are largely ineffective due to the fact that the pressure to crack cases is larger than the incentive to address abuses.<sup>65</sup> Yet priority seems to still be placed on developing systems for internal investigation as opposed to independent monitoring. Complex systems for "allocating responsibility" have been publicized in the police, procuratorate and courts in recent years. It is still unclear what impact these will have in practice, particularly as they will be unlikely to exercise genuine independence from Government institutions and authorities.

57. While procurators, some of whom are resident in prisons and near police stations, are mandated to monitor police, the procuratorate's dual functions of prosecution and police oversight means that it is unlikely to proactively uncover police malpractice, especially if such actions are seen as undermining the police's ability to perform in their joint endeavour to crack down on growing crime. In other words, it is difficult to rely on the vigilance of procurators whose interest in convicting suspects as charged might compromise their ability to oversee the police and prison guards. In addition, procurators encounter substantial difficulties in practice to exercise their supervisory role, including because detainees are afraid to report instances of torture to them. The inefficiency of current complaint and oversight mechanisms is clear from the paucity of complaints and prosecutions in a country the size of China.<sup>66</sup>

58. International practice has shown that the most effective way to fight torture is through self-generating and/or self-sustaining social and political institutions including: a free and investigatory press, citizen-based human rights monitoring organizations, independent, fair and accessible courts and prosecutors, and the accountability that comes through regular elections. Judicial oversight is particularly important. Without a court system that judges cases fairly and independently according to law, thereby redressing grievances in a timely manner, the problem of torture cannot be brought under effective control, particularly in a context where police exercise wide discretion in matters of arrest and detention and are under great pressure to solve cases.

59. The Special Rapporteur is of the opinion that the establishment of a system of preventive visits to all places of detention as envisaged by the Optional Protocol to the Convention against Torture (OPCAT) would greatly enhance efforts to prevent torture or ill-treatment from occurring within places of detention. In this regard, the Special Rapporteur urges China to ratify the Optional Protocol and to establish a truly independent monitoring mechanism, where the members of the visiting commissions would be appointed for a fixed period and not subject to dismissal, to visit all places where persons are deprived of their liberty throughout the country.

#### **IV. DEPRIVATION OF LIBERTY FOR POLITICAL CRIMES AND FORCED RE-EDUCATION AS A FORM OF INHUMAN OR DEGRADING TREATMENT**

60. The criminal justice system and its strong focus on admission of culpability, confessions and re-education is particularly disturbing in relation to political crimes. Although many such crimes, such as "organizing a counter-revolutionary group" and "counter-revolutionary propaganda and incitement" were abolished in 1997, members of the "democracy movement" and political dissidents who were sentenced before 1997 for these crimes are still serving long prison sentences today.<sup>67</sup> The Special Rapporteur welcomes the decision of the Government of China to grant prisoners convicted of these crimes the same access to sentence reduction and parole as other prisoners, and notes the relatively large number of sentence reductions and early releases granted to such prisoners. However, prisoners are still serving sentences for counter-revolution, and several hundred more are serving sentences for "hooliganism". Most systems provide for the release of prisoners serving sentences for a crime that is removed from the criminal law. Article 15, paragraph 1, of ICCPR suggests that, at a minimum, reviews of the prisoners' sentences should be carried out. Release of all counter-revolutionaries and hooligans

imprisoned for non-violent related offences (e.g. leading a counter-revolutionary group, engaging in counter-revolutionary propaganda and incitement) would be a milestone in China's effort to ratify the ICCPR.

61. After the 1997 changes, political dissidents, journalists, writers, lawyers, human rights defenders, Falun Gong practitioners, and members of the Tibetan and Uighur ethnic, linguistic and religious minorities were often prosecuted as a result of having exercised their human rights to freedom of speech, assembly, association or religion. They are often sentenced to long prison terms for political crimes such as endangering national security through undermining the unity of the country, subversion or unlawfully supplying State secrets to individuals outside the country.<sup>68</sup> Although many of these prisoners deny having committed any wrongful act and, therefore, do not confess during trial (often despite undergoing torture), they sometimes change their mind after having been subjected to forced re-education while serving their prison sentences. If politically deviant and dissident behaviour is not subjected to criminal sanctions, the respective target groups, such as Falun Gong practitioners and human rights defenders, are often subjected to years of administrative detention, such as RTL, for having disturbed the social order or similar petty offences.

62. Many prisoners serving sentences for political crimes and detainees subjected to RTL who submitted complaints to the Special Rapporteur or whom he personally met in detention, claimed that the disproportionate, discriminatory and unjust deprivation of personal liberty (often for a very long period of time) together with the forced re-education system to which they were subjected caused more severe pain and suffering than the physical torture they might have endured during interrogation by the police. Indeed, some of these measures of re-education through coercion, humiliation and punishment aim at altering the personality of detainees up to the point of even breaking their will.

63. In response to the Special Rapporteur's characterization of forced re-education as a form of inhuman or degrading treatment, the Chinese authorities advanced several arguments in written comments of 25 January 2006 on the preliminary draft report, including that re-education is premised on helping detainees re-enter society and that since many detainees "are led to a life of crime because they love leisure and hate labour and resort to illegal means to gain others' property", prisons and re-education through labour facilities organize appropriate work "in order to cultivate abilities and habits of self-reliance and prevent problems such as poor mental health because they have nothing to do". Furthermore, the Special Rapporteur was informed that, in order to further enforce the law in a civilized manner, China's Ministry of Justice Prison Bureau has begun training psychotherapists in the prison system with national professional accreditation in order to prevent and eliminate torture of prison inmates. According to China, "at present nearly 90 per cent of China's prisons have begun this work and more than 1,000 prison system psychotherapists have already been trained".<sup>69</sup>

64. In the opinion of the Special Rapporteur, methods used in the system of RTL in China, and similar methods of re-education in prisons, pretrial detention centres, and other institutions often go beyond legitimate rehabilitation measures provided for in article 10 of the ICCPR. Indeed, some of these measures strike at the very core of the human right to personal integrity, dignity and humanity, as protected by articles 7 and 10 of the ICCPR, as well as articles 1 and 16

of the CAT. RTL constitutes not only a serious violation of the human right to personal liberty, but can also be considered as a form of inhuman and degrading treatment or punishment, if not mental torture. RTL and similar measures of forced re-education in prisons, pretrial detention centres, religious institutions and psychiatric hospitals should therefore be abolished.

65. The human rights to privacy, freedom of expression, religion, assembly and association lie at the very heart of a democratic society, which, according to its White Paper on Democracy, China has committed itself to achieve.<sup>70</sup> Under international human rights law, Governments can only interfere with the expression of political opinions, religious convictions, moral values or minority views when they constitute incitement to hatred or violence or a direct threat to national security or public safety in the country. A system of State surveillance of citizens with non-conformist views and with severe punishments for such “deviant behaviour”, such as long-term prison sentences for vaguely defined crimes, including endangering national security, undermining the unity of the country, subverting State power, or unlawfully supplying State secrets to individuals outside the territory, as well as subjecting them to RTL, seems to be incompatible with the core values of a society based upon a culture of human rights and leads to intimidation, submissiveness, self-censorship and a “culture of fear”, which in turn interferes with the right not to be subjected to inhuman and degrading treatment or punishment.

## **V. CONDITIONS IN DETENTION**

### **In general**

66. The Special Rapporteur visited a total of 10 detention facilities. As is the usual practice, during visits to places of detention, the Special Rapporteur held private interviews with detainees (summaries of which are included in appendix 2). However, he observed that a considerable number of detainees that were approached for interviews did not express a willingness to speak with the Special Rapporteur, and several of those who did requested absolute confidentiality. Consequently, the information contained in appendix 2 does not reflect the full situation, as a significant amount of the information on torture practices was received in confidence.

67. In general, the Special Rapporteur found that although the specific conditions of the facilities varied, in terms of basic conditions, such as food, medicine and hygiene, they were generally satisfactory (detailed findings on conditions in detention are listed for each facility visited in appendix 2). However, the Special Rapporteur noticed a palpable level of fear when talking to detainees. He also was struck by the strict level of discipline exerted on detainees in different facilities. Time and again, he entered cells and found all detainees sitting cross-legged on a mattress or in similar forced positions reading the CL or prison rules. According to information provided by detainees, such forced re-education, in particular in pretrial detention centres, goes on for most of the day. It is usually conducted on the order of one of the fellow detainees who is considered “chief” of the cell. There is very little privacy and opportunity for individual recreation, such as reading a book, etc. Even when serving long prison sentences, persons convicted of political offences usually have no right to work and very little time for recreation. They are not allowed to practise their religion (e.g. Buddhism in Tibet, Islam in Xinjiang).

### **Circumstances surrounding capital punishment**

68. The Special Rapporteur is also concerned about the circumstances surrounding the death penalty, including the situation of prisoners on death row. At the Beijing Municipality Detention Centre, where the Special Rapporteur spoke with prisoners sentenced to death at first instance awaiting appeal, he noted that these prisoners were handcuffed and shackled with leg irons weighing approximately 3 kg, 24 hours per day and in all circumstances (i.e. including during meals, visits to the toilet, etc).<sup>71</sup> In the opinion of the Special Rapporteur this practice is inhuman and degrading and serves only as an additional form of punishment of someone already subjected to the stress and grief associated with having been sentenced to death.

69. The Special Rapporteur wishes to express concern at the high number of crimes for which the death penalty can be applied, and the lack of official statistics on the application of the death penalty, which contributes to the perception of secrecy.<sup>72</sup> He encourages the Government to both narrow its scope and to be more transparent towards family members and the public at large regarding its use, including by making statistics on the death penalty public information. The Special Rapporteur notes allegations that some provincial authorities are introducing mobile execution vans (converted 24-seater buses) manufactured by a State-owned company.<sup>73</sup> These mobile execution vans were reportedly approved by Yunnan Provincial authorities on 6 March 2003, and 18 such vans were distributed to all intermediate courts and one high court in Yunnan Province in 2003. In December 2003, the SPC in Beijing reportedly urged all provinces to acquire execution vans “that can put to death convicted criminals immediately after sentencing”.

70. The Special Rapporteur welcomes the anticipated recovery by the Supreme People’s Court of responsibility for final approval of the death penalty.<sup>74</sup>

## **VI. CONCLUSIONS AND RECOMMENDATIONS**

### **Conclusions**

71. The Special Rapporteur wishes to express his sincere gratitude to the Government of China for having invited him and for having facilitated his mission in general accordance with his terms of reference. He welcomes the Government’s willingness to acknowledge the pervasiveness of torture in the criminal justice system and various efforts undertaken in recent years at the central and the provincial level to combat torture and ill-treatment. In particular, he notes the 2004 regulations issued by the Ministry of Public Security prohibiting the use of torture and threats to gain confessions and the announcement by the Supreme People’s Procuratorate in 2005 that eliminating interrogation through torture was a priority of its work agenda. Recent efforts to eradicate torture include a nationwide campaign to clear up and rectify extended police custody, large-scale training of the police, piloting systems of audio and video recording in interrogation rooms, placing lawyers on a 24-hour basis in pilot police stations and establishing resident procurators in places of detention and near public security bureaux to supervise law enforcement personnel.

72. These and similar measures have contributed to a steady decline of torture practices over recent years. Nevertheless, on the basis of a considerable number of allegations that he and his predecessors received over the years, as well as other reliable governmental and

non-governmental information and his own fact-finding during the mission, the Special Rapporteur believes that torture, though on the decline particularly in urban areas, remains widespread in China.

73. Many factors contribute to the continuing practice of torture in China. They include rules of evidence that create incentives for interrogators to obtain confessions through torture, the excessive length of time that criminal suspects are held in police custody without judicial control, the absence of a legal culture based on the presumption of innocence (including the absence of an effective right to remain silent); and restricted rights and access of defence counsel.

74. The situation is aggravated by the lack of self-generating and/or self-sustaining social and political institutions including: a free and investigatory press, citizen-based independent human rights monitoring organizations, and independent, fair and accessible courts and prosecutors.

75. Judicial oversight is particularly important. One of the largest overall obstacles to eliminating torture in China is the institutional weakness and lack of independence of the judiciary, particularly in a context where police exercise wide discretion in matters of arrest and detention and are under great pressure to solve cases. Nor do there seem to currently be any truly independent monitoring mechanisms of places of detention or complaints mechanisms in China. The procuratorate is not perceived as an independent monitoring organ given its role in convicting suspects. Nor does the procuratorate have the requisite independence to meet the international criteria of a judicial officer authorized by law to exercise judicial power to take decisions on arrest.

76. At the provincial and municipal levels, the efforts of the central Government to reduce the practice of torture are significantly hampered by the degree of “localism” inherent in policing and criminal procedure, impeding the effective implementation of central regulations, guidance, training, prohibitions, etc. Such localism also impedes effective accountability and oversight.

77. The basic conditions in the detention facilities visited by the Special Rapporteur including food, medical care and hygienic conditions, seem to be generally satisfactory. But the Special Rapporteur was struck by the strictness of prison discipline and a palpable level of fear and self-censorship when talking to detainees. Detainees, particularly in pretrial detention facilities where they should enjoy the presumption of innocence, seem to spend many hours a day sitting in a fixed position and being forced to read to each other the Criminal Law or prison rules.

78. Even when serving long prison sentences, persons convicted of political crimes often have no right to work and very little time for recreation. They are usually not allowed to practise their religion. Convicted prisoners who have not confessed to their crimes are put under special education systems and are deprived of certain rights and privileges which converted prisoners enjoy, such as family visits, access to a telephone or the incentive of reduced sentences. Prisoners on death row are mixed with pretrial detainees and shackled with leg irons and sometimes also handcuffed for 24 hours a day. Such additional punishment is not compatible with the right to personal integrity, dignity and humanity.

79. The criminal justice system and its strong focus on admission of culpability, confessions and re-education is particularly disturbing in relation to political crimes, such as “counter-revolutionary crimes” before the 1997 CL reform, or crimes “endangering national security” thereafter. In addition, persons with politically deviant or dissident behaviour are often subjected to Re-education through Labour and other administrative detention for up to four years for having disturbed the social order.

80. Many prisoners serving sentences for political crimes and detainees subjected to RTL claimed that the disproportionate, discriminatory and unjust deprivation of liberty, together with the forced re-education, caused more severe pain or suffering than the physical torture during police interrogation.

81. In the opinion of the Special Rapporteur, the combination of deprivation of liberty as a sanction for the peaceful exercise of freedom of expression, assembly and religion, with measures of re-education through coercion, humiliation and punishment aimed at admission of culpability and altering the personality of detainees up to the point of even breaking their will, strike at the very core of the human right to personal integrity, dignity and humanity. It constitutes a form of inhuman and degrading treatment or punishment leading to submissiveness and a “culture of fear”, which is incompatible with the core values of any democratic society based upon a culture of human rights.

### **Recommendations**

82. **On the basis of his conclusions, the Special Rapporteur puts forward a number of recommendations and expresses his hope that the Government will take them into account in the context of ongoing reform efforts aimed at the eradication of torture and ill-treatment.**

#### **Investigation and prosecution of torture**

(a) **The crime of torture should be defined as a matter of priority in accordance with article 1 of the Convention against Torture, with penalties commensurate with the gravity of torture.**

(b) **All allegations of torture and ill-treatment should be promptly and thoroughly investigated by an independent authority with no connection to the authority investigating or prosecuting the case against the alleged victim.**

(c) **Any public official indicted for abuse or torture, including prosecutors and judges implicated in colluding in torture or ignoring evidence, should be immediately suspended from duty pending trial, and prosecuted.**

(d) **The declaration should be made with respect to article 22 of CAT recognizing the competence of the Committee against Torture to receive and consider communications from individuals who claim to be victims of a violation of the provisions of the Convention.**



**Prevention of torture and ill-treatment through safeguards in the criminal justice system**

(e) Those legally arrested should not be held in facilities under the control of their interrogators or investigators for more than the time required by law to obtain a judicial warrant of pretrial detention, which normally should not exceed a period of 48 hours. After this period they should be transferred to a pretrial facility under a different authority, where no further unsupervised contact with the interrogators or investigators is permitted.

(f) Recourse to pretrial detention in the Criminal Procedure Law should be restricted, particularly for non-violent, minor or less serious offences, and the application of non-custodial measures such as bail and recognizance be increased.

(g) All detainees should be effectively guaranteed the ability to challenge the lawfulness of the detention before an independent court, e.g. through habeas corpus proceedings.

(h) Confessions made without the presence of a lawyer and that are not confirmed before a judge should not be admissible as evidence. Video and audio taping of all persons present during proceedings in interrogation rooms should be expanded throughout the country.

(i) Judges and prosecutors should routinely inquire of persons brought from police custody how they have been treated and in any case of doubt (and even in the absence of a formal complaint from the defendant), order an independent medical examination.

(j) The reform of the CPL should conform to fair trial provisions, as guaranteed in article 14 of ICCPR, including the following: the right to remain silent and the privilege against self-incrimination; the effective exclusion of evidence extracted through torture; the presumption of innocence; timely notice of reasons for detention or arrest; prompt external review of detention or arrest; timely access to counsel; adequate time and facilities to prepare a defence; appearance and cross-examination of witnesses; and ensuring the independence and impartiality of the judiciary.

(k) The power to order or approve arrest and supervision of the police and detention facilities of the procurators should be transferred to independent courts.<sup>75</sup>

(l) Section 306 of the Criminal Law, according to which any lawyer who counsels a client to repudiate a forced confession, for example, could risk prosecution should be abolished.

**Other measures of prevention**

(m) The Optional Protocol to the Convention against Torture should be ratified, and a truly independent monitoring mechanism be established - where the members of the visiting commissions would be appointed for a fixed period and not subject to dismissal - to visit all places where persons are deprived of their liberty throughout the country.

(n) Systematic training programmes and awareness-raising campaigns should be carried out on the principles of the Convention against Torture for the public at large, public security personnel, legal professionals and the judiciary.

(o) Victims of torture and ill-treatment should receive substantial compensation proportionate to the gravity of the physical and mental harm suffered, and adequate medical treatment and rehabilitation.

#### **Circumstances surrounding capital punishment**

(p) Death row prisoners should not be subjected to additional punishment such as being handcuffed and shackled.

(q) The restoration of Supreme Court review for all death sentences should be utilized as an opportunity to publish national statistics on the application of the death penalty.

(r) The scope of the death penalty should be reduced, e.g. by abolishing it for economic and non-violent crimes.

#### **Deprivation of liberty for political crimes**

(s) Political crimes that leave large discretion to law enforcement and prosecution authorities such as “endangering national security”, “subverting State power”, “undermining the unity of the country”, “supplying of State secrets to individuals abroad”, etc. should be abolished.

(t) All persons who have been sentenced for the peaceful exercise of freedom of speech, assembly, association and religion, on the basis of vaguely defined political crimes, both before and after the 1997 reform of the CL, should be released.

#### **Forced re-education**

(u) “Re-education through Labour” and similar forms of forced re-education in prisons, pretrial detention centres and psychiatric hospitals should be abolished.

(v) Any decision regarding deprivation of liberty must be made by a judicial and not administrative organ.

#### **Follow-up**

(w) The Special Rapporteur recommends that the Government continue to cooperate with relevant international organizations, including the Office of the United Nations High Commissioner for Human Rights, for assistance in the follow-up to the above recommendations.

## Appendix 1

### Notes

<sup>1</sup> The visit of the Special Rapporteur on Torture to PRC has its origins in a 1995 request by the then Special Rapporteur, Sir Nigel Rodley, for an invitation to carry out a fact-finding mission. The Government responded in 1999 with an invitation for a “friendly visit” in May 2000, however, differences between the Government and the Special Rapporteur on the standard methodology for country visits by United Nations human rights experts (including unannounced visits to detention centres and private meetings with detainees) prevented it from being realized. In spring 2004, the Government extended an unconditional invitation to the then Special Rapporteur, Theo van Boven, for a two-week visit in June of that year, which was later postponed. Upon Manfred Nowak’s appointment as Special Rapporteur on Torture in December 2004, the Government renewed its invitation for a visit in 2005, accepting his Terms of Reference.

<sup>2</sup> For instance, see the cases of Gao Zhisheng, Mao Hengfeng, Liu Xinjian, Ma Yalian and Li Shan Na in Appendix 3.

<sup>3</sup> China is party to and has submitted reports under each of the following international human rights treaties: the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of all Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the Convention on the Rights of the Child (CRC). The Hong Kong and Macau Special Administrative Regions are also both bound by the International Covenant on Civil and Political Rights (CCPR), which the PRC signed in October 1998.

<sup>4</sup> According to the Working Group on Arbitrary Detention, “The Constitution has been complemented by a provision granting constitutional rank to the protection of human rights. On 14 March 2004, the NPC amended the constitution to add the provisions.” “The State respects and safeguards human rights,” providing for the first time in its history a constitutional protection of human rights” Report of the UN Working Group on Arbitrary Detention, Mission to China, E/CN.4/2005/6/Add.4, §19 (c). In written comments to the preliminary report of the Special Rapporteur the Chinese authorities, on 25 January 2006, stated the following “This is a step forward in giving the protection of human rights a prominent place in China’s legislation and national development strategy.”

<sup>5</sup> The following information was provided to the Special Rapporteur in written comments from the PRC on 25 January 2006: “In order to implement this constitutional principle, China has adopted a series of reform measures in the legislative area. At present, China’s legislative departments are in the process of accelerating reform of the criminal, civil, and administrative procedure laws in order to improve judicial redress measures, highlight the role of lawyers, and protect the rights of suspects. Since reform of the reeducation through labor system was formally included in the five-year legislative plan of the new National People’s Congress in 2003, China’s relevant departments have been carrying out their work according to schedule and at present work on the first draft of the new ‘Illegal Behavior Correction Law’ has been

completed. At the same time, China's legislative departments are accelerating revision of the 'Administrative Review Law' and 'National Compensation Law' in order to improve the administrative litigation procedure and compensation mechanisms. In August 2005, the National People's Congress passed the 'Public Security Administration Punishment Law', which will take effect in March 2006, in order to further establish standards for the fundamental behaviors that public security agencies should respect and for supervision of law enforcement and thereby further standardize the exercise of police powers. In October 2005, the Supreme People's Court issued its second five-year reform outline, explicitly restoring to the Supreme Court the power of review over the death penalty. From January 1, 2006, courts are required to hold hearings in death penalty cases of second instance where an appeal has been raised because of serious factual or evidentiary problems; in the second half of the year, all death penalty cases of second instance will be tried in a court hearing. The aforementioned legislative measures will without doubt provide more complete and stronger legal and judicial protections for China's [efforts to] prevent and combat torture and protect the rights of detainees."

<sup>6</sup> Criminal Law adopted at the Second Session of the Fifth NPC on 1 July, 1979 and Revised at the Fifth Session of the Eighth NPC on 14 March, 1997.

<sup>7</sup> These include: intentional homicide (article 232); negligent causing of death (article 233); intentional injury (article 234); negligent injury (article 235); acts against or insulting a woman by violence, coercion or any other forcible means (article 237); unlawful detention (article 238); public humiliation (article 246); maltreatment of a family member (article 260); obstruction of a witness or instigation to give false testimony by violence or threat (article 307); beating or subjecting another person held in custody to corporal punishment or instigating another person to do so (article 315(4)). These other offences relate to public officials and non-public persons as perpetrators. In non-criminal areas, China has passed and formulated relevant legal regulations to prevent torture. Art. 41 of the "Regulations on Public Security Administration" states: "Public security personnel carrying out these provisions...are prohibited from mistreating, abusing, or insulting persons who have violated public security administration. Violators are subject to administrative punishment; in cases that constitute criminal behaviour, criminal responsibility will be pursued." Art. 116 of the "Public Security Administration Punishment Law," which will go into effect on March 1, 2006 and replace the "Regulations on Public Security Administration," also has similar language. The "Provisional Methods on Reeducation Through Labor" and the "Code of Conduct for Police Officers Working in Reeducation Through Labor" also clearly prohibit torture, overwork, and misuse of incarceration and police weapons.

<sup>8</sup> Compare this to the 1979 Criminal Law, articles 13 and 83, which stipulated that a wider range of officials could be prosecuted for "torture to coerce a confession", as the prohibition applied to "state personnel" defined as "all personnel of state organs, enterprises and institutions and other personnel engaged in public service according to the law". In written comments to the Special Rapporteur of 3 January 2006, the PRC felt that it was necessary to point out that most Chinese laws do not distinguish between torture by civil servants and torture by non civil-servants. "Other than the crimes of "coercive interrogation and violent extraction of evidence" and "subjecting imprisoned persons to corporal punishment," for which law enforcement officers are naturally the subject of prosecution, China's criminal code also has other provisions prohibiting torture, such as "murder with intent" (art. 232), and "impairing with testimony" (art. 307), for

which the subject is not limited to civil servants and may also include non-civil servants. The scope of the subjects for crimes of torture under Chinese law is broad and is in accord with Article 1, Para. 2 CAT.”

<sup>9</sup> Decision on the Criteria for Filing Cases in those Cases where Filing and Investigation is Directly Handled by the Procuratorate of 16 September 1999.

<sup>10</sup> Ibid.

<sup>11</sup> In written comments of 25 January 2006 the PRC stated that, “according to judicial practice”, article 247 (“coercive interrogation and violent extraction of evidence”) of the CL includes “deliberately subjecting a victim to ...taking medication, hypnosis, or any other acts that cause a person high level of pain or loss of consciousness or will”. In addition the PRC stated that articles 147 (“insulting another”) and the crimes of illegal search and illegal detention are also related to the prohibition of mental torture.

<sup>12</sup> Article 247 provides: “Any judicial officer who extorts confession from a criminal suspect or defendant by torture or extorts testimony from a witness by violence shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention. If he causes injury, disability or death to the victim, he shall be convicted and given a heavier punishment in accordance with the provisions of Article 234 or 232 of this Law.” Article 248 of CL provides: “Any policeman or other officer of an institution of confinement like a prison, a detention house or a custody house who beats a prisoner or maltreats him by subjecting him to corporal punishment, if the circumstances are serious shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the circumstances are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than 10 years. If he causes injury, disability or death to the victim, he shall be convicted and given a heavier punishment in accordance with the provisions of Article 234 or 232 of this Law. Any policeman or other officer who instigates a person held in custody to beat or maltreat another person held in custody by subjecting him to corporal punishment, the policeman or officer shall be punished in accordance with the provisions of the preceding paragraph.” The CL also provides that the judicial officer who causes death to the victim may be sentenced to death.

<sup>13</sup> A Decision on Severely Punishing Criminals Seriously Endangering Social Order and Security complements the CL and prescribes that those who intentionally do harm to the body of others that leads to serious injury or death can be condemned beyond the maximum punishment prescribed in the CL, even to the death penalty. Passed by the Standing Committee of the NPC in September 1979.

<sup>14</sup> This stipulates that police officers who cause unnecessary personal injury or death or loss of personal property through unlawful use of police instruments or weapons shall be punished by law. Issued by the State Council of China in 1996.

<sup>15</sup> See CAT/C/39/Add.2, paras. 9 and 10.

<sup>16</sup> Revision was published by the Ministry of Public Security on 14 May 1998.

<sup>17</sup> Entered into force in 1997.

<sup>18</sup> SPC, SPP, MPS, MSS, MOJ, and NPC Standing Committee Legal Affairs Working Committee: Joint Rules Concerning Several Issues Encountered in the Implementation of the CPL, issued on 19 January 1998.

<sup>19</sup> When a suspected accomplice may be alerted to flee or hide, or to destroy or falsify evidence; when the suspect refuses to reveal his true name, address or identity; or when notification would impede investigation or when notification is not feasible. In any case, pursuant to Rule 108, the reason for any failure to notify within 24 hours must be specified in the detention notification. Rule 125 contains a similar clause with respect to notification of arrest.

<sup>20</sup> Article 96 of the CPL provides that “after the criminal suspect is interrogated by an investigation organ for the first time or from the day on which compulsory measures are adopted against him, he may appoint a lawyer to provide him with legal advice and to file petitions and complaints on his behalf. If the criminal suspect is arrested, the appointed lawyer may apply on his behalf for obtaining a guarantor pending trial. If a case involves State secrets, the criminal suspect shall have to obtain the approval of the investigation organ for appointing a lawyer. The appointed lawyer shall have the right to find out from the investigation organ about the crime suspected of, and may meet with the criminal suspect in custody to enquire about the case. When the lawyer meets with the criminal suspect in custody, the investigation organ may, in light of the seriousness of the crime and where it deems it necessary, send its people to be present at the meeting. If a case involves State secrets, before the lawyer meets with the criminal suspect, he shall have to obtain the approval of the investigation organ”. This provision constitutes an important improvement upon the 1979 Criminal Code which allowed lawyers to be involved in a process only after the cases were brought before the courts and provided them with seven-day advance notice for the preparation of the defence. In addition, pursuant to articles 36, 156 and 180 of the revised CPL, lawyers can collect evidence, including evidence gathered by the prosecutors, they can meet with their clients and communicate with them and they can defend their clients in court trials, including cross-examining witnesses and appealing on behalf of their clients.

<sup>21</sup> Promulgated in 1996 and took effect at the same time as the CPL.

<sup>22</sup> See *supra* note 16.

<sup>23</sup> Rules 36, 39, 43 and 44 also refer to the “participation of lawyers in criminal proceedings”. See CAT/C/39/Add.2, para. 74.

<sup>24</sup> Issued by the Ministry of Public Security on 17 October 1989. See article 2(c)-11.

<sup>25</sup> UN Working Group on Arbitrary Detention, Report of the UN Working Group on Arbitrary Detention, Mission to China, E/CN.4/2005/6/Add.4, para. 76.

<sup>26</sup> It is worrying that, while article 47 of the CPL provides that “the testimony of a witness may be used as a basis in deciding a case only after the witness has been questioned and

cross-examined in the courtroom by both sides, that is, the public prosecutor and victim as well as the defendant and defenders ...”, article 14 of the Interpretation of the SPC on Several Issues Regarding the Implementation of the CPL of June 1998 provides for 4 exceptional cases in which a witness may be absent, including; “for any other reason”.

<sup>27</sup> See the *Study of the Prevention of and Counter Measures for The Extortion of Confessions by Torture of the Legal Studies Association (The Task Group On The Prevention of the Use of Torture in Interrogation)*, March 2005, at p.6 (*Analysis for the Reasons of Use of Torture*) “in judicial practice, due to the fact that a verbal affidavit is not just a kind of evidence, but is also often used as an important lead to further evidence, verbal confessions have become irreplaceable evidence. Added to that, there is the traditional view that ‘no verbal confession then no recorded case’, and that ‘verbal confessions are king evidence’. Some judiciary personnel have formed the view that verbal confessions are the best. This results in an investigative approach centred round confessions as evidence. It urges investigators to use any means possible in order to obtain a verbal confession from a suspect. That motive easily leads to the use of torture.”

<sup>28</sup> See article 50 of the CPL read in conjunction with articles 63 to 65 of the SPC Interpretations on Several Issues Regarding Implementation of the CPL, articles 32 to 36 of the SPP Rules on the Criminal Process for People’s Procuratorate and articles 60 to 62 of the Rules on the Process of Handling Criminal Cases by Public Security Departments issued by the MPS. A similar power is available pursuant to article 9 of the People’s Police Law which gives police the right to detain individuals for questioning (*liuzhi panwen*) for up to 24 hours, with a possible extension of an extra 24 hours. Currently, the CPL does not limit the number of times coercive summons may be used and it does not specify how long authorities must wait between the uses of coercive summons. See Article 69 of the CPL which stipulates: “If the public security organ deems it necessary to arrest a detainee, it shall, within three days after the detention, submit a request to the People’s Procuratorate for examination and approval. Under special circumstances, the time limit for submitting a request for examination and approval may be extended by one to four days. As to the arrest of a major suspect involved in crimes committed from one place to another, repeatedly, or in a gang, the time limit for submitting a request for examination and approval may be extended to 30 days. The People’s Procuratorate shall decide either to approve or disapprove the arrest within seven days from the date of receiving the written request for approval of arrest submitted by a public security organ. If the People’s Procuratorate disapproves the arrest, the public security organ shall, upon receiving notification, immediately release the detainee and inform the People’s Procuratorate of the result without delay. If further investigation is necessary, and if the released person meets the conditions for obtaining a guarantor pending trial or for residential surveillance, he shall be allowed to obtain a guarantor pending trial or subjected to residential surveillance according to law.”

<sup>29</sup> When one of the seven emergency circumstances listed in article 61 of the CPL is met, crime investigation authorities may detain people for a ten-day period, which can be extended to 14 days. The criminal detention can be further prolonged for up to 37 days when the detainee is suspected of “committing crimes from one place to another, repeatedly, or in a gang”.

<sup>30</sup> Pursuant to article 60 of the CPL, authorities may formally arrest a suspect “when there is evidence to support the facts of a crime and the criminal suspect or defendant could be sentenced to a sanction of not less than imprisonment, and if such measures as allowing him to obtain a guarantor pending trial or placing him under residential surveillance would be insufficient to prevent the occurrence of danger to society”. According to article 59 of the CPL, “arrests of criminal suspects or defendants shall be subject to approval by a People’s Procuratorate or decision by a People’s Court and shall be executed by a public security organ”.

<sup>31</sup> According to the CPL, the basic time limit for holding a suspect in detention after formal arrest and before trial is two months. In ‘complex’ cases, this period may be extended by one month, for a total period of three months (article 124). Under certain conditions involving ‘major’ or ‘complex’ cases, the initial three month period may be extended for another two months (article 126). If the case involves a crime where the punishment is fixed-term imprisonment of ten years or greater, a second two month extension of the investigation period is permitted (article 127). Thus, once the procuratorate has approved a formal arrest, a suspect may be held for up to a total of seven months in investigative detention.

<sup>32</sup> In addition, where the police find evidence of ‘other major crimes’ during the investigation (article 128) the investigative period for these alleged new crimes will begin on their ‘discovery’. This means that the suspect may be held in pretrial detention for another seven months. There does not appear to be any limit on the number of times this “new crimes” exception may be invoked.

<sup>33</sup> After the investigation period expires, the police must submit a recommendation for prosecution to the procuratorate. The procuratorate has one month to examine the recommendation for prosecution (article 138). In “major” or “complex” cases, this examination period may be extended for up to another two weeks, for a total of one and one-half months (article 138). This period may be further extended if a ‘supplementary investigation’ is deemed necessary. The procuratorate may request that the police conduct a supplementary investigation of up to 1 month. After the 1 month supplementary investigation period, the time the procuratorate has to examine the case for prosecution is reset, meaning the procuratorate has up to an additional 1½ months after the end of the supplementary investigation to decide whether to prosecute (article 140). The procuratorate may request up to two supplementary investigations. So, if two supplementary investigations are requested and the procuratorate takes the maximum period to evaluate the case after each supplementary investigation, the suspect could be held in detention for a total of an additional 6½ months after the initial post-arrest investigative detention period has ended and before an indictment is issued.

<sup>34</sup> The Special Rapporteur has been informed of the following developments: “in May 2003, the Supreme People’s Procuratorate initiated a special nationwide campaign and by July 2003 no cases of extended custody in the procuratorial sector had been reported. Procuratorial agencies also pressed other law enforcement agencies to initiate clearing-up work, issuing 274,219 procuratorial rectification opinions that year that resulted in rectification for 25,736 individuals. In May 2004, the Supreme People’s Procuratorate, along with the Supreme People’s Court and the Ministry of Public Security jointly issued a “Notice on Strictly Enforcing the Criminal Procedure Code and Conscientiously Rectifying and Preventing



Extended Custody” and launched a national campaign of inspection and clearing-up targeted at extended custody that rectified extended custody for 7,132 individuals. Presently, the number of provinces, autonomous regions, and municipalities in which there are no cases of extended custody anywhere within the litigation system has risen from 14 at the end of 2003 to 29. Serious cases of extended custody lasting more than three years have been eliminated, and the number of individuals held beyond time limits in the nation is at a historic low. In order to consolidate these results of clearing up extended custody, the Supreme People’s Procuratorate recently established long-acting mechanisms to prevent and rectify extended custody. Courts nationwide are strictly carrying out a system of weekly reports on clearing up cases of extended custody and a system of supervision and complaint, and in cases in which the facts are unclear, evidence is insufficient, or defendants cannot be found guilty they are announcing acquittals according to law. In 2004, a total of 873 existing and new cases involving 2,432 individuals were cleared up, and by year end all cases of extended custody were completely cleared up, with the exception of those cases [extended for] legal reasons. Many media outlets have reported on this under the headline “Punish the guilty; release the innocent”, creating a strong response from all circles of society.”

<sup>35</sup> Administrative detention includes: Re-education through Labour (*laodong jiaoyang*); Custody and Education (*shourong jiaoyang*); Enforced Drug Rehabilitation (*qianzhi jiedu*); Administrative Detention (*xingzheng juliu*); Work Study Schools (*gongdu xuexiao*); and psychiatric incarceration.

<sup>36</sup> The major provisions governing the system of RTL include the following: A Decision of the State Council on the Question of Re-education Through Labor (*Guowuyuan guanyu laodong jiaoyang wenti de jueding*) of 1 August 1957; A Supplementary Decision of the State Council on Re-education Through Labor (*Guowuyuan guanyu laodong jiaoyang de fuchong guiding*) of 29 November 1979; A Notice of the State Council on Re-Issuing the Ministry of Public Security’s Trial Methods for Implementation of Re-education Through Labor (*Guowuyuan guangu zhanfa gonganbu zhiding de laodong jiaoyang shixing banfa de tongzhi*) of 21 January 1982; Regulations on Public Security Organs’ Handling of Re-Education Through Labor Cases (2002).

<sup>37</sup> Legislation Law, passed 15 March 2000, effective as of 1 July 2000.

<sup>38</sup> See article 3 of the Supplementary Decision of the State Council on Re-education Through Labor (*Guowuyuan guanyu laodong jiaoyang de fuchong guiding*) of 29 November 1979.

<sup>39</sup> See para 43 of the report of the UN Working Group on Arbitrary Detention on its 1997 visit to China. UN Doc. E/CN.4/1998/44/Add.2. The Working Group goes on to acknowledge in paras. 45 and 46 that while the measure of re-education through labour still raises concerns, important decisions have nevertheless been taken and improvements made ... “since the 1996 reform, new guarantees have improved administrative detention and re-education through labour institution.”

<sup>40</sup> See paras 42-53 of the report of the UN Working Group on Arbitrary Detention on its 1997 visit to China. UN Doc. E/CN.4/1998/44/Add.2.

<sup>41</sup> See, e.g., the cases of Yang Zili, Xu Wei, He Depu, Yang Jianli, Jigme Tenzin, Lobsang Tsuitrim, Jigme Gyatsu, Tohti Tunyaz Mozat, Rebiya Kadeer and Nur Mohammad Yasin in Appendix 2.

<sup>42</sup> Report of the UN Working Group on Arbitrary Detention, Mission to China, E/CN.4/2005/6/Add.4, para. 23.

<sup>43</sup> “Any appeal, accusation or complaint by a criminal must be promptly forwarded without delay.” See CAT/C/39/Add.2, para. 42.

<sup>44</sup> “Any appeal or complaint by an inmate must be promptly forwarded without obstruction or delay. Any denunciation or accusation concerning an unlawful act by a law enforcement official must be promptly communicated to a people’s inspectorate”. See CAT/C/39/Add.2, para. 43.

<sup>45</sup> “Any accusation or complaint by a detainee must be promptly communicated to a relevant authority without delay, suppression or obstruction. Any denunciation of or accusation against a law enforcement official must be communicated by the detention authority to a supervisory public security organ or people’s inspectorate”. See CAT/C/39/Add.2, para. 44.

<sup>46</sup> “Any functionary of a State organ who, abusing his power or using his public office for private ends, retaliates against or frames up complainants, petitioners, critics or persons who report against him shall be sentenced to fixed-term imprisonment of not more than two years or to criminal detention; if the circumstances are serious, he shall be sentenced to fixed-term imprisonment of not less than two years but not more than seven years.”

<sup>47</sup> CAT/C/39/Add.2, para. 67.

<sup>48</sup> Came into effect in January 1995.

<sup>49</sup> In addition to this figure, it is to be noted that one case sent in 2003 (E/CN.4/2003/68/Add.1 para. 301) detailed the alleged ill treatment and torture of thousands of Falun Gong practitioners.

<sup>50</sup> In 36% of responses received, the Government denied that any torture or ill treatment had taken place and indicated that the facts alleged by the Special Rapporteur were false. Responses in relation to alleged death in custody accounted for 15% of the replies received. In all but two of these responses the Government stated that the individual had died due to natural circumstances. The two exceptions involved suicide and hunger strike. In 20% of the responses the Government informed that the individual concerned had been released due to completion of sentence, medical parole, payment of bail and in one case confession. Several responses reported that the investigations were ongoing or pending.

<sup>51</sup> Chen Yunsheng, *Towards Human Rights and the Rule of Law - Anti-torture Analysis, China Social Science Publishing House, September 2003, first edition*. See note 53.

<sup>52</sup> In early 2005, Chinese reports on two wrongful murder convictions, those of Nie Shubin and Shi Xianglin elicited a strong reaction in the Chinese news media and prompted public scrutiny of the criminal justice system. Both cases reportedly involved coerced confessions. As news of

these cases spread, reports of other wrongful convictions emerged. “The Unjust Case of She Xianglin Murdering His Wife: the Price of Efforts to Seek Redress and Innocence on a Common Chinese Peasant Household” [She Xianglin sha qi yuanan: yige putong zhongguo nongmin jiating de shenyuan zhilu yu qingbai daijia], Southern Metropolitan Daily (Online), 5 April 05. “The ‘Nie,’ ‘She’ Cases in Lawyers’ Eyes: Rethinking Necessary Before Judicial System Can Be Improved” [lüshi yanzhong de “Nie”, “She” liangan: fansi cai neng dailai sifa tizhi de gaishan], Criminal Defense Net (Online), 13 April 05; “Legal Redemption for Erroneous Death Sentences” [Sixing wupan de falü jiushu], Modern Bulletin (Online), 16 March 05; Tang Weibin, Li Changzheng, “How Do Unjust Cases Come About? Following the Trail of Hubei’s She Xianglin ‘Wife Murder’ Case” [Yuanan shi zenme zaocheng de? Hubei She Xianglin “sha qi” an zhuizong], Procuratorate Daily (Online), 8 April 05; “Analyzing the Xu Jingxiang Unjust Case” [Xu Jingxiang yuanan pouxì], China Youth Online, 10 May 05; “Don’t Allow the Wings of Justice to Break: Using Unjust Cases to Look at Confessions Extorted Through Torture, [Bie rangzhengyi zheduan le chibang: cong mianan kan xingxun bigong], Legal Daily (Online), 22 April 05; “Return of ‘Murdered Wife’ Calls China’s Judicial System in Question”, People’s Daily (Online); “Behave Prosecutors to Protect Innocent”, China Daily, 28 May 05 (FBIS, 28 May 05); Ge Lin, “Why a Not Guilty Verdict Is a Rarity of Rarities” [Wuzui panjue weihe fengmaolinjiao], Southern Weekend (Online), 16 June 05; Jiang Hong, “Commentary: Use Vigorous Legal Supervision to Prevent Unjust Cases” [Shelun: yong qiang you li de falü jiandu fangzhi cuoan], Justice Net (Online), 26 April 05; Yuan Zhengbing, Cui Zuojun, Liu Jinlin, “To Prevent Unjust Cases, Firmly Grasp the Relation with Arresting Personnel”, Procuratorate Daily (Online).

<sup>53</sup> For example, a hard-hitting study by legal expert Chen Yunsheng of the Chinese Academy of Social Sciences published in 2003 contained a graphic enumeration of the thirteen most common methods of torture in China. *Towards Human Rights and the Rule of Law - Anti-torture Analysis*, by Chen Yunsheng, China Social Science Publishing House, September 2003, first edition. In March 2005 the China Legal Studies Associations’ Group On The Prevention of the Use of Torture in Interrogation undertook a ground-breaking “Study of the Prevention of and Counter Measures for The Extortion of Confessions”, involving, inter alia, field research in Changchun, Jilin, and Yenji in Jilin Province and the cities of Guangzhou, Shenzhen, Zhuhai, Beijing, Tianjin and other cities in Guangdong Province. The project involved investigators, prosecutors, public security personnel, lawyers, and other legal personnel as well as academics from the legal and social sciences fields. For examples of Chinese reports on specific cases of torture, see Two Hainan Police Officers Sentenced for Causing Death by Extorting Confessions, The Beijing News, 11 November 2005; “Sichuan Investigates and Prosecutes A Case Where Torture Led to Person’s Death” [Sichuan chachu yiqi xingxun bigong zhiren siwang an], China Youth Daily (Online), 18 November 04; Zhou Wenying and Zou Shilai, “Jiangxi Fuzhou: Make Inquiries an Required Procedure in Examining Arrests” [Jiangxi Fuzhou: ba xunwen zuowei shencha daibu bijing chengxu], Procuratorial Daily (Online), 4 January 05 (noting that interviews of suspects uncovered more than 29 cases including extended detention, torture, or violations of criminal procedure by public security personnel); Liu Li, “Sixty Officials Charged with Dereliction of Duty, Abuse of Power”, China Daily (Online), 26 January 05 (noting that “some” of the sixty Beijing officials charged “used torture to coerce statements”); “Detention Discipline Incites Detainees to Whip Convict for Six Hours, Leading to His Death” [Kanshousuo

guanjiao zhizhi zai ya renyuan bianda fanren 6 xiaoshi zhi qi siwang], Boxun (Online), 8 February 05 (citing Heilongjiang Daily story on the case); Supreme People's Procuratorate 2004 Work Report [Zuigao renmin jianchayuan 2004 nian gongzuo baogao], 9 March 05 (noting that a yearlong investigation uncovered more than 1,595 cases of torture, illegal detention, and other violations of human rights in 2003); "'Nie Shubin Murder Case' Still Unresolved" ['Nie Shubin yuan sha an' xuaner weijue], Southern Weekend (Online), 24 March 05; "Murdered Wife Lives, Proves Husbands Innocence", China Daily (Online), 4 April 05 (indicating that She Xianglin was beaten and had fingers broken during his interrogation); "14 Years of An Unjust Case of Wife Murder, 'Liaoning's She Xianglin' Li Huawei Obtains State Compensation" [14 nian sha qi yuannan 'Liaoning She Xianglin' Li Huawei huo guojia peichang], People's Daily (Online), 15 April 05; Lei Dao, "Why No Compensation After Eight Years of Unjust Imprisonment" [Ba nian yuanyu weihe bu peichang], Legal Daily (Online), 17 April 05. Fu Kuanzhi, "Three Essential Elements That Must Be Put Forth to Put a Stop to Torture" [Dujue xingshi bigong xu jubei sange yausu], Procuratorial Daily (Online), 11 August 04 (stating not all evidence should be included if proven to be true, but that improve technology, better legal consciousness, and more reliance on material evidence necessary to combat torture); Li Jinlin, "China Law Society Opens Research Forum on the Torture Problem", [Zhongguo faxuehui zhaokai xingxun bigong wenti yanjiu zuotanhui], Procuratorial Daily (Online), 30 January 05 (citing poor investigative capacity and the use of case breaking rates to evaluate personnel); "Return of 'Murdered Wife' Calls China's Judicial System in Question", People's Daily (Online), 5 April 05 (citing pressure from above to solve cases); Cheng Jishan, "Radical Measures to Policies Eliminate The Extortion of Confessions Through Torture" [Xiaochu xingxun bigong de zhiben zhice], Legal Daily (Online), 13 April 05 (citing lack of legal rules excluding all evidence derived from torture, presumptions of guilt by law enforcement, and the failure to prosecute torture cases); "Don't Allow the Wings of Justice to break: Using Unjust Cases to Look at Confessions Extorted Through Torture" [Bie rang zhengyi zheduan le chibang: cong mianan kan xingxun bigong], Legal Daily, 22 April 05 (citing numerous factors, including low quality and educational levels of investigative personnel, leadership and social pressure to break cases, the link between salaries/promotions and case breaking rates, lack of lawyers at interrogation).

<sup>54</sup> "Study of the Prevention of and Counter Measures for The Extortion of Confessions", China Legal Studies Associations' Group On The Prevention of the Use of Torture in Interrogation, March 2005; Suggestions for Enhancing the Rights of Lawyers [Wei zhengjin lvshi quanli jianyan xiance], China Legal Publicity (Online), November 2004 (a Ministry of Justice Web site, noting that torture is "widespread" in basic level organs); Qin Ping, "How Local Criminal Evidence Standards Guarantee Implementation of the Criminal Procedure Law" [Difang de xingshi zhengju guifan ruhe baozhang xingshi susongfa de zhixing], Legal Daily (Online), 22 April 05 (characterizing the She Xianglin case as a "typical" case); "Return of 'Murdered Wife' Calls China's Judicial System in Question", People's Daily (Online), 5 April 05 (citing an unnamed law professor as stating, "Although strictly forbidden by law, forced confession has been common in many places in China because the police are often under great pressure from above to solve criminal cases."). An identical quote appeared in Xinhua and China Daily stories on the She Xianglin case; Cheng Jishan, "Radical Measures to Policies Eliminate The Extortion of Confessions Through Torture" [Xiaochu xingxun bigong de zhiben zhice], Legal Daily

(Online), 13 April 05 (characterizing torture as a “malignant tumor” that “is difficult to stop in practice.”) Jin Yan, “Judicial Reform in China: Seeking a Bottom Line to Police Power (*Zhong guo fa gai ge tan jiu jing cha quan li di xian*) in Lifeweek (*San naian sheng huo zhou kan*) 258 (Sept 22-29, 2003).

<sup>55</sup> *Xingxun Bigong Zui*, pg. 9:

China Official Torture Statistics (1979-1996)

| Year(s)   | Tortured confession cases formally established | Persons tortured to death              |
|-----------|--|--|
| 1979-1989 | over 4,000 total<br>(avg. 364+/year)           | (no report)                            |
| 1990      | 472  | (no report)                            |
| 1991      | 407  | (no report)                            |
| 1992      | 352  | (no report)                            |
| 1993      | 398  | 126                                    |
| 1994      | 409  | 115                                    |
| 1995      | 412  | (no report)                            |
| 1996      | 493  | at least 32 (Jan.-Aug., MPS statistic) |

<sup>56</sup> “Qiu Xueqiang, deputy director of the SPP, said the use of torture, threats, delusion and lies to collect evidence or extract confessions must be stopped.” “China urges police to stop using torture to make people confess”, Agence France Press, 27 May 2005. Since 2003, a dozen procuratory organs including the procuratorate at Hengshui City in Hebei Province started an experiment with “Police Work Areas” to enhance the quality of investigations and prevent the use of torture. Within a Police Work Area, there is an interview room, an inquiry room, a room for psychological tests, a room for controlling and monitoring, a case seminar room, a medical room, police waiting room, police equipment room, and safe keeping room. All activities related to a case are monitored. The monitoring network extends to detention centres. Within a Policing Area, there must be at least two judicial police officers present. When the suspect leaves, s/he must be escorted by judicial officers. There is cassette-taping and video-taping of the entire process from the moment when the personnel participating in the procedure enter into a Policing Work Area. “Police Work Areas have standardized the investigative departments’ acts of law enforcement. They have placed investigative personnel under supervision from judicial police, directive personnel and monitoring systems from beginning to end. On the other hand, the serious and hushed atmosphere in Police Work Areas put psychological pressure on people being investigated. This improves results of interviews, ensuring that police is able to conduct their own case investigations systematically.” March 2005 Study of the Prevention of and Counter Measures for The Extortion of Confessions by Torture of the Legal Studies Association.

<sup>57</sup> The “Guiding Opinion Regarding Prevention of Extorting Confessions Under Torture During Criminal Case Activity” went into effect in Hebei province on January 1, 2006. Apparently the opinion states, “Oral evidence obtained through extortion under torture cannot serve as the basis for approving arrest and prosecution.” In addition, the opinion provides that the local

procuratorate will initiate an investigation into cases where extortion under torture may constitute a crime. Liu Ruichuan, president of the Hebei provincial high court, highlighted in the 2005 progress report on rule of law developments in Hebei province that “Any witness deposition, victim testimony, or defendant statement that is verified for authenticity, and categorized as obtained through extortion under torture or other illegal means, cannot serve as the basis of a [criminal] verdict.”

<sup>58</sup> The SPP will roll out a system of audio and videotaping with sound recording starting in March 2006 and video recording in October 2007. “Interrogations to be taped prevent confession by torture”, Associated Press in Beijing 19 January 2006. The following information was provided to the Special Rapporteur in written comments from the PRC on 25 January 2006: “... as of 1 March 2006, the country’s investigation and prosecution authorities will follow a three-step process in which interrogations of persons charged with crimes involving abuse of public office will be recorded in their entirety on audiotape or videotape. First, interrogations of all persons suspected of crimes involving abuse of public office must be recorded on audiotape in their entirety, and cases before the Supreme People’s Procuratorate and the people’s procuratorates at the provincial, provincial capital and eastern district levels involving bribery and abuse of public office must be videotaped in their entirety; secondly, the recording (sound and video) in their entirety of cases of bribery and of crimes involving abuse of public office shall be extended to people’s procuratorates at the autonomous prefecture and municipal levels in the central and western part of the country and at the prefecture, county and district levels in the eastern part; thirdly, as of 1 October 2007, all interrogations of persons suspected of crimes involving abuse of public office shall be recorded in their entirety on both audiotape and videotape.”

<sup>59</sup> In October 2005, the Supreme People’s Court issued its second five-year reform plan restoring to the Supreme Court the power of review over the death penalty. As of 1 January 2006, courts are required to hold hearings in death penalty cases of second instance where an appeal has been raised because of serious factual or evidentiary problems. According to information provided to the Special Rapporteur by the Ministry of Foreign Affairs, in the second half of 2006, all death penalty cases of second instance will be tried in a court hearing.

<sup>60</sup> Indeed, despite a variety of legal, administrative, discipline inspection and auditing oversight systems (i.e. Party Committee Discipline Units and Oversight Police), central monitoring is undermined by the fact that the oversight organs tend to be dominated by the local PSBs, while the Party- and state-based oversight organs tend to strengthen the control of local Party officials over public security. This situation is aggravated by problems of under funding and poor remuneration for police, particularly in economically disadvantaged provinces. According to the March 2005 Study of the Prevention of and Counter Measures for The Extortion of Confessions by Torture of the Legal Studies Association (The Task Group On The Prevention of the Use of Torture in Interrogation), “In some impoverished areas, the investigating organs’ budgets are extremely tight. This is also an important external reason for the use of torture. When money is tight, there arises the conflict between saving costs and improving success rate. The investigators, in order to save on costs, will not want to carry out difficult and detailed

investigation. They tend instead to place their hopes on obtaining a verbal confession from the suspect. Using simple and economical methods such as these, it is very easy for torture to occur.”

<sup>61</sup> Tanner, M.S., and Green. E., “Central-local relations and state coercive power: Decentralized policing, social control, and the “rule of law” in China Quarterly, July 2003.

<sup>62</sup> With regard to the “presumption of innocence”, Art. 12 of the CPL states that persons shall not be found guilty without being judged as such by a People’s Court according to law. However, the Rapporteur was informed by several sources that in practice, the presumption of guilt is the traditional mentality. This statement is supported by the research findings of the March 2005 Study of the Prevention of and Counter Measures for The Extortion of Confessions by Torture of the Legal Studies Association states, with regard to interrogators, “they tend to want to hear confessions to guilt. They are not willing to listen to suspects’ defence that they are not guilty, even to the point whereby the investigators do not allow the suspects to argue that they are not guilty. The investigators tend to treat suspects defence as dishonest and an act of resisting interrogation. In that mindset, the investigators, in order to obtain a verbal confession early on, will often resort to torture.”

<sup>63</sup> With respect to the “right to remain silent”, Art. 93 of that law states: “The criminal suspect shall have the right to refuse to answer any questions that are irrelevant to the case.” In other words, there is no right to remain silent in relation to “relevant” questions.

<sup>64</sup> In cooperation with a NPC inspection of the implementation of the Lawyers Law, the Beijing Public Security Bureau (PSB) surveyed 51,184 criminal detentions between October 2003 and April 2005 and found that only 7,425 suspects met with lawyers during the first 48 hours of detention. The article asserts that the most important reason for the low representation rate is that police and prosecutors do not trust lawyers and are cautious about allowing lawyers to intervene during the investigation stage of a case. Given that Beijing is among China’s most legally advanced locales, so it is likely that even a smaller percentage of suspects meet with lawyers in less-developed parts of the country. In a related article, the Legal Daily cited survey data indicating that only 4.6 percent of criminal defendants meet with their lawyers within the first three days of detention, an even lower figure than that cited by the Beijing PSB. It too noted the problem of public security interference with lawyers, citing one longtime defense lawyer who said that meeting with his clients continues to be a headache and that while some defense lawyers are able to meet their clients, the number of meetings, time, content, and other matters are still subject to heavy restrictions.

<sup>65</sup> The March 2005 Study of the Prevention of and Counter Measures for The Extortion of Confessions by Torture of the Legal Studies Association (The Task Group On The Prevention of the Use of Torture in Interrogation) found that while investigating the use of torture, there existed a ‘three fears’ ideology among some of those responsible: 1) The fear that the dynamism and case success rates of the police would be affected; 2) The fear that they might ‘air their own dirty linen in public’ affecting the reputation of their own unit and their track record; and 3) The fear that once torture was exposed, they themselves would be investigated and lose jobs. As a result, the study claims that those who investigated cases relating to the use of torture didn’t

seriously investigate and handle them, even to the point of taking the defense of the offenders. “They believed that the use of torture was just mistakes relating to work methods and was problems difficult to avoid if one wanted to do a good job. They often belittled the importance of it all. Even when there was penalty, it was lenient.”

<sup>66</sup> The Special Rapporteur was informed, for example, that in Prison No. 4 in Urumqi, the procurators have not received a single torture complaint during the last decade. In the Tibetan Autonomous Region, he was told that no complaint had been received since 2003 and in the Beijing No. 2 Municipal Detention Centre, none were received since its establishment in June 2004. In the Xinjiang Uighur Autonomous Region, two cases of torture were established by the courts since 2000, and in the Tibet Autonomous Region one such case had been confirmed. The Deputy Procurator-General informed the Special Rapporteur that only 33 law enforcement officials had been prosecuted for torture throughout the country during the first nine months of 2005. In addition, the Government in its comments of 25 January 2006 provided the Special Rapporteur with the following statistical information:

|      | Cases prosecuted for coercive interrogation | Individuals convicted | Cases prosecuted for “subjecting imprisoned persons to corporal punishment” | Individuals convicted |
|------|---|-----------------------|---|-----------------------|
| 2000 | 137   | 121                   | 52  | 23                    |
| 2001 | 101   | 81                    | 38  | 34                    |
| 2002 | 55  | 44                    | 30  | 18                    |
| 2003 | 52  | 60                    | 32  | 27                    |
| 2004 | 53  | 82                    | 40  | 40                    |

According to the 2005 SPP’s report to the NPC presented on 9 March 2005 (covering the year 2004), 1595 civil servants had been investigated for suspected criminal activity in cases involving “illegal detention, coercion of confessions, using violence to obtain evidence, abuse of detainees, sabotaging elections, and serious dereliction of duty resulting in serious loss of life or property.” The report goes on to note that this is a 13.3 percent increase over the previous year’s totals and that the SPP personally investigated 82 of the most serious cases. No information is provided, however, on the number of convictions. When compared with other national statistics, the figures for 2005 as well as the earlier statistics are certainly the tip of the iceberg in a country the size of China. <http://www.spp.gov.cn/site2005/scripts/listSub.asp?cl=9201>.

<sup>67</sup> Cf., e.g., the case of Hu Shigen in Appendix 2.

<sup>68</sup> See, e.g., the cases of Yang Zili, Xu Wei, He Depu, Yang Jianli, Jigme Tenzin, Lobsang Tsuitrim, Jigme Gyatsu, Tohti Tunyaz Mozat, Rebiya Kadeer and Nur Mohammad Yasin in Appendix 2.

<sup>69</sup> In response to the Special Rapporteur’s characterisation of Re-Education through Labour as inhuman or degrading treatment, the host authorities wished to advance the following arguments: “First, reform and re-education are premised on helping detainees re-enter society. Since many detainees’ legal knowledge and cultural level is relatively low, detention facilities organize education in legal knowledge, morals, current affairs, and cultural knowledge in order to raise their legal perception and cultural level. Second, for those detainees who render meritorious



service or show clear awareness of the damaging nature of their criminal behaviour, detention facilities may, based on the circumstances, request sentence reductions or reduction of time [for re-education] on their behalf according to law, or make other appropriate reward. But restrictive punishment measures are only used on those detainees who violate the administrative regulations of the detention facility. Third, detention centres do not organize any kind of productive labour. Aside from a small number of persons already convicted to short sentences who carry out cooking, cleaning, or other maintenance work, detainees are not required to work. Fourth, since many detainees are led to a life of crime because they love leisure and hate labour and resort to illegal means to gain others' property, in order to cultivate abilities and habits of self-reliance and prevent problems such as poor mental health because they have nothing to do, prisons and re-education through labour facilities organize appropriate work. The time and intensity are both lower than average in society at large, and each month they are paid wages. Detention facilities also provide occupational and technological training in such skills as computers, tailoring, sewing, electronics repair, carpentry, cooking, hairstyling, driving, and automobile repair, and those who pass examinations are given cultural and technological certificates recognized in the general public. In order further to enforce the law in a civilized manner, China's Ministry of Justice Prison Bureau has begun training psychotherapists in the prison system with national professional accreditation in order to prevent and eliminate torture of prison inmates. At present nearly 90 per cent of China's prisons have begun this work and more than 1,000 prison system psychotherapists have already been trained."

<sup>70</sup> See the Government white paper, "Building of Political Democracy in China", 22 December 2005: "China holds that the harmonious world should be democratic, harmonious, just, and tolerant."

<sup>71</sup> Prison officials indicated that the average length of appeal was two months; that this practice was based on a nation-wide regulation for detention facilities; and that such measures were necessary for the prisoners' safety, the security of others, to prevent them from fleeing, and to prevent suicide.

<sup>72</sup> Chinese law provides for the death penalty for a wide range of offences that do not reach the international standard of "the most serious crimes." Under 51 different articles of the revised CL, the death penalty can be applied to more than 60 different crimes, including many economic and other non-violent crimes. The Report of the Secretary-General on capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty, E/2005/3, para. 44, states that China is among those countries that do not publish statistics on sentences and executions. The Special Rapporteur on Summary, Arbitrary or Extrajudicial Executions indicated in his 2005 Report to the Commission on Human Rights that the most important step that China could take at this stage would be to make the details as to the number of persons executed and crimes for which they are executed publicly available. The report states, "In a considerable number of countries information concerning the death penalty is cloaked in secrecy. No statistics are available as to executions, or as to the numbers or identities of those detained on death row, and little if any information is provided to those who are to be executed or to their families. Such secrecy is incompatible with human rights standards in various respects. It undermines many of the safeguards which might operate to prevent errors or abuses and to ensure fair and just procedures at all stages. It denies the human dignity of those

sentenced, many of whom are still eligible to appeal, and it denies the rights of family members to know the fate of their closest relatives. Moreover, secrecy prevents any informed public debate about capital punishment within the relevant society.” Paras 57 and 58. Special Rapporteur on Summary, Arbitrary or Extrajudicial Executions, Report to the Commission on Human Rights, E/CN.4/2005/7, paras 57-58.

<sup>73</sup> According to information received, the windowless execution chamber at the back of the van contains a metal bed on which the prisoner is strapped down. Once the needle is attached by a technician, a police officer presses a button and a syringe automatically injects the lethal drug into the prisoner’s vein. The execution can be monitored from a video screen beside the driver and can be recorded.

<sup>74</sup> According to the 2004 SPC Work Report, in 2003 alone, the SPC changed the original sentence or ordered retrials in 118 of the 300 death penalty cases that it reviewed, leaving hopes for a reduction in application of the death penalty in China. The obligation of SPC review is set out in both the CL and the CPL (see below), but was undermined by a February 1980 decision by the Standing Committee of the National People’s Congress by devolving the authority in certain categories of crimes, notably capital crimes of violence, to the higher courts and for drug offences to certain provincial-level higher courts. Pursuant to Articles 199 and 200 of the CPL of China, the SPC is the designated court to review and approve all death sentences rendered by lower courts across the country. According to Article 199, “Death sentences shall be subject to approval by the SPC.” Article 200 stipulates, “A case of first instance where an Intermediate People’s Court has imposed a death sentence and the defendant does not appeal shall be reviewed by a Higher People’s Court and submitted to the SPC for approval. If the Higher People’s Court does not agree with the death sentence, it may bring the case up for trial or remand the case for retrial.”

<sup>75</sup> A similar recommendation was made by the Working Group on Arbitrary Detention, E/CN.4/2005/6/Add.4, 29 December 2004, para 78.

## Appendix 2

### Places of detention - Individual cases

1. The following accounts are based on allegations by detainees while being interviewed by the Special Rapporteur. The Government has not yet provided information on these cases or responded to the recommendations of the Special Rapporteur.

#### A. Beijing

##### Beijing Prison No. 2 (Visited on 22 and 24 November 2005)

2. The Special Rapporteur was informed by a number of detainees that, even after persons who have not confessed to an offence have been convicted and sentenced, they are subject to restrictions within the prison, such as limited or restricted access to telephone or family visit privileges until they confess, or are provided the incentive of a reduced sentence if they confess.

3. **Hu Shigen**, aged 50. Founding member of “China Freedom and Democracy Party” and “China Free Labour Union,” convicted of “organizing and leading a counterrevolutionary group” and “counterrevolutionary propaganda and incitement” by the Beijing Intermediate People’s Court and sentenced on June 14, 1995 to 20 years’ imprisonment. Currently serving sentence in Beijing No. 2 Prison. He is due for release on May 26, 2012. Detained on 27 May 1992 and formally arrested on 27 September 1992, he was interrogated between July and August 1992 in Section 7 of the Beijing Public Security Second Bureau. Each interrogation lasted for prolonged periods of time, one session in particular lasting for 20 hours, without a recess. He stated that he had not been tortured during the three years in the detention centre although he did sustain a minor injury during a ‘conflict’ with the court clerk. After this ‘conflict’ he was handcuffed behind his back and thrown off a truck. He mentioned this incident in court. When questioned by the Special Rapporteur about any allegations of ill-treatment during interrogation, he was reluctant to discuss this. Despite being put under pressure to do so, he did not confess for the first 12 years of his detention. For this reason he was treated differently from other inmates in terms of family reunion and telephone call privileges. He eventually confessed in April 2003 as he felt that his situation was helpless, and he wanted to receive a reduced sentence, though no reduction has been granted to date. In the past two years he has not been allowed to make any phone calls. He has seen his daughter twice since he was detained, in 2004 and 2005. He receives visits from his brother. He is allowed to write letters. He complains of heart problems, hypertension, nasal/respiratory tract problems, back pains and numbness on the right side of his body. While treatment is provided by prison medical staff, the medications available and the services are limited. **The Special Rapporteur recommends that he be granted the same rights as other prisoners, in particular concerning the right to phone calls with family members etc. The fact that a person has not confessed should not be used as an excuse to impose additional punishment on a detainee such as refusal of the right to access with the outside world. He should be ensured access to adequate medical care including appropriate medication. Taking into account that the above-mentioned person was sentenced for political crimes which were removed from China’s Criminal Law in 1997, the Special Rapporteur appeals to the Government that he be immediately released.**

4. **Yang Zili**, aged 34, a former journalist and member of the 'New Youth Study Group,' which organized discussions on democratic and political reforms in China. On 13 March 2001, he was detained together with other members of the group on charges of 'subversion.' He was detained in the Beijing Municipal State Security Bureau until February 2004, where he was interrogated from March to June 2001. His first court hearing was in September 2001 and the second in May 2003. During this period he was not allowed to communicate with his family. He had the right to talk to a lawyer but strict conditions were imposed on his meetings. He had seen his wife twice since his arrest. He was sentenced on 28 May 2003 by Beijing Municipal No 1 Intermediate People's Court to eight years imprisonment and 2 years deprivation of political rights for the crime of 'subversion'. During his interrogation by state security agents in April 2001 he was forced to stand from 9pm to 5am beside a chair with one hand handcuffed to the chair, and was not permitted to sit down during this time. This was carried out with the purpose of extracting a confession. During his detention in the State Security Bureau he was aware that personnel only beat those who they thought had a 'bad attitude'. He did not confess. For this reason he cannot telephone his parents or have visits from relatives, though he can write letters and is allowed monthly visits from his wife. Incentives for confession are the possibility of reduced sentences, visits by relatives or family reunion privileges. He reports his present health is satisfactory though the in-house medical services are limited. **The Special Rapporteur recommends he be granted the same rights as other prisoners, particularly the right to phone calls with and visits from family members. The fact that a person has not confessed should not be used as an excuse to impose additional punishment on a detainee such as refusal of the right to access with the outside world or removal of privileges. Since he has been convicted of a political crime, possibly on the basis of information extracted by torture, the Special Rapporteur appeals to the Government that he be released.**

5. **Xu Wei**, aged 31 years, a former writer and editor for Beijing newspaper *Consumer Daily*, and member of the 'New Youth Study Group'. On 13 March 2001, he was detained together with other members of the group by Beijing State Security officials and was held in secret detention for over two years without trial. He was tortured during police interrogations by agents of the Office Responsible for returning Criminals from Outside of Beijing. He was tortured by agents of State Security who brutally beat him, used electric batons to shock him in his solar plexus, soles of his feet and genitals. He continues to experience occasional numbness in his lower body. His confession was extracted through torture and he was sentenced to 10 years imprisonment and 2 years deprivation of political rights on 28 May 2003 for the crime of 'subversion' despite having raised allegations of torture in court. Xu's case was submitted to the WGAD. At the time of the meeting with the Special Rapporteur, he was in poor health, appearing thin and exhausted, and had recently gone on hunger strike. He indicated that he was not allowed to see a lawyer until after his trial which is why he went on hunger strike. **Since he has been convicted of a political crime, possibly on the basis of information extracted by torture, the Special Rapporteur appeals to the Government that he be released.**

6. **He Depu**, aged 49, a former member of the Chinese Democratic Party (CDP). On 4 November 2002, he was arrested, pushed into a police car, handcuffed and his coat was wrapped over his head making it difficult for him to breathe. He fell unconscious in the car. He was driven to an unknown location and carried to a windowless room on the third floor of a three-storey building. He Depu was later taken to Operation Division 1, Beijing Public Security Bureau, where he was held for 85 days and interrogated about CDP activities. He was confined

to bed for 85 days and constantly guarded by four armed police. He was told to lie in bed with his hands and feet visibly outside of the blanket. If he did not obey the blanket was taken away. If he used his hands to scratch himself this was a violation of the rules. He said that the purpose was to weaken him; as if *“to kill someone with a soft knife.”* As a result he did not sleep properly and was cold as the blanket was very thin. One day he touched a nearby radiator to see if it was warm and was denied a meal as punishment. He reportedly sustained bed sores on his back and bottom. He did not confess. In the Collection and Redistribution Centre (CRC) his head and face were pushed against the floor in order to force a confession. A policeman and four inmates held him down against the floor for 5-6 hours. He first saw his wife and lawyer in the summer of 2003. At the end of 2003 he was sentenced to eight years in prison by Beijing Number 1 Intermediate People’s Court for ‘instigation and subversion’ of the Government. Following the trial, he reportedly called for democracy in China and for the end of one-party rule, for which he was swiftly taken by the police to a pretrial chamber, where he was handcuffed behind his back, his head was pushed backwards causing him to fall to the floor, and was beaten and trampled on for 20 minutes. He could not get up and suffered from a swollen head and body. He arrived at Beijing Prison Number 2 on 14 January 2004. He complained that the food was bad, that he can see his wife for only 30 minutes every month. He is only allowed to exercise for two hours per week but this is not guaranteed. In his cell there are 10 people in an area of approximately 2m<sup>2</sup>. **Since he has been convicted of a political crime, possibly on the basis of information extracted by torture, the Special Rapporteur appeals to the Government that he be released.**

7. **Yang Jianli**, aged 42, US-permanent resident (holding a Ph.D. degree in Mathematics from UC Berkeley (1991) and a Ph.D. in Political Economy from the Harvard University Kennedy School of Government (2001) and political activist. Barred from returning to China for approximately 13 years, he entered China illegally and was arrested as he sought to travel to Thailand on 27 April 2002. For one year his family was not informed of his arrest. He was held in a Beijing public security facility for over seven months and was then moved to the State Security Detention Centre. He recounted that on one occasion, about two weeks after the Chinese New Year in late February 2003, as he was praying whilst washing, a guard asked him what he was doing and he replied that he was a Christian. Two days later four guards beat him because he talked back and ‘had not shown proper respect.’ He was forced to squat for 1.5 hours, and was kicked and beaten with an electric baton. In an opinion adopted on 7 May 2003, the Working Group on Arbitrary Detention concluded that Dr. Yang’s arrest and detention are arbitrary, and infringed his right to a fair trial. This decision was based on evidence that the Chinese authorities had detained Dr Yang for more than two months without an arrest warrant or charge. They also failed to formally acknowledge Dr Yang’s arrest or give him access to a lawyer throughout this time. The WGAD requested that the Chinese Government “take the necessary steps to remedy the situation.” In March 2004, in protest of his continued detention despite an overdue verdict, he refused to wear a uniform. As punishment he was handcuffed for two weeks. He was convicted of espionage and “illegal border crossing” by Beijing No. 2 Intermediate People’s Court and sentenced on 13 May, 2004 to five years’ imprisonment plus deprivation of political rights for one year. Shortly thereafter prisoners were sent to his cell to regularly harass him, the accumulated stress of which reportedly resulted in him suffering a stroke in July 2004. He is due for release from Beijing No. 2 Prison on 27 April, 2007. **Since he has been convicted of a political crime, possibly on the basis of information extracted by torture, the Special Rapporteur appeals to the Government that he be released.**

## II. Beijing No. 2 Municipal Detention Centre (Visited on 23 November 2005)

8. The authorities initially brought the Special Rapporteur to a cell of nine newly arrived detainees. They sat rigidly with newspapers and booklets in their hands, reportedly studying for an exam, not even flinching when the Special Rapporteur approached them. The same situation of strict discipline, fear and obedience was apparent in other cells where the pretrial detainees were held. Only one detainee was willing to speak, after lengthy reassurances (see below). The Special Rapporteur then visited the section of the Beijing No. 2 Municipal Detention Centre which holds prisoners sentenced to death at first instance and awaiting appeal. There were approximately 50 death row prisoners held in 12 cells, containing between 7 to 12 prisoners. Prisoners sentenced to death were handcuffed, as well as shackled with leg-irons weighing approximately 3kg for 24hrs per day, including during toilet visits and bathing. This practice is reportedly based on a nation-wide regulation for detention facilities and officials indicated this was for their own security, to prevent prisoners from committing suicide, and for the security of others. Among the death row prisoners in each cell, there were pretrial detainees who assisted the others. The Special Rapporteur noted the presence of a stainless steel restraint chair which was fixed to the floor and had a steel belt which could be swung across the prisoner's mid-section and fixed to the other side of the chair. These chairs were used in interrogation rooms which separated interrogators from suspects with iron bars, and in "education" rooms, where prisoners were restrained while being educated about how to rebuild their lives. The Special Rapporteur observed in one room a prisoner, who was sentenced to death, handcuffed and shackled, restrained in the chair during a discussion with two officers about his treatment in the facility. He spoke to another death row prisoner who requested absolute confidentiality. **The Special Rapporteur is of the opinion that the continuous handcuffing and shackling of death row prisoners constitutes an imposition of additional punishment without justification, leading to severe suffering, and amounting to torture, as defined by article 1 CAT. The Special Rapporteur recommends that this practice be abolished.**

9. **He Zcheng Xiong**, aged 19, Qio Xian village, Yudai town, Daxing district. On 20 July 2005, he was detained by police at his home in connection with an altercation with a rival gang. He was handcuffed and brought by car to the Daxing District Public Security Bureau. He was brought to the Beijing No.2 Municipal Detention Centre in August, and indicated that he was never ill-treated by the police. He stated that he confessed on the first day he was interrogated, yet remains in custody due to complications of his case. He cannot communicate with his family, except through his lawyer, who has fully informed them about his situation. When questioned by the Special Rapporteur why he and his nine cell mates were sitting rigidly in a row staring at a newspaper unflinchingly when he entered the cell, He Zcheng Xiong stated that it was customary to concentrate when studying. In the three months he was held in the 4 x 8 m cell, he indicated that there were no incidents between prisoners due to the harmonious relations they had with each other. Discipline consisted of discussions with guards on how to improve their lives. Upon arrival at the facility he was examined by a doctor, and inspected daily.

## III. Beijing Municipal Women's Re-education Through Labour (RTL) Facility (Visited on 24 November 2005)

10. The Special Rapporteur observed that the general conditions of the facility seemed satisfactory. However, he is deeply concerned by the prolonged periods for which detainees are

held in solitary confinement. During his visit, he inspected the 'Intensive Training' section which houses 10 small solitary confinement cells and was informed by the prison authorities that the maximum duration in solitary confinement was seven days. However, on consulting the registry the Special Rapporteur noted that of the six people held in solitary confinement between 1 January 2005 and 24 November 2005, three had been held for 60 days and one for 27 days. Detainees also stated that Falun Gong practitioners who had not renounced their beliefs after six months in detention were placed in the Intensive Training section until they were 'reformed'. Falun Gong practitioners formerly detained at this facility mentioned that they would refer to this section as the "Intensive Torture Section".

11. The Special Rapporteur notes that a number of detainees declined to speak to him, and others requested absolute confidentiality. The only person willing to speak openly with the Special Rapporteur was the following:

12. Ms. **Yang Yu Ming**, a Falun Gong practitioner. Since 14 April 2005, she has been detained for "disrupting social order." She described her treatment in detention as 'quite good'. She said that she is allocated study time and sometimes is able to do physical exercise. It is her first time in RTL and she has had no encounter with ill-treatment to date. She said that the majority of detainees are Falun Gong practitioners.

#### **B. Lhasa, Tibet Autonomous Region**

#### **IV. Lhasa Prison No. 1 (Visited on 26 November 2005)**

13. The prison has a male prison population of 800 detainees of which approximately 70% are Tibetan, 20% are Han Chinese and 10% belong to other ethnic groups. General conditions were satisfactory and inmates can work by weaving Tibetan mats, planting flowers and fixing cars. In terms of solitary confinement, the Special Rapporteur noted that the cells measured 4m x 8m, with a large window and concrete floor. He was told that a detainee can spend between one and 15 days in solitary confinement. The Special Rapporteur was not given access to any prison registers as the relevant Officer was not present.

14. The first set of prisoners that the Special Rapporteur approached for an interview all declined the opportunity to speak with him. After lengthy assurances, one prisoner was willing to speak openly with the Special Rapporteur.

15. **Tseren Puntso**, aged 23. On 13 July 2002 at his business, he was arrested in connection with the homicide of a person who died as a result of a fight the previous day. He confessed immediately at the police station and was detained at the Shikaze Pretrial Detention Centre until January 2003, when he was transferred to Lhasa Prison to serve a seven-year sentence, which has been reduced to six. From this time until April 2003 he was held in the section known as the "Team for New Prisoners", where new arrivals undergo education on prison rules. He indicated that he has not been ill-treated. In the summer time he carries out basic mechanical repairs. Recreation includes basketball games in the main court of the prison. Tibetan, Chinese and mathematics are taught at the prison.

**V. Tibet Autonomous Region Prison**, also known as **Drapchi Prison** (Visited on 27 November 2005)

16. The prison, sometimes referred to as Drapchi Prison, has a mixed population of approximately 900 inmates of which 7 to 8% are women. The Special Rapporteur was informed that virtually all of the detainees have confessed to their crimes, and that a strong emphasis on education is placed on those who have not yet confessed. He was told that there had been a sharp decrease in solitary confinement cases, with only one such case since 2003 where the person concerned wanted to commit suicide. There are 10 isolation cells, the tenth cell is padded and designed especially for detainees with suicidal tendencies. All have a window in the roof with direct sunlight and also a surveillance camera. The Special Rapporteur was also provided with a list of 15 names of detainees who had died in custody - one related to suicide and the other 14 due to illness. While no detainee interviewed in TAR prison claimed to have been tortured or ill treated during detention there, the Special Rapporteur received reports from former TAR prisoners held in other facilities, who reported being bound and beaten with a sand-filled plastic stick, as well as reports of being beaten with electroshock batons. Although high level officials of TAR had informed the Special Rapporteur that all prisoners who had received a sentence of more than 10 years were serving their sentence in the TAR prison, he found out only during his visit to the TAR prison that most of the prisoners that the Special Rapporteur wished to interview had in fact been moved on 12 April 2005 to the newly established Qushui prison, the existence of which had not been mentioned at all during the briefing with the TAR officials.

17. The Special Rapporteur requested to meet with a number of prisoners but was told only after a considerable delay that these individuals had been transferred in April 2005 to a newly established facility, Qushui Prison. Detainees interviewed at Drapchi prison requested absolute confidentiality.

**VI. Qushui Prison** (Visited on 27 November 2005)

18. Qushui prison is a new prison which was opened in April 2005. It has a male prison population of over 300. It is to this prison that a large number of former TAR prison detainees were transferred as part of its reorganization. The Special Rapporteur was informed that Qushui prison is for very serious crimes (i.e. sentences of over 15 years), and holds the principal criminal actors while accessories are held in Drapchi. The Special Rapporteur was particularly concerned by reports that Tibetan monks held in this prison are not allowed to pray and that in some cases are only allowed outside of their cells for 20 minutes per day. Concern was also expressed by reports that prisoners cannot work nor exercise and that they have nothing to read. Prisoners complained about the food, the extreme temperatures experienced in the cells during the summer and winter months and a general feeling of weakness due to lack of exercise. Prisoners transferred from Drapchi stated that basic conditions were better in Drapchi. In particular, that the prison lacks proper work and recreation facilities for long term prisoners. **The Special Rapporteur recommends that in general: prisoners are provided with recreational activities; are allowed to conduct religious worship; the temperature is adequately controlled, particularly in summer and winter months; and that the quality of food is improved.**



19. Due to time constraints (late arrival from Drapchi prison, strict working hours of prison staff), the Special Rapporteur was able to interview only 3 out of a list of 10 prisoners whom he had wished to see.

20. **Jigme Tenzin** (Bangri Tsamtrul Rinpoche), aged 43, a lama and founder of an orphanage, was arrested in August 1999 and later convicted of inciting splittism and sentenced to 15 years and seven months imprisonment in a closed hearing by Lhasa Municipal Intermediate People's Court in September 2000. His sentencing document lists evidence against him that includes meeting the Dalai Lama, accepting a donation for the home from a foundation in India, and a business relationship with a Tibetan contractor who lowered a Chinese flag and attempted to blow himself up in front of the Potala Palace in Lhasa in August 1999. He acknowledged meeting the Dalai Lama, accepting the contribution, and knowing the contractor, but he denied the charges against him and rejected the court's portrayal of events. He told the Special Rapporteur that the first five days of his detention was the most difficult period as he was continuously interrogated night and day. He was held handcuffed with one hand behind his shoulder and the other around his waist, and empty bottles were put in the spaces between his arms. His legs were fettered, he was hooded and made to kneel on a low stool for 1.5 hours. The room where he was held was dark and dirty and without natural sunlight. Regular interrogations continued over the following three months. Most of the time he was wearing handcuffs and shackles, even when eating and sleeping. Because of this and because he was afraid it was often hard to sleep. The police wanted him to confess for the flag incident, as well as to having established the children's home for political purposes. He was moved to Gutsa for one year and then to Drapchi. In Gutsa he stayed together with either three to five persons in a room which had a monitoring device. In his section there were only "political prisoners". After 2000 his treatment improved. He had access to a television, water when he wanted it, and had longer free time. He was provided educational classes regarding the status of Tibet. After these classes he confessed as he did not want to spend his "whole life" in prison, having already spent six years in prison. He complains of heart disease and gall stones, for which he mostly treats with family-provided medication. His family visits him once a month. He has no right to telephone but he can send letters to his wife. He complained of monotony and boredom, having to spend most of his time in his room and not being allowed to pray. He told the Special Rapporteur that the most serious criminals are locked up most of the time. He can, however, go outside in the morning until noon. **Since he has been convicted of a political crime, possibly on the basis of information extracted by torture, the Special Rapporteur appeals to the Government that he be released.**

20. **Lobsang Tsuitrim**, aged 29, a monk. He was first detained on 8 November 1995. During interrogations he was shocked with an electric baton all over his body, including on the face. In one incident in Drapchi, on 4 May 1998, his arms and legs were tied together and he was beaten with a stick (plastic with sand inside) in connection with a disagreement concerning the raising of flags. Since then he has not been subjected to ill treatment, and is expected to be released in 2009. He pointed out that the conditions at Drapchi were better than in Quishui Prison: the food is worse; he only has 20 minutes of free time outside his cell a day; the temperatures inside in the summers are hot and very cold in the winter. In either Drapchi or Qushui Prisons, he complained of boredom: the prisoners must sit in their cells, they cannot pray though many are devoutly religious, nor can they work, practice sports, or have access to reading

material. **Since he has been convicted of a political crime, possibly on the basis of information extracted by torture, the Special Rapporteur appeals to the Government that he be released.**

21. **Jigme Gyatsu.** On 30 March 1996, he was arrested and beaten by the criminal investigation team. He was subsequently sentenced to 15 years imprisonment and 5 years deprivation of political rights on 25 November 1996 by Lhasa Municipal Intermediate People's Court for the crime of endangering national security in connection with establishing an illegal organization. He told the Special Rapporteur that the ill treatment was worst in Gutsa, where he stayed for one year and one month. Since the persons he was charged together with had already confessed, he also decided to confess. He then was transferred to Drapchi Prison in April 1997. In one incident in March 2004, he yelled out, "Long live the Dalai Lama," for which he was kicked and beaten, including with electric batons. The electric batons were used on his back and chest with painful effect, and ceased once the Chief of Police came and stopped it. After this incident his sentence was extended for an additional two years. He recalled that the general conditions in Drapchi were better than in Quishi Prison: better food, the cells were better lit and ventilated, and the temperatures inside were not as extreme in summers and winters. He can spend 3.5 hours per day outside of his cell. **Since he has been convicted of a political crime, possibly on the basis of information extracted by torture, the Special Rapporteur appeals to the Government that he be released.**

### **C. Urumqi, Xinjiang Uighur Autonomous Region**

#### **VII. Urumqi Prison No. 3 (Visited on 29 November 2005)**

22. The prison has a population of approximately 1925 male detainees. The Special Rapporteur was informed that this prison was in the process of moving to a new facility. One detainee told the Special Rapporteur that he is interrogated on a daily basis and that he was unable to communicate with his family.

23. **Tohti Tunyaz Mozat** (pen name Tohti Muzart), aged 46, an ethnic Uighur historian and author from Xinjiang. Tohti Tunyaz was a postgraduate student at the University of Tokyo in Japan specializing in China's policy towards ethnic minorities. When he travelled back to the XUAR to collect material for his thesis (on the region's history before the establishment of the People's Republic of China in 1949) he was arrested by agents of the State Security Bureau on February 6, 1998. He was formally charged on November 10, 1998, tried on March 10, 1999 in the Urumqi Municipal Intermediate People's Court and later convicted and sentenced to 11 years imprisonment on appeal to Xinjiang Uyghur Autonomous Region Higher People's Court for "inciting splittism" and "illegally procuring state secrets" on February 15, 2000. He is due for release on February 10, 2009. He told the Special Rapporteur that he had been held in a pretrial detention facility unknown to him for more than two years. At the beginning he was the only one in the cell. He was interrogated daily and said that he had not been physically tortured. He was unable to communicate with his family. He had two lawyers, who visited him six months after his arrest and before the prosecution stage. Only after the verdict in early 2000, when he was sentenced to 11 years' imprisonment, was he put in a cell with other persons. After the two years he was brought immediately to Prison No. 3. He informed the Special Rapporteur that the guards are fairly respectful and kind and do not mistreat him verbally or physically. He has received visits from his family and writes letters. He works for eight hours a day doing technical

work. In May 2001, the WGAD stated that his detention was arbitrary and contravened several UDHR articles, including the rights to freedom of thought, opinion and expression. The WGAD stated that, ““Mr. Tohti Tunyaz cannot be sentenced merely for writing a research paper, which, even if it were published, lay within his right to exercise the freedoms of thought, expression and opinion which are enjoyed by everyone and which can by no means be regarded as reprehensible if exercised through peaceful means, as they were in this case.” **Since he has been convicted of a political crime, possibly on the basis of information extracted by torture, the Special Rapporteur appeals to the Government that he be released.**

24. **Abdulghani Memetemin**, aged 41, journalist for German-based East Turkistan Information Center (ETIC). On 28 August 2002, by approval of the Kashgar Secondary Court, he was arrested by Kashgar State Security officers in the main square of Kashgar, on suspicion of instigation of secession of country, and providing state secrets to organizations outside the country. As soon as he was arrested, the police told him about his right to have a lawyer, and was repeatedly provided the opportunity to obtain one, which he refused. He was detained in the guard room in the Kashgar State Security Bureau for one month, and was not tortured. During the interrogation he confessed to all crimes. During this time no one knew where he was being detained except for his wife. On 28 December 2002, he was sentenced to nine years’ imprisonment and 3 years deprivation of political rights. He arrived at Prison No. 3 on 17 February 2004, and for the first year he could not speak with any other person apart from the guards. He indicated that he now receives monthly family visits, has access to reading materials and is unaware of verbal threats or ill-treatment.

#### VI. **Liu Dao Wan Detention Centre** (Visited on 30 November 2005)

25. The Special Rapporteur was disturbed by the conditions of one death row detainee who was shackled continuously. Unlike the Beijing No. 2 Municipal Detention Centre, death row prisoners in Liu Dao Wan are not continuously handcuffed. The Special Rapporteur is of the opinion that the continuous shackling of death row prisoners constitutes an imposition of additional punishment without any justification, leading to unnecessary suffering.

26. **Rebiya Kadeer**, aged 59. The Special Rapporteur conducted an interview with Rebiya Kadeer in Geneva on 19 October 2005. Rebiya Kadeer, of Uighur ethnic decent, was a successful businesswoman and philanthropist as well as an advocate for the Uighur ethnic group and women’s rights in the PRC. She was arrested in August 1999 on her way to meet a delegation from the United States Congressional Research Service to complain about “political prisoners” in Xianjiang. After a secret trial, the Urumqi Intermediate People’s Court sentenced her to eight years in prison on 10 March 2000 for ‘unlawfully supplying state secrets or intelligence to entities outside China’ (CL 111). The written verdict describes these ‘state secrets or intelligence’ as news clippings from publicly available newspapers in Xinjiang that she had mailed to her husband in the United States. Her eight year sentence was set to expire on 12 August 2007 but was cut short by 12 months for good behaviour. She was released from custody in April 2005 and is currently residing in the US. Rebiya Kadeer alleges that she was held in solitary confinement in Liu Dao Wan Detention Centre for 2 years from August 1999 until August 2001 before being transferred to No. 2 Women’s Prison (Baijahu). For these two years she was held in a dark cell approximately 4 x 3m. She was forced to sit in her room on a small wooden stool with her hands on her knees, looking down at the floor, for 12 hours per day. She was not allowed to receive visitors during this time. She was seldom allowed to leave

her cell to go outside. Over a period of 45 days she was only allowed outside for 10 minutes and she was interrogated 90 times. While she was never physically tortured, she told the Special Rapporteur that guards would torture detainees in adjacent cells in order to scare her into confessing. She said that the most severe suffering which she endured was caused by the fact that she was not allowed to speak to anybody apart from the guards for 2 years and was not allowed to move. She alleges that she overheard a conversation of 2 guards relating to the existence of a 'water torture chamber' located in the basement of the facility. While there have been no recent allegations of water torture carried out at this facility, the Special Rapporteur was able to confirm the existence of a well in a below-ground outhouse located in the grounds of the facility similar to that described to him by Rebiya Kadeer which is currently being used to store vegetables.

27. **Zhou Hai Zhong**, aged 23. He was sentenced to death at first instance on 11 August 2005 for the kidnapping and murder of two children. He is currently awaiting a decision on his appeal. He has been wearing shackles 24 hours per day since after his trial. He spends most of his day in a 19 people cell where he has to sit cross-legged on a mattress listening to a cell mate read aloud the prison regulations and rules. **The Special Rapporteur is of the opinion that the continuous shackling of death row prisoners constitutes an imposition of additional punishment without justification, leading to suffering. He recommends this practice be abolished.**

28. **Evance Orphan Minison**, a Malawi national. On 4 June 2005, he was arrested at the airport in Urumqi on suspicion of drug offences, brought directly to a local police station, and immediately confessed to the charges. He has a lawyer but the lawyer is not proficient in English and Mr Minison does not understand Chinese. He was transferred to Liu Dao Wan Detention Centre around 23 October 2005, and is currently awaiting his first instance hearing. He says that the conditions were better in the police station where he was first detained. He is made to sit cross-legged on a mattress with fellow detainees for the most part of the day as a form of re-education. This involves the "chief" of the room (according to prison guards the most educated person in the cell is nominated 'chief') reading from a text, normally the prison regulations or the Criminal Code. None of his fellow detainees speaks English and there are no books or newspapers in English. He complained that he was very cold and that while he is sitting he is not allowed to wear his hat to cover his ears. He is not allowed to go outside. He has not been able to contact his family. **The Special Rapporteur recommended that he be provided with a lawyer who speaks English, with English reading material, be able to contact his family, and be provided warm clothing. The prison director agreed to implement them immediately that same afternoon in so far as this was possible within the framework of the national laws and regulations of China.**

## VII. Urumqi Prison No. 1 (Visited on 30 November 2005)

29. The prison was opened on 26 June 2002 and has a male prison population of which 1,337 are Hans, 1,056 are Uighur, 400 are Hui, 200 are Kazakh and the remainder belong to other ethnic groups. The Special Rapporteur was also concerned by reports that detainees were not allowed to pray in detention.

30. The Special Rapporteur notes that a number of detainees interviewed requested absolute confidentiality.

31. **Nur Mohammad Yasin** (pen name Örkixi), aged 31, a Uighur writer and poet and author of the book, *Wild Pigeon*. He was arrested by the PSB and questioned by the SSB. During interrogations between 30 November 2004 and 17 May 2005 he was subjected to threats and beatings by the Kashgar Prefecture State Security Bureau. In one incident during an argument with a policeman, he was hit in the face and suffered a bleeding nose. He was sentenced to 10 years' imprisonment on charges of inciting separatism because of having published the book *Wild Pigeon*. He was brought to Prison No. 1, where he was beaten by fellow prisoners in his cell because he did not speak Mandarin. He thinks that there is no point in complaining to the prison guards. **Since he has been convicted of a political crime, possibly on the basis of information extracted by torture, the Special Rapporteur appeals to the Government that he be released.**

VIII. **Urumqi Prison No. 4** (Visited on 1 December 2005)

32. Urumqi Prison No. 4 has a male prison population of 1,731 of which 741 are Hans, 689 are Uighur, 170 are Hui and less than 1% is Mongolian. 134 detainees are sentenced to life imprisonment, 71 are sentenced to death penalty with 2 year reprieve and the remainder have fixed term sentences. 12% of the prisoners are detained for endangering national security. During the first three months in detention there is a special psychological training to see if the detainees have a violent disposition. If deemed violent they receive a separate management. At times if a detainee is 'not in a good mood' they can be seen as a threat and be subjected to seven days of 'special management'. In terms of solitary confinement there is a maximum duration of 15 days. The Special Rapporteur was able to interview two detainees who were in solitary confinement. One detainee had been held in solitary confinement for nearly three weeks, and the second detainee did not know anymore for how long he had been held in solitary confinement.

33. The Special Rapporteur noted that one political prisoner convicted of political crimes whom he interviewed in Prison No.4 requested absolute confidentiality.

34. **Yi Sheng Tang**, aged 44. He has been in solitary confinement for nearly three weeks. At the time of the meeting with the Special Rapporteur, it was apparent that he was suffering from psychological problems and was distressed. **The Special Rapporteur recommended to the prison officials that he be immediately released from solitary confinement. The prison officials promised to do whatever was possible to comply with the request of the Special Rapporteur.**

35. **Cao Xin Dong**, aged 43. He did not know how long he had been in solitary confinement for and had not been told how long he would be kept in. He was sentenced to 20 years imprisonment for car theft and fraud.

### Appendix 3

#### Individual cases - Outside detention facilities

1. The following cases document interviews carried out by the Special Rapporteur with individuals outside of detention. The interviews were either carried out in person or by telephone. The interview partners were either alleged victims of torture or ill-treatment or family members of alleged victims, or lawyers representing torture victims. In addition to torture allegations, some interviews (Nos. 1, 2, 3, 4) also provide evidence about attempts of the Chinese authorities at obstructing the fact-finding of the Special Rapporteur. In two cases (Nos. 3 and 5) the Government denied the allegations and provided a different version of the facts which have been appended.

2. **Gao Zhisheng**, aged 41, lawyer, Beijing. (Interview in Beijing on 20 and 21 November 2005) Active on cases involving corruption, land seizures, police abuses and religious freedom, he reported that he and his family have been put under constant surveillance since 19 October 2005. This followed the publication of an open letter of 18 October to the President of the NPCs, concerning the persecution of Falun Gong. Gao Zhisheng has to date published three open letters to the Chinese authorities protesting the treatment of Falun Gong practitioners in China. He has also carried out a number of 'fact-finding' trips including to Urumqi in order to investigate the alleged persecution of Christians and other minorities. His law firm was closed down in November 2005 and shortly afterwards his personal permit to practice law was revoked. The Special Rapporteur met with Gao Zhisheng on the evening of 20 November. Gao Zhisheng reported that on his way to the meeting he was followed by three cars that attempted to obstruct him from meeting the Special Rapporteur. Photographs provided by Gao Zhisheng indicate scratches on both sides of his car where the police cars collided with. His wife reported that during the visit of the Special Rapporteur there were five cars outside his house 24 hours a day and that three agents were following his child to school and back every day. During the meeting with the Special Rapporteur, he noted that he and his team were being heavily monitored by intelligence officers with portable listening devices and cameras from an adjacent table. When he approached them the three officers become irate, and the meeting with Mr. Gao was continued elsewhere. **The Special Rapporteur protested to the Ministry of Foreign Affairs the following day.**

3. An urgent action was sent out on 26 November 2005 in relation to the above events. On 21 December 2005 the Special Rapporteur on Torture submitted to the PRC a letter of allegation in relation to a decision to close down the legal practice of Mr Gao Zhisheng. No response has been received to either of the above communications to date. The Special Rapporteur continues to receive worrying allegations concerning the situation of this person including the following; that on 13 January 2006 Gao Zhisheng was beaten by plain-clothes officers after he tried to protest against aggressive surveillance and that, on the night of 17 January 2006, cars he believes belong to the security services attempted to run him down.

4. **Yao Fusing**, aged 55, worker's representative. (Interviewed out on 22 November 2005 with his wife Guo Sujing in Beijing). He was arrested on 17 March 2002 but officially taken into custody on 29 March 2002. During his interrogation in Tialing Detention Centre, 17-21 March 2002, he was handcuffed and shackled to the floor. In Liaoying pretrial detention centre he was not given a quilt during cold weather even though he suffers from coronary heart

disease and half of his body is numb. It is reported that he was transferred through eight prisons and that the worst prison was Su Jia Tong Prison where the prisoners were not allowed to wash their faces, were allowed 3 controlled toilet visits per day and fed one steamed cornflour bun a day.

5. **Li Jianfeng** (The interview took place on 22 November 2005 with his father, Li Jinghong, in Beijing). According to his father, Li Jenfeng was formerly the Chief Judge of the Intermediate Court of Lingde City, Fujian Province. He is presently carrying out a 16-year sentence for subversion in Jian Yang No.2 Prison. Li Jianfeng was detained on 31 October 2003 along with seven other accomplices, all of whom were allegedly tortured during police interrogation. It is believed that he was arrested for defending vulnerable groups and for exposing the alleged corruption of the City Secretary. In the Criminal Investigative Brigade of Lin De City, Li Jianfeng was imprisoned in a small iron cage measuring less than 1m<sup>2</sup> for 11 days. During this time, a strong spotlight was shone into the cage 24 hours a day, he was deprived of water and denied access to a medical doctor. His father reported that electric batons discharging high voltage electric shocks were used on his son's eyes and on the tips of his ears. Before formal imprisonment he was transferred through 5 pre trial detention centres. It is reported that when he arrived to a new pre trial detention centre, the staff would tell the veteran detainees to torture and hit the new arrivals. As a result of this his son reportedly suffered a cerebral swelling and suffers from headaches, fainting, dizziness and ringing in the ear. It is alleged that he fainted when he was in San Ming City pre trail detention centre. It was also reported that Li Jianfeng's wife, who was Deputy Head of Ling De District, was also detained for 5 months - no reason was given for her detention. After her release she was demoted to researcher.

6. **Ma Yalian**, aged 42 (telephone interview 23 November 2005) Shanghai. Since 1998, in connection with a petition she has brought concerning her illegal eviction from her property, without compensation or temporary shelter, she alleges that she has been targeted by authorities by means of arbitrary detention to prevent her from further pursuing her complaint. Examples include administrative detention for 34 days on 23 April 2001 for disrupting court order, and violation of bail. She was detained at Huangpu Detention Centre on 24 July 2001 for five hours, after being arrested without warrant by Shanghai police in Beijing for seeking administrative review at the Beijing Supreme People's Court and State Letter and Visits Bureau; and following a meeting with the State Letter and Visits Bureau on 7 September 2001, she was taken to the Fengtai Detention Centre for five days before taken back to Shanghai and detained at a detention facility for one year to serve an RTL sentence. On 19 February 2004, she was sentenced to 18 months' RTL for revealing the truth about the conditions of detention there. At the camp she was subjected to the "Cadillac" technique, where she was tied to a chair with a wide band of cloth bound tightly against her abdomen. She was stripped naked from the lower half of her body, left restrained like this for almost three days, and denied access to a toilet. She sustained swollen hands and pain in her abdomen. When she complained, fellow prisoners were ordered to beat her on three occasions. Because she ate little, she was deemed to have gone on hunger-strike and was sent to the Ti Lan Qiao Prison Hospital. There she was bound by her hands and feet to a bed, with a band across her torso for 18 days. She was denied access to a toilet. If she protested, the restraints would be tightened. Ma Ya Lian was sent to a smaller ward and given water sips at a time. If she wet her bed, she was slapped in the face by fellow prisoners. She alleges that authorities from Ximeng Police Station, Shanghai, have detained her from 14 to 21 November 2005 at Daguan Garden, Qingpu, Shanghai, as a result of

President Bush's visit to China, to prevent her from raising her case, and was returned home on the afternoon of 21 November. She alleges that after she contacted the Special Rapporteur shortly after his arrival, the police have not allowed her to leave her home, even to dump garbage.

7. Following his visit, the Special Rapporteur received information that Ma Yalian was taken away by police on 14 January 2006 to the resident's Committee in Huangpu district, Shanghai. She was then reportedly driven away by a van to an unknown location. The Resident's Committee officials refused to inform her parents as to the reasons for her detention or her current whereabouts.

8. **Jia Jianying**, aged 47, Beijing. (Interview in Beijing on 24 November 2005) She is the wife of Mr. **He Depu**, currently in Beijing Prison No. 2 (see Appendix 2, para. 6). On 20 November 2005, the day of the Special Rapporteur's arrival, she was called by the local police station to say that she could not move freely before 25 November. She was told by the police that this was because of the UN visit. She was informed that she would be escorted to work and back from the next day on. On this day, police cars appeared outside her house. On 21 November, police cars began to escort her to and from work at the Xuanwu District Hospital Library. On 22 November at approximately 1pm, the party secretary of her work called her to let her know a police car was waiting outside for her. **Zhai Ming** (State Security) and **Zhang Zhengjie** (director of the local Zhan Lanlu Police Station) were waiting outside in the police car. She was then taken to Zhan Lanlu Police Station where she was put under the custody of two police officers (**Liu Liming** and **Wang Jing Feng**). They told her that she should follow them and not make any phone calls. She was informed by the police officers that she would be taken away for a couple of days to avoid meeting with the visiting UN officials. She was taken to Changping County P.S.B Conference Centre 1.5 hrs away by car. At her request the police officers stopped by her house on their way to pick up some personal belongings. This was at approximately 15:30. She did not say anything to her mother but she whispered to her son that she was being taken away by the police. For this reason Jia Jianling was unable to meet the Special Rapporteur as arranged at 22.00hrs on 22 November. At 08.00hrs on 23 November the Special Rapporteur contacted Jia Jianying's mother, **Zhang Fengze**, in order to verify Jia Jianying's whereabouts. He then contacted the Ministry of Foreign Affairs in order to clarify the situation. Jia Jianying states that on 23 November at around 14.00hrs she was handed a phone by one of the police officers and told to call her son and explain that she was on a work unit study trip. Later she sent a short text to her mother, **Zhang Fengze**, saying that she had been taken away by the police. She did not indicate where she was being held, but indicated that she would be there for three days. According to her son, **He Jia**, aged 20, shortly after his grandmother, **Zhang Fengze**, was contacted by the Special Rapporteur, Jia Jianying telephoned to tell her mother not to speak with the Special Rapporteur any further. At 23:30hrs Jia Jianying was informed that she could go home the next day. During the two nights she spent at the conference centre she was followed everywhere she went by the police officers, and the female officer slept in the same room as her. On 24 November, she was escorted by the police officers from the conference centre at 10.00 and was taken back to the police station. She was told to promise not to tell the Special Rapporteur what had happened, that she would be questioned after having spoken with the Special Rapporteur the next day. She was told that she might meet with the UN people that day and that if she told the UN anything she would be responsible for any consequences. She was told that she could not meet the Special Rapporteur at her home but outside her home would be fine. The director of the



police station told her that she had been sent back home, 'perhaps at the instruction of the foreign ministry'. When she arrived home at 1pm, the police told her 'if you meet with these UN people, tell them that we are not at your home anymore.' Over the last 8 years she has been put under house arrest approximately once a month dating from the time that her husband, He Depu, was arrested. As she has been taken away many times by the police, all her colleagues know about it. She estimates that 100 days in each year she is under house arrest, most recently during the Bush and Rice visits. **On 22 November, upon learning that Ms. Jia Jianying had been prevented by the authorities from meeting with him the previous night, the Special Rapporteur protested to the Ministry of Foreign Affairs. He interviewed her on the evening of 24 November.**

9. **While the Ministry of Foreign Affairs promised to provide, in writing, information concerning the above events, the Special Rapporteur has not received any written comments to date. However, following his protest to the Ministry of Foreign Affairs, the Special Rapporteur was provided orally with the following information: The Special Rapporteur was informed that Ms. Jia Jianying had asked the police whether or not she could meet with him. The police gave their assent. However, Ms Jia Jianying changed her mind and decided to attend a work seminar instead which was taking place outside of Beijing. As the seminar was shorter than she envisaged, she was able to return early to Beijing where she met with the Special Rapporteur on 24 November 2005.**

10. **Li Shan Na**, aged 25, Beijing. (Interview in Beijing on 24 November 2005) She is the wife of **Xu Yunghai**, a doctor and a Christian. Her husband, who reportedly helped publish an article about the persecution of a nun in Anshan City, was taken away from the hospital where they worked, together with herself, by officers of Beijing Municipal Police Bureau in November 2003, on suspicion of illegally releasing information ('intelligence') to foreign organizations. They were taken to the Fengsheng Police Station and questioned for seven hours and later released. The police, without a search warrant, then took her husband to his home to conduct a search. Her husband's office was also searched. After the search, Ms. Li did not know where the police had taken her husband. Three months later she learned that he was being detained in Anshan City, Xiaaoshau District. The first court hearing was on 1 March 2004 in Hanjzhou City. At first she was told that she could not attend the hearing but after insisting with the party secretary at the hospital where she worked, he allowed her to go on the assurance that she would not create any sort of trouble and that she sign a document to this effect. She refused to sign. On arrival in Hanjzhou she was told that she could not attend the hearing because it was not public as it concerned state secrets. She managed to gain access to her husband's second hearing in August 2004. At this hearing she received her husband's arrest warrant. She visited her husband for the first time in November 2004 in Xijiao Prison in Hanjzhou. At the meeting he told her that he had been beaten by other inmates at Hanjzhou Detention Centre. He felt that the beatings were at the instigation of the police because they saw what was happening but did not intervene. The effects which she brought to him in prison were all confiscated. Other inmates seemed to know a lot about his personal details including his bank account details which he assumed they could only have learned about from the police officers. Inmates continued to beat him. This is the only visit she has made as he is being detained far away. Ms. Li pointed out that according to law, her husband's two year sentence, which he will complete on 29 January 2006, should have been calculated as beginning at the point of arrest. However, the sentence only started as of the second hearing when she first received his arrest warrant. Ms. Li recounted recent restrictions on her freedom of movement. On 17 November 2005, prior

to the visit of President Bush, the police came to her house at 9pm, asking about her weekend plans. She told them that she would visit her mother. They said she could not. When she insisted the police relented on the condition that they take her there. On 19 November, the day the US President arrived, the police were present outside her home, and escorted her to her mother. According to Ms. Li, on Saturday nights there is usually one police car outside her home, which normally stays until 11 pm, returning at 5am the next day. However, the police stayed outside her house all night on this occasion. On Sunday, 20 November, when she asked the police, "Why are you still here, the President has gone," the police replied, "A human rights organization is coming to Beijing." In the middle of the interview with the Special Rapporteur on the evening of 24 November, Ms. Li received a call from the police asking where she was and telling her that they would come and pick her up. **The Special Rapporteur immediately protested to the Ministry of Foreign Affairs.**

11. Ms. **Mao Hengfeng**, aged 44, Shanghai (subject of previously transmitted communications, E/CN.4/2005/62/Add.1, para. 296) (Interviewed in Beijing on 24 November 2005). She alleges that she has been targeted by officials for various petitions she has made to Beijing authorities. In one instance, between 9 to 12 March 2003, she was detained at Daqiao Police Station, Yangpu district, Shanghai, where she was beaten heavily against a barred window. During her detention she was denied food and water, and the right to inform her family. The effect of the beatings left her numb on the left side of her body. When she was taken to the hospital, the staff found a petition written on her t-shirt, which resulted in her being taken back to the police station, where officers forcibly removed it. She was later detained from 12 to 16 March at the neighbourhood infectious disease centre and was shortly released thereafter. On 16 March 2004, she was detained, and later sentenced on 5 April 2004 to 18 months' of re-education through labour for "disrupting social order", to be served at the Qingpo Women's RTL camp, Shanghai. The camp reportedly manufactures Christmas tree lights, sweaters, and small toys. She was released on 12 September 2005. During her first 15 days at the camp, education consisted of being forced to stand from 5am to 11pm, with 15 minute breaks for meals. Non-compliance would result in beatings, often by other prisoners upon the orders of the guards. On other occasions, the prisoners would be forced to march in the hot sun for a half day, and those that disobeyed would be forced to march the whole day. She reported that one prisoner, Ms. **Li Limao**, who was a Falun Gong practitioner, died one month after the Chinese New Year in 2005 following a punishment for disobedience. She was hung from a window from her hands tied behind her back, and with her toes just touching the floor. Mao Hengfeng reported that a "white powder" was often mixed in the prisoners' meals which had a sedative effect. Following the 15 day education period, when she refused to work, Mao Hengfeng was placed in a cell with two other prisoners. There she was regularly forced to sit or stand for long durations at the risk of being beaten if she did not comply. Between 9 to 17 August 2004, on the orders of the guards, the prisoners had tied her arms and legs to a bed and attempted to force drugs into her mouth to force her to admit her wrongdoing. During this time she was refused access to a toilet. After 17 August 2004, she was moved to a small disciplinary cell for one week, tied to a bed, and her face covered with a mask with only a hole for her nose. Again she was forced to admit her crime, but when she accused the other prisoners of being 'fascist' they attempted to suffocate her. Between 9 to 12 November 2004, she was brought back to this cell, tied to the bed, and not provided with appropriate bedding and clothing despite the cold, and lack of heating. Speakers in the cell blasted loud music. Visits were granted at the discretion of the prison management, despite regulations stipulating monthly visits, and usually after injuries had sufficiently healed. Medical treatment for her injuries

consisted merely of lotion, and when she appealed for further treatment she was threatened with being handcuffed and shackled. On one occasion, a doctor diagnosed her erroneously with high blood pressure and prescribed her medication which left her mouth numb for days. She indicated that she has complained to the authorities about her treatment with no effect. Mao Hengfeng also alleges that she has been detained by Daqiao Police Station officers on a number of times to prevent her from raising her complaints at high-level events and during visits of foreign dignitaries.

12. Following the visit of the Special Rapporteur two UAs were sent out on her behalf. The first UA of 5 January 2006 concerned allegations that she was being detained incommunicado by 7 Residents' Committee officials in a Shanghai hotel from 3-6 January. The officials reportedly beat her several times, grabbed her breasts and prevented her from sleeping during this period. The second UA of 1 February 2006 was sent out following her re-arrest on 24 January after she travelled to Beijing to take part in an unofficial memorial service marking the first anniversary of the death of former Chinese leader Zhao Ziyang. According to information received, she was forcibly taken back to Shanghai by police officers because of her protests about human right and was held incommunicado for 16 days by the Public Security Bureau of Shanghai in Liangren Hotel. She was released on 8 February 2006. No responses have been received from the PRC in relation to any of the UAs sent out on behalf of Mao Hengfeng.

13. **Liu Xinjian**, aged 49, Shanghai (Interviewed on 24 November 2005). She alleges that in relation to petitions she has made to the Communist People's Congress, concerning the illegal demolition of her home, and beatings by village security brigade personnel, she has been targeted by the authorities. She was detained on 16 February 2003 by police officers of Qibao Police Station, beaten by personnel with fists and feet, taken for a psychiatric evaluation, and held there for two days before being transferred to the Minghang Detention Centre. On 22 February, she was transferred to the Ti Lan Qiao Prison Hospital, restrained to a bed for five days and sedated, before being taken to the Minghang Psychiatric Hospital on 3 March. On 3 June 2003, she lodged a complaint at the Supreme People's Court, Shanghai and sought to see the Chief Judge, in connection with a divorce case. Officers of Qibao Town Police Station detained her and took her to the Minghang Psychiatric Hospital the following day. At the hospital she was restrained to a bed for five days and forced to take tranquilizers. She was given four injections, which left her feeling thirsty, unable to swallow, numbed her tongue and impaired her vision. When she questioned the chief physician why she was being treated like this, he responded, "You are not in a hospital, but in a prison." Her son visited her weekly. He tried to bail her out on numerous occasions, and even appealed for help from a local television station, with no success. The hospital required the consent of the police station in order to release her, and upon the guarantee of her son that she would not make any further petitions, she was released on 20 January 2004.

14. **Zhao Xing**, aged 37, lawyer and head of the Empowerment Rights Institute (telephone interview of 28 November 2005). Earlier this year he had tried to organize a demonstration against the former Premier. He was detained in Beijing County Security Bureau and then in the Beijing Detention Centre. After two months and three days he was released on bail. He sought the consent of the police to visit family members in Chengdu. He also had some farmers' cases there. On 13 November 2005 at 1pm, he traveled to Chengdu with his parents by train in the company of a policeman. In Chengdu he observed that he was being constantly followed by

two cars. On 17 November at about 10pm, he was beaten outside the Chungling Hotel by six or seven persons in plainclothes, witnessed by a number of people in his tour group. He was beaten with an iron bar on the head and on his right leg, which was fractured from the knee upwards. He reported the beating about half an hour after the incident to the police and asked them for a record of the incident and to protect the evidence. They refused to do this. The police took him to Mao County hospital about one and a half hours away. He arrived there at midnight and stayed until 6am of 18 November. He was treated for his injuries there. He received 11 stitches for his head but the doctors there told him that they could not treat his leg. He was later taken to the orthopaedic hospital of the Chengdu army region, where he was at the time of the interview. Though he would not require surgery, he was told that he would have to remain there with his leg in a cast for two months. The police have indicated to him that one suspect has been located but has not been arrested. According to his investigations, approximately 80% of those detained are tortured in order to extract confessions, typically in the police station or at the brigade for criminal investigation.

15. In written comments of 25 January 2006, the Government provided the following information in relation to the above case: “On November 17, 2005, Zhao Xin was traveling with a tour group in Jiuzhaigou, Sichuan and lodged at the Qianglin Hotel in Mao County, Aba Prefecture, Sichuan Province. During that time, Zhao and three other members of the tour group drank a great deal of alcohol in the hotel nightclub, there was a dispute with the hotel over the amount of the bill when it was time to pay, and he was assaulted by the nightclub manager and servers, leading to head injuries and multiple fractures in his kneecaps and ribs. Zhao sought inpatient treatment the following day in Chengdu’s August First Orthopedic Hospital. Following the incident, the public security bureau in Mao County, Sichuan immediately carried out an investigation and obtained evidence according to law and criminally detained those who caused the disturbance. Zhao is presently receiving treatment in the Chengdu hospital. This case is in the process of being handled further according to legal procedures. This case is completely the result of a commercial consumer dispute.”

16. **Chen Guangcheng**, aged 34, a self-taught lawyer, (telephone interview on 28 November 2005). Chen Guangcheng has been under “residential surveillance” (house arrest) since 6 September 2005 for exposing family planning violence in Linyi and providing legal aid to villagers who were to take legal action regarding these abuses against local authorities. His wife has also been prevented from leaving the house, and was once beaten when she came out to meet visitors. Their telephone line has been cut off and their computer confiscated. On 6 September 2005, Chen was detained in Beijing by police from Shandong Province, who took him back to Linyi and placed him under house arrest the following day. Since then, his house has reportedly been surrounded by up to 50 men and many cars; his landline and mobile phone services have been cut off, and his computer seized. On 4 October, law lecturer Xu Zhiyong, lawyer Li Fangping, and another lawyer attempted to visit Chen and negotiate with local officials to have his house arrest lifted. The lawyers were stopped on their way to the house. Chen reportedly managed to leave his house and spoke with them briefly, but was then forcibly taken back. When he resisted, he was beaten up by men surrounding his house. The lawyers tried to go to Chen’s house, but they were stopped and reportedly beaten up and taken to a police station where they were interrogated. They were told that the case now involved “state secrets” and escorted back to Beijing. On 10 October, Chen Guangcheng’s cousin Chen Guangli and another villager, also surnamed Chen, who had been giving interviews

about Chen Guangcheng's situation to foreign reporters, were reportedly detained. On 24 October, two other Beijing scholars and friends of Chen Guangcheng went to visit him. As Chen ran out to greet them, he was stopped and beaten by more than 20 men stationed outside.

17. Since the Rapporteur's mission, the following has been reported that on 2 February 2006, Chen Hua, a neighbor and relative of Chen Guangcheng, reportedly protested the house-arrest of Chen Guangcheng to the security guards in front of the latter's home. Chen Hua was assaulted and arrested two days later. Although no detention order was shown to him or his family, he was held at the Xishan Public Security Detention Centre at Yinan County, Yilin City, Shandong Province until 12 February 2006. On 5 February, more than 200 villagers protested the Chen Hua's detention and Chen Guangcheng's house arrest. Some villagers attacked two police vehicles. However, the protest turned violent when the Police threw stones at villagers, causing several injuries, and then refused to take them to hospitals in nearby towns. The Public Security Bureau accused Chen Hua's wife, Chen Dengju, and other villagers of destroying public property, chasing "militia members" and Government officials, and overturning police cars. Police posted notices on 14 February threatening villagers who participated in the protest with "serious punishment" unless they came forward to "confess." On 15 February, Chen Guangcheng's wife Yuan Weijing was beaten up by guards hired by the village communist party secretary, when she set out for the food market. She was pushed into a ditch and received serious injuries to her liver but was unable to receive medical attention.

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# **EXHIBIT E**



**Economic and Social  
Council**

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25 January 2001

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COMMISSION ON HUMAN RIGHTS  
Fifty-seventh session  
Item 11 (a) of the provisional agenda

**CIVIL AND POLITICAL RIGHTS INCLUDING THE QUESTIONS  
OF TORTURE AND DETENTION**

**Report of the Special Rapporteur, Sir Nigel Rodley, submitted  
pursuant to Commission on Human Rights resolution 2000/43\***

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\* The executive summary of this report is being circulated in all official languages. The report itself is contained in the annex to the executive summary and is being issued in the languages of submission only.

law. In this connection he agrees with the recommendation of the Human Rights Committee (CCPR/C/79/Add.104 of 30 March 1999, para. 9) that the law should be amended so as to restrict the jurisdiction of the military courts to trial only of military personnel charged with offences of an exclusively military nature.

236. He fully supports, in particular, the following recommendations of the Human Rights Committee directly relevant to his mandate:

That there be established an independent body with authority to receive and investigate all complaints of excessive use of force by the police and other security forces;

While noting improvement as a result of recent legislative reforms, that the law be reconsidered with a view to eliminating incommunicado detention altogether; this applies, in the Special Rapporteur's view, whether or not such detention is ordered by a judge;

That there be established "institutionalized" mechanisms for monitoring conditions in prison and for investigating complaints by inmates; such mechanisms should, in the view of the Special Rapporteur, include a substantiate component from civil society, including human rights non-governmental organizations.

#### China

237. By letter dated 10 August 2000, the Special Rapporteur advised the Government that he continued to receive information according to which the use of torture and other forms of ill-treatment, in particular in Tibet and in the Xinjiang Uighur Autonomous Region (XUAR) is widespread. In addition to methods reported in previous years, the Special Rapporteur has transmitted information on the use of trained dogs to attack prisoners; the use of live electric wires to give electric shocks, *inter alia*, to the mouth and genitals; the insertion of sticks or needles under the nails or having fingernails pulled out with pliers; the hanging of prisoners from a rail with one foot and one hand for 24 hours; the shoving of paper into the anus of detained persons and the setting on fire of this paper. The Special Rapporteur has transmitted further information on prisoners being made to run in the "flying aeroplane" position, arms spread out and bent forward; having their hands tied behind their back and having them pulled up behind them, causing intense pain; and on prisoners being made to stand barefoot in the snow and having cold water poured over them in freezing winter temperatures.

238. Furthermore, the Special Rapporteur advised the Government that he had received information on the methods of torture specifically used in the XUAR, namely the use of injections which cause victims to become mentally unbalanced or to lose the ability to speak coherently; the insertion of pepper, chilli powder or other substances in the mouth, nose or genital organs; and the insertion of horse hair or wires into the penis. The torture of prisoners is said to be common in prisons, detention centres and labour camps, such as the Liu Daowan jail in Urumqi and a labour camp near Kashgar. Torture methods reported from the labour camp include prisoners being hit on the head, stomach or genitals with electric batons; having electric



244. **Salam Kari**, from Gulja (**Yining**), was reportedly arrested in May 1997 in connection with protests in Gulja in February 1997. His dead body showing marks of torture was reportedly returned to his family a few days after his arrest.

245. **Nizamidin Yusayin**, a 70-year-old scholar from Urumqi and former journalist for the newspaper Xinjiang Daily, is believed to have been arrested on or after September 1997 on suspicion that he had sheltered people wanted in connection with the February 1997 protests in Gulja. He was said to have been detained incommunicado in the Urumqi City Public Security Bureau. On 7 April 1998, he reportedly died allegedly as a result of being beaten and tortured by the police in order to force him to make a confession.

246. The Special Rapporteur advised the Government that he had received information according to which the authorities have been conducting a major crackdown on the movements of the Falun Gong, Falun Dafa and other Qi Gong groups. Practitioners are said to be put under pressure to renounce their beliefs. Reports have been received that practitioners have been subjected to public humiliation for their membership in the Falun Gong movement. Tens of thousands of practitioners have reportedly been detained by the police for varying periods of time. Many of them are said to have been sent to labour camps without charge or trial for periods of up to three years for "re-education through labour", or detained in psychiatric hospitals, where they were often administered drugs against their will, for periods of up to several weeks. Many of them are said to have suffered torture or ill-treatment. The Special Rapporteur has transmitted information on the following individual cases.

247. **Xian Jin-ying**, from Haiyan county, Zhejiang Province, and three other practitioners reportedly went to Tiananmen Square on 25 October 1999. They were allegedly sent to a nearby police station where between 50 to 60 practitioners were said to have been held. The police reportedly handcuffed about 12 practitioners in a very painful manner with one arm bending over the shoulder to meet the other hand on the back. The police subsequently made them kneel on the ground and hit their heads against the wall. Xian Jin-ying's arm allegedly broke under the pressure. On 26 October, a doctor refused to examine her arm because of her Falun Gong membership. On 27 October, she was taken to hospital.

248. **Liu Juhua**, from Tangshan city, Hebei Province, and **Yang Xuezheng**, were reportedly arrested in Beijing on 22 September 1999 after resisting a police officer who allegedly attempted to take Falun Gong books away from them. They were reportedly taken to Beijing Qinghe detention centre where they were allegedly interrogated, deprived of sleep, had their arms tied to their feet behind their backs and to have been burnt with cigarettes on their hands. They were reportedly transferred to Kaiping detention centre in Tangshan city. Another practitioner detained at the same time at the Kaiping detention centre had reportedly been tortured with electric shock batons and beaten with a large club.

249. **Zhang XiaoHong**, from Da Lian city, was reportedly arrested on 30 August 1999. She was said to have been detained for 15 days in the detention centre in Dalian. On 9 September, she reportedly asked the prison authorities for permission to do her exercises but was refused. On the same evening, she was allegedly chained together with another Falun Dafa practitioner, back to back. They reportedly had to sit on the wooden floor, were prevented from sleeping and from using the toilet and were deprived of food. On 10 September, the two practitioners were

## **EXHIBIT F**

**The Notification from the Central Office of The Central Committee of the Chinese Communist Party (CCCCP) on Printing and Distribution of “Comrade Jiang Zemin’s Speech at the Meeting of the Political Bureau of CCCCCP Regarding Speeding Up the Dealing With and Resolving the “Falun Gong” Problem”**

On June 7 this year, Comrade Jiang Zemin made an important speech at the meeting of the Political Bureau of CCCCCP, expatiating profoundly on the questions of (how to) profoundly realize the international background and domestic environment in which the problem of “Falun Gong” has emerged; (how to) strengthen and improve the party’s works on the areas of ideology and politics, organizations, propaganda and public works, (how to) speed up the dealing with and resolving the “Falun Gong” problems. Now this speech has been printed and distributed to you, you need to organize the standing members of the committees of CCP (or members of the Party Groups), study and carry out the measures. Report to the CCCCCP about the situation in studying and carrying out the measures.

CCCCP Central Office, June 13, 1999

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**Comrade Jiang Zemin’s Speech at the Meeting of the Political Bureau of CCCCCP Regarding Speeding Up the Dealing With and Resolving the “Falun Gong” Problem**  
(June 7, 1999)

In the recent period, there are two major events in the world and inside China.

One event is the military intervention on Yugoslavia Republic on March 24 by the US headed NATO, which also brazenly attacked our embassy in Yugoslavia using missiles on May 8. This has caused great indignation among Chinese people as well as peace-loving people around the world, and it has also exposed the hypocrisy in the human rights, democracy, freedom of press, and etc, that US and other western countries have propagated. The bad thing is turning into a good thing.

After the wanton and indiscriminate bombing for more than 70 days, Yugoslavia had passed austere tests, but it also suffered great loss. Therefore the Yugoslavian government had to accept the peace negotiation.

In this war, Russia acted like an ass in a lion’s skin. The US has seen through Russia’s deadly weakness of been feeble. US-headed NATO needed to “quit the scene honorably” as its bombing could not bring what it wanted, then Russia added pressure to Yugoslavian Republic. At the end, Yugoslavian Republic accepted the agreement outline drafted in the eight countries’ foreign minister meeting. The draft of the eight countries will be brought to the UN Security Council for discussion. The special envoy of EU and the President of Finland, Arherbsash, will soon come to China to brief the related situations.

We must urgently think and analyze, in depth and at full scale, the trend and new characteristics of the international affairs at the end of this century and the beginning of next century. Regarding the US-

headed Western hostile forces' strategic plot to "Westernize" and to "split" our country, we must clearly recognize it and keep high alert.

In the mean time, we must reinforce and improve the leadership of the Party, vigorously strengthen the coherence and battle-effectiveness of the Party at all levels and of the vast Party members.

The other event is the "Falun Gong" problem. On June 5, I saw a material [*likely referring an article*] by Li Hongzhi, which was spread out via the Internet and which it was said had already been distributed in some (Falun Gong) assistant centers. More and more facts have proven that the "Falun Gong" problem is not simple, we cannot overlook it, nor can we lose alertness. If this problem cannot be resolved rapidly, it will be a huge bane toward the society.

I have been pondering since April 25. Our Party has engaged in revolution and construction for nearly 80 years, controls the state power, has 2.5 million people's army, has over 60 million Party members, has a great numbers of middle and high level leading cadres, how come a problem as that of "Falun Gong" has been allowed to emerge and to develop to such a degree? Obviously, one person as Li Hongzhi could not have such capability.

There is deep political, social, and even complicated international background behind the "Falun Gong" problem (event). It is the most serious event since that political storm in 1989. We must treat it seriously, study it deeply, and take powerful measures (against it).

The central committee has already agreed to let comrade Li Lanqing be responsible for establishing a "Team for Falun Gong" which specifically leads the dealing with "Falun Gong." Comrade Li Lanqing will be the director and comrades Ding Guangen and Luo Gan will be vice directors, and those comrades in charge of the related departments will be the members of the Team. (The CCCCPC Team on Falun Gong) will coordinately study the concrete steps, methods and measures for resolving the "Falun Gong" problem. The Central Committee, each national organ and governmental department, each province, each autonomous region, and each municipality directly under central government must closely cooperate (with the Team).

Since the 3rd General Meeting of the 11th CCCCPC, our Party has made achievement that won world-wide notice in leading all the Chinese people to carry out reforms and opening up, and to carry out the socialist modernization constructions. However, we must see it with a clear mind that the society has undergone some profound and complicated changes under the new circumstances.

One example is the diversification of economic components and economical interests. We practice a fundamental economic system in which the state ownership is primary and other various ownerships coexist and grow together. As a result, the sources of income for the members of our society are greatly diversified. Since people's economic status and interests have been changing, they of course will have various political demands.

For the owners of private enterprises and a few representatives from other economic components, Party committees at each level may consider to arrange them into the National Congress or the Political

Consultative Conference so that their opinions and just demands can be reflected. This would also be beneficial for uniting all forces that can unite.

However, it is worth of noticing that some of them, especially those upstart who have gathered wealth using malfeasant approaches, are secretly scrambling for political power. Some of them use money to buy official posts in the government, or to buy status as commissioners and representatives. Some staff members including leading cadres in the organs of the Party and administrative branches have also been dragged down by them and become their protecting umbrella or spokespersons.

Another example is the diversification of styles in social lives. In the past, our Party's ideological and political work could penetrate into numerous families. The cadres and Party members in grass root unit often make home visit. Nowadays, there is a two-day weekend each week and people have all kinds of small circles of life such as travel, party, and other social activities.

If led appropriately, these activities could enrich people's cultural lives and help to stabilize and to advance the society. However, if our Party's ideological work, political work, and public work cannot accustom to these social changes and do not create a new format acceptable to majority of people, the voice of the Party and the government would be weakened, and some bamboo telegraph or even rumors could be spreading automatically.

The third example is the diversification of social organizations. There are such organization as Workers' Union, Communist Youth League, and Women's Association which have been under the Party's leadership for a long time. There are organizations of mass created after the Reform and Opening, in which relatively healthy and complete Party leadership exists. However, there are also various kinds of organizations which have never gone through valid registration procedures and are often outside the control and administration of various Party and government organs. There exist even some illegal organizations.

According to administrative statistics, the number is huge of organizations that have gone through official registration procedures, 1800 national organizations and ~200,000 regional organizations. They range from all kinds of associations of fellow townsmen, alumni, societies, research associations, foundations, to other kinds of social groups. There are Party members in most of those organizations, but no Party leadership in the majority of them. The Organization Department in the Central Committee, together with the Civil Administration Department in the government has issued its strategic plan that requires to establish Party leadership in all national organizations.

Yet another example is the diversification of employment posts as well as employment systems. As for the enterprises, some are in state-owned enterprises, some are in collective-owned enterprises, some are in private enterprises or joint ventures, some are self-employed, some have multiple jobs or on several posts.

In recent years, there are quite many people being laid off in state-owned and collective-owned enterprises. For making a living, they are looking for employments in all kinds of ways.

At the present time, there are no Party organizations in the majority of private enterprises or joint ventures. How to reinforce Party's work in these enterprises and how to strengthen the ideology education and social control on those flowing and dispersed labors, are all new subjects to us.

Facing these new situations, new problems, and new changes, strengthening and improving the Party's leadership, including the leadership in the areas of ideology, politics and organizations, are the fundamentally important issues for the purpose of consolidating our party's reigning status and consolidating socialist regime in this new historical period.

Marxism believes that, in a society, economic basis determines the superstructures including politics, law and ideology; the superstructures in turn have motile retroactions and serves for the economic basis. This basic principle always has important guiding functions in our Party's as well as country's works in all areas.

If Party's work in ideology and politics, in organizations, in propaganda, and in mass relations cannot catch up with the new circumstances or cannot accustom to the new changes, it will not be possible to strengthen and improve Party's leadership.

If (we) surrender ourselves to it or are indifferent to it, then it is in fact giving up Party's leadership. If (we) simply repeat the old methods, old approaches or old tones in propagandizing Marxism or Party's principles and policies without considering the actual situations, it will not produce good results or even get just the opposite to what we wish.

If Party's work in ideology and politics, in organizations, in propaganda and in mass were in flabby and paralyzed state, all kinds of stuffs like idealism, theisms, non-Marxism or even anti-Marxism would have a chance to grow, or even form a trend or a trend of thought and occupy our battlefields of ideology and politics as well as the public, and finally overrun. The formation and spreading of "Falun Gong" is worth our effort to summarize our experience and lessons from such angles and height, (we should) draw inferences about other cases from this instance so as to solidly improve and strengthen the Party's work.

Falun Gong is not a religion. If it were a religion, then we can contain it according to the law, since the Constitution provides that citizens have freedom of religion and beliefs.

"Falun Gong" is not a political party. They know that it would not a good ending if they publicly identify themselves as a political party and oppose the Communist Party.

Therefore, they changed to take the form of "Qigong Practice", which is neither a political party nor a religion, to beguile and fool the public. Within "Falun Gong", there is a well-disciplined organization. With the labels of improving health and a legerdemain called "Truthfulness, Compassion, Forbearance", they even won over some Communist Party members and cadres, who have lost their political alertness, and penetrated into some of our Party and government units.

While our Party and government were focusing on important international and domestic issues, "Falun Gong" followers rallied in Beijing and other regions making waves. It is obvious that they must have

clandestine political motives. Some political forces in western countries, particularly the United States, have focused, supported and used the leading plotters and organizers of "Falun Gong". This does not happen by accident.

I think it can be said that the formation and spreading of "Falun Gong" is a political war launched by hostile forces domestically and overseas in order to fight against our Party for the masses and territories. Therefore, I have repeatedly emphasized that this issue is very complicated. If we cannot see its political nature and if we cannot solve this problem in an uncompromising way, we would make a historical mistake.

This matter affects many walks of life in the society and should be handled carefully. We must adhere to the principle of "tight inside and loose outside" and prescribe strict lines of policies in order to keep the society stabilized. We must strive for and unite the masses. As for the "Falun Gong" practitioners, the majority of them practice for the purpose of health. It is understandable and should be allowed. For those who have been poisoned by Falun Gong and become superstitious, we should patiently teach them science and atheism. We should wait for those who could not come round immediately. For those Communist Party members, Communist Youth League members, working and retired cadres who have been practicing Falun Gong, the Party and Youth League organizations and government administrations in the work units should patiently work on them, request them to draw a clear line, to immediately break away from Falun Gong organizations and come back to the Party line. For those who refuse to transform after repeated sessions, we must take necessary disciplinary measures pursuant to related policies and regulations. All departments, regions and work units must comply and carry out this task to the letter. If we can't even accomplish this, how can we talk about politics [Communist Party line]? For those organizers and propagandists who did not know the facts and helped to spread Falun Gong influence, we should explain the reasons to them, show them the advantages and disadvantages, and request that they shall no longer participate in any Falun Gong organizations, and propaganda activities. We must isolate [Falun Gong] to the greatest extent and vigorously attack, according to the law, the small group of the core figures behind the scene and leading organizers and strategists inside Falun Gong who harbor political motives and incite social disorders. We must not be softhearted.

Upon its establishment, the CCCCPC Team on Falun Gong shall take immediate actions to organize resources, track down the Falun Gong organizational structure throughout China, formulate a crackdown strategy, and be fully mobilized to break and wipe out ("disintegrate") Falun Gong. We shall not wage a war without preparations. We must waste no time in identifying transgressions committed by the head of Falun Gong, Li Hongzhi, and his international background. We must quickly manufacture a package of information with sufficient facts, and expose in public his phonies and political motives in order to educate the vast cadres and masses. We must also gather local instances where Falun Gong practitioners were victimized. The instances should include those examples including schizophrenia, suicides by jumping off buildings, refusing to take medicine while sick and causing the deterioration or even death. We shall use facts to expose L's lies. The heads of Communist Party and of government at all levels in all regions must take responsibility and in accordance to CCCCPC's requirements, implement this task in their own localities.

In addition, we need to organize experts and scholars to conduct theoretical studies of the history of those social organizations and phenomena that exist throughout the history and both in China and overseas, where superstitions have been used to fool and deceive people, to conspire and revolt against the government. This is also a very important aspect of our efforts to teach materialism and atheism.

Chinese original:

中共中央办公厅关于印发《江泽民同志在中央政治局会议上关于抓紧处理和解决“法轮功”问题的讲话》的通知

今年6月7日，江泽民同志在中共政治局的会议上作了重要讲话，对深刻认识“法轮功”问题产生的国际背景和国内环境，加强和改进新形势下党的思想工作、组织工作、宣传工作和群众工作，抓紧处理和解决“法轮功”问题，作了深刻的阐述。先将江泽民同志的这次讲话印发给你们，请立即组织党委常委（党组成员）学习讨论，研究贯彻落实措施，贯彻情况，请汇报中央。

中共中央办公厅

1999年6月13日

江泽民同志在中央政治局会议上关于抓紧处理和解决“法轮功”问题的讲话

（1999年6月7日）

最近一个时期，国际国内有两件大事。

一件是，是3月24日以美国为首的北约武力干涉南斯拉夫联盟共和国，5月8日又悍然使用导弹袭击了我驻南大使馆。这激起了中国人民和全世界爱好和平人民的极大愤慨，也彻底暴露了美国和其他西方国家宣扬的人权、民主、新闻自由等等的虚伪性。坏事正在变成好事。70多天的狂轰滥炸，南联盟经受了严峻的考验，但也遭受了巨大的损失，南政府迫不得已接受和谈。

在这场战争中，俄罗斯色厉内荏，美国看透了俄较弱的致命弱点，以美国为首的北约，在轰炸难以达到目的情况下，需要一种“体面的下台”，俄罗斯又对南联盟施加压力，南联盟最后接受了8国外长协议的框架，8国草案将提交联合国安理会讨论。欧盟特使、芬兰总统、阿赫布萨里即将来华通报有关情况。我们必须抓紧对本世纪末至下世纪初国际局势的走向和新的特点，进行深入思考和全面分析。对以美国为首的西方敌对势力“西化”、“分化”我国的战略图谋，必须保持清醒认识和高度警惕，同时必须加强和改善党的领导，大力增强各级党组织和广大党员



的凝聚力、战斗力。

另一件事，是“法轮功”问题，6月5日，我看到李洪志的一个材料，是通过因特网传出来的。据说，在“法轮功”的一些辅导站已经散发，越来越多的事实证明，“法轮功”问题很简单，不可小看，更不能掉以轻心。如果这个问题不能抓紧解决，将会成为一个很大的社会祸害。

4月25日以来，我一直在思考，我们党已经搞了近80年的革命和建设，掌握着国家政权，有250万人民军队，有6000多万党员，有一大批高中级领导干部，为什么却让“法轮功”这样的问题冒了出来，而且闹到这种程度呢？显然，一个李洪志，不可能有这么大的能耐。“法轮功”问题有很深的政治社会背景乃至复杂的国际背景。这是1989年那场政治风波以来最严重的一次事件。我们必须认真对待，深入研究，采取有力对策，中央已同意李岚清同志负责，将成立一个专门处理“法轮功”问题领导小组。李岚清同志任组长，丁关根、罗干同志任副组长，有关部门负责同志为成员，统一研究解决“法轮功”问题的具体步骤、方法和措施。中央和国家机关各部委、各省、自治区、直辖市要密切配合。

十一届三中全会以来，我们党领导全国各族人民进行改革开放，搞社会主义现代化建设，取得了举世瞩目的成就，但是也要清醒地看到，在新的形势下，社会情况也发生了一些深刻复杂的变化。

比如，经济成份和经济利益多样化。我们实行公有制为主体、多种所有制经济共同发展的基本经济制度，社会成员的经济收入来源也就多种多样。由于经济地位和经济利益的变化，他们在政治上必然会反映出各种各样的要求，对于私营企业主，以及其他经济成份的少数代表人物，各级党委可考虑适当安排他们参加人大、政协，以便反映他们的意见和正当要求，这有利于团结一切可以团结的力量。但值得注意的是，他们之间有些人特别是那些以不正当手段聚敛财富的暴发户，正在暗中争夺政治权利，有的用金钱买官，或买什么委员、代表。有些党政机关的工作人员包括领导干部，也被他们拉了过去，成了他们的保护伞或代言人。

又比如，社会生活方式多样化。过去我们党的思想政治工作能够深入到千家万户，基层干部和党员经常进行家访。现在，每周有两个休息日，人们各有各的生活小天地，或外出旅游，或参加聚会，或进行其他社交活动，如果领导得当，这些活动本可以丰富人们的文化生活，有利于社会的稳定和进步，但是，如果我们党的思想政治工作和群众工作不适应这种变化，不创造出能为大家所接受的新形式，党和政府正面的声音就可能削弱，而一些小道消息乃至谣言就可能不径而走。

再比如，社会组织形式多样化。有工会、共青团、妇联这样党长期领导的群众组织，有改革开放以来新建立的、党的领导工作也比较健全等群众组织。但是，也有没有履行合法登记手续的五花八门的各种组织，他们往往处于我们各级党组织和政府的领导与管理之外。甚至还有一些非法组织。据统计，经过正式登记的社团

组织数量很大，全国性的有1800个，各地有将近20万个。从各种同乡会、同学会、协会、研究会、基金会到其他社会团体，其中大都有党员参加，但大部份并无党组织在领导，中央组织部已经汇同民政部作了部署，要求全国性的社团组织必须成立党组织。

还比如，就业岗位和就业形式多样化。从企业来说，有的在国有企业、集体企业，有的在私营企业、三资企业，有的搞个体，还有的身兼数业和数职。近年来，国有企业、集体企业有相当一部份职工下岗，他们为了谋生，正在寻找各种就业门路。目前私营企业、三资企业大部份没有党组织，如何加强党组织在这些企业的工作，如何加强对各种处于流动、分散状态的劳动者的思想教育和社会管理，都是新的课题。

面对这些新情况、新问题、新变化，加强和改善党的领导，包括思想、政治、组织领导，这是新的历史时期巩固我们党的执政地位、维护社会主义政权的根本性的重大问题。马克思主义认为，一定社会的经济基础决定着这个社会包括政治法律、意识形态在内的上层建筑，上层建筑对于经济基础又具有能动的反作用，是为经济基础服务的。这个基本原理，对我们做好党和国家的各项工作始终具有重要的指导作用。如果党的思想政治工作、组织工作、宣传工作、群众工作跟不上新的形势，适应不了社会生活的新变化，就不可能加强和改善党的领导。如果放任自流，不闻不问，实际上就是放弃党的领导。如果简单地重复过去的老办法、老方式、老调调，脱离实际地去宣传马克思主义，宣传党的方针政策，就不能收到好的效果，甚至适得其反。如果党的思想政治工作、组织工作、宣传工作、群众工作处于软弱瘫痪状态，各种唯心论、有神论、非马克思主义的甚至反马克思主义的东西就有了可乘之机，以至于形成一种倾向、一种思潮，占领我们的思想政治阵地、群众阵地，泛滥成灾。“法轮功”的形成和传播，很值得我们从这些方面和这样的高度总结经验教训，举一反三，以切实改进和加强党的工作。

“法轮功”不是一种宗教。如果是宗教，宪法规定公民有宗教信仰自由，我们可以依法进行管理。“法轮功”也不是一种政党，他们知道，要公开打出政党招牌同共产党唱对台戏，是不会有好结果的。因此他们变换手法，采取一种非党非教的“练功”的形式，来欺骗和愚弄群众。“法轮功”内部组织相当严密，以健身和所谓“真、善、忍”的一套骗术相标榜，甚至俘虏了一些丧失政治警觉的共产党员和干部，打入了我们一些党政组织的内部。正当我们党和政府集中精力处理有关国际国内重大问题的时候，“法轮功”在北京和其他一些地方聚集信徒，兴风作浪，显然背后隐藏着不可告人的政治目的。“法轮功”的主要策划者、组织者，得到西方国家特别是美国的一些政治势力的看重、支持和利用，绝非偶然。我看可以这样说，“法轮功”的产生和蔓延，是国内外敌对势力同我们党争夺群众、争夺阵地的一场政治斗争，所以我一再强调，这个问题很简单，如果看不到它的政治实质，不坚决地、妥善地抓紧解决这个问题，我们就要犯历史性的错误。

这件事涉及面广，处理起来要非常谨慎，要坚持内紧外松的原则，规定严格

的政策界限，以保持社会稳定。一定要争取和团结广大群众，从“法轮功”的练习者来说，绝大多数是为了健身强体，这是可以理解的，也是应该允许的。对于因为受到“法轮功”毒害而思想迷信的人，要耐心地进行科学教育和无神论教育，一时想不通，要等待他们觉悟。对参加“法轮功”的共产党员、共青团员、在职干部、离退休干部，所在单位的党团组织和行政领导，要耐心地做工作，要求他们在思想上划清界线，立即脱离“法轮功”组织，回到党的正确立场上来。对于多方教育仍坚持不改的，要按照有关规定，采取必要的组织措施，各部门、地方和单位要坚决贯彻落实。如果连这件事都办不到，还讲什么政治？对因不明真相、帮助扩大“法轮功”影响的一般组织者、宣传者，要讲清道理，晓以利害，要求他们不得再参加“法轮功”的组织、宣传活动。必须最大限度地孤立和坚决依法打击“法轮功”中极少数有政治意图、存心作乱的幕后人物和主要策划者、组织者，绝不能心慈手软。

中央处理“法轮功”问题领导小组成立以后，要马上组织力量，尽快查清“法轮功”在全国各地的组织系统，制定斗争策略，为进行分化瓦解工作做好充份准备，不打无准备之仗，要迅速查清“法轮功”头子李洪志的劣迹及其国外背景，搞出一个有充份事实依据的材料，公开揭露他的伪善面目和政治图谋，以教育广大干部和群众。还要收集各地“法轮功”练习者中已经发生的种种受害情况，包括发生精神分裂、跳楼自杀、有病不吃药而使病情恶化甚至死亡等突出事例，用事实戳穿李洪志的谎言。各地区、各部门的党政主要负责同志，务必切实负起责任，按照中央的要求，结合本地区、本部门实际，把工作做好。

另外，还要组织专家学者，对古今中外利用迷信诱人上当受骗、图谋不轨的社会组织和社会现象，进行理论的历史研究，这也是我们进行唯物论、无神论教育的一个重要方面。□

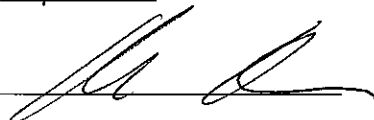
*Ruonian Wu*

I, \_\_\_\_\_, certify that the above documents:

**The Notification from the Central Office of The Central Committee of the Chinese Communist Party (CCCCP) on Printing and Distribution of “Comrade Jiang Zemin’s Speech at the Meeting of the Political Bureau of CCCCCP Regarding Speeding Up the Dealing With and Resolving the “Falun Gong” Problem”**

are true and accurate translations of the Chinese, available at URL <http://www.bjzc.org/bjs/bc/97/09>.

Date: 04/12/05

Signature: 

4/12/05



Expires June 30, 2009

# **EXHIBIT G**

## China's sect suppression carries a high price

**JIANG ZEMIN may succeed in suppressing the Falun Gong sect for now, but the president's prestige could suffer considerable damage. So could China's program of reforms. Jiang has mobilized a Mao-era mass movement against the quasi-Buddhist group, which is characterized as part of an "anti-China international movement."**

February 9, 2001

By Willy Wo-Lap Lam, CNN.com Senior China Analyst

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Not since the anti-American crusade in the wake of the NATO bombing of the Chinese embassy in Belgrade in 1999 have so many Chinese hit the streets in a government-orchestrated campaign. In terms of size and reach, the "struggle against the devilish cult" has surpassed many previous mass movements.

The official media has in the past week reported anti-Falun Gong gatherings of hundreds of thousands of people in provinces and cities including Henan, Sichuan, Shandong, Jiangsu, Ningxia, Shenyang, Shanghai and Beijing.

Meetings denouncing the sect have been held even in the remote western provinces—and by apparently irrelevant government units such as the weather bureau and the Ministry of Land and Natural Resources. In a throw-back to the Cultural Revolution, there were hints the People's Liberation Army (PLA) might enter the fray.

### **Vow to defend leadership**

The Xinhua news-agency quoted officers from the PLA and the para-military People's Armed Police as asserting that the sect was "an effort by hostile Western forces to subvert China." Officers from all divisions of the military forces have vowed to do their utmost to defend the central leadership and to "maintain national security and social stability."

Sources close to security departments in Beijing said Jiang was poised to take more drastic steps to reach his goal of eradicating the sect before the forthcoming 80th anniversary of the founding of the Communist Party. For example, the state security apparatus has identified about 40,000 Falun Gong practitioners among staff in Communist Party and government units, state enterprises and colleges.

These "cultists" have been told if they do not sign papers denouncing the sect, they will be fired—and their pensions confiscated.

Surveillance and harassment of sect members, who apparently do nothing more than practice their brand of slow breathing exercise at home, have been stepped up. There are reports that understaffed police authorities have recruited unemployed workers in the battle against the Falun Gong.

While the Jiang leadership may have genuine reasons to feel threatened by the sect, the quasi-Maoist tactics it has employed have raised serious questions.

### **Whipped up the masses**

"Even assuming the Falun Gong is spreading dangerous ideas, the way the leadership has whipped up the masses to fight a 'global anti-China conspiracy' is disturbing," says a Beijing academic who wants to remain anonymous. "The Jiang leadership has yet to show proof of the Falun Gong's links to anti-China elements in the United States and the West."

The anti-U.S. and anti-NATO riots in May 1999 should have taught Beijing the lesson that Cultural Revolution-vintage campaigns could backfire. A few days after the demonstrations took place, Beijing had to rein them in because many protesters were taking advantage of the melee to vent their grievances against the central government.

Moreover, draconian steps such as cutting off the pay and pension of unrepentant Falun Gong affiliates in government departments and enterprises risk further radicalizing the sect. In the long run, social unrest may be exacerbated if underground Falun Gong activists were to wage a kind of protracted guerrilla warfare against Beijing.

Yet the most severe criticism leveled at Jiang's handling of the Falun Gong is that he seems to be using the mass movement to promote allegiance to himself.

As with campaigns dating from the 1960s, the standard ritual of ideological sessions held in party units, factories, and colleges the past few years is that participants make public declarations of support for the Beijing line—and for the top leader.

### **Anti-American crusade**

For example, the theme of the anti-American crusade in 1999 was not just beating back the "anti-China conspiracy of the United States-led NATO" but professing unreserved support for the "central leadership with comrade Jiang Zemin as its core."

According to a party veteran, Jiang might want a public show of support for himself if only because the Politburo had divergent views on what to do with the Falun Gong.

It is no secret that several Politburo members thought the president had used the wrong tactics. They ranged from moderates such as Premier Zhu Rongji, Vice President Hu Jintao, and head of the Chinese People's Political Consultative Conference Li Ruihuan to conservatives such as National People's Congress Chairman Li Peng.

For example, both Li Ruihuan and Zhu—who met Falun Gong representatives shortly after they had staged the now-famous demonstration outside party headquarters in April 1999—were said to favor a conciliatory approach.

"By unleashing a Mao-style movement, Jiang is forcing senior cadres to pledge allegiance to his line," said the party veteran. "This will boost Jiang's authority—and may give him enough momentum to enable him to dictate events at the pivotal 16th Communist Party congress next year."

So far, however, Jiang has only been moderately successful in the loyalty game. Among top-level officials, Zhu and Hu have publicly supported the harsh measures. However, Li Ruihuan, whose best known motto is "seeking harmony and reconciliation," has kept quiet on the anti-Falun Gong struggle.

Political analysts said Jiang ran a big risk by staking his reputation on the early extermination of the sect.

### **Big speech**

"Jiang wants the Falun Gong rooted out when he makes his big speech at the Great Hall of the People on July 1 to mark the 80th anniversary of the party's founding," said a Western diplomat.

"But what if the sect refuses to disappear? Many Falun Gong members are known for their dare-to-die fanaticism. If anti-Beijing protests either in the capital or the provinces continue throughout the year, Jiang's prestige will suffer tremendously."

Moderate cadres and academics in Beijing also think the return of Mao-style political campaigns will deal a blow to economic and political reforms. For example, this will send Western governments and investors the wrong message about Beijing's commitment to burying the xenophobia—and mass hysteria—of bygone eras.

Since late last year, liberal members of official think tanks have dropped hints about the leadership's readiness to

resume political reform in the run-up to the 16th party congress.

However, the revival of Maoist norms—including using para-military forces against an apparently non-violent religious group, and promoting unthinking loyalty to the president—would seem to indicate Jiang and company are putting their vested interests before the reforms.

<http://www.cnn.com/2001/WORLD/asiapcf/east/02/05/china.wilycolumn/index.html>

Categories: China's Leaders and Police, International News.

Printed from: [http://www.fofg.org/news/news\\_story.php?doc\\_id=179](http://www.fofg.org/news/news_story.php?doc_id=179)

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# **EXHIBIT H**

## **Li Lanqing Spoke at the National Award-giving Meeting for Advanced Groups and Individuals in Combating Evil Cults**

Xinhua News Agency, Feb 26

(Hu Guo, People's Daily; Yi Hongzhu, Wang Leiming, Xinhua) This morning, the Central Party Organization Department and seven other ministries, committees and offices in the Party and governmental leadership held an award-giving meeting to honor 110 Advanced Groups and 271 Advanced Individuals who have had outstanding performance in combating the evil cult "Falun Gong". Li Lanqing, member of the Standing Committee of the Politburo of the Party, and Vice Premier of the State Department, gave an important speech at the meeting. He, on behalf of the Party and the State Department, expressed warm congratulations to the groups and individuals that were commended, and called upon Party organizations of all levels and the cadres and masses to learn from their experience, support the righteous and suppress the evil, carry out resolute struggles against the "Falun Gong" evil cult, and create a good social environment for the reform and development of our country in the new century.

The award-giving meeting was hosted by Ding Guangen, Politburo member and Secretary-general of the Secretariat to the Politburo. Luo Gan, Politburo member and Secretary-general, was present and read "the Decision of the Central Party Organization Department, Central Propaganda Department, Central Politics and Law Committee, Public Security Ministry, Civil Affairs Ministry, Personnel Ministry and the Office for the Prevention and Handling of Cults of the State Council to Commend the Advanced Groups and Individuals in Combating "Falun Gong" Evil Cult". At the meeting the advanced groups and individuals were awarded with certificates.

In his speech, Li Lanqing pointed out that evil cults are poisonous tumors that damage the development of human civilization. They infringe upon human rights, harm the society, harm the country and the people, and have become an international problem. Li Hongzhi fabricated his absurd "Falun Dafa", under the pretense of "strengthening health" and "truthfulness, compassion, tolerance", cheats the masses, developed illegal organizations and formed close-knit organizational networks. He deified himself as a living master, spread rumors of end of the world, created panic and an atmosphere of terror, exerted "spiritual control", poisoned people's minds, and made thousands of families lose their happy lives; he exercised trickeries, collected a lot of money, cheated people who practiced, and even damaged lives; he openly defied the law, organized and instigated sieges and attacks on Party and governmental organs and media organizations, held illegal gatherings, constantly instigated people to gather in Tiananmen Square to make trouble, and seriously damaged social stability. A lot of facts have indicated that "Falun Gong" possesses the main characteristics of modern evil cults, and what it has done has seriously harmed the physical and mental health of those who practiced, infringed upon the interests of the masses, and has caused serious interference to the social order and political stability of our country. The masses have hated this poisonous tumor in the society bitterly for a long time. Consistent with public opinion, the Party and the government resolutely took a series of major measures and lead the people of the whole country to carry out determined struggle against the "Falun Gong" evil cult, and have achieved major victories. The experience in the struggle have amply testified that the Party and the government have done the absolutely right thing to have made up our minds to crack down on "Falun Gong" evil cult, and this is consistent with the historical currents of the development of human civilization, and is consistent with national interest and the interest of the masses. This just action has got firm support from the whole Party, the whole society, and the overseas Chinese and those in Hong Kong, Macau and Taiwan, and has been understood and supported by the countries in the world which support justice and those people with deep insight. If we fail to take firm action against the "Falun Gong" evil cult and allow it to develop, the people, the families and the nation will no longer be able to enjoy peace.

Li Lanqing pointed out that, in the struggle against the "Falun Gong" evil cult, we have always insisted that we educate and save the vast majority of those who practiced "Falun Gong", and that we punish by law the small number of organizers, planners and those criminals who persist in their stand and who carry out illegal activities. When we deal with those who practiced "Falun Gong" and even those die-hard

elements, we do not discriminate against them, nor do we leave them aside. On the contrary, we do our best to educate and save them out of our responsibility for the people and our humanitarianism, take various effective measures, carry out pains-taking and meticulous ideological educational work, in order to liberate them from the mental shackles of the evil cult and help them come back to normal family and social life. It has been proved that these policies and measures are completely correct and effective. This is a major contribution that China has made to human rights protection and the world's struggle against evil cults.

Li Lanqing pointed out that, in this struggle, which has a significant impact on the national security and the fundamental interest of the masses, many advanced groups and individuals have emerged, who have made outstanding contributions on their respective battle-lines and work positions. Among them, there are police officers who loyally execute their sacred mission, unafraid of fatigue, fight one battle after another, safeguard the dignity of the law, protect social order, and strike against the illegal trouble-making activities of "Falun Gong"; there are Party and governmental cadres and police and judicial officers in the grassroots level who, with their remarkable stamina and spirit, have been painstakingly and carefully educating, transforming and saving those who practice "Falun Gong"; there are scientific workers who safeguard science and the truth, and bravely reveal and refute the crooked remarks by Li Hongzhi and the true nature of "Falun Gong" as an evil cult; there are news and propaganda workers who have been revealing the nature of the evil theories of Li Hongzhi and the true nature of "Falun Gong" as an evil cult, giving timely reports on the struggle against the evil cult "Falun Gong", and mobilizing the masses to resist the harm of the evil cults, and actively carrying out struggles in propaganda; there are diplomatic workers who have been actively explain the righteous and serious standpoint of our government on "Falun Gong", introducing the true situation, and winning understanding and support from the international community, and carrying out tit-for-tat struggles against overseas organizations of the "Falun Gong" evil cult; there are work units and grass-root Party organizations which have been active in their work, and which have taken effective measures to mobilize Party members and the masses to conduct firm struggles against the "Falun Gong" evil cult. Their experiences are extremely moving and enlightening. They manifest a remarkable sense of responsibility to the cause of the Party and the people; a spirit of fulfilling their missions and unselfish dedication; a humanitarian spirit as shown in their benevolence and patient education; a spirit of safeguarding science and sticking to the truth; a fearlessness of hardships and a willingness to take on hard tasks; a professionalism and a down-to-earth work style. These spirits are manifestations of Comrades Jiang Zemin's important thoughts of the "Three Represents", and are the manifestations of the glorious Party tradition under the new historical circumstances. The whole Party and the whole society must learn from the experiences of these advanced groups and individuals, support the righteous and suppress the evil, and carry out the struggle against "Falun Gong" evil cult to a deeper level.

Finally, Li Lanqing required the Party and government's leaders and the cadres of all levels and the masses to become fully aware of the seriousness of the "Falun Gong" problem and the complexity, intensity and the long-term nature of this struggle, further improve their understandings, take effective measures, and continue to do all the jobs well in the struggle against the "Falun Gong" evil cult. We must, under the firm leadership of the Party center with Comrade Jiang Zemin at its core, uphold the glorious banner of the Deng Xiaoping theories, using the important thoughts of "Three Represents" as the guiding principle, strengthen our confidence, rouse ourselves up, carry out down-to-earth work, unite ourselves and make incessant efforts to realize the magnificent objectives of reform and open-door policy and modernization of our country in the new century.

Those present at the award-giving meeting were the responsible comrades of relevant departments of all the provinces, autonomous regions, municipalities and central Party and government ministries. More than 1600 people received honors. Representatives of the advanced groups and individuals made touching speeches at the meeting.

Before the award-giving meeting, Li Lanqing, Ding Guangen, Luo Gan and other leaders kindly met with the representatives of advanced groups and advanced individuals.

(Page 1, Feb 27 2001, People's Liberation Army Daily)

# **EXHIBIT I**

# CACA AND OTHER ANTI-FALUN GONG STATEMENTS

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## 1. *Li Hongzhi—The Man and His Deeds*

李洪志其人其事

### Transcript

處理和解決法輪功問題是一場嚴肅的思想、政治鬥爭，我們每一個人都應該提高認識，認清李洪志的真實面目和法輪功的社會危害，認清這場鬥爭的重要性。自覺遵紀守法，自覺維護正常的社會秩序，維護穩定、符合人民群眾的根本利益，沒有穩定，甚麼事情也幹不成。我們要自覺維護安定、團結的大好局面，確保改革開放和社會主義的現代化建設，向前推進。

Handling and resolving the Falun Gong problem is a serious ideological and political *douzheng*.<sup>1</sup> All of us should try to enhance our political consciousness, have a clear understanding of Li Hongzhi's true intentions and the threats that Falun Gong poses to our society, and appreciate the importance of the *douzheng* ("persecutory campaign") we are waging against Falun Gong. We should self-consciously abide by laws and regulations, and self-consciously assist in the maintenance of normal social order. Maintaining stability conforms to the fundamental interests of the people. Without stability, nothing can be accomplished. We should self-consciously safeguard the excellent situation of stability and unity, to ensure steady progress of reform and opening-up and the advance in the construction of socialist modernization.

## 2. Defendant's remarks on *Li Hongzhi—The Man and His Deeds*

**Zhao Zhizhen's speech at the Popular Science Work Conference, *People's Daily* on January 1, 2000.**

去年六月下旬，《科技之光》一行三人飛赴長春，拍攝一部專題片《李洪志其人其事》及 6 小時的素材帶。後來為中央處理“法輪功”提供了有益的參考，並為中央電視台揭批“法輪功”

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<sup>1</sup> A term associated with the communist persecution culture that includes public humiliation, vilification, and attack through a range of persecutory acts, including extrajudicial imprisonment, beatings, torture and execution.

準備了資料。我們多年來有一個共識，《科技之光》永遠應該是反對偽科學的前哨部隊。當有些群眾睡去的時候，我們必須醒著，這是我們職業的素質和責任。

Since late June last year, a trio from Light of Science flew to Changchun and filmed a “special topic” film, “About Li Hongzhi” as well as 6 hours of raw footage. Later, these became beneficial resources/helpful references for the Central Party’s *chuli*<sup>2</sup> of Falun Gong, and prepared for CCTV’s *jiepi*<sup>3</sup> of Falun Gong. Over the past few years, we developed an understanding, that the Light of Science shall forever be the scouting troop at the forefront of refuting fake science. When some of our audience has gone to sleep, we have to keep awake. This is our professional responsibility and quality.

### **3. Other Statements by Defendant**

#### **CACA Website Work Report**

中國反邪教網站工作交流彙報

2000 年 11 月 13 日，中國反邪教協會在北京成立。在這個成立大會上，時任中國反邪教協會常務理事、武漢市廣播電視局局長的趙致真同志提議，成立中國反邪教網站。建立網站的理由大致有以下四條：

On November 13, 2000, the CACA was founded in Beijing. On its founding ceremony, CACA standing committee member, Wuhan TV Station Chief Zhao Zhizhen suggested setting up a CACA website. There are 4 major reasons for setting up the CACA Website:

1. 互聯網技術是一種新興科技，給大眾傳播帶來了一場深刻的革命。互聯網最主要的特點就是：傳播快捷，閱讀方便，信息容量大，互動性強等等。中國反邪教事業迫切需

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<sup>2</sup> Often used as a general euphemism for disposing of, killing or various other forms of human rights abuse.

<sup>3</sup> A term used to describe exposure, public humiliation and vilification.



要利用這一高新科技和全新的信息手段，拓展我們宣傳的途徑，提高我們揭批“法輪功”的效率。

The Internet is a new technology and has brought a major revolution to mass media. Its main characteristics are: fast speed of broadcast, easy to read, large amounts of information, and strong interactivity, etc. China's anti-cult work urgently requires the use of this new high technology and all-new information method in order to broaden our means of propaganda, and increase the efficiency of our *jiepi* ("vilification") of Falun Gong.

2. 互聯網站的一個發展趨勢就是越來越專業化，各種專業的如汽車、足球、彩票、游站等等網站越來越多。但是，在反邪教這個領域，當時還沒有一個專業的網站，有的只是一些門戶網站（如人民網、新華網）做的一些反對“法輪功”的新聞專題，而且大都是圍繞一個事件來展開。比如說天安門自焚事件發生後，就做一個專題。專業的網站則不同，它應該是囊括反邪教領域之內的所有信息，及時報導中國急事藉反對邪教的對策及動向。

The development of the Internet is becoming more and more specialized. For instance, there are more and more specialized websites for cars, soccer, lottery, and games, etc. However, in the area of anti-cult work, there were no such specialized websites then. There were only a few portal websites (such as People's Web, Xinhua Web), which had a dedicated news section for Falun Gong. Most of them however, focused around a particular incident. For instance, after the Tiananmen Self-Immolation Incident, they did a special report. A specialized website would be very different, it would encompass all information related to the anti-cult work, and report on anti-cult strategies and actions in China as well as around the world.

3. 李洪志及其追隨者都在利用互聯網技術進行“法輪功”宣傳，並建立了“明慧網”等多個網站。反對邪教鬥爭的烽火已經蔓延到了互聯網上。那麼，我們也需要借助互聯網技術，與之在網上展開針鋒相對的鬥爭。

Li Hongzhi and his followers have been using the Internet to conduct Falun Gong propaganda on the Internet, and have built the Minghui as well as several other websites. The war flames of the *douzheng* (“persecution or suppression”) against cults have spread to the Internet. Therefore, we also need to use Internet technology to conduct a spear-to-spear *douzheng* (“persecutory campaign”) on the Internet.

4. 就像一個黨派需要機關報一樣，一個協會也要有自己的輿論陣地。中國反邪教網站就承擔這個功能：及時反應中國反邪教協會活動信息；給一些反邪教的有志之士提供一個交流思想、發表言論的陣地；反應國內外反對邪教的新動向。

Just like how a Party needs its official mouthpiece, an organization needs its own propaganda front as well. The CACA website will bring forth these capabilities: reflect the activities and information about the CACA in a timely manner; provide a battleground for anti-cult workers to share their thoughts and disseminate their speeches; as well as reflect on new strategies and actions taken within and outside China on anti-cult work.

## Truth Can Be Harmed, But Not Shamed<sup>4</sup>

真理可以被傷害但不會蒙羞

...

我之所以能平静接受法轮功的恶诉,还因为我深深知道,科学是有敌人的。今天虽然已经不是布鲁诺、哥白尼、伽利略的年代,但我们 随口说出“要为科学而斗争”时,却仍然应该想到这并不是一句空话,因为斗争总是会有对象。我作为意大利普里莫·罗菲斯奖的得主,作为全 国科

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<sup>4</sup> Published online at <http://kaiwind.com/zjwj/zzz/200706/t39040.htm>.

普先进工作者,作为多次国际电视节的获奖人,科学给了我太多的荣耀和光彩。我知道,所有这些奖誉选择了我,和今天法轮功选择了我,都是出于同一个理由。这种褒扬和攻击恰如一枚硬币的正反两面。我不会一面欣然领受科学给我的荣誉,另一面却抱怨为科学而蒙受的“磨难”。相反,我倒宁愿将这次受到的起诉同样视为无上的骄傲和光荣。

I can calmly face the frivolous lawsuit from Falun Gong practitioners because I understand deeply in my heart that science does have enemies. Even though the era of Bruno, Copernicus, or Galilei has passed, when we chant “*douzheng* to further [the Party’s] science,” we should know that it is not just a phrase; a *douzheng* (“persecutory campaign”) always has its target. Science has bestowed upon me many honors and high glory; I am the recipient of the Primo Rovis Award and many other international television awards, and a National Advanced Science Popularization Worker. I know it is for the same reason that I received these plaudits that I was accused by the Falun Gong practitioners. Accolade and censure are the two sides of one coin. I can never accept the honor given by science and then complain about the “ordeal” I have to suffer for it. To the contrary, I perceive the charges as an utmost honor and pride.

我和几位美国朋友曾经做过深入讨论:诚然,各国之间的社会制度、文化背景互有差异,但人类社会总有更多共同的价值取向,譬如都反对偷盗、贩毒、劫机、贪污,自然也包括对邪教的抵制。这也是当今世界能够沐浴在和平与发展主题下,并结成反恐统一战线的基本依据。如果仅仅因为某些偏见,就把中国的“痼疽”都当作“宝贝”,到头来恐怕会延祸自身。

I once had a deep discussion with my American friends. There is no doubt different countries have different social systems and cultural backgrounds, but there are more common values that are shared by all human societies. These values include the opposition to burglary, drug dealing, hijacking, corruption, and of course the rejection of evil cults. These values are the foundation for

establishing world peace and forming the alliance to wage a war against terrorism. Those who harbor prejudice and take China's ulcer [i.e., Falun Gong] as treasure will only bring disaster to themselves.

...

## **Falun Gong's Cult Index<sup>5</sup>**

法轮功的“邪恶指数”

...

这是一场超级精神瘟疫，对此，我们有责任向全世界发出紧急警报。

This is a super psychological epidemic. We have the responsibility to raise an emergency alarm to the entire world.

十分困惑和迷惘于西方国家某些人的怪异表现。难道仅仅因为反对中国，就偏在中国要扫除的臭虫、跳蚤身上找出双眼皮和小酒窝吗？真想说一声，请把你们的家园辟为法轮功的生态保护区，或者干脆把法轮功定为“国教”吧。

[We are] also puzzled and mystified by the weird behavior of some people in the Western countries. Do you really mean to find good things to use from the garbage that China wants to get rid of, simply because you are anti-China? I really want to say: please label your homes as “protected ecological habitat” for Falun Gong, or simply label Falun Gong as your national religion.

...

## **More Thoughts on Falun Gong's Cult Index<sup>6</sup>**

再谈法轮功的“邪恶指数”

这里搞错了一个基本的概念。对于大惑不觉的法轮功信众，我们从来一律视为受害者。国家

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<sup>5</sup> Published on CACA Website and downloaded in 2004.

<sup>6</sup> Published on CACA Website and downloaded in 2004.

耗费大量人力资财做转化工作，无非为了让这些误蹈深渊的兄弟姐妹打开心结，重返社会，再度过上健康生活，并防止这一精神瘟疫传播扩散。转化学习班里所做的事情，和戒毒所、传染病院的工作并无性质的不同。不过吸毒者和病人大多有更清醒的认知能力罢了。

There is a fundamental error here. These befuddled Falun Gong believers who don't know the plight that they're in—we've always viewed them as victims. The nation has spent a large amount of human resources and cash in conducting its *zhuanhua*<sup>7</sup> work—all to help these brothers and sisters who've lost their way to open up their hearts, return to society, continue living a healthy life, whilst preventing the spread of this psychological epidemic. There is no qualitative difference between the work done in *zhuanhua* ("transformation through torture") classes, rehabilitation clinics and disease hospitals. The only difference is that drug addicts and patients have a much clearer mind, that's all.

可以说，真正笃信法轮功的人，都不是打击的目标，倒恰恰是救助的对象。

It is possible to say that true believers of Falun Gong are not the targets for attack—they are, on the contrary, targets for help.

...

对于普通中国百姓，则因为甯身海外的民运人士过于遥远而不甚了了。“知其人，观其友。”正好通过身边法轮功的形貌，对“精英”们的嘴脸有一个约略的了解。

As for ordinary Chinese citizens, most people do not understand those democratic activists who have fled overseas because they are so far away. As the saying goes, "to know someone, watch his friends." By watching Falun Gong's appearance and actions, one can also gain a glimpse into the hearts and minds of these so-called "elites."

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<sup>7</sup> A term used to describe the process that forces a targeted group people to give up their beliefs with methods including imprisonment and torture.

## **Our Spirit and Flesh<sup>8</sup>**

我們的靈與肉

...

也可以說實現了內心的一種“寧靜”和“平衡”。但我們不需要達到這種“境界”，因為它離動物的狀態已經不遠了。

It can also be said that they have achieved an internal “peace” and “balance.” However, we do not need to arrive at such a “state,” because it is already not very far from animals.

...

## **4. Other Materials**

### **CACA Website Work Report**

中國反邪教網站工作交流彙報

中國反邪教網站自 2000 年 12 月 23 日成立後一直在反對“法輪功”的前沿陣地，4 年來為反“法輪功”、揭批偽科學做了大量有意義的工作。現在，我就中國反邪教網 4 年來的工作做一彙報，不當之處，請予以批評指證。

Since its founding on December 23, 2000, the CACA has been at the forefront of rejecting Falun Gong. Over the past 4 years, it has conducted a large amount of meaningful work against Falun Gong and *jiēpī* (“vilification of”) fake sciences. Currently, I will report on the work of the CACA over the past 4 years. Please feel free to point out my inadequacies.

一、中國反邪教網站的由來

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<sup>8</sup> Published online at <http://59.151.27.202:82/gate/big5/www.kaiwind.com/zjwj/zzz/200706/t39038.htm>.

## 1. The Beginnings of the CACA Website

2000 年 11 月 13 日，中國反邪教協會在北京成立。在這個成立大會上，時任中國反邪教協會常務理事、武漢市廣播電視局局長的趙致真同志提議，成立中國反邪教網站。建立網站的理由大致有以下四條：

On November 13, 2000, the CACA was founded in Beijing. During its founding ceremony, CACA standing committee member, Wuhan TV Station Chief Zhao Zhizhen suggested setting up a CACA website. There are 4 major reasons for setting up the CACA Website:

[See Section 2 above for the four reasons]

趙致真同志的提議最後得到協會的同意。

由於時間緊迫，再加上武漢電視台網站在當時已有一定規模，編輯和製作水平以能夠承擔相應工作，中國反邪教協會就委託武漢電視台承擔中國反邪教網站的籌建及製作工作。

Comrade Zhao Zhizhen's suggestion won the eventual approval of the CACA. Due to the urgency of the problem, added to the fact that the Wuhan TV website is already well set-up, and its editing and production abilities are capable of taking on the corresponding work, the CACA entrusted Wuhan TV station with the building and construction of the CACA website.

我們接到這個任務之後，展開了緊張的工作，在 7 天內完成了收集資料、文字錄入、檔目策劃和頁面製作。2000 年 12 月 23 日，在中國反邪教協會舉辦的首屆研討會上，中國反邪教網正式開通。從此，在中國反邪教領域，有了一個同“法輪功”及其他一切邪教做鬥爭的網上陣地。

After we received this task, we began this urgent work immediately. Within 7 days we completed our collection of information, digitization of documents, categorical planning as well as

page construction. On December 23, 2000, at the first conference organized by the CACA, the CACA Website was launched. From then on, in the area of China's anti-cult work, there is now an online battleground for conducting *douzheng* ("persecutory campaign") against Falun Gong as well as all other evil cults.

## 二、中國反邪教網檔目設置介紹

### 2. Introduction to CACA Website's Categories

2003 年五月，中國反邪教網經歷過一次改版，檔目設置前後有一些變化，我先簡單地介紹一下改版前的檔目設置，在著重介紹現在網站的風格和檔目。

May 2003, the CACA Website was redesigned and there are a few changes to the categorization. I will first briefly introduce the previous categorization, and focus my attention on the new design and categorization.

2000 年 12 月我們推出中國反邪教網時，共錄入 1000 多萬字的文字信息，上百張圖片。分為八大檔目：

When we launched the CACA Website in December 2000, we collected and digitalized over ten million words' worth of information, as well as hundreds of pictures. It was divided into eight major sections:

(一) 前言：相當於網站的宣言書；

Foreword: a manifesto for the website.

(二) “中國反邪教協會”：介紹該協會的倡議、章程與組織

CACA: introducing the organization, charter, and main themes of the CACA.

(三) “反邪教動態”：國內外動態信息；

Dynamic Anti-Cult Work: latest news on anti-cult work both within and outside China.



(四) “世界邪教大觀”

World of Cults

(五) “揭批‘法輪功’”：內容有“法輪功”的危害、覺醒的“法輪功”練習者、揭批“法輪功”文章等；

*Jiepi* (“vilification of”) Falun Gong: the threats and dangers of Falun Gong, “awakened”

Falun Gong practitioners, essays to *jiepi* (“vilify”) Falun Gong, etc.

(六) “反邪教文章選登”；

Selected Anti-Cult Essays

(七) “世界反邪教網站與書刊介紹”；

Introduction to World Anti-Cult Website and Publications

(八) “世界部份國家反邪教法規與對策”

Laws and Strategies in Anti-Cult Work in Other Countries

...

2003 年初，我們幾經討論，拿出了改版方案，上報中國反邪教協會，得到同意之後我們著手實施。

In early 2003, after many discussions, we produced a new redesign proposal and submitted it to the CACA. After it was approved, we began our implementations.

網站改版後，有以下幾個方面的變化：

After the website was redesigned, the changes are below:

...

邪惡“法輪功”：報導海內外“法輪功”份子的活動、言論以及對習練者的殘害；

Evil Falun Gong: reporting on the activities of Falun Gong both within and outside mainland China, its propaganda, and the threats and dangers to Falun Gong practitioners.

四海共討：海內外人士揭批“法輪功”、支持我國政府立場的消息；

Four Seas: News about people both within and outside China on the *jiepi* (“vilification of”) Falun Gong and supporting the stance of our government.

幫助轉化：社會關愛、幡然醒悟等方面的新聞

Helping and Supporting *Zhuanhua* (“‘transformation’ through torture and imprisonment”): news regarding love from society and awakenings of practitioners.

海外邪教：海外主要邪教動態，世界各國政府打擊邪教的新聞；

Overseas Cults: news about cult activities overseas, including how foreign governments crack down on cults.

崇尚文明：倡導健康生活方式的新聞。

Promoting Civilization: news promoting a healthy lifestyle.

### 三、設立特色專欄

#### 3. Special Columns

專題片：主要是《焦點言談》等播放的揭批“法輪功”的節目。這是元網站的一大特色，應予繼承；

Special Films: comprising mostly of programs to *jiepi* (“vilify”) Falun Gong such as “News in Focus,” etc. This was a major characteristic of the former website and should be inherited.

...

4. 新設立一個檔目：功能相當於資料庫，裡面收納的文章有：李弘志其人其事、海外邪教大觀、法律文件規定等等。

New section: a database that collects: *Li Hongzhi—The Man and His Deeds*, “Overview of Overseas Cults,” “law and regulations,” etc.

...

#### 四、談談幾點體會

#### 4. A Few Thoughts

##### 1. 互聯網上的反邪教事業大有可為

There is a lot of potential for conducting anti-cult work on the Internet.

互聯網上的一個重要特點就是傳播效率高，能夠穿越時空、國界。中國反邪教網開通之後，我們從來訪者個 IP 地址可以看出，訪問者來自全國各地，也有來自海外的人士。這樣網站可以將一批致力於反邪教的海內外人士凝聚在一起。中國反邪教網開通四年來，應該說已經成為中國反邪教領域一股重要力量，在往上開展針對“法輪功”的鬥爭是中國反邪教事業的重要組成部份。

One of the major characteristics of the Internet is that it is very efficient in transmitting information. It can travel across time and national boundaries. Since the launch of the CACA website, from inspecting visitor's IP addresses, we see that visitors come from across China as well as overseas. In this way, the website helps to aggregate together a group of people, both within and outside China, who are dedicated to anti-cult work. Since the launch of the CACA website four years ago, it has become a potent force in China's anti-cult work; conducting the *douzheng* (“persecution”) of Falun Gong is a major constituent of China's anti-cult work.

...

## **There Is Danger Right Beside Us<sup>9</sup>**

人民時評：危險就在我們身邊

...

袖手旁觀的人們，猶豫不決的人們，對同“法輪功”鬥爭有著各種各樣想法的人們，是清醒的時候了，是行動的時候了：當惡魔威脅著每個人的生存的時候，同惡魔鬥爭就是每個人自覺承擔的社會責任。

For those who have been observing as bystanders, those who have been hesitating, those who have held all sorts of thoughts about the *douzheng* (“persecutory campaign”) against Falun Gong, it is time to wake up, it is time to take action: when the devil threatens the survival of every person, everyone has a social responsibility to self-consciously *douzheng* against the devil.

...

## **Comments from Xinhua Net Development Forum**

**Netizen from the Development Forum (of Xinhua Net) Lambasts Falun Gong for Attacking the Sino Satellite<sup>10</sup>**

發展論談網友痛斥“法輪功”再襲鑫諾衛星事件

我說，先把它定義為恐怖活動，然後採取一切必要措施都是名正言順的了。

I say that we, first of all, categorize and define it as a terrorist activity, then we can take whatever measures necessary [to take care of them]—and it will be justified.

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<sup>9</sup> Published on *People's Daily* on May 13, 2002.

<sup>10</sup> Published on CACA website and downloaded in 2004.

## **Netizen on the Xinhua Development Forum Lambasts “Falun Gong” For Attacking the Sino Satellite<sup>11</sup>**

新華網發展論談網友痛斥“法輪功”份子攻擊鑫諾衛星

對付法輪功要讓他們與恐怖份子一樣成為過街老鼠，人人喊打，要讓他們臭不可聞，遺臭萬年，永世不得翻身。

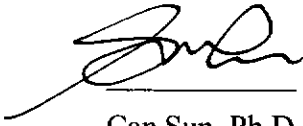
In coping with Falun Gong, we have to make them into “rats crossing the street—everyone wants to beat them up” (a Chinese idiom) just like terrorists. We have to make them stink to the extent that it is so unbearable, leave the stink for tens of thousands of years, and make it impossible for them to turn themselves around for eternity.

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<sup>11</sup> Published on CACA website and downloaded in 2004.

## Declaration of Translator


I swear and affirm that the above translations are true and accurate translations of the originals in Chinese.



Can Sun, Ph.D.  
Translator

1/15/12

Date

**The Commonwealth of Massachusetts**  
On this 15 day of January, 20 12  
before me, the undersigned notary public, personally appeared  
Can Sun, Ph.D.  
proved to me through satisfactory evidence of identification which were et alina  
to be the person whose name is signed on the preceding or attached document and  
acknowledged to me that he has signed it voluntarily for its stated purpose.  
 James J. [illegible], Notary Public  
My Commission Expires May 10, 2012

## **EXHIBIT J**

**UNITED STATES DISTRICT COURT  
OF THE DISTRICT OF CONNECTICUT**

CHEN GANG, DOES, 1-3, ZOU  
WENBO, AND OTHERS SIMILARLY  
SITUATED.

PLAINTIFFS,

V.

ZHAO ZHIZHEN, & DOES, 1-5  
INCLUSIVE

DEFENDANTS

TORT CIVIL LIABILITY CLAIM

Civil Action No. 3:04CV01146(RNC)

JURY DEMAND

**AFFIDAVIT OF WANG BIN**

BEFORE ME, the undersigned authority, on this day, personally appeared, Wang Bin, known to me to be the person whose name is subscribed to the following instrument and, having been duly sworn, upon his oath, deposes and states the following:

1. My name is Wang Bin. I am a resident of Urbana Illinois.
2. Currently, I am a visiting Scholar at the University of Illinois at Urbana Champaign.
3. I hold a Ph.D. degree in Chemical Technology from the highly esteemed and prestigious Chinese Academy of Science.
4. I am also a practitioner of Falun Gong where I resided until January of 2005.
5. On July 21, 1999, I was arrested along from several thousand other Falun Gong practitioners. We were all transported to Zhong Guancun district police station in Beijing on the very same day.
6. On July 22, 1999, the very next day, the video, 'About Li Hongzhi' was aired publicly on CCTV and all local networks throughout China.
7. On the very same day, I and the other arrested practitioners were all forced to watch this video four or five times.
8. The police officers viewed the program with us. After they viewed the program, their attitude toward us changed. They treated us as if



- we were dangerous criminals. For two days, we were not permitted to sleep. Some of us were not allowed to eat and were even beaten.
9. On or around late of January 2001, the self-immolation video was aired on all local and national television stations, including WRTB TV. Immediately after the program was aired, people's attitude towards me and other practitioners changed dramatically, Even my family treated me differently.
10. Everyone in China began to hate Falun Gong practitioner because they now thought we belonged to a terrorist organization. The Chinese Communist Party used the video to compare Falun Gong to terrorist organizations like those in the U. S. and Japan. Many scholars and professors used this program to compare Falun Gong to terrorists at the behest of the Chinese Communist Party.
11. The persecution of Falun Gong practitioners increased dramatically as the situation in China had changed. Before the airing of the self-immolation, many police still questioned the treatment of Falun Gong by the Chinese Communist Party. But now almost all police and security officers took strong measures to control our activities. Thousands of practitioners were thrown into labor camps and detention centers because there was a fear that they too would self-immolate themselves. We were tortured more brutally to convince us to give up our beliefs.
12. After the self-immolation I was abducted by the police in Beijing, detained without trial for a year, and sentenced to three years in prison where I was severely tortured. Before the airing of the self-immolation video (and similar material aired on national and local television stations) I had only been detained for short periods of time and not tortured as severely.

*I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.*

Executed on this 12<sup>th</sup> day of April, 2005, in, Queens County,  
State of New York.

Jian Hong Xiong

[State]

JIANHONG - XIONG  
Notary Public, State of New York  
No. 01XI6001154  
Qualified in Queens County  
Commission Expires, March 1, 2008

Wang Bin

Wang Bin

**UNITED STATES DISTRICT COURT  
OF THE DISTRICT OF CONNECTICUT**

CHEN GANG, DOES, 1-3, ZOU  
WENBO, AND OTHERS SIMILARLY  
SITUATED.

PLAINTIFFS,

V.

ZHAO ZHIZHEN, & DOES, 1-5  
INCLUSIVE

DEFENDANTS

TORT CIVIL LIABILITY CLAIM

Civil Action No. 3:04CV01146(RNC)

JURY DEMAND

**AFFIDAVIT OF WANG BIN**

BEFORE ME, the undersigned authority, on this day, personally appeared, Wang Bin, known to me to be the person whose name is subscribed to the following instrument and, having been duly sworn, upon his oath, deposes and states the following:

1. My name is Wang Bin. I am a resident of Urbana Illinois.
2. Currently, I am a visiting Scholar at the University of Illinois at Urbana Champaign.
3. I hold a Ph.D. degree in Chemical Technology from the highly esteemed and prestigious Chinese Academy of Science.
4. I am also a practitioner of Falun Gong where I resided until January of 2005.
5. On July 21, 1999, I was arrested along from several thousand other Falun Gong practitioners. We were all transported to Zhong Guancun district police station in Beijing on the very same day.
6. On July 22, 1999, the very next day, the video, 'About Li Hongzhi' was aired publicly on CCTV and all local networks throughout China.
7. On the very same day, I and the other arrested practitioners were all forced to watch this video four or five times.
8. The police officers viewed the program with us. After they viewed the program, their attitude toward us changed. They treated us as if

- we were dangerous criminals. For two days, we were not permitted to sleep. Some of us were not allowed to eat and were even beaten.
9. On or around late of January 2001, the self-immolation video was aired on all local and national television stations, including WRTB TV. Immediately after the program was aired, people's attitude towards me and other practitioners changed dramatically, Even my family treated me differently.
10. Everyone in China began to hate Falun Gong practitioner because they now thought we belonged to a terrorist organization. The Chinese Communist Party used the video to compare Falun Gong to terrorist organizations like those in the U. S. and Japan. Many scholars and professors used this program to compare Falun Gong to terrorists at the behest of the Chinese Communist Party.
11. The persecution of Falun Gong practitioners increased dramatically as the situation in China had changed. Before the airing of the self-immolation, many police still questioned the treatment of Falun Gong by the Chinese Communist Party. But now almost all police and security officers took strong measures to control our activities. Thousands of practitioners were thrown into labor camps and detention centers because there was a fear that they too would self-immolate themselves. We were tortured more brutally to convince us to give up our beliefs.
12. After the self-immolation I was abducted by the police in Beijing, detained without trial for a year, and sentenced to three years in prison where I was severely tortured. Before the airing of the self-immolation video (and similar material aired on national and local television stations) I had only been detained for short periods of time and not tortured as severely.

*I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.*

Executed on this 12<sup>th</sup> day of April, 2005, in, Queens County,  
New York.

Tian Xi Piong

[State]

JIANHONG - XIONG  
Notary Public, State of New York  
No. 01XI6001154  
Qualified in Queens County  
Commission Expires, March 1, 2006

Wang Bin  
Wang Bin

# **EXHIBIT K**

### Affidavit of Qinglian He

My name is Qinglian He. I am a resident of Montgomery Township, New Jersey. Currently I am a Senior Researcher in Residence at Human Rights in China. I have a B.A. in History from Hunan Normal University in Changsha, China and an M.A. in Economics from Fudan University in Shanghai, China. From 1989 to 1992, I was the editor of the journal of the *Economy of Special Zone* in Shenzhen, Guangdong Province, a publication of city government of Shenzhen. From 1992 to 1994, I was Chief Reporter and Director of the Economics Department of Shenzhen Legal Daily, a newspaper based in Shenzhen. From January 1997 to June 2001, I was Chief Reporter, an economics columnist and Deputy Director of the Editorial Department of Shenzhen Legal Daily.

I was a lecturer in Economic History in Hunan College of Finance and Economics in Changsha from 1983 to 1985 and a Senior Lecturer in Economics and Marketing at Jinan University in Guangzhou from 1995 to 1996. I was a visiting scholar at the University of Chicago from July 2001 to June 2002, at the City University of New York at Staten Island from September 2002 to June 2003, and at Princeton University from September 2003 to July 2004.

I was awarded the Cheung Kong Dushu Prize by the journal *Dushu* for my book *The Pitfall of China (China's Descent into a Quagmire)* voted by readers in China as The Most Welcomed Book in October 27, 2000. Beijing's *Life Weekly* selected me as one of the 25 most influential figures in China in its No.100 issue, November 30, 1999. *Business Week International Editions* picked me as an opinion shaper in its "The Stars of Asia" article on June 14, 1999.

Chapters of my book *The Pitfall of China*, first published in 1997 in Hong Kong, were translated into English and published under the title, *China's Descent into a Quagmire* in the journal *The Chinese Economy*, published by M. E. Sharpe. *New York Review of Books* published a lengthy commentary essay about the book on October 8, 1998. Media in the U.S., Japan, England, Canada, Germany, France, Spain, Italy and Hong Kong have reviewed the book. This book was a bestseller in China; it was reprinted seven times and sold more than 200,000 copies within a year. An extract in French was published by *Problemes Politiques et Sociaux, La Documentation Francaise*, No. 834, February 2000. Soshisha Publishing House in Japan published an updated version of the book in Japanese in November 2002.

In 2004 a short draft of my new book *Media Control in China* was published by Human Rights in China (New York). *New York Review of Books* published a commentary essay about it on January 24, 2005. The full edition of the book in Chinese was published by Liming Publishing House in Taiwan in May 2006, and its English version was published by Human Rights in China in 2008 under the title *The Fog of Censorship: Media Control in China*, and a Japanese version was published by Fusosha Publishing House of Japan in 2003.

My other published books on China include *We are Still Looking at Starry Sky* (January 2001), *Economics and Humanitarian Concern* (January 1999), *At Critical*

*Juncture—27 Problems Awaiting Prompt Solutions in China* (co-author, Press of China Today, Beijing, March 1997, a best-seller in China in 1997), *History of the Chinese Modernization* (co-author, Shanghai Sanlian Press, China, 1996), *Population—A Hanging Sword over China* (March 1988, reprinted in 1996).

My other major publications include “How does the Chinese Government Control Media—China Human Rights Report,” *Modern China Studies* (Princeton, U.S.), Vol.11, No.3, 2004; “On Systemic Corruption in China and Its Influence,” in William C. Heffernan and John Kleinig eds., *Private and Public Corruption* (Lanham, MD: Rowman & Littlefield Publishers, Inc., Nov. 2004); “Current Situation and Perspectives of China under Authoritarian Rule,” *Modern China Studies* (Princeton, U.S.), Vol.11, No.2, 2004; “China: Volcanic Stability,” *The Journal of Democracy* (John Hopkins University Press), No.1, 2003; “Academic Freedom in China,” *Academe* (Bulletin of American Association of University Professors), Vol.88, No.3, May-June 2002; “A Historical Turning Point for Chinese Reform: 1999-2001,” *Twenty-First Century* (The Chinese University of Hong Kong), No.70, April 2002; “Gains and Losses in China’s Reform,” *Modern China Studies* (Princeton, U.S.), Vol.9, No.1, March 2002; “A Fast Boat from China,” *Magazine of the University of Chicago*, December 2001; “The End of Small Peasant Economy: A Dialogue about Rural, Peasant and Agricultural Problem in China,” co-author Xiaonong Cheng, *Modern China Studies* (Princeton, U.S.), Vol.8, No.3, September 2001; “Women’s Unfavorable Social Status in China Today,” *Modern China Studies* (Princeton, U.S.), Vol.8, No.2, June 2001.

I was invited to testify before U.S. government bodies on three separate occasions. I testified on August 3, 2001 at a Hearing of the US-China Security Review Commission of the U.S. Congress on “Security Issues: Strategic Perceptions,” Washington, D.C., and on June 24, 2002 at a Roundtable Meeting of Congressional-Executive Commission on the People’s Republic of China on “Media Freedom in China,” Washington, D.C., and also on April 14, 2005 at a Hearing of the US-China Economic and Security Review Commission of U.S. Congress on “China’s State Control Mechanism and Methods,” Washington, D.C. My views on media control in China have contributed to the June 2004 Report to Congress of the U.S.-China Economic and Security Review Commission.

I hereby depose as below:

The Chinese terms “*douzheng*” and “*jiepi*” have clear and unmistakable meanings for anyone raised in the People’s Republic of China, and especially those aged over 50 and with personal experience of the Cultural Revolution years. Definitions of “*douzheng*” from the *Hanyu Da Cidian*, (the Chinese equivalent of the *Oxford English Dictionary*) include “struggle,” “fight,” “fight” in the context of a war, or “expose, criticize, attack”. However, “*douzheng*” has been a particular term for practices of political persecution with ideological roots, and is part of the communist persecution culture. In this context, the followers of the Chinese Communist Party, in order to present their loyalty to the regime, show their hostile attitudes toward whomever is targeted by the regime (e.g., the intellectuals during the 1957 Anti-Rightists Campaign

and the “class enemy of the regime” (such as professors, former landlords and entrepreneurs, etc) in the Cultural Revolution era), while the targeted people are “exposed” to a group of the followers, humiliated, vilified and frightened, and are forced to admit the charges raised by any of the followers or by the regime; in addition to public humiliation and vilification, the targeted people “fought” by the followers are often attacked through a range of persecutory acts, usually involving extra-judicial imprisonment, beatings, torture, and execution. Indeed, when a group or individual is identified as a target of “*douzheng*,” especially when the speaker is someone with influence and status within the Communist Party, the implication is clear: It is imperative to go outside of the law to persecute that person or group.

“*Jiepi*” is similarly clear in its meaning. While the usual English translation is “to expose and criticize,” this hardly captures the essence of the term, for which we must look at precisely what is “exposed and criticized,” and what are the practical repercussions. Like “*douzheng*,” “*jiepi*” achieved its period of greatest prominence during the Cultural Revolution, when the term was used to describe the widespread practices of Communist Party members, Red Guards, and/or Party supporters who vilified the targeted people with political accusations. Under the rule of the Chinese Communist Party, while the supporters of the party “expose” the speeches and activities of the targeted people, the supporters are allowed to vilify the targeted people in public without evidence, and are even encouraged to “expose” the thoughts and beliefs of the targeted people, though the supporters certainly could not read the mind of the targeted people. The goal of “*Jiepi*” is to legitimate the political persecutions against the targeted people, collect accusations beyond legal procedure, and to mobilize political support of the followers to the Communist Party. While the targeted people are “exposed,” humiliation against them is usually accompanied, though the humiliation is ideologically rationalized as “criticism.” The process of “*jiepi*” often leads to “*douzheng*,” or the violent “struggle” to suppress such “class enemies”.

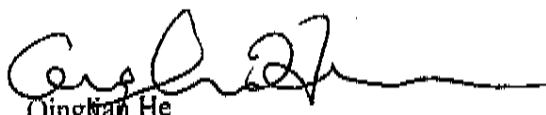
The term “*zhuanhua*” has a similarly nuanced meaning when used during a persecutory campaign against a target group in China since 1999. In particular “*zhuanhua*” designates the process that forces the targeted people to give up their religious belief, with methods including imprisonment and torture.

From the photos taken in the Cultural Revolution, it's easy to understand how the propaganda, defamation, humiliation, abuse of process, and systematic, violent persecution of the targeted people is encoded in the word “*douzheng*.” (See, e.g., <http://img7.ph.126.net/8mKhKoHZ3493kdIB6xcJVA=/2828542040982479777.jpg> (the former Defense Minister of China under *douzheng*), and [http://www.epochtimes.com/i6/1108041316532068\\_1.jpg](http://www.epochtimes.com/i6/1108041316532068_1.jpg) (the wife of the former Chairman of the State of P.R. China under *douzheng*)).

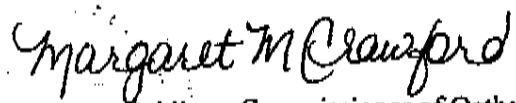
To classify these terms by their literal translations is inaccurate without attention to context. When the context is a persecutory campaign, the context requires the nuanced meanings described above.

Qinglian He, being first duly sworn on oath according to law, deposes and says that

the matters stated herein are true to the best of her information, knowledge and belief.

  
Qingnan He

SUBSCRIBED AND SWORN to before me  
this 11th day of January, 2012.

  
Notary Public or Commissioner of Oaths  
My commission expires July 13, 2015

MARGARET M. CRAWFORD  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES JULY 13, 2015



# **EXHIBIT L**

## AFFIDAVIT OF LORD THURLOW

1. I am a retired member of the British Diplomatic Service:

My career included the post war peace conferences and early meetings of the United Nations; the transition of India to independence 1946-52, and of Ghana as the first independent African colony; service as British High Commissioner in Canada, Nigeria and New Zealand; Governor of the Bahamas and Deputy Under Secretary of State in the Foreign and Commonwealth Office.

I subsequently spent 15 years in the House of Lords.

2. I was brought up and practised as a Christian Anglican. I developed an interest in other spiritual traditions; in particular Sufism and Hinduism, and devoted 18 months to field research in India. For many years I pursued an ancient Christian discipline derived from the Desert Fathers of the 2nd Century A.D., its high moral precepts having much in common with those of Falun Gong to which I was introduced in 1999. I have now practised the latter for five years. Falun Gong has no religious forms and no institutional organisation, hierarchy or rituals and accepts no financial contributions.

3. Falun Gong was in its early years warmly encouraged by the Chinese authorities as promoting health and good citizenship. After seven years of public teaching in 1999 there were about 100 million practitioners in Mainland China, thus greatly exceeding the 65 million membership of the Chinese Communist Party. Chairman Jiang Zemin apparently saw it as presenting a threat to the Party's mind control and restoring the Chinese culture that the Great Cultural Revolution had largely eradicated. He decided in 1999 to suppress it by violence.

4. Zhao Zhizhen's influential media position has to be viewed in the context of the record of the CCP, of which he is presumably a member, and its methods of totalitarian rule. The CCP adopted from its parent, the Russian Comintern, Lenin's prescription of violence and deceit as the twin pillars on which the Party must rely to secure its power. Propaganda has been recognised as playing an essential role in conditioning Chinese minds and gaining uncritical acceptance of the Party's statements as the sole authority for values and information. To apply violence Mao directed that a campaign of killing and terror should be executed every five to seven years against a selected group to intimidate the 1300 million citizens into non-resistance: this would be accompanied by deceitful propaganda to demonise the victims as socially dangerous. Hence the successive targeting of landowners, capitalists, religious groups and intellectuals. The latest and current target has been Falun Gong, falsely accused in continuous propaganda at home and abroad as guilty of grave crimes. In the repeated killings no less than 80 million have been murdered since 1949, the facts having been covered up until recently from world notice by skilled propaganda.

5. Falun Gong has now been persecuted ruthlessly for over five years with a vast gestapo-like apparatus that absorbed a quarter of the national budget in the first few years. Hundreds of concentration camps are to a great extent filled with innocent practitioners as slaves, the guards being supplied with torture instruments to seek to extract signed recantation of belief. No figures of resultant deaths are published: 10,000 are estimated to have died rather than recant, though relatives have been able to authenticate only some 800 of those who have disappeared.

6. Zhao Zhizhen worked as part of the Chinese state owned media network producing programs for CCTV and for a time controlled the radio station of Wuhan Province. Zhao disclaims personal association with the persecution of Falun Gong. But frequent radio and TV programs portraying Falun Gong as criminal and spreading superstition continuously deceive the public; Zhao has made an important contribution to the production and circulation of material. He indicates that he has a personal

mission to "deal head-on" with exposing pseudo science masquerading as science. Part of his Light of Science program daily broadcast on CCTV throughout China is devoted to this personal interest and thereby assists the official attack on Falun Gong.

7. For his Light of Science series he sent a production team to interview residents in Li Hongzhi's home town and made a film of interviews purporting to shed light on Li Hongzhi. After the start of the persecution in 1999 the official CCTV drew on the Light of Science film for footages which contributed to the official programme of misrepresenting Falun Gong. He states that Li Hongzhi has announced himself as the supreme god of the universe and claims divine status. On the contrary Li Hongzhi has specifically disclaimed any divine status, made clear that he is an ordinary human being and not to be addressed by adherents with any special forms of respect.

8. Zhao is a member of the Chinese Anti-Cult Association. The CPP have given central importance in the persecution to use of 'cult' as a pejorative term of anti-social influence, using the word as the grounds for legislative banning of Falun Gong. He is respected for the quality of his documentaries, but his scientific attitude conforms with the official Party version of Marxist materialism that presents all forms of religion as opium of the people and any interest in spirituality as superstitious, ruling out discussion of phenomena beyond the perception of the senses and modern instruments as unscientific. Such views have long been rejected by leading scientists, logical theory since the work of Godel and Karl Popper having disproved the possibility of the absolute truth of any scientific proposition. The boundaries of valid discourse now include many academic disciplines which apparently would fall within Zhao's definition of pseudo science. While he affirms his respect for freedom of religion it is difficult to reconcile this with his view of all religion as nonsense.

UNITED KINGDOM OF GREAT BRITAIN  
ENGLAND CITY OF LONDON

Signed and sworn by LORD THURLOW at 35  
Piccadilly, London W1J 0LJ, England,  
on this 11th day of April 2005

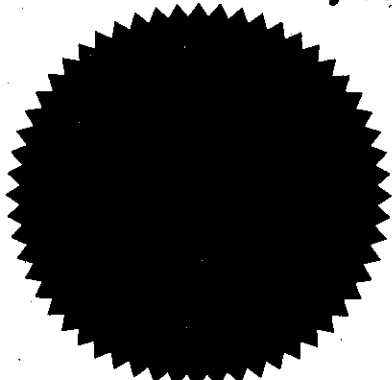


BEFORE ME:



J. KERR MILLIGAN  
Notary Public of London, England

My Commission expires with Life



# **EXHIBIT M**

Affidavit of Professor Eugene Perry Link, Jr.

1. I am Professor of East Asian Studies at Princeton University, Princeton, New Jersey. My specialty is modern Chinese literature, and in this capacity I have developed interests and expertise on the topics of dissident literature, censorship, “thought control,” and social control in China. I have published extensively in these fields. I serve on the boards of Human Rights Watch/Asia, *Human Rights Forum*, The Foundation for China in the 21st Century, and other groups concerned with the advancement of human rights and democracy in China. I am 60 years of age.

2. I am not a member or believer in Falun Gong.

3. All public media in the People’s Republic of China are under the control of the state, which in turn is under the control of the Communist Party of China. The Party’s Department of Propaganda provides guidelines for all offices in the media, monitors their compliance, warns them if they diverge, and punishes them if they do not heed the warnings. Punishments include, in ascending order, demotion, suspension, firing, and permanent banishment from all “thought work.” Other punishments--which are illegal but nonetheless occur--include beatings and imprisonment.

4. In his declaration, Mr. Zhao Zhizhen states that he has worked for 18 years within this system and has risen to high position in it. He also says that “I have tremendous autonomy in my work, just as Western journalists do.” This is an absurd claim that warrants not the slightest credence. To survive within this system for so long, and to rise so high, requires that a person develop a sophisticated and fine-tuned sense of what can be said and what cannot; it requires an ability to manipulate words with more attention to whether they are politically correct than to whether they are true; and it requires the ability to pretend, on the surface, that no manipulation or self-censorship is actually going on.

5. Mr. Zhao states that the television program called “Light of Science” that he produces “is broadcast on CCTV [Central Chinese Television] every day.” The fact that it is so broadcast guarantees that it must be quite politically correct in the view of central state authorities--the same authorities that have ordered a vicious crackdown on Falun Gong.

6. Mr. Zhao attempts to justify his program’s criticism of Falun Gong and its leader Li Hongzhi on grounds that Falun Gong’s beliefs are “superstitious.” It is indeed true that some of Falun Gong’s beliefs lack scientific basis. But Mr. Zhao follows the Communist Party leadership in applying this standard in a highly biased manner. Taoism, Buddhism, and Christianity, all of which have many followers in China, also include beliefs that lack scientific basis. The question of whether a group is repressed and tortured does not turn on whether it upholds unscientific beliefs. It turns on whether or not it has an organization that the Communist Party does not control. Underground Christian churches, like Falun Gong, are repressed because they have organizations that the Party does not control.

7. The Communist Party itself has a long history of unscientific beliefs. In the 1950s, for example, Mao Zedong followed the Soviet pseudo-scientist Trofim Lysenko in believing that tomatoes could be crossed with pumpkins to make huge tomatoes; as part of “the Great Leap Forward,” Maoists ordered Chinese peasants to plant rice-stalks immediately adjacent to one another, to use ground glass as fertilizer, and to plant seeds six feet beneath the surface. Terrified into obedience, Chinese farmers complied with what they knew to be nonsense, and the result was crop failure that brought on the largest famine in world history, in which somewhere between 20 million and 50 million people died. We do not know the actual number of deaths because no one kept statistics. People could not keep statistics because it was officially forbidden to admit that a famine existed. So here is a great story on how superstition caused huge catastrophe. Did Mr. Zhao’s “Light of Science” take up this story? No, of course not. It is *still* forbidden today to admit in the media that Mao’s Great Leap Forward was a disaster. There are many, many other examples, including very recent ones, of official pretense and falsity in Communist Party language that programs like Mr. Zhao’s “Light of Science” ignore--and must ignore or they would not be broadcast. In short Mr. Zhao casts his “light of science” into some dark corners but not others--strictly in accordance with the political power needs of his bosses.

8. I am acquainted with a family from Mr. Zhao’s hometown of Wuhan. The family is unwilling, for fear of persecution, that I reveal its name here, although I would be willing to do this at a later date if witness-protection could be guaranteed. The family had a teenage son who became a Falun Gong believer. Communist Party officials put pressure on the boy to drop his beliefs, but he would not. Then they threatened his family, implying that the whole family would suffer if the boy did not change. But he would not. He said he wished to travel to Beijing to join other Falun Gong members. His family, fearful, forbade him to go. They confined him to a second-story bedroom and would not let him even come downstairs, fearing that he would sneak away to Beijing. The boy, passionate and defiant, resolved to tie bedsheets together and to lower himself through a window at night. The bedsheets tore and he fell to his death. Communist Party officials came to the family’s house to “console” them. The officials urged the parents to denounce Falun Gong, the “evil cult” that had caused their son’s death. They said that if the parents would go on television (i.e., the same network in which Mr. Zhao had risen to high position) to denounce Falun Gong, they would get various bonuses and rewards. The parents declined. The officials then turned nasty, promising various punishments if the parents refused. They refused. The family was labeled a “Falun Gong household” and ostracized in the community. When I met the parents and heard their story, they repeatedly collapsed into tears. Most of all they felt that they had betrayed their son. They did not at all feel that Falun Gong had killed their son. They felt that the Communist Party had.

April 17, 2005

(signed)

Eugene Perry Link, Jr.

# **EXHIBIT N**

# UNDERMINING DEMOCRACY

**21st Century Authoritarians**

Freedom House

Radio Free Europe/Radio Liberty

Radio Free Asia

JUNE 2009

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# CHINA

## RESILIENT, SOPHISTICATED AUTHORITARIANISM

*Joshua Kurlantzick*

*Perry Link*

Chinese Communist Party leaders have clearly embraced the idea of soft power, and it has become central to their discourse about China's role in the world. While only five years ago Chinese officials and academics denied they had any lessons to offer to the developing world, today they not only accept this idea but use their training programs for foreign officials to promote aspects of the China model of development.

### INTRODUCTION

In 1989, in the wake of the crackdown on prodemocracy protesters in Beijing's Tiananmen Square, the moral and ideological standing of the Chinese Communist Party (CCP) was at an all-time low. Popular complaints about corruption and special privileges for the elite were widespread. Idealistic language about socialism was seen as empty sloganeering. The Tiananmen killings showed that the "people's army" could open fire on the people themselves. China's agricultural economy had been partially liberated, but the urban economy still seemed locked within the iron framework of a work-unit system that was both inefficient and corrupt. No one either inside or outside China saw the country as a model for others.

Now, nearly 20 years later, the prestige of the CCP has risen dramatically on the twin geysers of a long economic boom and a revived Han chauvinism. The expectation that more wealth in China would lead to more democracy (a fond hope in many foreign capitals) has been frustrated as one-party rule persists. Burgeoning wealth remains largely in the hands of a political-economic elite that has successfully co-opted business and intellectual circles; far from forming a middle class that might challenge authority, these groups now have reason to join their rulers in repressing "instability" among the people. Whether such repression can survive the current economic downturn remains to be seen. Meanwhile, the CCP has also deliberately stoked and shaped Chinese nationalism, and many Chinese inside China now feel pride in the CCP's model of authoritarian development. The party's

“thoughtwork” has come to include—in addition to censorship—the fashioning of textbooks, television documentaries, museums, and other media that spread seriously distorted versions of Chinese history.

A “China model” has also begun to gain currency abroad. It has automatic appeal among authoritarian elites who seek modern formulas for maintaining their power while also growing their economies, and it has begun to win over even average people in a number of developing countries, where decades of free-market reforms have failed to stimulate broad economic growth. China’s rulers, aiming to extend their influence internationally and make gains in the worldwide competition for natural resources, have sought ways to engage foreign elites and foreign publics in “win-win” arrangements. Beijing offers aid and investment with no human rights strings attached, runs training programs in China for foreign officials and students, opens cultural centers (Confucius Institutes) within foreign universities, and offers diplomatic cover to repressive regimes at the United Nations and elsewhere. It has become apparent in recent years that both Beijing and its authoritarian allies around the world see the Chinese system as a viable competitor to democracy. Terms such as democracy and human rights are retained in their lexicons, but they are redefined to serve authoritarian interests. Even in some democratic or recently democratic developing countries, including Thailand, the appeal of the China model has started to grow.

But the China model, although a definite threat to democratic values, is no juggernaut. Its appeal will depend in large part on how the Chinese economy weathers the global downturn, and how any stumbles it might encounter are perceived in the developing world. Moreover, on the domestic front, the CCP is more frightened of its own citizenry than most outside observers realize. “Rights consciousness” has recently been on the rise among the Chinese people, and it is not a phenomenon that fits well with authoritarianism. Similarly, the CCP’s international deal-making strategies have involved foreign elites almost exclusively; ultimate success would require much more support among local nongovernmental organizations, civil society, and the media. In short, Beijing’s challenge to democracy is a crisis in the original sense of the word—the course of events could turn either way.

### **DOMESTIC METHODS OF CONTROL**

China’s material successes, as evidenced in the gleaming skylines of some of its cities, its huge foreign currency holdings, and improved figures on caloric intake for many of its people, suggests a government whose top priority is economic growth. And the increasing diversity in Chinese society, certainly compared with 30 years ago, suggests a regime that seeks liberalization.

### China: The Commercialization of Censorship

As part of its ongoing experiment in authoritarian capitalism, the Chinese Communist Party has developed a 21st-century media model that is proving to be both resilient and repressive. It includes a form of “market-based censorship,” in which the authorities have reinvigorated control over old and new media alike by threatening outlets with economic repercussions—in addition to the traditional political and legal penalties—if they stray from the party line. Editors and reporters in China have long risked demotion, dismissal, or more serious punishment by the state when they push the limits of permissible coverage. However, now that the Chinese media industry has been commercialized, relying on advertisers for revenue rather than on government subsidies alone, publications must also consider the financial danger of displeasing powerful business interests with close official ties. Similarly, with the internet emerging as the main challenge to state media hegemony in China, the authorities have been quick to implement market-based strategies for suppressing news and information of political consequence online. The older tools of police action and prison sentences are regularly used to silence internet activists, and—as described in *Freedom on the Net*, Freedom House’s new index of internet freedom—the state’s technical capacity to censor and control online content is unmatched in the world. But China has also been at the forefront of a growing trend toward “outsourcing” censorship and monitoring to private companies. Internet portals, blog-hosting services, and other enterprises are required to maintain in-house staff to handle these tasks, and they risk losing their business licenses if they do not comply with government censorship directives. China’s development of this modern authoritarian media model has attracted the attention of other governments with ambitions to control news and information. Countries such as Cambodia and Vietnam are considering measures based on those being pioneered in China, and the Chinese authorities are already believed to share censorship technology and expertise with other governments in the region.

Both of these are dangerous misconceptions. The top priority of the CCP remains today what it always has been: maintaining absolute political power. No other goal—be it economic, military, diplomatic, or nationalistic—trumps this aim. Indeed, the recent economic downturn is of great concern to the CCP precisely because it threatens the party’s hold on power.

During the rule of Mao Zedong, an important tool in inducing popular obedience to the party was “thoughtwork” (*sixiang gongzuo*). This ideological enforcement effort was pursued openly, explicitly, and without apology. Today thoughtwork remains extremely important to the maintenance of CCP power, but is done in subtler ways. It is covert—accomplished, for example, through confidential telephone calls to newspaper editors, rather than in banner newspaper headlines. And it is targeted: whereas the Mao-era campaign aimed to transform all of society and even human nature, thoughtwork today focuses on political issues that are vital to CCP rule, and lets the rest go. But the effects remain far-reaching.

Censorship, as normally understood, involves restraints. A government or other authority intervenes to prevent the expression of proscribed views. Viewed by this standard, the CCP’s thoughtwork is certainly censorship, but that is only half of its role. The other half entails the active cultivation of views that the government favors. This assertive side of thoughtwork, which has been part of the CCP system from the outset, has been especially important in recent years. Working in tandem, the push and pull components have a powerful influence on public opinion.

### ***The Push***

The CCP has always relied less on mechanical or administrative censorship (expunging offensive words or pulling books off shelves) than on the use of fear to induce self-censorship. In the Mao years and their immediate wake, self-censorship was stoked by the announcement of broad and vague prohibitions. Directives like “Criticize Confucius” or “Annihilate Bourgeois Liberalism” might leave people wondering what exactly was meant, but it was abundantly clear that violations would come a hefty price. People had to look inside themselves, and at others around them, to guess at what the government might not like. A safety-in-numbers mentality kept individuals from asserting themselves. Anyone who dared to venture outside the safe area was said to “break into forbidden zones.” Such people were sometimes admired, and sometimes regarded as foolhardy.

The same fear-induced self-censorship continues today, except that the relationship between safe and forbidden areas has in a sense been reversed. In Mao’s day, expression had to stay within certain bounds, while everything outside was forbidden. Today, one can explore anything beyond certain forbidden topics: the 1989 Tiananmen massacre, the Falungong movement, the China Democratic Party, Taiwan independence, Tibetan or Uyghur autonomy, the Great Leap famine, corruption among top leaders (plenty is said in private on this topic, but not in public), and certain other “incorrect” views on national or international affairs. The list may now include perceptions of government responsibility for the economic slump. Everyone is aware that violation of the forbidden zones, or any other

action that touches the vital interests of the regime, remains extremely dangerous. But the prohibited areas are small enough—especially compared with the large open areas of fashion, sports, entertainment, travel, commerce, and the like—that most people sidestep them easily and come to accept their status. Fear is much less constant and palpable than during the Mao years, and the surface of society seems unaffected.

This appearance of ordinariness disguises a “soft” yet ubiquitous police state. It is not a unitary apparatus of control but a looser network in which central authorities announce policy goals and leave it to local party officials and their hired thugs to pursue those goals as they see fit. There is, accordingly, considerable variation from place to place in the degree and techniques of coercion. Moreover, many people, if they properly self-censor, do not encounter the police state at all. Individuals who do cross a leader or step into a forbidden zone initially receive verbal correction. If that fails, they often face harassment by plainclothes police, including telephone and e-mail surveillance. The next step is job loss and blacklisting, followed if necessary by labor camp, prison, torture, or execution. Not many people slide all the way to the bottom of this slope, but everyone knows where the bottom is. This explains not only why self-censorship works but also why the formation of a true civil society has been impossible under the CCP. There are countless nongovernmental organizations (NGOs) in China, but almost without exception they are controlled or subject to control by the CCP. Any other group whose membership grows to 10 or 20 people is repressed.

The closest thing to a bright spot in this picture is the internet, the first medium in the history of CCP thoughtwork that has proven—so far, at least—impossible to tame. Though there has been no lack of trying. The CCP has established a bureaucracy of eavesdropping internet police that has been estimated in size at 30,000 officers or more. Using technology purchased in developed countries, it has set up filters to block commentary on sensitive topics and even to expunge dangerous terms. It has banned the use of pseudonyms in cyberspace and instituted collective-responsibility mechanisms whereby a whole website can be closed, and its operators held responsible, if errant commentary appears on its pages. The regime has also set up electronic mailboxes to which any citizen can secretly report the wayward words of another. It employs agents-provocateurs, and uses hackers to plant viruses. Despite all this repression, China’s netizens continue to use pseudonyms in huge numbers; some mention banned topics by substituting synonyms; others expose real-life scandals by pretending it is fiction. The cat-and-mouse game is as fluid and interminable as the internet itself. Foreign media services—especially Radio Free Asia, Voice of America, and the British Broadcasting Corporation—have been important not only for their traditional broadcasts but for the uncensored news they provide via the internet.

### *The Pull*

The CCP's Department of Propaganda (recently renamed the Department of Publicity) regularly issues secret guidelines to journalists and editors on what news and ideas should be "stressed." In the early 1990s, when Deng Xiaoping was trying to reassure Hong Kong residents about the impending takeover by Beijing, he pledged that "Hong Kongers will rule Hong Kong" under a formula of "one country, two systems." Later, amid concerns that the phrase "Hong Kongers rule Hong Kong" might open the door to too much democracy, a new guideline instructed journalists to downplay that slogan. The "one country, two systems" phrase should be stressed, the guideline said, with emphasis on the "one country" portion.

In recent years, much of the government's guidance of opinion has been aimed at stimulating patriotism and identifying it with the CCP. Textbooks stress China's history of humiliation by the West, while the news media claim that the West wants to "keep China down" and that its talk of human rights is only a tool for this purpose. The audience is told that Japan refuses to acknowledge its war crimes in China, and warned that the Dalai Lama wants to "split the motherland," as do certain people in Taiwan and Xinjiang. This kind of manipulation has been especially effective among young urban elites, a portion of whom are known as *fenqing*, or angry youth. The impassioned and chauvinist expressions of *fenqing* on the internet are one of the more worrisome omens of China's possible future. Many other voices are less extreme but still show clear signs of guidance by CCP thoughtwork.

An important element in this guidance is the selective erasure of history. The disasters of late Maoism—the Great Leap famine and the Cultural Revolution—left a powerful legacy that continues to influence Chinese values and public ethics. (Much of this influence comes in the form of recoil, from extreme asceticism and public idealism to extreme materialism and public cynicism, for example.) Yet today it remains difficult or impossible to discuss the Mao era forthrightly in any public context. In the spectacular review of Chinese history that formed part of the opening ceremonies for the 2008 Olympic Games in Beijing, the world's gaze was led across the ancient dynasties to the triumph of the Communist revolution in 1949, only to skip abruptly to "reform and opening" in the late 1970s. The true history of the Mao era—like the histories of Tibet, Taiwan, World War II, and the CCP itself—is routinely airbrushed from textbooks and other media, replaced only by names, dates, and manipulative slogans. Young Chinese today may be very well educated in mathematics, engineering, or foreign languages and yet live with badly warped understandings of their own country's past. Even worse, they could remain entirely unaware of how they have been cheated.

Thoughtwork is performed through language, and the language it employs would be recognizable to George Orwell. Political pressure on an individual is called help; the violation

of rights is described as the protection of rights; the state controls workers through what are nominally labor unions; suppressing the Uyghur population is called counterterrorism; authoritarianism is dubbed democracy; real democracy movements are denounced as counterrevolutionary rebellions; and a system of servile courts is hailed as the rule of law. The language of CCP thoughtwork adheres to the concept of the Big Lie, a gross falsehood that is repeated without challenge until it is accepted as truth—or something that, for political purposes, is just as solid as truth. Political power in China depends upon maintaining a certain moral pose even if everyone involved knows on some level that the pose is hypocritical.

### *The Results*

CCP thoughtwork has been highly successful in the past few years. The desire of the Chinese people to express national pride is deep and has been pent up for about two centuries. The growth of the economy, the rise of China's international stature, the glory of Olympic medals, and other shining new avenues for the release of patriotic sentiment have been opened, and the CCP has managed to take credit for many of them. It claims, for example, to have "lifted hundreds of millions of Chinese out of poverty." Ordinary Chinese know what actually happened. They remember that the CCP, beginning in the 1980s and 1990s, lifted its foot off their necks with respect to economic matters, while keeping the pressure on when it came to political matters. Finally offered freedom in at least one sphere of their lives, ordinary people channeled an immense surge of hard work into the economy and lifted themselves by the hundreds of millions out of poverty. At the same time, they hoisted many CCP leaders into a stratosphere of opulent wealth. But in CCP thoughtwork this story reads the other way around: the party created everything, achieved everything, stands for everything. Foreigners, where possible, can be blamed for domestic ills, as the current layoffs in China are attributed to the misdeeds of U.S. bankers.

Many Chinese continue to complain about pressing problems like corruption, land grabs, worker exploitation, the wealth gap, disappearing pensions, ad hoc taxes, air and water pollution, and thuggish repression. The closed political system, lacking the independent watchdogs and corrective mechanisms of a democracy, is inherently ill-equipped to deal with the substance of such complaints, but CCP thoughtwork counters them in two ways. One is to encourage the belief that the central leadership remains pure and all of the problems are local deviations. A large number of people cling to this hopeful view. The other device is simple distraction. Demands for clean air are answered with 52 Olympic gold medals, and displaced homeowners are dazzled with a space program.

The CCP sometimes fabricates or exaggerates national-level fears precisely for the purpose of distracting attention. Most Chinese people, left to themselves, care much more about



their own daily lives than about distant places like Taiwan or Tibet. They wake up in the morning worried more about a corrupt local official than about the Dalai Lama. But when CCP propaganda tells them repeatedly that the wolf-hearted Dalai Lama is splitting the motherland, they tend to embrace the view that it is bad to split the motherland and that the CCP is the standard-bearer in opposing this splitting. The stimulation of a fear that did not previously exist has less to do with actual danger than with the CCP's need to strengthen its popular image and divert attention from popular complaints. In recent years the CCP has used incidents involving Japan, Tibet, Taiwan, and the United States for this purpose. In the case of Tibet there is evidence that the triggering incidents themselves have been manufactured for the cause.

Much is at stake for China, and indeed for the world, in the degree to which the push and pull of CCP thoughtwork continues to succeed. Further gains could lead to aggressive chauvinism in a future population whose understanding of its place in history is both narrow and twisted. This possibility suggests parallels with Japan or Germany in the 1930s, or China in the 1960s. Still, there is good cause for hoping that this pattern will not take root. Popular awareness of legal and human rights has been growing in recent years. So have lawsuits and protests, both individual and collective. The CCP's hypersensitivity to this trend is telling evidence of its potential. The slightest sprout of an independent labor union, church, or political discussion group gets noticed and, if possible, either crushed or infiltrated. The anniversary of the 1989 massacre was still so sensitive 19 years later that groups of plain-clothes police were sent to accompany 72-year-old Professor Ding Zilin, founder of the Tiananmen Mothers group, as she went to buy vegetables. If the men who command the largest standing army in the world are so leery of an old woman, one can be sure that they do not feel secure in their power.

### INTERNATIONAL INFLUENCE

In a relatively short period of time, China has built close diplomatic and economic relations with a wide range of countries across the developing world. In fact, as a result of its charm offensive, China's public image in many developing states is currently far more positive than that of any other major power, even as its efforts in places like North America and Europe founder on human rights concerns and trade disputes. This charm offensive is partly an expression of Chinese "soft power." Many Chinese scholars and officials view soft power more broadly than Joseph Nye, the originator of the term. Whereas Nye described it as the attractive appeal of a country's values, the CCP definition would encompass virtually any mechanism outside of the military and security sphere, including tools that Nye considered coercive, like aid and investment. President Hu Jintao and other party leaders have clearly



### **Confucius Institutes: Authoritarian Soft Power**

One of the tools China has used to expand its international influence and promote its model of governance is the fast-growing network of Confucius Institutes. The institutes, which provide instruction in Chinese language and culture, typically operate as partnerships between Chinese universities and a university in the host country, with the latter supplying a site and other facilities, and the former providing the staff and teaching materials. The centers are supervised by the Chinese Language Council International (Hanban), which sets their guiding principles, budget, and curriculum.<sup>1</sup> The council is composed of representatives from 12 state ministries and commissions, including the ministries of education, foreign affairs, and culture.<sup>2</sup> The Confucius Institutes initiative describes its purpose as “enhancing intercultural understanding in the world by sponsoring courses of Chinese language and culture, so as to promote a better understanding of the Chinese language and culture among the people of the world.” However, some observers have raised concerns about the potential effects of Chinese state influence on academic freedom in the host countries. A set of draft guidelines for the institutes suggests that Chinese authorities would require them to comply with political directives on sensitive issues, such as Taiwan’s international status or historical inquiry related to persecuted ethnic and religious minorities: “Overseas Confucius Institutes must abide by the One-China Policy, preserve the independence and unity of the People’s Republic of China, and . . . refrain from participating in any political, religious or ethnic activities in the country where they are located.”<sup>3</sup> The network has expanded rapidly since the first institute opened in Uzbekistan in 2004.<sup>4</sup> There are now more than 295 of the centers in 78 countries, with a total of 500 set to be established before 2010. The existing institutes include more than 20 in Southeast Asia,<sup>5</sup> over 40 in the United States,<sup>6</sup> and more than 70 in Europe.<sup>7</sup> Others have been founded in African countries, including Zimbabwe and South Africa.<sup>8</sup> The project has entailed the deployment of more than 2,000 staff members,<sup>9</sup> and more than 300,000 sets of textbooks and audio materials worth over \$26 million.<sup>10</sup>

embraced the idea of soft power, and it has become central to their discourse about China’s role in the world. While only five years ago Chinese officials and academics vehemently denied that they had any lessons to offer to the developing world, today they not only accept this idea but use their training programs for foreign officials to promote aspects of the China model of development.

In discussing soft power, CCP officials stress the training programs, effective traditional diplomacy, the growth of public diplomacy projects like the Confucius Institutes, and the appeal of China's economic example, which has sparked particular interest in Africa, Central Asia, and Southeast Asia. However, in the long run China's rulers will need to broaden their appeal to reach the general populations of developing countries. In addition, they may have to expand or adjust their soft power initiative to make headway in the developed world, particularly in Europe, where there may be more favorable sentiment than in the United States.

The CCP leadership's rationale for pursuing soft power is complex. For one thing, it has become more confident and sophisticated in global affairs. The current generation of officials apparently recognized that Beijing must actively cultivate its relations with developing Asian, African, and Latin American countries. China's growing economic, political, and security interdependence with the world, and its demand for natural resources, has forced it to play a larger role in international affairs, while a series of events that were detrimental to America's public image, from the Asian financial crisis to the Iraq war, provided opportunities for a rising power to chip away at the influence of the United States and its allies. In another sense, the wars in Afghanistan and Iraq showcased the overwhelming power and technology of the U.S. military, indicating to the CCP that its hard-power alternatives were limited.

Finally, as China's economic growth has continued without a strong democratic challenge from the new middle class, as other authoritarian states like Russia have also produced high growth rates, and as the economies of established democracies have suffered repeated shocks over the past five years, CCP officials have begun to consider the possibility that their model of development—rather than representing a tactical compromise between communism and free enterprise—might actually be a coherent and exportable system that is objectively superior to liberal democratic capitalism. To articulate and sell this idea, CCP leaders have increasingly appropriated the term democracy and applied it to their own arrangement. Much as the Kremlin under Vladimir Putin described its authoritarian manipulations as “guided democracy,” the CCP has twisted the word beyond recognition and stripped off the values that have traditionally defined it. In addition, Chinese officials, academics, and media increasingly point to unrest in places like Kenya and Kyrgyzstan to suggest that Western, liberal democracy is not appropriate for many developing countries.

### ***China's Soft-Power Tools and Strategies***

Over the past decade, China has centered its global outreach on one core philosophy. In statements and speeches, Chinese leaders enunciate a doctrine of win-win (*shuangying*) relations, encouraging Latin American, African, Asian, and Arab states to form mutually

beneficial arrangements with China. Win-win relations also focus on the principle of non-interference, which is particularly relevant for developing-world leaders who witnessed decades of intervention by colonial powers and Cold War antagonists.

CCP leaders extend the win-win idea to a range of other arenas, claiming to stand on the side of developing countries in global trade talks and portraying China as a defender of noninterference at the United Nations. As part of this strategy, the win-win philosophy is implicitly contrasted with that of the West, which Beijing portrays as pushing a uniform “democracy agenda” onto developing nations. While upgrading its diplomatic corps and using high-level traditional diplomacy to show developing states that China places a high priority on bilateral relations, China’s government has also begun founding its own regional multilateral organizations, like the Shanghai Cooperation Organization (SCO) in Central Asia, which it can use to counter the promotion of democracy. Many foreign leaders have been receptive to China’s bid for international leadership. “You are an example of transformation,” Madagascar president Marc Ravalomanana told Chinese officials during the May 2007 African Development Bank meeting in Shanghai. “We in Africa must learn from your success.”

The CCP also seems to have recognized that it needs to build a broader public appeal and improve people-to-people contacts. This is a critical change from the past approach, which focused almost exclusively on forging relationships with foreign leaders. Beijing has developed the China Association of Youth Volunteers, a Peace Corps–like program designed to bring young people to countries like Ethiopia to work on agricultural and language projects. It has also launched the Confucius Institute project to support Chinese language and cultural studies at universities around the globe. It increasingly provides funding for Chinese-language primary schools in developing countries like Cambodia; students who succeed in these schools often receive scholarships for university study in China.

Training programs for foreign opinion leaders have similarly become a significant soft-power instrument. The Chinese government has begun organizing training programs for media workers and law enforcement officials from Central Asia, Africa, and Southeast Asia, among other regions. These programs are designed in part to showcase the success of China’s economic strategy, which involves partial liberalization, protection of certain industries, and maintenance of some degree of state intervention.

Development assistance may be China’s most important tool. China has proven especially willing to step up aid to countries like Uzbekistan and Cambodia after other donors express concerns over human rights. It has also dramatically boosted its investment in and trade with developing countries, with the investment often supported by loans on favorable terms. In speeches, CCP leaders suggest that Beijing will be a fairer trading partner than established democracies, helping poorer countries to obtain the technology and skills they

need to develop and enrich themselves. With developed countries, too, China tries to emphasize its role as an influential trading partner in order to win other concessions; in the wake of the global financial crisis, China has emphasized that with its massive currency reserves, it will play a proactive role in managing and combating the downturn. However, these inroads are complicated by popular sentiment in industrialized countries that often blames China for domestic job losses.

### ***China's Range of Partners, and How China's Outreach Threatens Democracy***

The CCP's soft-power tools mean different things to China's various international partners. It is important to differentiate between the types of government Beijing has relationships with, and to examine the ways in which these relationships imperil democracy. On the one hand, there is a group of harsh regimes—including those of Sudan, Burma, Uzbekistan, North Korea, and Zimbabwe—whose leaders are seeking only financial assistance and protection at the United Nations and other international bodies. Other tools of soft power are largely irrelevant for these governments, and they have little interest in learning about China's pursuit of economic reform. On the other hand, there is a diverse group of developing countries across Asia, Latin America, and Africa that are receptive to all elements of Chinese soft power. They are seeking economic, political, and cultural ties to China, and because they are not purely authoritarian states, China's allure can extend to the public. These relationships can be more substantial than a simple alliance with an autocrat or ruling clique.

When Beijing initially began building its soft-power strategy, it did not directly threaten global democratization to the same extent as, for example, Russia's strategy under Putin, which was designed from the beginning to push back against democratic reforms in neighboring countries. However, the "color revolutions" in the former Soviet Union frightened the CCP, while the rise of other authoritarian great powers emboldened Beijing to believe that it might have a transferable model. Furthermore, nationalism began to build up within China, and the entire democracy promotion movement faced a global backlash. As a result, the CCP's strategies began to target democracy promotion more aggressively. Over the past decade China has revamped its visitor training programs to more stridently tout the China model and in many ways to belittle liberal democracy. Today, many of these programs focus almost exclusively on the study of a Chinese example of the topic covered, whether economic institution building, local governance, or the creation of a judicial system.

The training programs often involve discussions of how the CCP has managed to open its economy, keep the middle class on the side of the government, and avoid sociopolitical chaos like that experienced during the transition periods in Russia and many other developing economies. In particular, China has begun large-scale training programs for police,

judges, and other security officials from neighboring nations. Since internet filtering and control has been a significant component of China's regime maintenance, training in these methods is also offered to some foreign officials. The Chinese government has provided information and strategies on filtering and firewalling to Burma, Vietnam, Saudi Arabia, Uzbekistan, and several other states.

The scale of this effort is difficult to calculate, but each year the Chinese government trains at least 1,000 Central Asian judicial and police officials, most of whom could be classified as working in antidemocratic enterprises. Over the long term, Beijing plans to step up its training programs for African officials to reach 7,000 to 10,000 trainees per year. The scope of China's broader aid programs is similarly impossible to quantify, but the World Bank estimates that China is now the largest lender to Africa. At a 2007 gathering in Shanghai, Chinese leaders announced that they would offer Africa \$20 billion in new financing.

Chinese aid now outstrips that of democratic donor countries in a range of Southeast Asian and Central Asian states. Cambodia, one of Beijing's major aid beneficiaries, provides an instructive example. The Chinese government is Cambodia's largest provider of military aid, most of which goes to antidemocratic security forces that are used as a political weapon by Prime Minister Hun Sen. China has pledged a total of some \$600 million in assistance to Cambodia. By comparison, the United States currently provides Cambodia with roughly \$55 million in annual aid. The case of Burma shows similar trends. China's government is now the largest provider of assistance, which again is used mainly for antidemocratic activities. Beijing has provided two \$200 million loans to Burma over the past five years, and these "soft" loans are often never repaid, essentially making them grants. The United States provides roughly \$12 million in annual aid to Burma, mostly for humanitarian and refugee assistance.

These training and aid relationships allow Beijing and its partner governments to provide mutual assistance with their respective domestic concerns. Security training for Central Asian officials, for example, has provided an opportunity for the CCP to promote the idea that Uyghurs are terrorists and separatists, and that they threaten regional stability. This process has paid off over the past decade, as several Central Asian states have begun repatriating Chinese Uyghurs, often with no cause. Like Russia, Beijing is also beginning to develop its own NGOs, some of which are designed to mimic traditional democracy-promotion groups. Rather than building democratic institutions, however, they advise Southeast and Central Asian countries on political and economic development as part of an effort to push back against democratization.

Perhaps the most dangerous aspect of China's growing global presence is that its government now is able to offer more extensive diplomatic protection and support to the

authoritarian rulers of countries like Burma, Sudan, Uzbekistan, and Zimbabwe. The SCO, created by Beijing as a counterweight to U.S. and European influence in Central Asia, plays a pivotal role in this strategy. Both China and Russia have utilized SCO forums to criticize the promotion of democracy and to support Central Asian autocrats as they suppress domestic calls for reform and democratic change.

At the United Nations, Beijing has checked international pressure on human rights abusers like Burma and exploited such moments to improve its bilateral relations with the regime concerned. Soon after the Andijon massacre in 2005 led to increased U.S. and European sanctions on Uzbekistan, China hosted the Uzbek leadership in Beijing and used the opportunity to increase its access to Uzbek natural resources. This pattern is not seen in every case, of course; China has actively cooperated with the international community in managing a recalcitrant North Korea. But this is largely because Beijing sees instability in North Korea as a direct threat to China, and its agenda for that country certainly does not include human rights promotion.

### ***Challenges for Beijing***

It remains unclear whether China's soft-power offensive will succeed in the long run. Many developing states worry that the character of trade links with Beijing, which often focus on the extraction of their natural resources, will prevent them from climbing the value-added ladder. This sentiment finds voice in populist politicians like Zambia's Michael Sata, who used anti-China sentiment to rally support in the 2006 presidential election, though his bid for office was ultimately unsuccessful. The fact that large, state-linked Chinese energy and construction companies habitually use transplanted Chinese workers for overseas projects does not endear them to local populations.

Furthermore, as Beijing grows more aggressive in its promotion of the antidemocratic China model, it risks becoming the mirror image of the Western powers it criticizes; it will be "intervening" in other countries' internal affairs, but to squelch rather than to promote democracy. Although Beijing's vows of noninterference appear to be welcomed, some leaders in the developing world are already wondering whether China is committed to this principle. The Chinese ambassador to Zambia in 2006 warned that Beijing might cut off diplomatic ties if voters chose Sata as their president. As the honeymoon period with Beijing comes to an end, civil society groups in countries that receive Chinese aid will begin to speak out more. Many activists are coming to realize that Chinese assistance can contribute to environmental destruction, poor labor standards, rampant graft, and backsliding on democratic consolidation. Still, if Beijing proves flexible enough to use its soft power on both leaders and the public in the developing world, it could mount a serious challenge to the established values, ideas, and models of democracy.



## FINDINGS

- The Chinese authorities have forged a multifaceted and increasingly sophisticated set of policies to undermine democratic development. These policies are comprehensive, encompassing the political, legal, social, and media spheres.
- The CCP has deliberately stoked and shaped Chinese nationalism, and many residents now feel pride in the CCP's model of authoritarian development. The party's "thought-work" to this end has come to include, in addition to censorship, the fashioning of textbooks, television documentaries, museums, and other media that spread seriously distorted versions of Chinese history. In a related effort to guide the public's thinking, the word *democracy* has been twisted beyond recognition and stripped of the values that have traditionally defined it.
- While the blunt instruments of media control—harassment, intimidation, and imprisonment—are still used, the Chinese authorities have also developed more nuanced methods to manipulate content and induce self-censorship. These include the commercialization of censorship, through which the authorities effectively outsource censorship tasks to internet-service providers and other private actors. The regime has augmented its domestic media controls with an ambitious, multibillion-dollar plan to upgrade its overseas broadcasts.
- The Chinese government's exertion of international influence expresses itself in several ways. There is one group of harsh regimes—including those of Sudan, Burma, Uzbekistan, North Korea, and Zimbabwe—whose leaders are seeking only financial assistance and protection from China at the United Nations and other international bodies. Another, more diverse group of developing countries across Asia, Latin America, and Africa are receptive to all elements of Chinese soft power. They are seeking economic, political, and cultural ties to China, and because they are not purely authoritarian states, China's allure is allowed to extend to the public. These relationships can be more substantial than a simple alliance with an autocrat or ruling clique.
- The United States and other democracies need to be more aware of the workings of the CCP's soft-power initiatives around the world, and particularly the ways in which they protect and promote authoritarian rule. Democratic states must ensure that diplomats heading to China, its neighbors, and other parts of the developing world are equipped to understand the goals and tactics of such soft-power programs. Where the Chinese

enterprises promote authoritarianism, democratic envoys must have effective means of countering them. This work should not simply focus on China and Chinese projects, it should also remind the host countries' officials and civil society of the virtues of democracy, the pitfalls of an authoritarian development model, and the dangers that would arise if such a model were actually "successful."

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