

SUMMARY OF EXHIBITS

Annexed hereto are the following exhibits:

- Exhibit 1. Fox News, "China ramps up persecution of Christians and other religious groups, report finds."
- Exhibit 2. Freedom House, Battle for China's Spirit, "Christianity."
- Exhibit 3. Rome Statute of the International Criminal Court
- Exhibit 4. Human Rights Watch, "Reeducation Through Labor in China."
- Exhibit 5. CECC, 2002 Roundtable Discussion on 'Challenges for Criminal Justice in China, "The Plight of the Criminal Defense Lawyers."
- Exhibit 6. Excerpts of United Nations Special Rapporteur Reports.
- Exhibit 7. Bob Fu, Chinese Law & Religion Monitor, "Document issued by the Supreme Court and the Supreme Procuratorate."
- Exhibit 8. Report of Doe, "Requirements Regarding Prevention and Control in Response to the Development of Enemy Situations."
- Exhibit 9. Campaign for Tibet, Excerpts from "Torture and Impunity: 20 cases of Tibetan Political Prisoners, 2008-2014."
- Exhibit 10. Human Rights Watch, Excerpts from "Relentless: Detention and Prosecution of Tibetans Under China's 'Stability Maintenance' Campaign."
- Exhibit 11. United States Commission on International Religious Freedom, Excerpts from "2017 Annual Report."
- Exhibit 12. Declaration of Dr. Can Sun
- Exhibit 13. Freedom House, "The Battle for China's Spirit (Islam)."
- Exhibit 14. Freedom House, "The Battle for China's Spirit (Falun Gong)."
- Exhibit 14a. Freedom House, "The Battle for China's Spirit (Tibetan Buddhism)."
- Exhibit 15. New York Times, Chinese Justice System Relies on Torture, U.N. Panel Says."
- Exhibit 16. Minghui, "Torture Widely Used on Falun Gong Practitioners in Dongling Prison."
- Exhibit 17. Radio Free Asia, "Around 120,000 Uyghurs Detained for Political Re-Education in Xinjiang's Kashgar Prefecture."
- Exhibit 18. Human Rights Watch, "China: Free Xinjiang 'Political Education' Detainees."
- Exhibit 19. Chinese Human Rights Defenders, Re-education camps make a comeback in China's far-west."
- Exhibit 20. Cherif Bassiouni, Excerpts from "Crimes against Humanity: Historical Evolution and Contemporary Application."
- Exhibit 21. U.S. Department of State Reports
- Exhibit 21a. U.S. Department of State Reports — 2015 Human Rights Report: China (includes Tibet, Hong Kong, and Macau) - Tibet
- Exhibit 21b. U.S. Department of State Reports — 2009 Country Reports on Human Rights Practices: China (includes Tibet, Hong Kong, and Macau)

Exhibit 1. Fox News, "China ramps up persecution of Christians and other religious groups, report finds."

World

[Home](#) [Video](#) [Politics](#) [U.S.](#) [Opinion](#) [Business](#) [Entertainment](#) [Tech](#) [Science](#) [Health](#) [Travel](#) [Lifestyle](#)[World Home](#) [U.N.](#) [Conflicts](#) [Terrorism](#) [Disasters](#) [Global Economy](#) [Environment](#)
[Regions](#)

RELIGION

China ramps up persecution of Christians and other groups, report finds

Published February 28, 2017

Fox News



Protestants from the Nanjing Christian Church sing carols during a Christmas function in Nanjing, Jiangsu province, December 19, 2009. (Reuters)

The persecution of Christians and other religious groups in China has “intensified” since Xi Jinping a new report by watchdog group Freedom House found.

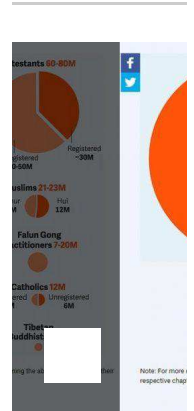
The report estimated that a third of all religious believers in China who belong to faith groups face levels of persecution ranging from bureaucratic harassment and economic exploitation to harsh deadly violence.

“Many spiritual activities practiced freely around the world -- from fasting during Ramadan to practicing Falun Gong meditation exercises -- are restricted and can be harshly punished in China,” said a research analyst at Freedom House, said in a press release. “The scale and severity of controls and the trajectory of both growing persecution and pushback, are affecting Chinese society and politics far beyond religious policy alone.”

[Freedom House's report](#) focused on seven different religions practiced in China -- Chinese Buddhism, Catholicism, Protestantism, Islam, Tibetan Buddhism, and Falun Gong -- that account for more than 1 billion people.

The Chinese Embassy in Washington D.C. and the Chinese Consulate in New York City did not return Fox News' request for comment.

While a burgeoning relationship between Beijing and the Vatican has led some Catholics in China to be optimistic about the future of the religion in the country, persecution of Protestants -- both unofficial and state-sanctioned -- has increased in recent years amid fears from state officials over the threat of “Western” values and the need to “Sinicize” religions.



Freedom House found that the approximately 60 million to 80 million Protestants in China have been particularly affected by cross-removal and church-demolition campaigns, punishment of state-sanctioned leaders, and the arrest of human rights lawyers who

(Freedom House)

On the other hand, China's 12 million Catholics have seen a minor decrease in oppression from between the nation and Vatican City continues. The Catholic Church appears to be on the verge of an agreement with China to fill the more than 40 vacancies of bishops in the country that have opened up.

Skeptics, however, warn that by dealing closely with Beijing, the Vatican may betray the underground church in China in favor of the Chinese Patriotic Catholic Association -- the government-controlled church installed by the Chinese government.

Cardinal Joseph Zen, the bishop emeritus of Hong Kong, recently said that any deal with China that forces Catholics who must live out their faith in secret and often suffer under the communist regime.

“They don't have much public voice, the underground,” [Zen told LifeSiteNews](#). “People who come forward and say, ‘please, you must raise your voice. We cannot say anything’ because they have no voice, but it seems that [the Holy See doesn't] listen. They don't like to listen.”

Another religious group that has seen a sharp increase in persecution is Uighur Muslims.

Uighurs, who live primarily in the Xinjiang Uyghur Autonomous Region of China and number about 10 million, face increasing controls over their faith expand and deepen in the last decade. Among the crackdowns, Chinese authorities monitor smartphone usage and force businesses to sell alcohol, while incidents of security forces beating civilians also have become more common.

"After 2009, everything changed. Now the rule is, if I go to your house, read some Koran, pray to government finds out, you go to jail," Barna, a Uighur woman from Xinjiang who now lives in the Freedom House.

China is officially an atheist state, but somewhere between 185 and 250 million people in country Buddhists. Chinese Buddhism – along with the indigenous Taoist religion – has seen very low level state officials in recent years.

"Xi Jinping has essentially continued the policies of his predecessor, Hu Jintao, with some rhetoric Freedom House report stated. "For [Chinese Communist Party] leaders, Chinese Buddhism and increasingly important channels for realizing the party's political and economic goals at home are

The same, however, cannot be said for Tibetan Buddhism, whose practitioners have faced harsh Zedong's Great Leap Forward in the late 1950s and China's Cultural Revolution about a decade

"The party's rigid constraints render it impossible for state-sanctioned institutions to meet the growing demand for religion in Chinese society," Cook said. "The result is an enormous black market, forcing many believers -- from Taoists and Protestants to Tibetan Buddhists -- to operate outside the law and to view the regime as unreasonable, unjust, or illegitimate."



Tibet's exiled spiritual leader addresses those in the palace in Ulaanbaatar (Reuters)

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Exhibit 2. Freedom House, Battle for China's Spirit, "Christianity."

The Battle for China's Spirit

Religious Revival, Repression, and Resistance under Xi Jinping



II: Christianity

Degree of persecution:

Catholicism

MODERATE

Protestantism

HIGH

Trajectory of persecution:

Catholicism

Minor
Decrease

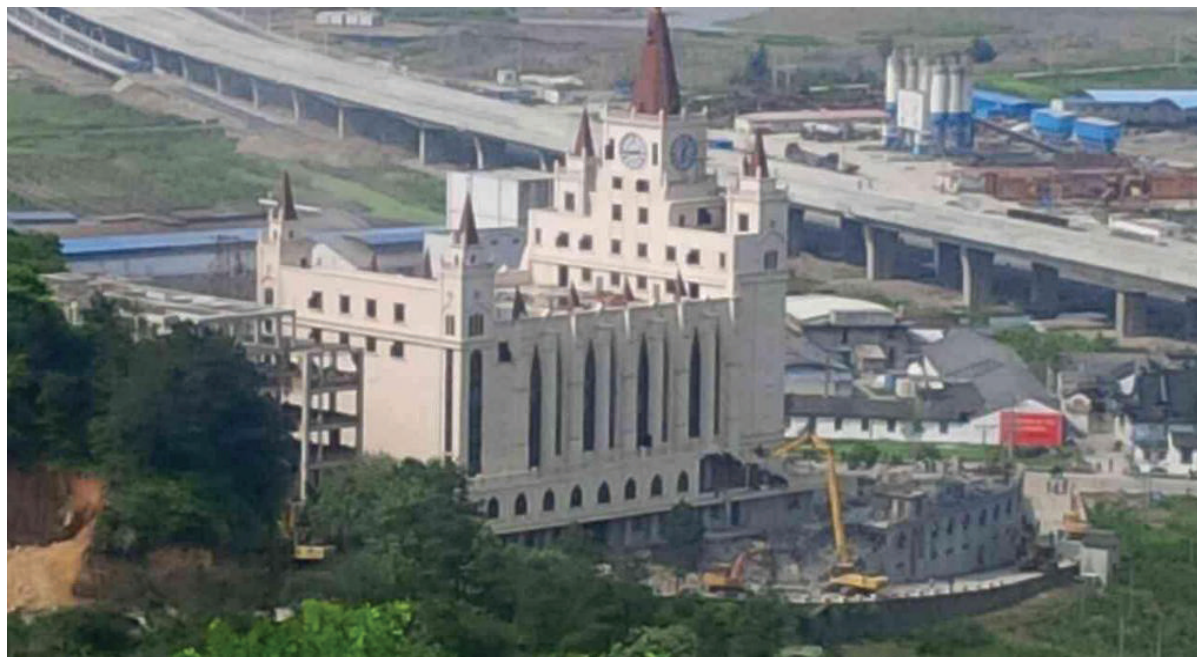
Protestantism



Increase

Key findings

- 1 **Revival:** Christianity in China has expanded rapidly since 1980, reaching an estimated population of 58 million Protestants and 12 million Catholics as of 2014, split evenly between registered and unregistered churches. Growth has been evident among urban educated professionals and wealthy entrepreneurs.
- 2 **Key political controls:** The Chinese authorities seek to monitor and control Christians by encouraging them—sometimes forcefully—to join state-sanctioned churches that are affiliated with “patriotic” associations and led by politically vetted clergy. Religious leaders and congregants who refuse to register for theological or practical reasons risk having their place of worship shuttered and face detention, beatings, dismissal from employment, or imprisonment.
- 3 **Under Xi Jinping:** Since early 2014, local authorities have increased efforts to stem the spread of Christianity amid official rhetoric on the threat of “Western” values and the need to “Sinicize” religions. They have resorted to forms of repression that were previously rare, such as targeting state-sanctioned churches and leaders, arresting human rights lawyers who take up Christians’ cases, and obstructing Christmas celebrations. A renewed crackdown on quasi-Christian groups designated as “heterodox religions” has resulted in the imprisonment of over 400 religious leaders and lay believers.
- 4 **Catholicism at a crossroads:** Relations between Beijing and the Vatican appear on the verge of a positive breakthrough. The two sides are reportedly working toward an agreement on the appointment of bishops acceptable to both the papacy and the Communist Party at a time when more than 40 vacancies have opened.



Sanjiang Cathedral, which belonged to an officially recognized church, in Zhejiang Province before and after its demolition in April 2015.

Credits: Shanghaiist/China—in His image (blogs)



5 Response and resistance: Increased repression has triggered a correspondingly assertive response from church leaders and believers, including influential members of the official “patriotic” associations. Christians have published joint letters, boycotted ceremonies, worshipped outdoors, asserted their legal rights, and physically blocked demolitions or cross removals. Many Christians also employ more subtle tactics to reduce the impact of state controls, such as incorporating religious outreach into charity work, attending private mountainside trainings, or cultivating cooperative relations with local officials to reduce the likelihood of persecution.

“We must resolutely guard against overseas infiltrations via religious means.”

—President Xi Jinping, April 2016 speech³

“We hereby request that you [the provincial government]... immediately cease this mistaken policy of removing crosses that is tearing the Party and the masses apart.”

—Open letter from the state-affiliated Christian Council of Zhejiang Province, July 2015⁴

group Bible study and prayer meetings, holy communion, and baptism. Chinese Catholics hold special observances (high mass) for Christmas, Easter, Pentecost, and the Feast of the Assumption of Mary.²¹ Chinese Protestants observe Christmas and Easter as well. Some Chinese Christians, particularly in rural areas, also engage in “syncretized” practices that meld Christian and Chinese folk traditions, such as ancestor worship or geomancy (*feng shui*).²²

The spread of Christianity is evident even from official figures, which tally only believers over age 18 who worship at registered churches. These figures show Protestants growing from 3 million in 1982 to 29 million in 2014,²³ a nearly tenfold increase. Perhaps the most visible growth in Christianity over the past decade has occurred among urban Chinese. This has led to the emergence of what some scholars have termed “boss Christians”—wealthy, well-educated professionals and entrepreneurs.²⁴ Nevertheless, Christianity is also prevalent in rural areas.²⁵

Many higher-income Chinese view Christianity and its association with the prosperous West as a symbol of modernity.

The growth of Christianity can be attributed in part to the broader spiritual revival that followed the loosening of controls after Mao's death, greater personal freedoms and economic prosperity, and the sense of a moral vacuum as Communist ideology loses its attractiveness for many Chinese. But there are also factors specific to Christianity that have contributed to its expansion, possibly at the expense of more “indigenous” religions like Buddhism and Taoism. Some experts argue that the fierce suppression of all religions during the Cultural Revolution reconfigured the “religious market” and created an opportunity for Christianity to gain a foothold where Chinese religions' influence had dwindled.²⁶ Meanwhile, as the country opened up to the world and embarked on an enormous project of economic development,

many university students and higher-income Chinese came to view Christianity and its association with the prosperous West as a symbol of modernity. Lastly, given China's politically hostile environment for religion, the organizational flexibility of Protestant “house churches” has facilitated expansion and recruitment of new believers.²⁷ This contrasts with Chinese Buddhism and Taoism, whose practice is closely tied to physical temples that, as immovable and often ancient sites, are vulnerable to political control and restrictions.

Beyond socioeconomic and structural factors, discreet outreach efforts have also directly driven the exponential growth of Christianity, though proselytizing is technically forbidden. For example, Chinese Christians are increasingly initiating and involved in charity work. Some large foundations and organizations operate with government approval; the Amity Foundation was able to collect millions of dollars in relief funds following the 2008 Sichuan earthquake. Other efforts are smaller in scale, with local churches sponsoring health clinics, cultural performances, or social events. These projects provide Chinese Christians with personal spiritual fulfillment and an outlet for “good works.” But they also indirectly demonstrate to nonbelievers the positive impact that the religion could have on individuals and Chinese society, and give Christians an opportunity to interact with strangers and discreetly share the principles and benefits of their faith.²⁸

Christianity under Xi Jinping

When Xi Jinping took the helm of the CCP in November 2012, Christianity in China had experienced extensive growth over the previous decade, but international advocacy groups also noted a trend of moderately escalating persecution for several years.²⁹ Relations

between the Chinese government and the Vatican were particularly tense after the appointment of several bishops unapproved by the papacy, and “house churches” were facing intensified pressure to register, merge with TSPM churches, or shut down.³⁰

Initially, there appeared to be no significant change under the new leadership. Nonetheless, dozens of incidents of suppression were recorded throughout the country in 2013, particularly in Beijing, Henan, and Shandong.³¹ By the end of 2014, persecution against Christians—particularly Protestants and various quasi-Christian groups—had intensified dramatically.³² Areas of China that had previously featured a relatively relaxed atmosphere for Christianity became new sites of significant clampdowns and thousands more Christians than before directly encountered state persecution. This higher degree of suppression persisted throughout 2015 and early 2016.³³

Over the course of 2014, persecution of Christians intensified dramatically.

In the general context of intensified persecution, several new phenomena have emerged under Xi:

- 1. Cross removal and demolition campaigns:** Beginning in March 2013, authorities in Zhejiang Province launched a three-year campaign called “Three Rectifications and One Demolition” that in practice has focused mainly on church buildings. By mid-2016, crosses had been removed from the rooftops or façades of at least 1,500 churches, and over 20 churches had been demolished.³⁴ Initially implemented in large cities like Wenzhou, the campaign soon spread across the province, even to rural villages. Most of the structures targeted have been Protestant churches, but several dozen Catholic sites of worship have had their crosses removed as well. The campaign was continuing apace as of early 2016, with 49 cross removals reported as of March 3.³⁵

The authorities have retroactively sought to justify the demolitions by citing illegal construction or zoning violations. In some cases, churches do appear to have expanded beyond the permits granted by the government,³⁶ but internal government documents reveal the selective targeting of churches and a focus on cross removals, pointing to other motivations.³⁷ Although not as systematic as in Zhejiang, church demolitions have also been reported in Fujian, Henan, and Anhui Provinces, which have relatively large Christian minorities.³⁸

The scale of the campaign and its contrast with past tolerance have contributed to a sense of alarm in China’s Christian community. Prior to 2014, Zhejiang was a relatively open place for Christianity. Authorities managed the religion with a light hand, and even unregistered groups were able to obtain permission to build places of worship. Reported incidents of persecution were few and far between.³⁹ Over the past two years, as congregants have tried to resist the official campaign, tensions have escalated, with sit-ins, mass detentions, and deployment of riot police becoming more frequent.⁴⁰ Some acts of resistance have ended tragically. In April 2016, a pastor’s wife was killed in Henan when bulldozers buried her and her husband as they attempted to block the demolition of their church.⁴¹

- 2. Repression of state-sanctioned churches and leaders:** One of the most notable aspects of the anti-cross campaign in Zhejiang has been the large-scale targeting of TSPM-

affiliated churches. As pastors from state-approved churches and even leaders from the government-affiliated “patriotic” religious associations have sought to fend off official intrusion, they too have faced punishments like detention and imprisonment that were previously reserved for their “house church” counterparts.

Pastors from state-approved churches have faced punishments like imprisonment that were previously reserved for their “house church” counterparts.

The most prominent cases were those of Bao Guohua, a member of the government-affiliated China Christian Council and a pastor at a state-approved church who was sentenced to 14 years in prison in February 2016,⁴² and Gu (Joseph) Yuese, president of the Zhejiang Christian Council and pastor for a state-approved megachurch that the government had touted as a model of religious freedom in China, who was removed from the Christian Council and TSPM and detained from January to March 2016.⁴³

The government alleged financial impropriety in both cases, but the men’s public opposition to the cross-removal campaign and the timing of their punishments led many observers to believe that the allegations were trumped up and retaliatory. Harsh punishments for TSPM pastors have been reported outside Zhejiang as well, including the 2014 sentencing of Zhang Shaojie to 12 years in prison in Henan.⁴⁴ Prior to 2013, it was exceedingly rare for TSPM church leaders to be subject to such treatment.⁴⁵

- 3. Large-scale imprisonment for membership in ‘heterodox religions’:** Since early 2014, the Chinese authorities have intensified efforts to suppress, and even eradicate, various quasi-Christian sects with tangential links to mainstream Protestantism. Hundreds of religious clergy and lay believers have been detained and sentenced to prison. The assault was in part catalyzed by a May 2014 incident in which alleged followers of the Almighty God (or Eastern Lightning) sect beat a woman to death in a McDonald’s restaurant in Shandong Province after she refused to provide her phone number for their recruitment drive.⁴⁶

However, an analysis of Chinese court verdicts indicates that the groups targeted in the campaign have included eight other quasi-Christian sects that are unrelated to the McDonald’s incident.⁴⁷ The majority of people sentenced in these verdicts, including members of the Almighty God sect, appear to have been imprisoned for peacefully exercising their rights to freedom of belief and expression rather than for engaging in violence against other Chinese.

Individuals swept up in this campaign are typically prosecuted under Article 300 of the Criminal Law, which punishes “using a heterodox religion to undermine implementation of the law” with terms of up to life in prison. The provision was created in late 1999 for use in the campaign against the Falun Gong spiritual group (see Falun Gong chapter). Court documents show that at least 439 individuals from quasi-Christian groups were sentenced under this article to prison terms of up to 10 years between January 2014 and May 2016, in cases spanning 28 provinces and major municipalities.⁴⁸ The prosecutions peaked in 2014–15 and slowed in early 2016, with approximately 80 percent linked to the controversial Almighty God sect.⁴⁹

These findings help explain data published by the U.S.-based group China Aid that noted a sharp increase in Christians sentenced to prison in 2014.⁵⁰ But mainstream Protestant

leaders and congregants from underground “house churches” have reportedly been charged and sentenced under Article 300 as well, illustrating again how a repressive legislative tool created to persecute one religious group can be quickly and easily applied to others. Indeed, several local government representatives reportedly explained to a human rights lawyer that any unofficial religious group in their jurisdiction could be considered a “heterodox religion” and punished accordingly, whether or not it is on the government’s list of banned groups.⁵¹

4. Crackdown on lawyers who assist churches: For years, Chinese lawyers who represent persecuted religious believers have faced official reprisals in the form of disbarment, surveillance, and physical assaults. Prior to 2012, a small contingent of rights attorneys, such as Gao Zhisheng and Wang Yonghang, were even detained and imprisoned, but this appeared to have been triggered by their defense of Falun Gong adherents rather than Christians. Under Xi Jinping, the number of rights lawyers imprisoned has increased overall. As part of a crackdown launched in July 2015, several lawyers and legal activists who had been assisting persecuted Christians were arrested, held in custody for months, abused, and forced to make confessions to media outlets in which they denounced their human rights work. Prominent cases include those of attorney Zhang Kai and legal assistant Zhao Wei.⁵² Others, like Li Heping, remained in custody as of September 2016, facing charges of “subversion of state power.”⁵³ All three are reportedly Christian believers themselves.

5. Increased obstruction of Christmas celebrations: Christmas is becoming a popular commercial holiday in China,⁵⁴ but since 2013 authorities in different parts of the country have stepped up efforts to prevent Christians from worshiping or celebrating together.⁵⁵ Unofficial churches report greater obstacles to organizing large events for prayers or parties.⁵⁶ Authorities in Xi’an and Wenzhou took specific steps to limit children’s exposure to Christmas or to bar university students from celebrating the holiday in 2014.⁵⁷

Together, these trends reflect a significant shift in the unwritten rules surrounding the relationship between Protestant groups and the state. An April 2013 article by scholars Teresa Wright and Teresa Zimmerman-Liu outlines various patterns of church-state engagement since the 1980s, including greater tolerance for registered churches, more autonomy for unofficial groups in provinces like Zhejiang and Guangdong, and less use of violent repression in urban areas.⁵⁸ As is evident from the above analysis, these patterns have changed in key regions of China since 2013, provoking greater conflict between the Chinese authorities and both official and unofficial Protestant groups.

Authorities in Xi’an and Wenzhou took specific steps to limit children’s exposure to Christmas.

There are several factors behind the increased repression and the forms it has taken. First, the growing popularity of Christianity may have provoked a backlash from certain party leaders. Credible estimates of 70 to 100 million believers place Christianity at precisely the same level of popularity as Falun Gong in 1999, when the CCP launched a nationwide crackdown on the spiritual practice, and make it nearly as large or larger than the CCP’s own membership, which stood at almost 88 million in 2015.⁵⁹ Although the leadership, doctrines, and practices of Christians in China are more fragmented than Falun Gong’s, the sheer

number and visibility of believers may have stoked anxiety among Chinese leaders.

Moreover, the ways in which Christianity has spread across the country among ethnic Han, reaching every stratum of society from poor farmers to wealthy entrepreneurs, and cultivated cross-provincial and transnational networks (including via the internet and human rights lawyers) match qualities that experts argue contributed to the CCP's crackdown on Falun Gong.⁶⁰ One internal government document cited in media reports stated explicitly that the cross removals in Zhejiang were aimed at regulating "overly popular" religious activities.⁶¹

The second factor contributing to increased repression is a growing official emphasis on "Sinicizing" Christianity and "adapting" it to China's "socialist society." Such efforts predate November 2012, but the rhetoric has since gained momentum and Xi's imprimatur. In a May 2015 speech and again in remarks in April 2016, Xi laid out the "Four Musts" of CCP religious work, one of which is Sinicization, including of religious doctrine.⁶² It remains somewhat unclear what party leaders mean by Sinicization in practice, but some superficial changes have been observed. One of them involves "localizing" the architecture of churches, in effect reducing their public visibility. This was listed as an element of a pilot campaign launched in Zhejiang at the end of 2014, referred to as the "Five Introductions and Five Transformations" for Christian communities in the province.⁶³ The focus on architecture helps explain the cross removals and other changes to the exterior appearance of churches. Other aspects of Sinicization evident as of mid-2016 range from nationalistic measures like requiring a Chinese flag to be flown on church property,⁶⁴ to more eccentric initiatives like promoting Chinese tea culture among congregants.⁶⁵

A third factor behind the repressive trend relates to the anti-Western political environment and ideological retrenchment that have taken hold under Xi, including official warnings against the influence of foreign values and the infiltration of overseas "hostile forces" into the religious sphere. Such comments, along with the increased restrictions on Protestant Christians in particular, seem to reflect CCP anxiety over the growing influence of a decentralized religion whose leaders have personal ties to coreligionists in democratic countries like the United States or South Korea, even if Christianity has in fact been quite Sinicized already.

With respect to escalating tensions in Zhejiang specifically, the initiative of provincial party leaders and the hosting of an international political summit appear to have played a critical role. Zhejiang Party Secretary Xia Baolong, who assumed his position in December 2012, has been closely associated with the cross-removal campaign, having reportedly stated in an October 2013 tour of Wenzhou that the large number of visible church buildings and crosses may not be "appropriate" for the landscape.⁶⁶ China's hosting of the Group of 20 summit in the provincial capital Hangzhou in September 2016 triggered another acceleration in efforts to curb the visibility of Christianity in the city.⁶⁷

Xia had been Xi Jinping's deputy when Xi served as party secretary in Zhejiang from 2002 to 2007.⁶⁸ The close association has prompted speculation that Xi himself may have had a hand in initiating the crackdown.⁶⁹ Absent access to internal party sources, it is impossible to know whether this is the case. But the campaign has continued for two years, triggering domestic backlash and international criticism, and Xi has made no move to stop it.

Exhibit 3. Rome Statute of the International Criminal Court



ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT*

PREAMBLE

The States Parties to this Statute,

Conscious that all peoples are united by common bonds, their cultures pieced together in a shared heritage, and concerned that this delicate mosaic may be shattered at any time,

Mindful that during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity,

Recognizing that such grave crimes threaten the peace, security and well-being of the world,

Affirming that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation,

Determined to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes,

Recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes,

Reaffirming the Purposes and Principles of the Charter of the United Nations, and in particular that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations,

Emphasizing in this connection that nothing in this Statute shall be taken as authorizing any State Party to intervene in an armed conflict or in the internal affairs of any State,

Determined to these ends and for the sake of present and future generations, to establish an independent permanent International Criminal Court in relationship with the United Nations system, with jurisdiction over the most serious crimes of concern to the international community as a whole,

Emphasizing that the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions,

Resolved to guarantee lasting respect for and the enforcement of international justice,

Have agreed as follows

PART 1. ESTABLISHMENT OF THE COURT

Article 1

The Court

An International Criminal Court ("the Court") is hereby established. It shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in this Statute, and shall be complementary to national criminal jurisdictions. The jurisdiction and functioning of the Court shall be governed by the provisions of this Statute.

Article 2

Relationship of the Court with the United Nations

The Court shall be brought into relationship with the United Nations through an agreement to be approved by the Assembly of States Parties to this Statute and thereafter concluded by the President of the Court on its behalf.

Article 3Seat of the Court

1. The seat of the Court shall be established at The Hague in the Netherlands ("the host State").
2. The Court shall enter into a headquarters agreement with the host State, to be approved by the Assembly of States Parties and thereafter concluded by the President of the Court on its behalf.
3. The Court may sit elsewhere, whenever it considers it desirable, as provided in this Statute.

Article 4Legal status and powers of the Court

1. The Court shall have international legal personality. It shall also have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.
2. The Court may exercise its functions and powers, as provided in this Statute, on the territory of any State Party and, by special agreement, on the territory of any other State.

PART 2. JURISDICTION, ADMISSIBILITY AND APPLICABLE LAW

Article 5Crimes within the jurisdiction of the Court

1. The jurisdiction of the Court shall be limited to the most serious crimes of concern to the international community as a whole. The Court has jurisdiction in accordance with this Statute with respect to the following crimes:
 - (a) The crime of genocide;
 - (b) Crimes against humanity;
 - (c) War crimes;
 - (d) The crime of aggression.
2. The Court shall exercise jurisdiction over the crime of aggression once a provision is adopted in accordance with articles 121 and 123 defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to this crime. Such a provision shall be consistent with the relevant provisions of the Charter of the United Nations.

Article 6Genocide

For the purpose of this Statute, "genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

Article 7
Crimes against humanity

1. For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

2. For the purpose of paragraph 1:

- (a) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;
- (b) "Extermination" includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;
- (c) "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
- (d) "Deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;
- (e) "Torture" means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;
- (f) "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;

- (g) "Persecution" means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;
- (h) "The crime of apartheid" means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;
- (i) "Enforced disappearance of persons" means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

3. For the purpose of this Statute, it is understood that the term "gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above.

Article 8 War crimes

1. The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.
2. For the purpose of this Statute, "war crimes" means:
 - (a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:
 - (i) Wilful killing;
 - (ii) Torture or inhuman treatment, including biological experiments;
 - (iii) Wilfully causing great suffering, or serious injury to body or health;
 - (iv) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
 - (v) Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
 - (vi) Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
 - (vii) Unlawful deportation or transfer or unlawful confinement;
 - (viii) Taking of hostages.
 - (b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:
 - (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
 - (ii) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
 - (iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
 - (iv) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;

Exhibit 4. Human Rights Watch, "Reeducation Through Labor in China."

HUMAN RIGHTS WATCH**Reeducation Through Labor in China**

Reeducation through labor (laodong jiaoyang or lao jiao), according to the Ministry of Public Security, is an administrative measure of reform through compulsory education designed to change offenders into people who "obey law, respect public virtue, love their country, love hard work, and possess certain standards of education and productive skills for the building of socialism." The term refers to a system of detention and punishment administratively imposed on those who are deemed to have committed minor offenses but are not legally considered criminals. Reeducation through labor —sometimes labeled rehabilitation through labor— is not to be confused with reform through labor (laodong gaizao or laogai), the complex of prisons, labor camps, and labor farms for those sentenced judicially.

The recipient of a reeducation through labor sentence has no right to a hearing, no right to counsel, and no right to any kind of judicial determination of his case.

There are five major problems with reeducation through labor: the lack of any kind of procedural restraints, the use of reeducation to incarcerate political and religious dissidents, the problems of appeal; the conditions in the camps, and the system of "retention for in-camp employment" that permits authorities to keep prisoners in the camps after the expiration of their sentences.

Statistics are difficult to come by, but according to a report by the U.N.'s Working Group on Arbitrary Detention on December 22, 1997, published after the Working Group's trip to China earlier that year, there are 230,000 persons in 280 reeducation through labor centers around the country. The figure represents more than a 50 percent increase over four years. At the end 1993, the reeducation through labor figure was 150,000.

Reeducation Through Labor Management Committees, composed of officials from the civil affairs, public security, and labor departments, are responsible for directing and administering the work of reeducation through labor and for examining and approving those who are in need of reeducation. The committees operate in provinces, autonomous regions and municipalities directly under the central government, as well as in large and medium sized cities. Different agencies and individuals, from parents to employers to the police, can recommend to the committees, through a petition process, that offenders be sent for reeducation. Public security organs are in charge of the actual labor camps, and the "people's procuratorates" supervise the activities of all agencies involved in the reeducation process.

The usual procedure is for the police acting on their own to determine a reeducation term. Sentences run from one to three years' confinement in a camp or farm, often longer than for similar criminal offenses. A term can be extended for a fourth year if, in the prison authorities' judgment, the recipient has not been sufficiently reeducated, fails to admit guilt, or violates camp discipline.

The recipient of a reeducation through labor sentence has no right to a hearing, no right to counsel, and no right to any kind of judicial determination of his case. Decisions are often hastily made. Liu Xiaobo, renowned literary critic and former professor of Chinese literature who helped negotiate the safe departure of students from Tiananmen Square on June 4, 1989, was seized at his home on October 7, 1996 and administratively sentenced to a three-year reeducation term the following day. As mentioned, those administratively sentenced are technically not criminals and neither they nor their children may be discriminated against when it comes to employment or school enrollment.

Article 10 of a 1982 government document called Trial Implementation Methods lists the "categories of persons" to be "taken in for reeducation through labor." Several of the categories and terms are vague. All the offenses described can be judicially prosecuted if sufficiently serious, but no specific distinction between those acts deemed minor and those which can be "pursued for criminal responsibility" has ever been made. The first category listed refers to "counterrevolutionary elements" and those who are against the communist party and socialism. Often such dissidents are held on trumped-up charges such as "hooliganism" or "disturbing the social order." Other categories include "those who associate with groups which have committed murder, robbery, rape, arson, etc."; migrants, prostitutes, and those who steal or cheat but who refuse to reform; gang members who "disturb the public order"; those who refuse to work or hinder production; and those who instigate others to commit crimes. Those not eligible for reeducation include mental patients, the blind, the deaf and dumb, the retarded, the severely ill, those who cannot take part in labor, and pregnant women or those whose children are not yet one year old and are being breast fed. Bishop Zeng Jingmu, the seventy-eight-year-old Catholic Bishop of Yujiang diocese, Jiangxi province, was sentenced to a three-year "reeducation through

labor" term on March 18, 1996 for "violating administrative norms," and for "irresponsibly organizing illegal meetings," that is religious assemblies and masses not sanctioned by the government's official Chinese Catholic Church. Too old to work like other prisoners, he was held in a facility housing detainees awaiting sentencing until his release in May 1998.

The 1990 Administrative Procedure Law provides for challenges to reeducation through labor decisions by appeal to the people's court. The court has the power to order a person's release, but apparently the number of cases overturned on appeal is minuscule; and there is some evidence that a challenge may be regarded as evidence of a person's lack of amenability to reeducation. Liu Xiaobo, for example, spent five months in a reeducation camp before his appeal was even heard and denied. Liu Nianchun, a veteran labor activist who received a three-year reeducation sentence for his participation in a petition campaign at the time of the sixth anniversary of June 4, 1989, finally had an appeal hearing heard sixteen months after he "disappeared." He was permitted to meet with his lawyer once, just a few hours before the hearing; his relatives were effectively barred.

In theory, reeducation camps and reform through labor camps are significantly different. Those in reeducation are paid for their work but they must supply their own clothing and bedding. Part of an inmates' income may be used for support of their dependents or reserved for their own use after release. Inmates are to work no more than six hours a day and study no more than three, and they are entitled to eight hours' sleep each night and rest on Sundays and during festivals. Regulations provide for "awards for achievement and punishment for...wrong doings. The reward should be big and the punishment should be light." If the appropriate labor management committee approves, terms can be shortened by as much as 50 percent; on the other hand terms, as noted, can be extended for up to one year. The cases of Liu Nianchun; Zhou Guoqiang, a labor rights activist and lawyer; and Gao Feng, a religious dissident, all had their sentences extended (288 days for Zhou and 216 for the others) for failure to reform. When Liu protested and began a hunger strike on May 22, he reportedly was thrown into a small dark punishment cell, denied sufficient water, and tortured with electric shocks. The international publicity given to the cases may have accounted for reversals of the extensions for Zhou and Gao. Liu Nianchun, due for release on May 20, 1998, was still in prison as of June 1998.

A detainee with a good record after half a year theoretically may go home at his or her own expense during festivals or under special circumstances. Those who are very ill can be released for treatment but must bear the costs unless the illness or injury is work related. In several cases, "medical parole" even for very sick prisoners has been denied. Once recovered they must complete their terms.

In practice, reeducation camp conditions are harsh and the work load heavy. Inmates work in mines and brick factories, for example, and do heavy agricultural labor. The People's Armed Police guard reeducation inmates just as they guard those who have been judicially convicted.

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According to the regulations, the correspondence of those held for reeducation is not subject to examination, and guards may not listen to conversations between inmates and visitors. However nothing in the regulations provides for regular visits and cases are known in which visitation rights have been suspended for months on end. A Shanghai dissident, Bao Ge, for example, was permitted only one family visit during his three-year term because he refused to confess his "crimes." He was also denied permission to attend his father's funeral even though he had not violated prison regulations. Another Shanghai dissident, Yao Zhenxiang, was able to see his wife only once in twenty-two months.

The Trial Implementation Methods limit to ten days the amount of time those in reeducation who "carry out a violent act, instigate troubles or commit other dangerous acts" may be locked up. Punishment instruments can only be used if application to do so has been approved, and then only for serious cases and only for seven days. Handcuffing behind the back and shackles are prohibited as are beating, corporal punishment, and torture. The case of Chen Longde proves

otherwise. On August 17, 1996, shortly after his conviction to a three-year reeducation sentence, Chen leapt from a two-story walkway at Luoshen Labor Camp in an attempt to avoid repeated beatings and electric shocks from a senior prison official as punishment for his refusal to write a statement of guilt and self-criticism. The official also had promised other prisoners reduced sentences if they too beat Chen. Suffering from two broken hips, a broken leg, and facial injuries, Chen was moved to a police hospital where he spent months flat on his back without moving. On December 1, he was returned to prison still suffering from his injuries which included kidney damage related to the beatings. To date, he reportedly has great difficulty walking but must put in the required work hours at tasks he can do while sitting. Tong Yi, secretary to Wei Jingsheng, was beaten for refusal to put in sixteen-hour days; Yao Zhenxiang was beaten beyond recognition; and Zhang Lin, an Anhui labor activist, sentenced on the trumped-up charge of never having registered his marriage, also was repeatedly beaten.

"Retention for in-camp employment" refers to a system which prevents some people who have completed reeducation terms from returning home. Among those who can be retained are those who have served two terms and, those whose reeducation sentences have been extended. If after three years, such persons have truly reformed, they may return home; if not they may be held indefinitely. In some instances, those who have completed judicial sentences are immediately sentenced to reeducation terms for what is deemed unsatisfactory behavior in prison. Such people are sometimes subject to indefinite retention.

Within the legal community in China, reeducation through labor is controversial. Its revision or elimination was under discussion before March 1996 when the National People's Congress (China's legislature) approved major revisions to the Criminal Procedure Law which took effect on January 1, 1997. However, an article in the September 30, 1997 Legal Daily (Fazhi Ribao), an official newspaper, defended the practice as a way to "maintain social peace and prevent and reduce crime." It likened the practice as similar to the way parents treat their children, doctors their patients and teachers their students, and called for strengthening the system. It recommended further definition of the system's legal status and its relationship to other laws, standardization of screening and approval procedures, and improved mechanisms of reeducation.

The legislation applicable to reeducation through labor goes back to 1957; the last set of regulations, the Ministry of Justice's Detailed Regulations on the Administration of Reeducation Through Labor dates from 1992. The three that preceded it and are still applicable in whole or part are: Decision of the State Council Regarding the Question of Reeducation Through Labor, approved by the Standing Committee of the National People's Congress, August 1, 1957; Supplementary Provisions of the State Council on Reeducation through Labor, approved by the Standing Committee of the National People's Congress, November 29, 1979; and Trial Implementation Methods for Reeducation through Labor, adopted January 21, 1982. The 1957 Decision is still the fundamental law authorizing reeducation through labor.

Reeducation through labor sanctions violate numerous provisions of International law. Article 9 (4.) of the International Covenant on Civil and Political Rights (ICCPR) provides that "Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of his detention..." The reeducation process is arbitrary. It removes the presumption of innocence, involves no judicial officer, provides for no public trial, and makes no provision for defense against the charges.

[US-China Summit \(June 1998\) and Human Rights - Campaigns Page](#)



Exhibit 5. CECC, 2002 Roundtable Discussion on 'Challenges for Criminal Justice in China, "The Plight of the Criminal Defense Lawyers."

Roundtable Discussion On “Challenges for Criminal Justice in China”

**Statement by
Jerome A. Cohen
School of Law, New York University
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“The Plight of Criminal Defense Lawyers”

**Washington, D.C.
July 26, 2002**

At a time when American criminal justice values are being challenged by a range of post-9/11 U.S. government actions, I welcome the opportunity to discuss the plight of China’s criminal defense lawyers, if only to assure their American counterparts that things in the United States could be a lot worse.

Of course, lawyers in the People’s Republic of China (“PRC”) have come a long way in the past quarter century since the end of the Cultural Revolution and the start of Deng Xiaoping’s “Open Policy.” Formerly denounced as the worst type of “stinking intellectuals” and totally suppressed for over twenty years beginning with the 1957-58 campaign against “rightists”, PRC lawyers -- now almost 120,000 in number -- are currently transforming themselves from Soviet-style “state legal workers” [\[1\]](#) to increasingly recognized, prosperous and semi-independent professionals. Many play an important role in business transactions that facilitate domestic economic development. A growing number promote the international trade, foreign investment and technology transfer that have spurred their nation’s remarkable progress. Others foster the rights of women and children, and some even dare to protect the rights of workers. Although dismayed by the extent to which corruption, politics and personal influence affect -- and often involve -- their law practice, even when settling disputes before courts, China’s lawyers, by and large, now lead an increasingly satisfying and attractive life. So attractive, indeed, that it has become difficult to recruit and retain top talent to serve as the country’s underappreciated and underpaid judges, prosecutors, government legal experts and law professors. According to some recent social surveys, being a lawyer is now considered one of China’s most favored career choices.

Criminal defense lawyers, however, are an exception. To be sure, some of them are well-compensated, and a few have become deservedly famous and admired. Yet even they have a daily diet of disillusionment and danger, and their situation is not improving, despite the hopes that in 1996 accompanied enactment of the Lawyers Law [\[2\]](#) and revision of the Criminal Procedure Law (“CPL”). [\[3\]](#) The following remarks, based upon conventional legal research as well as experience advising the American families of people detained in China, will suggest why.

1. Obstacles to Entering a Case

One of the major innovations of the 1996 CPL is the right it confers on a detained suspect, after the first interrogation by investigators or from the first day of detention, to select and meet a lawyer. [\[4\]](#) In 1998 the revised CPL was authoritatively interpreted to confer on the family the right to select a lawyer on behalf of the suspect, so that a lawyer chosen by the suspect or his family is recognized as having a right to enter the

case and meet with the suspect.^[5] These rights are not contingent upon the approval of the detaining authority, unless the case is determined to involve “state secrets.”^[6] Yet PRC police and prosecutors often deny lawyers access to their clients on far-fetched claims of “state secrets”. For example, in the 1999 case of detained Dickinson College librarian Song Yongyi, even after the prosecutor had rejected the State Security Bureau’s application for a formal arrest warrant on a “state secrets” charge, the SSB continued to deny his lawyer an opportunity to meet him.

More often, the police simply do not transmit a detainee’s request for a lawyer or delay or refuse access to a lawyer without giving any reason, as the Inner Mongolia Public Security Department did for months last year in the case of Connecticut resident Liu Yaping and as the Beijing Public Security Bureau did for weeks after the recent detention of well-known lawyer Zhang Jianzhong. If the frustrated criminal lawyer becomes too assertive in reciting the CPL provisions authorizing access to his client, the police seldom hesitate to demonstrate who is boss, especially outside the major cities. In the Liu case, which is a blatant use of the criminal process to settle a political struggle within the police itself, those in charge of the Inner Mongolia PSD, tired of listening to the arguments of local counsel about the PSD’s illegal detention of Liu and its illegal denial of access to him, detained the lawyer as well. She was released 28 hours later, but only after “agreeing” to sign a false statement, and was so intimidated that she not only dropped the case but also said that she would give up the practice of law for some less hazardous occupation! When the suspect’s family retained a former prosecutor from Beijing to take up the case, he too was detained by the PSD and released only after agreeing to board the next flight out and not return. And when one of the police officers handling the case mentioned the provisions of the CPL to the Party Secretary of the Inner Mongolia Communist Party Political-Legal Committee, which “coordinates” the work of police, prosecutors and courts, the Secretary, who was one of the two major combatants in the political struggle, reassured him by saying: “I am the law in Inner Mongolia.”

A more subtle technique frequently used by police and prosecutors to defeat a defense lawyer’s entry into a case is simply to fail to comply with the requirement of the CPL that, within 24 hours of detaining someone, the detaining authority must notify the family or employer of the detainee of the detention,^[7] the reason therefore, the identity of the detaining authority and the place of detention.^[8] If questioned about their failure to issue the required notice, “law enforcement officials” – an ironic name for those who so frequently violate their own nation’s law – shamelessly exploit an exception to the CPL’s notification requirement by claiming that notification would “interfere with their investigation.”^[9] Yet in most cases the only reason that notification might “interfere with the investigation” is that it might lead the family or employer to retain counsel to meet the detainee in accordance with the CPL in order to explain the nature of the offense suspected, relevant procedures and the rights of the detainee.

It should be emphasized that the CPL does not require a lawyer to show the detaining authority a copy of the detention notice in order to get access to his client. Yet police and prosecutors frequently take this position, and defense lawyers themselves will often reluctantly tell a would-be client that they cannot even accept the case unless a copy of the detention notice is provided to them. This, of course, is a ludicrous situation, for it denies the family and employer of the detainee their legally-guaranteed access to counsel at the outset of a case, a time when all they may know is that the suspect is missing and is probably in the custody of an unknown agency in an unknown place on an unknown charge. This is a crucial time when laymen urgently need the help of a criminal lawyer, who has the knowledge and contacts to enable them to find the detainee, so that the rights conferred by the CPL upon detainee, family, employer and defense counsel can all begin to be implemented. Moreover, if the detaining authority can defeat a lawyer’s legally-guaranteed entry into a case by failing to give the legally-guaranteed detention notice, it has an added incentive to violate the CPL’s notification requirements.

This farce has recently been acted out in the case of the Boston-based democracy activist Yang Jianli. On April 26, 2002, Yang, a PRC national and U.S. permanent resident with Ph.Ds from Harvard and Berkeley,

after repeatedly being denied entry to his homeland and even to Hong Kong, was detained in China's Yunnan Province on suspicion of using someone else's passport to return to his country illegally. Although three months have passed, no detention notice has yet been received by his family, which has been frantically trying to obtain one, so that defense counsel can belatedly begin to assist him. This is surely not a case in which the detaining authority can claim that issuance of a detention notice might interfere with its investigation by revealing to others the fact of Yang's detention, since the case has been widely publicized abroad from day one and well-known in China via the internet, e-mail, fax, phone and travelers. Furthermore, on May 10, 2002 the PRC Foreign Ministry, after inquiries from foreign journalists and the U.S. Government, admitted at a press conference that Yang was in custody, but it neglected to state in whose custody and where.

Letters from Yang's American wife to the Ministry of Foreign Affairs, the Ministry of Public Security, the Ministry of National Security and their local agencies requesting notification of his detention have all gone unanswered, and, when she arrived at Beijing Airport in May in an effort to call upon relevant agencies, her visa was cancelled and she was sent home on the plane that brought her. Yang's brother, who lives in Shandong Province and is a loyal Communist Party member, nevertheless believes that the police should follow the country's law. He has courageously persisted in vainly knocking on the doors of Beijing's various law enforcement agencies as well as its criminal law firms, and in talking to any journalist who will listen, despite increasing police pressures upon him. The sad fact is that lawyers seem unwilling to take on this politically sensitive case until a detention notice is received. Recently one lawyer reportedly agreed to enter the case but changed his mind by the time Yang's brother, whose phone is presumably tapped, reached his office.

On July 12, 2002 the Ministry of Foreign Affairs, aware of the bad publicity generated by the illegal conduct of the police, informed the American Embassy in Beijing that Yang is being detained by the Beijing Public Security Bureau and predicted that a detention notice would soon be issued. Two weeks later, the family is still waiting.

Another frequently used technique to keep lawyers out of the detention/investigation process is for police or prosecutors to pretend that the suspect is not really detained but merely being accommodated – forcibly to be sure – at a “guest house” run by the detaining agency. Sometimes, as in a current case I am not at liberty to identify, the family is informally told who the detaining authority is (in this case the local branch of the State Security Bureau) and vaguely what the investigation is about (student sexual activities) and the family is even required to pay 100 RMB (roughly US\$12) a day for room and board, which really adds insult to injury! Since the case has not yet become a formal criminal matter, and might not become one, the family has been advised against legalizing the situation by retaining a lawyer.

American University scholar Gao Zhan and her husband were secretly confined in separate “safe houses” by the State Security Bureau for three weeks before pressure from the American Embassy caused the PRC government to admit they were in detention. Similar techniques are even used on Party members, who can be summoned by the local Party discipline and inspection committee for investigation of matters that later become criminal. The procedure is called shuanggui and can result in a long period of incommunicado detention. And, of course, when ordinary people are detained pending determination whether they should receive the administrative punishment of “reeducation through labor,” which can result in three years in a labor camp, no detention notice need be issued if the police regard the case as certain to result in this “non-criminal” punishment rather than a formal criminal sanction.[\[10\]](#)

In some cases defense lawyers are forbidden or informally discouraged from assisting a detainee by the local bureau of the Ministry of Justice. Local justice bureaus used to exercise control over defense lawyers' conduct in all cases. In recent years, after the 1996 promulgation of the Lawyers Law and the revised CPL, they have relaxed their grip in most cases. Yet old habits die hard, and in some parts of China rules issued by local justice bureaus restrict defense lawyers to varying extents in certain types of cases. In Beijing, for

example, according to rules issued in early 1999,^[11] without the advance approval of the Leading Group established by the Municipal Justice Bureau, no defense lawyer may accept a case that involves “state security”, foreigners or “critical social influences.”^[12] A special notice issued six months later, after the onset of the continuing campaign to suppress the Falungong, makes clear that cases against Falungong followers are deemed to involve “critical social influences.”^[13] This continuing control by the Beijing Judicial Bureau over the entry of lawyers into politically sensitive cases may be the reason why Beijing lawyers have refused to enter the Yang Jianli case until shown a copy of his detention notice. They may be tacitly complying with a condition imposed by their masters.

2. Obstacles During the Investigation Stage

The 1996 CPL and other laws authorize lawyers to perform two different functions in the criminal process. During the investigation stage they may offer legal counseling (falu zixun). During the prosecution and trial stages, they may offer defense representation (daili bianhu). The differences between the two functions are significant.

In view of the extreme difficulties that lawyers confront in entering the investigation stage, one might think that those who manage to do so might then be allowed to render substantial service. Unfortunately, the revised CPL, while for the first time granting lawyers access to detainees during investigation, nevertheless severely restricts what they can do. At this stage, which usually lasts for many months and sometimes even years, the lawyers may merely “offer legal advice” and file a complaint or petition on behalf of the suspect. If the suspect has been formally arrested, the lawyer may also apply for “release under guarantee pending trial.” The lawyer also has the right to ask the investigating agency about the nature of the alleged offense and to interview the suspect to understand the circumstances of the case. However, the revised CPL ominously provides: “Depending on the circumstances and necessities of the case, personnel from the investigating agency may be present during the lawyer’s interview with the criminal suspect.”^[14]

Police and prosecutors have applied these provisions in ways that minimize the opportunities for a lawyer to affect their investigation. In practice, lawyers are generally allowed only one brief meeting with the detainee at this stage. Usually these meetings are closely monitored, and sometimes recorded, by investigators, so that confidential communication is impossible. Lawyers are frequently not allowed to ask their clients detailed questions about the case. When, for example, a lawyer was finally permitted to meet American citizen Fong Fuming last year, after he had been in detention on bribery and “state secrets” charges for almost a year and after the investigation was virtually concluded, no detailed discussion of his case proved possible, and counsel and client were required to talk through a glass partition by means of microphones that broadcasted their every word to the nearby guards.

During the lengthy investigation period, lawyers are definitely not permitted to undertake their own inquiry into the case – no interviewing of witnesses, no collecting of other evidence, not even discussion with the detaining authority about the inadequacy of its evidence. The complaints or petitions that lawyers are authorized to file with investigating authorities usually fall upon deaf ears, even if based upon clear violations of the CPL’s procedures. Although police sometimes grant “release under guarantee pending trial” for their own convenience, lawyers’ requests for such release are rarely granted.

Yet there is nowhere else to go for a hearing concerning investigators’ arbitrary actions, including torture. Although the prosecutor’s office is supposed to serve as the “watchdog of legality” and protest the misconduct of not only the police but also other prosecutors, it seldom offers relief, and it frequently is difficult for lawyers even to obtain meetings with prosecutors or higher police officials in order to challenge investigators’ violations. China lacks any proceeding similar to habeas corpus, so lawyers who try to persuade a court to hear a detainee’s grievance are told that courts have no jurisdiction until after indictment, and the local judicial bureau will also disclaim authority. Nor will a lawyer without powerful connections

find assistance at any level of people's congress or the Party political-legal committee that coordinates the government law enforcement agencies or the Party discipline and inspection committee that deals with misconduct by Party members. In rare cases the Chinese press reveals egregious police misconduct, but lawyers attuned to a government that suppresses political freedoms seldom risk contact with journalists.

In China, as elsewhere, the investigation stage is the most crucial phase of the criminal process. In the PRC, in law and even more so in practice, it is heavily weighted against the suspect, so that even the ablest defense lawyers find the system to be an exercise in frustration.

3. Limited Role During the Indictment Stage

Under the revised CPL, defense counsel are supposed to come into their own once the government investigation concludes and the case is sent to the prosecutors' office together with a report recommending indictment. Prior to the 1996 reforms, defense lawyers were not even admitted to a case at this stage but had to wait until it had reached the court following indictment. The revised CPL requires the prosecutors' office, within three days of reviewing the case file, to inform the suspect of his right to ask a lawyer to defend him.^[15] In principle, the lawyer, now formally referred to as "defense lawyer," has a right to conduct his own investigation of the case and to read, excerpt and reproduce "litigation documents and technical materials" in the file, as well as to meet and correspond with the suspect in custody.^[16] The lawyer also has a right to present his views on the evidence and applicable law to the reviewing prosecutor before the decision is made concerning indictment.^[17]

Unfortunately, the provisions of the revised CPL that detail the newly-granted rights of the defense lawyer at this stage lend themselves to frustration of those rights. The revised CPL fails to define the scope of the "litigation documents" in the file to which the prosecutor must grant access, and it affirmatively restricts defense counsel's prospects for independently gathering evidence. The law provides that defense counsel may only collect materials concerning the case from witnesses or other persons or organizations with their consent, and may only obtain materials relating to the case that are in possession of "the victim, the victim's close relatives and witnesses proposed by the victim" with the consent of the victim and the approval of the prosecutors' office.^[18]

Not surprisingly, these detailed provisions governing the defense lawyer's pre-indictment role have been applied in ways that severely limit the possibility of mounting an effective defense. Although some scholars hoped that the "litigation documents" that the prosecution is required to show defense counsel would include documentary evidence, physical evidence and the records of statements made by witnesses, the victim and the suspect himself during the investigation stage, as well as other evidence available to the prosecution, the term has been construed narrowly by the nation's chief prosecutor's office, the Supreme People's Procurator ("SPP"), to exclude all such material.^[19] Prosecutors are required to grant access merely to the formal documents in the file, such as copies of the detention and arrest notices. In practice prosecutors have proved even stricter in withholding relevant documents. Even the investigators' summary of the case and recommendation to indict, a most important formal document, is not usually revealed, although the SPP's interpretation requires it to be.^[20] Of course defense counsel "may apply" to see the evidence in the file and even to ask the prosecutors to help collect additional evidence for the defense,^[21] but such requests seldom yield a positive response.

Moreover, defense counsel, lacking the power and prestige of police and prosecutors, find it very difficult to obtain the consent and cooperation of witnesses, of victims and their families and of other people and organizations. Despite the fact that witnesses do not usually appear in person to testify in criminal trials in China, they do not even wish to be interviewed, and lawyers have no way to make them cooperate. Thus the belated right of the defense lawyer to conduct an investigation often turns out to be a sham.

These restrictions plainly limit the ability of the defense lawyer to persuade the prosecution not to issue an indictment or to indict for fewer or lesser offenses. There is no way the defense lawyer can know the case as well as the prosecution, especially in view of the fact that the indictment stage is usually brief, unlike the investigation stage, and prosecutors often place little stock in the defense lawyer's views. In any event it is frequently difficult for defense lawyers even to arrange a meeting with the responsible prosecutors in order to discuss the matter. These realities help to explain the fact that, year in year out, prosecutors approve over 98% of investigators' requests for indictment.^[22]

Plea bargaining is neither authorized nor practiced in the PRC, at least in principle. Of course, during the investigation stage interrogators frequently bargain with the suspect, offering "leniency for those who confess and severity for those who resist," and in some cases defense lawyers do have an opportunity to exchange ideas with prosecutors about their case, and perhaps even negotiate after a fashion. Indeed, in some of the PRC criminal cases in which I have advised, our Chinese defense counsel surely conducted conversations with prosecutors, sometimes at my suggestion. They did not feel free to inform me of the occurrence or content of certain other meetings with prosecutors. The latter experience led me to believe that in sensitive cases defense counsel may not be free agents.

That defense lawyers in important cases are often not independent is confirmed by the 1999 Rules of the Beijing Municipal Justice Bureau to which I previously referred.^[23] This is true not only in those cases for which approval of the Bureau's Leading Group is required for entry into a case, but also in a broad variety of other major cases. The Rules grant the Leading Group the power "to listen to the requests and reports of law firms in major cases" (written reports that the firms are required to make at every stage of the case),^[24] "to decide the principles for handling major cases and to coordinate the work connections between lawyers and relevant agencies."^[25] If a written report causes the Leading Group to believe that a meeting is necessary with the lawyer handling the case, it can summon him to "report relevant circumstances," which include "the tactics adopted by the lawyer for handling the case as well as the issues that need to be discussed."^[26] The Rules conclude by stating: "The lawyer handling the case must prepare his tactics in accordance with the decision made by the Leading Group after its discussion."^[27] If circumstances subsequently change, the lawyer is authorized to revise his defense arguments in accordance with the new situation but must report the details to the Leading Group.^[28] It would be surprising if the rules of at least some other local judicial bureaus were very different in this respect.

4. Trials and Tribulations

The frustrations of defense counsel do not diminish following indictment. The revised CPL purported to transform the criminal trial into a meaningful experience by precluding the court, prior to the judicial hearing, from reaching its judgment on the basis of the file submitted by the prosecution. In order to implement this objective the revised CPL eliminated the previous practice whereby the prosecution submitted its entire file to the court along with the indictment. Instead, it required only that the prosecution submit a list of the evidence and witnesses to be presented at the trial together with copies of "major evidence" and the litigation and technical documents to which defense counsel had access at the indictment stage.^[29] This has meant that defense counsel, instead of gaining access to the whole file prior to trial, as in pre-1996 practice, now has the benefit of merely the skeletal prosecution file called for by the revised CPL, which again is narrowly construed by prosecutors in practice. Thus, in preparing for trial, defense lawyers have much less knowledge about the nature of the prosecution case and much less material to work with than under the old procedure, and this hinders their preparation greatly.

Nor does the revised trial procedure enhance the ability of defense counsel to gather evidence on their own. Indeed, it constitutes another setback.^[30] Prior to 1996, although the old CPL was silent on this question, both the national interim regulation on lawyers and some local regulations emphasized the right of defense counsel to investigate and collect evidence and the obligations of witnesses and other relevant people and

institutions to cooperate with those efforts. The revised CPL, as the provisions cited in the previous section make clear, virtually invites witnesses and others to reject the requests of defense counsel, who have no power to compel their cooperation. Although the new law provides that defense lawyers may apply for a court order to collect essential evidence on behalf of the defense,^[31] such applications tend to be as unsuccessful as similar requests made to the prosecutors' office, and there is no way to obtain review of such rejections. Moreover, the orders of Chinese courts are ignored to a shocking extent due to the absence of both appropriate punishments for contempt of those orders and an effective judicial enforcement system.

Denied the opportunity to learn the prosecutor's case in advance of trial and restricted in his ability to build his own case prior to trial, defense counsel, to the extent allowed by the judicial bureau, should at least be able to rely on the opportunity to puncture the prosecution's case at the trial. In China, as elsewhere, often the best way to demolish the factual allegations underlying the indictment is for defense counsel to cross-examine the prosecution's witnesses. Yet, prior to 1996, witnesses were not required to appear in court. One of the most well-known reforms of the revised CPL,^[32] at least as its somewhat ambiguous language was clarified by Supreme Court interpretation,^[33] is the requirement that generally witnesses must testify in court, rather than have their pre-trial statements read out during the trial, and that the opposing lawyers, as well as the judges, must have the right to cross-examine the witnesses. In view of the previous practice, this was a change of potentially historic proportions.

The problem is that this requirement has remained a dead letter. Except in a tiny percentage of cases, witnesses still do not appear in Chinese criminal courts. No one disputes that. The only debate is over whether, nationwide, as few as 1% or as many as 10% of the trials might be graced by the presence of even a single witness. So much for the right of cross-examination! Defense counsel inevitably confront difficulty in challenging the records of statements made outside their presence to police and prosecutors, although, as with physical and documentary materials, they seek to demonstrate discrepancies and other reasons to doubt the evidence.

Many other basic evidentiary challenges confront PRC trial lawyers. Is there a presumption of the defendant's innocence? If a confession or other evidence was illegally obtained, should it be excluded from evidence? What are the elements of proof required for conviction of various offenses and what standard of guilt should be applied by the court? Literally, scores of serious evidentiary issues arise, and many Chinese prosecutors and judges – and many defense lawyers – are ill-equipped to deal with them, especially in the absence of detailed legislative guidance.

It is often difficult for informed foreign observers to gain access to PRC criminal trials, especially since many important trials are still effectively closed, even to the Chinese public, contrary to constitutional and legislative prescriptions that generally require public trials. My impression from studying criminal court judgments, however, is that Chinese judges often do not address or respond in a reasoned manner to many of the factual and legal arguments presented by defense counsel. Although the Supreme Court has instructed the courts to state the reasons for their judgments, their decisions are often cloaked in cursory generalities.

In this year's Fong Fuming case, for example, many questions of law and evidence went unanswered. What are the elements that must be proved to make out a "bribery" conviction? Did "extortion" occur and, if so, should it have vitiated a "bribery" charge? Was the court correct to exclude proffered evidence that the alleged extorter had also sought to extort other businessmen? On what basis could the court conclude that commercial documents found in Fong's laptop were "state secrets"? Should defense counsel and defendant have been allowed to read the documents in question in order to be able to rebut the charge? Did the prosecutors and judges themselves have an opportunity to read those documents or were they simply required to accept the decision of the national State Secrets Bureau? Did an opinion of the State Secrets Bureau accompany its decision and, if so, should the defense have been allowed an opportunity to review it, if not the documents themselves?

Similar questions relating to “state secrets” arose, but were not adequately addressed, in the 2001 prosecutions of scholars Li Shaomin and Gao Zhan on charges of spying for Taiwan. What was the basis for classifying the internal essays and analyses involved as “state secrets,” and did the accused have the knowledge and intent required for conviction?

Political trials, of course, subject defense lawyers to their gravest challenges, particularly trials such as those that followed the Tiananmen tragedy of June 4, 1989 or that have dealt with efforts to organize independent political or Falungong activities. The lawyer for Muslim activist Rebiya Kadeer was reportedly not even allowed to speak at her 1999 trial.^[34] Judges in such trials generally keep defendants and their lawyers on a very short tether, as demonstrated by the 1998 prosecution of famed democracy advocate Xu Wenli for helping to establish the China Democratic Party. They frequently interrupt and even shout down efforts to refute the underlying basis for allegations such as “endangering state security” by acting with “intent to subvert state power,” for which Xu received a thirteen-year prison sentence. The Xu trial, like that of Li Shaomin, Gao Zhan and many others, was concluded in half-a day!

Although able defense counsel can sometimes utilize the right of appeal to obtain a more considered review of a deserving case, convicted defendants, who remain in police detention pending conclusion of their case, are often persuaded not to appeal by their jailers, their family or even their lawyers. If the defendant hopes for release prior to completion of his sentence, the lawyer may be concerned that appeal may be interpreted as a sign of the defendant’s obstinacy and lead to longer prison time. Moreover, knowing that trial courts frequently clear their decisions with the relevant appellate court before pronouncing judgment, the lawyer may well believe that pursuing an appeal would be throwing good money after bad. Yet, especially in cases involving complex business transactions, certain lawyers have developed the expertise and reputation for waging an impressive defense at the appellate level and sometimes winning a reduced sentence, a retrial or acquittal on certain of the charges. However, in a country where the final conviction rate is over 98%, defense counsels do not harbor illusions.

Less can be done after a conviction has become legally effective. Defense lawyers even have difficulty arranging a meeting with their client after the time for appeal has expired or the appellate court has confirmed the judgment below. Yet one advantage of China’s notoriously flexible criminal procedure is that, in cases of gross injustice or where important evidence is newly discovered, the defense lawyer may be able to find a post-conviction remedy by resort to “adjudication supervision.”^[35]

It is possible that the Criminal Evidence Law that is currently being drafted by respected Chinese specialists inside and outside PRC government circles will improve the plight of defense lawyers in many respects, not only at the trial stage but also from the very beginning of the criminal process. Contrary to its title, the new legislation, which might be adopted within a few years, will probably not be strictly limited to matters of evidence but will touch upon many aspects of criminal procedure. Since the revised CPL is unlikely to be revised again in the near future, the Criminal Evidence Law will be of profound importance to the administration of criminal justice in China. If it closely resembles the comprehensive and impressive Expert Draft being prepared by a group of China’s leading academic specialists, and if the new law should actually be implemented, the work of China’s defense lawyers will become somewhat less depressing.

5. The Sword of Damocles

Yet a new Evidence Law will do nothing to reduce the professional and personal risks that Chinese defense lawyers confront every day. I have already mentioned instances of police intimidation of lawyers who seek legally guaranteed access to detained suspects and the more covert controls exercised by local judicial bureaus. Failure to follow the instructions of a judicial bureau, which regulates the local practice of law, can lead to loss of benefits and to administrative sanctions that include suspension of the lawyer’s professional license and even closing of his law firm. Thus, not only the livelihood of the defense lawyer is at stake but

also that of his colleagues, which is undoubtedly why some judicial bureaus require a would-be defender to discuss whether and how to deal with a criminal representation with the other lawyers in his firm before deciding on a course of action.[\[36\]](#)

Defense lawyers whose efforts offend police, prosecutors or other power-holders also run the risk that, in retaliation, criminal prosecution may be initiated against them. Tax evasion has proved a readily available pretext for prosecution in a country where tax law and administration are in need of serious reform and non-compliance is rife. Corruption is another favorite. Lawyers who work for state-owned law firms have been convicted of embezzlement of public funds, and in a culture where, despite legislative prohibitions, lawyers are still expected to wine and dine judges, and where bribery is a huge problem, lawyers are easy targets for selective prosecution. They have also sometimes been convicted of criminal defamation for revealing official misconduct, and a lawyer in Hunan Province was recently sentenced to one year in prison for leaking “state secrets.” Her only offense was to allow the family of her client to see the court file in the case she was defending.[\[37\]](#)

The gravest threat to the personal security of defense lawyers comes from Article 306 of the Criminal Code, which specifically targets lawyers who “induce” or “force” their clients or witnesses to change their testimony, forge statements or commit perjury. Any lawyer who advises his client to repudiate at trial a confession that may have been coerced during the investigation stage risks of an Article 306 prosecution, and, although this provision only became law in 1997, dozens of lawyers have reportedly been investigated and prosecuted under it. This is why lawyers openly call Article 306 the “sword of Damocles” and why conferences sponsored by the All China Lawyers Association have expressed great concern about it as well as other forms of intimidation.

The May 3, 2002 detention and subsequent arrest of Zhang Jianzhong, managing partner of one of China’s leading law firms and head of the Beijing Lawyers Association’s committee for protecting lawyers, has had a chilling effect on the criminal defense bar. Mr. Zhang, in addition to maintaining a flourishing business practice, has represented some high-profile defendants in major corruption cases. It is feared that his current investigation and virtually incommunicado confinement for alleged violation of Article 306 -- for allegedly providing a false statement in a commercial transaction, an offense that in China would not normally warrant such severe treatment -- may be another instance of selective prosecution in retaliation for offending a prominent political figure through vigorous criminal defense work.

6. Conclusion and Recommendations

In these circumstances, is it any wonder that China’s lawyers are reluctant to take on criminal cases? Yet, nationwide, defense lawyers probably appear in merely one-third of the cases brought to trial, and, even in cities where economic and educational standards are relatively high, many defendants go without counsel. In one Eastern city, for example, recent representation rates at basic level trials ranged from less than 18% in one court to roughly 90% in another, with the representation rate in most courts falling below 50%.[\[38\]](#)

The plight of China’s criminal defense lawyers is appalling, and the country’s entire criminal process is in need of radical reform. The people of China deserve far better. Moreover, now that the PRC is in the WTO, is preparing to host the 2008 Olympics and welcomes millions of foreigners to its shores every year for tourism, business, educational and cultural exchange and many other purposes, it is time for a new generation of Chinese leaders to make a genuine “great leap forward” in the direction of meeting international minimum standards for the administration of criminal justice. The legitimacy of the Chinese Government at home and abroad is at stake. Significant improvements in China’s justice will yield corresponding improvements in its international relations and reputation for safeguarding human rights and the rights of all foreigners who enter the country. The current Lai Changxing case, in which the PRC has been struggling for over a year to secure the return from Canada for trial in China of allegedly the greatest smuggler in China’s history, vividly

illustrates the extent to which Chinese justice itself can be put on trial abroad in an increasingly interdependent world.^[39]

I cannot discuss in these remarks the radical, long-run political-legal restructuring that would be necessary in order to bring the PRC's criminal process into compliance with minimum international standards or even all the changes required in legislation and practice significantly to ease the plight of its defense lawyers. Many of the measures that ought to be adopted are implicit in my earlier comments and in any event are, of course, for China to decide.

I will conclude by merely suggesting several steps that can be taken now by others, including those of us in the United States, in and out of government, who wish to be useful in this area.

1. We should promote opportunities to cooperate with PRC defense lawyers through professional and academic conferences, workshops, study groups and training programs. Although China's criminal lawyers are not generally fluent in English or other foreign languages, as PRC business lawyers increasingly are, many have an intense interest in comparative criminal law and procedure and the situation of their counterparts in other countries. Many subjects can fruitfully be discussed. For example, might some form of plea bargaining be useful to China, thereby freeing court resources to provide better trials for the minority of genuinely contested cases? Would the process of sorting out contested cases from others be facilitated by establishing fair procedures for pre-trial discovery of evidence? Would some type of habeas corpus proceeding or criminal ombudsman be suitable for China?

Defense lawyers also confront difficult questions of legal ethics and might welcome exchanges regarding a number of problems. One topic worthy of exploration is the propriety of contingent fees for criminal defense lawyers. It is not unknown in China for a defense lawyer, in addition to charging a substantial retainer for his time, to arrange to be paid a very large fee, even by American standards, if successful in gaining acquittal, reversal of the judgment below or a designated reduction in sentence. The incentive to corruption provided by such an arrangement is obvious.

2. Enhanced cooperation with Chinese lawyers of the kinds suggested above will need to be supported by scholarly research of a comparative nature. Here is an important role for academic institutions in China, the United States and other countries. China's leaders and legal officials are increasingly aware of the value of accurate knowledge of how their own legal system and that of other countries perform, and they have recently welcomed a range of cooperative activities in law. Opportunities even for joint legal research between PRC and foreign scholars may be expanding.

3. This scholarly research and the cooperation of defense lawyers that it is designed to support will require significantly increased funding from public international organizations, governments including our own and China's and charitable foundations. We should seize the moment, as Chairman Mao once said, but for a purpose that he could not have foreseen.

^[1] The Interim Regulations of the People's Republic of China on Lawyers, article 1 (1980) (passed by the Standing Committee of the National People's Congress on Aug. 26, 1980).

^[2] The Lawyers Law of the People's Republic of China was enacted by the National People's Congress Standing Committee on May 15, 1996.

^[3] The Criminal Procedure Law of the People's Republic of China was promulgated on July 1, 1979 and revised on March 17, 1996.

[\[4\]](#) CPL, article 96.

[\[5\]](#) Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security, Ministry of State Security, Ministry of Justice and the National People's Congress Standing Committee Legal Affairs Working Committee: Provisions Concerning Several Issues in the Implementation of the Criminal Procedure Law, issued on January 19, 1998, article 10.

[\[6\]](#) CPL, article 96.

[\[7\]](#) CPL, article 64

[\[8\]](#) *ibid.*

[\[9\]](#) *Ibid.*

[\[10\]](#) According to the Implementation Regulations of the Ministry of Public Security Concerning Reeducation through Labor, issued on January 21, 1982, although the decision to impose the sanction of "reeducation through labor" on someone should be announced to his family, there is no requirement to notify the family of his initial detention. See article 12 of the Implementation Regulations.

[\[11\]](#) The Rules of Beijing Municipal Justice Department on Reporting Major Legal Matters by Beijing Law Offices, JING SI FA No. 7 (1999).

[\[12\]](#) *Ibid*, article 4(a).

[\[13\]](#) Notice of Beijing Municipal Justice Department Concerning Reporting Legal Advice to and Representation of Falungong Followers, a document widely circulated in the internet, which was reportedly issued on July 29, 1999.

[\[14\]](#) CPL, article 96.

[\[15\]](#) CPL, article 33.

[\[16\]](#) CPL, article 36.

[\[17\]](#) CPL, article 139.

[\[18\]](#) CPL, article 37.

[\[19\]](#) Supreme People's Procuratorate: Rules on the Criminal Process for People's Procuratorates, issued on December 16, 1998, article 319.

[\[20\]](#) *Ibid.*

[\[21\]](#) CPL, article 37.

[\[22\]](#) Human Rights in China: Empty Promises-Human Rights Protections and China's Criminal Procedure Law (hereafter "HRIC Report"), New York, March 2001, at 24.

[\[23\]](#) *Supra note 11.*

[\[24\]](#) *Ibid*, article 2.

[\[25\]](#) *Ibid.*

[26] *ibid*, article 6.

[27] *ibid*, article 7.

[28] *Ibid*.

[29] CPL, article 150.

[30] HRIC report, Chapter III. *supra note 19*.

[31] CPL, article 37.

[32] CPL, article 47.

[33] Supreme People's Court: Interpretation on Several Issues Regarding Implementation of the PRC CPL, enacted on June 28, 1998, article 141.

[34] World Brief, *Detroit News*, March 12, 2000, at 9.

[35] For detailed rules, see CPL, articles 203-207.

[36] See, e.g., The Several Provisions of Anhui Province on Law Practice issued by the Standing Committee of the People's Congress of Anhui Province, on March 26, 1999. Article 28 states that "the decision to defend a defendant on the basis of a not guilty plea should be discussed collectively within the law firm to which the defense lawyer belongs."

[37] Yu Ping: "Glittery Promise vs. Dismal Reality: The Role of a Criminal Lawyer in the People's Republic of China after the 1996 Revision of the Criminal Procedure Law", *VANDERBILT JOURNAL OF TRANSLATIONAL LAW*, May 2002, at 858-859.

[38] Interviews with judges in China, on file with the author.

[39] On May 6, 2002 a panel of the Refugee Division of Canada's Immigration and Refugee Board, after hearing testimony for forty-five days over a five-month period and after six months of subsequent deliberation, rejected the claim of Mr. Lai and his family to be considered political refugees, rather than criminal fugitives, from China. Much of the hearing and the reasons cited by the panel in support of its decision analyzed the administration of criminal justice in China. The case is currently being appealed to the Canadian courts.

Exhibit 6. Excerpts of United Nations Special Rapporteur Reports.



General Assembly

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Item 107 (b) of the provisional agenda*

**Human rights questions: human rights questions including
alternative approaches for improving the effective
enjoyment of human rights and fundamental freedoms**

Elimination of all forms of religious intolerance

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report prepared by the Special Rapporteur of the Commission on Human Rights on freedom of religion or belief, Asma Jahangir, submitted in accordance with General Assembly resolution 58/184 of 22 December 2003.

* A/59/150.

** The present report is being submitted after the deadline due to the late appointment of the new Special Rapporteur.

Report of the Special Rapporteur of the Commission on Human Rights on freedom of religion or belief, Asma Jahangir

Summary

The Special Rapporteur is submitting the present report to the General Assembly pursuant to resolution 58/184 of 23 December 2003.

In her report, the Special Rapporteur refers to the communications sent to States since the publication of the most recent report to the Commission on Human Rights (E/CN.4/2004/63) and to the replies received. She also mentions late replies of States to communications sent before the publication of the most recent report to the Commission, in situ visits and prevention activities.

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1–4	3
II. Communications	5–89	3
III. In situ visits	90–91	19
IV. Prevention activities	92–93	19
V. Conclusions and recommendations	94–99	20

13. On 24 May 2004, the Government of Bangladesh responded that its Constitution provides protection for the rights of every citizen irrespective of faith, gender, creed and ethnicity. Like all communities, the Ahmadiyyas are not only guaranteed constitutional rights but also have equal access to all opportunities. Members of the community have risen to high levels of the public service, both civil and military. They enjoy freedom of worship. The community has its own religious centres and places of worship. The Government is committed to upholding their rights and providing security to community leaders as well as their places of worship. In the face of recent events, the Movement has provided police protection to members of the community. Necessary measures were also taken by the Government to safeguard their mosques. Police were deployed to thwart attempts from certain quarters to march on an Ahmadiyya mosque. The Movement has also made it clear that there will be no change in the religious status of the Ahmadiyyas. Some Ahmadiyya publications were, however, banned as they contained materials that might offend the majority Muslims of Bangladesh.

Belarus

14. On 15 March 2004, the Special Rapporteur sent to the Government of Belarus information according to which religious organizations across Belarus faced compulsory re-registration under the new law on religion passed in November 2002. In this context, in May and June 2003, Pentecostal evangelists Aleksandr Balyk and Aleksandr Tolochko were fined for allegedly conducting unregistered home worship in the region of Grodno.

15. The law on religion reportedly confines the activity of a religious organization to a defined area, often a single village, town or region of the country, and it has also been reported that according to the law only republic-wide religious organizations registered in Minsk have the right to found monasteries and convents. The Greek Catholic Church reportedly has no such central body in Belarus, making it difficult to obtain recognition for its monastery in Polotsk.

16. Lastly, the law on religion allegedly criminalizes the “attraction of minors to religious organizations and also the teaching of religion to them against their will or without the agreement of their parents or guardians”. It had been reported that local authorities are demanding that religious organizations supply the names and dates of birth of all the children attending their Sunday schools.

17. On 10 June 2004, the Special Rapporteur sent information according to which thousands of Jewish graves had been desecrated since June 2003 in Grodno, where a historic cemetery was being excavated to expand a football stadium. Among those buried in the cemetery reportedly are thousands of Jews killed in the Holocaust and important Jewish sages.

China

18. On 16 June 2004, the Special Rapporteur sent information to the Government of China stating that, since 20 July 1999, when the Government banned Falun Gong, over 1,600 practitioners of Falun Gong had been tortured or beaten, several hundred had been given prison sentences of over 20 years, others had been interned in mental hospitals and a large number had been sent to labour camps without trial. At the time of the communication, an unspecified number of practitioners were

allegedly being held without trial. It was also reported that at least 907 practitioners had died in detention.

19. Reports indicate that the campaign against the Falun Gong continued unabated across China. Practitioners of Falun Gong continued to be subject to ill-treatment and torture by State officials in their attempts to force the practitioners to renounce their belief in Falun Gong. It was also reported that individual practitioners who had been subjected to torture and other inhuman and degrading treatment while detained had not been provided with appropriate and effective remedies. In particular, the system of administrative detention referred to as “Re-education Through Labour” (RTL) reportedly continued to be imposed on Falun Gong practitioners. It was reported that RTL involves detention without charge or trial, and without judicial review, for between one and three years — which could be further extended by one year. People receiving terms of RTL allegedly had no right of access to a lawyer and there was no hearing where they could defend themselves. As an illustration, the Special Rapporteur referred in his letter to a number of individual cases including the ones of Ms. Yiewen Tang, Ms. Zhao Fengyun, and Mr. Zhang Guoqing.

20. The Special Rapporteur also mentioned the allegedly serious state of health of detained Pastor Gong Shengliang of the South China Church.

Egypt

21. On 16 March 2004, the Special Rapporteur sent to the Government of Egypt information according to which the St. John the Beloved Coptic monastery was under continuous threat of demolition. In addition to being a church, the monastery is a residence for handicapped children and orphans. It was reported that the monastery had been attacked nine times in the last six and a half years by members of the local army unit encouraged by high-ranking officers. Most recently, on 5 January 2004, 600 soldiers and two bulldozers reportedly attacked the monastery, partially destroying the fence and setting fire to structures on the premises. One staff member of the monastery was reportedly killed during the attack and several other staff members and clergy were injured.

22. The Special Rapporteur also referred to the case of Mr. Bolis Rezek-Allah, a Christian, who was reportedly arrested at the border with the Libyan Arab Republic on 28 November 2003 while trying to leave the country. He was reportedly held for 12 hours before being released. On 3 December 2003, Mr. Rezek-Allah was again detained and taken to the headquarters of the Security Police in Cairo for interrogation. He had originally been arrested in the summer of 2003 on the charge of marrying a Muslim. Ms. Enas Badawi, his wife, had reportedly converted from Islam to Christianity before the marriage. Mr. Rezek-Allah was initially held in prison for three months, during which time he was reportedly also accused of helping Muslims convert to Christianity.

23. The Special Rapporteur also mentioned in his communication that, on 7 November 2003, the Christian village of Girza Ayiat Giza was allegedly attacked by a group of 5,000 persons. Eleven persons were reportedly hurt and significant material damage was incurred as a result of the attack. It was reported that the attack followed attempts by local Christians to extend their church building in the village.

24. Finally, the Special Rapporteur submitted information according to which Bahá'ís are not allowed to indicate their religion in the birth certificates of their



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**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*

* 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.

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;⁴³ article 46 of the Regulations on Detention;⁴⁴ article 153 of the Regulations on the Procedures of Public Security Organs in Handling Criminal Cases;⁴⁵ and article 254 of the CL.⁴⁶ 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).⁴⁷

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.⁴⁸

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.⁴⁹ Over the past five years, the Special Rapporteur has received 52 responses from the Government of China relating to a total of 90 cases.⁵⁰

- 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.⁵¹ 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 2005.⁵² 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.⁵³ 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”.⁵⁴

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 1993-1994.⁵⁵

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

Exhibit 7. Bob Fu, Chinese Law & Religion Monitor, "Document issued by the Supreme Court and the Supreme Procuratorate."

Chinese Law & Religion Monitor

October – December Issue – Vol. 1/No. 4

Table of Contents

Foreword by Bob Fu.....	3
Proposed Amendment of Article 36 of the Constitution (Jiang Shihua).....	7
Document issued by the Supreme Court and the Supreme Procuratorate.....	19
Document issued by the Ministry of Public Security.....	29
Religious Persecution in Tibet (Prof. Ron Schwartz).....	53
Atmosphere of Fear Pervades Xinjiang (AFP).....	63
Registered Pastor Banned from Preaching.....	69
Constitutional Articles on Freedom of Religion in Some Western Countries.....	73

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Proposals Concerning Issues Related to the Current Handling of Falun Gong Criminal Cases

By the Supreme People's Court and
the Supreme People's Procuratorate

January 14, 2000

To correctly apply the law, and accurately and promptly handle criminal cases involving Falun Gong, the following proposals are hereby put forward in accordance with the Criminal Code, Decisions on Banning Cultic Organizations, Preventing and Punishing Cultic Activities made by the Standing Committee of the National People's Congress (hereafter referred to as Decisions) Interpretations to Several Issues Concerning How to Apply the Law in Handling Criminal Cases Involving Organizing and Using Cultic Organizations issued by the Supreme People's Court and the Supreme People's Procuratorate (abbreviated as "Interpretations"), and the actual situations of criminal cases involving Falun Gong.

I. Policy and Law

1. Handling criminal cases involving Falun Gong is a serious political task. The court and Procuratorate at all levels shall improve political responsibility and policy awareness, correctly apply the law, implement Decisions and Interpretations to the letter, carefully differentiate and handle various contradictions of the principles of educating and helping the majority, and

affecting the vast minority, and analyzing different cases. The cases shall be handled legally in a down-to-earth way while emphasizing the social effect.

2. Bounds of criminal responsibilities shall be strictly handled in accordance with the law.
 - A. As for those who organize, instruct and instigate Falun Gong practitioners to illegally assemble and resist the ban in the name of “petition” and “practice,” and those who are active participants and refuse to convert after frequent education, if their conduct constitutes crime, criminal responsibilities shall be pursued. Active participants who refuse to convert after frequent education refer to those who continue to actively engage in cultic activities after being given an administrative penalty for engaging in cultic activities of Falun Gong.
 - B. If the criminal conduct mentioned in Article 2 of Interpretations before July 21, 1999, is slight and the convicts can voluntarily or upon request confess them to the authorities, leave Falun Gong organizations, and refrain from their illegal activities, criminal responsibilities may be dismissed. As for those who continue to resist the ban after July 22, 1999, refuse to convert, and engage in cultic criminal activities, criminal responsibilities shall be pursued.
 - C. Personal “practice” after the banning of Falun Gong organizations, no matter where it occurs, at home or public sites, cannot be deemed criminal. Practitioners, who conduct personal “petition” for lack of understanding of the decision, so long as there is no criminal conduct, cannot be deemed criminal.

II. About the criminal charges

1. Correctly apply Item 1 of Article 300 of the Criminal Code
 - A. Members of “Falun Dafa Institute,” so long as they exhibit conduct stipulated in Article 2 of Interpretations which constitutes criminal behavior, and whenever this behavior occurs, shall be charged with organizing and using cultic organizations to undermine the implementation of the law.
 - B. Other practitioners with criminal conduct stipulated in Article 2 of Interpretations, if their conduct occurred before July 21, 1999, shall be charged in accordance with the related articles of the Criminal Code. If their conduct occurred after July 22, 1999, they shall also be charged according to the related articles of the Criminal Code. However, those who fall into the following categories, shall be charged with organizing and using cultic organizations to undermine the implementation of the law:
 - (a) Responsible persons of previous Falun Gong organizations;
 - (b) Those who resist the ban and restore and build Falun Gong organizations;
 - (c) Those who continue to organize and instigate Falun Gong practitioners to illegally assemble undermining the implementation of the law after the promulgation of Decisions and Interpretations.
 - C. Those who violate Article 2 of Interpretations either before July 21, 1999 or after July 22, 1999 and meet the above-mentioned regulations shall be convicted and punished in the name of organizing and using cultic organizations to undermine the implementation of the law. If their key violations occurred before July 21, 1999, the punishment might be reduced.
 - D. Those, except members of “Falun Dafa Institute,” who have no license, or have been deprived of their license

according to the notice and circular of the responsible authorities, while continuing to publish, print, duplicate, or distribute publications promoting Falun Gong, and make Falun Gong signs shall be convicted and punished for unlawful conduct. If such conduct occurred before July 21, 1999, it constitutes a crime. If their conduct, including promoting cults and obtaining profit for Falun Gong organizations, occurred after July 22, 1999, they shall be convicted and punished in the name of organizing and using cultic organizations to undermine the implementation of the law. And if their violations were for personal profit, they shall be convicted and punished in the name of illegal management.

2. As for members of Falun Gong organizations other than “Falun Dafa Institute,” criminal responsibilities shall not be pursued citing Item 2 of Article 300 of the Criminal Code. Those who prevent Falun Gong practitioners or others who are ill from seeking a doctor’s help through the practice of Falun Gong or other means, thus causing their death, shall be convicted and punished for mistakenly causing death or intentional (including indirect intentional) murder based on their subjective mental situations.
3. As for those who distribute articles and remarks promoting the cultic and evil teachings of Falun Gong through uploading to or downloading from the internet, and instigate others to exercise the conduct mentioned in Article 2 of Interpretations, criminal responsibilities shall be pursued in accordance with how and when their violations occurred and the relevant regulations included in this proposal.
If found guilty of uploading illegally obtained state secrets to the internet, they shall be convicted based on their subjective intentions and the locations of the websites. If the websites are

overseas, they shall be convicted and punished on the charge of illegally providing state secrets to overseas. If these secrets are uploaded to domestic sites, while spreading overseas, and the subjective intentions of the defendants are difficult to identify, they might be convicted and punished on the charge of illegally obtaining state secrets.

4. Those who openly leak state secrets, illegally obtain state secrets, illegally hold confidential and top secret documents, materials and articles of the state, and buy and illegally provide state secrets for overseas shall be convicted pursuant to relevant articles of the Criminal Code. If several violations involve the same secret, the most serious will be tried. Those who leak illegally obtained state secrets shall be convicted and punished on the charge of illegally obtaining state secrets. Sentences might be prescribed based on whether these secrets have been leaked.

III. About the punishment

1. Criminal core members of Falun Gong cultic organizations shall be determinedly punished. The roles of various punishments shall be brought into full play, and punishment shall be prescribed according to the law and different situations. Some may be prescribed termed sentences, some detained or held, some fined and deprived of political rights and assets, some sentenced with probation.
2. Punishment involving Falun Gong defendants shall be prescribed based upon the criminal facts and plots, their confessing attitude, the possibility of reduced punishment, or even dismissal of criminal punishment, and the local situations of handling criminal cases involving Falun Gong.

3. The defendants who voluntarily turned themselves in, win merits and are given lighter, reduced sentences, or even exempted from criminal punishment.

Those who are arrested and voluntarily confess criminal activity unknown to the authorities during the Criticism and Education Period shall be regarded as though they had turned themselves in.

4. Those who organize and instruct Falun Gong practitioners to disrupt the social order, and disturb state agencies, thus being charged with relevant crimes shall be deemed “core members,” and those who call practitioners to disturb the social order under the instructions of others will be deemed “other active participants.”

IV. About the procedures

1. When reviewing and determining the arrest, the Procuratorate shall strictly follow legal conditions and control the bounds of arrest. If an arrest is indeed necessary the suspect shall be accurately identified. If the crime is slight, the suspect may not be prosecuted in accordance with Item 2 of Article 142 of the Criminal Litigation Law.
2. Trials of criminal cases involving Falun Gong shall be conducted openly in accordance with the law. If one case involves several charges, some of which are about state secrets, and some not, it shall be tried publicly and non-publicly in different stages.
3. A defendant’s right to legal defense shall be guaranteed in handling criminal cases involving Falun Gong. In the course of the trial, the defendants may entrust a defender. If the

defendants do not have, or wish to have, defenders, attorneys shall be designated for them. If the defendants refuse the designated attorneys, relevant records shall be made by the court and signed by the defendants. Then the trial may be conducted according to the law.

4. One or two members of a defendant's family shall be notified to attend the trials conducted publicly according to the law. Attendees shall be organized to hear the trials. Core members of Falun Gong cultic organizations and practitioners who are not remorseful shall not be allowed into the court in case they take the opportunity to make trouble and disturb the court order.

Relevant regulations shall be followed if overseas organizations and personnel apply to hear the trials.

5. Investigations and debates concerning the nature of Falun Gong cultic organizations shall no longer be conducted by the court during the trials. If necessary, the court and related authorities shall coordinate with each other before the trial, come to an agreement, and cooperate with each other to appropriately finish the task.
6. Social effects shall be emphasized in handling criminal cases involving Falun Gong. The Procuratorate shall be involved in the investigations conducted by the police in due time according to the law and the Procuratorate and the court shall exchange opinions and cooperate with each other in handling these cases. If necessary, agreement on facts, witnesses, and charges shall be reached beforehand. Different opinions shall be submitted to the committee of law of the Party for coordination to ensure the problems are solved before the prosecution and the trial.

7. If the suspects or defendants are servicemen (including the personnel mentioned in Article 450 of the Criminal Code and the retired), the arrests shall be ordered by the martial Procuratorate, which shall also file the prosecutions. And the cases shall be tried by the martial court. Different opinions shall be submitted to the department of political affairs of the People's Liberation Army for further coordination.

V. Other issues

1. If the trials of criminal cases involving Falun Gong need to be reported nationwide by the media, the Supreme People's Court is responsible for organizing the coverage. Local media coverage shall be determined by the provincial superior people's court and the department of propaganda of the provincial Party committee.
2. These proposals are for internal use only, which shall not be leaked, publicly reported, or cited in the lawsuit paperwork.
3. Big issues concerning the law application encountered in the course of implementation, if not covered or not clearly covered by these proposals, shall be submitted to the Supreme People's Court and the Supreme People's Procuratorate for instruction.

Exhibit 8. Report of Doe, "Requirements Regarding Prevention and Control in Response to the Development of Enemy Situations." [Secret 610 Office document transmitted to the Human Rights Law Foundation in 2009. For the safety of the source, the district and city from which it originates must remain undisclosed.]

Secret

Requirements Regarding Prevention and Control in Response to the Development of Enemy Situations

1. The goal and task of prevention and control have to be made clear, whether it is the latest development and dynamics of enemy situations or the regular prevention and control tasks – that is to avoid major issues. The overall requirements have to all be covered in goals and tasks. This year the Central 610 Office, given that there are more especially sensitive periods, has made clear five major tasks. The five tasks are:

Strictly prevent clandestine contacts, illegal gathering and trouble-making activities;
Strictly prevent writing, spraying, posting, hanging reactionary slogans in society or distribute reactionary propaganda material on a large scale;
Strictly prevent trouble-making and sabotage activities via hijacking of radio frequencies or television channels, broadcasting through speakers, or via other technical means;
Strictly prevent involvement [of those from outside the border] in mass incidents or hot issues in the border;
Strictly prevent terror or violence and other sudden events.

Based on the situation in our city, it is to adhere to the goal of “five zero measurements” iterated as follows: No cult members stirring up trouble inside of Beijing or out of town; no cult members stirring up trouble in public, and no cult reactionary propaganda activities on a large scale; no incidents of television channel hijacking, or “forcing their way into consulates”; no serious accidents in detention or trial venues or other cult related incidents that result in a serious impact.

2. Strengthening ideals in our anti-cult struggle. The struggle between us and “Falun Gong” is a special political struggle. The nature of the struggle remains as our major political struggle against the Western anti-China forces led by the United States and against the separation forces of “Taiwan-independence.” At present, the organizational foundation of “Falun Gong” outside the border remains in place. It is the spearheading political force among all the other enemy forces in challenging us. “Falun Gong” inside the border remains rather strong in its organizing activities. In some areas this is especially prominent. Regarding making troubles to political and judiciary organizations by “Falun Gong” and activities and inclinations of “human rights” attorneys, the Central 610 Office pointed out: This type of trouble-making and “not guilty” defenses, organized by family and relatives of “Falun Gong” members in custody, participated primarily by friends and relatives and fellow practitioners, which offer support to or demand the release of “Falun Gong” members in custody, is a latest development in the current “Falun Gong” confrontation against us. It has increased the complexity of the struggle. If this is not given enough attention, not responded to in time, or not handled properly, it is highly likely that things can spread out into numerous other cases or areas, resulting in mass incidents on a large scale. 610 Offices at various levels, acting as the anti-cult command center and advising center for local Party committees and governments, they have to keep extremely high political sensitivity in coordinating political and judiciary

organizations, especially procuratorates, courts, and justice and administrative organizations. Facing this latest development of “Falun Gong”, 610 Offices at various levels must maintain clear political thinking, keep high political sensitivity, strengthen determination in the struggle, and absolutely avoid any deviation in the struggle against “Falun Gong” or committing any political mistakes.

3. Clearly Stating and strictly enforcing political discipline in the anti-cult struggle. At present, 610 Offices at various levels must stay on high alert and vigilantly prevent infiltration, subversion and sabotage flavor of activities by enemy forces inside and outside the border under the banner of “upholding human rights,” take pro-active and creative approaches, concretely enhance the skill in the struggle against enemies and the ability in responding to severe and complicated situations, and firmly crack down on this new wave of counterattacks by “Falun Gong” in the courtrooms. The City 610 Office has convened the leaders of the public security, state security, city procuratorate, court and justice departments and officers of relevant departments to brief them about the latest development. We asked them to take proper measures to pass on the current enemy situations and developments to political officials and officers and attorneys affiliated with the justice and administrative systems related to the anti-cult struggle, to strengthen the education of political attitudes of officials, officers and attorneys, strengthen the study of handling cult affairs based on the law, and especially remind procuratorates and judges attending court sessions and attorneys in our city to handle, based on the law, the cult related trouble-making activities. The City Court is required to continue to put in place the internal review system, deepen guidance on court work, apply strict gate-keeping standards, and not allow “not guilty” sentencing to be issued on any “Falun Gong” cases. Otherwise it will become the first political joke across the country. Regarding defendants involved in these cases, based on the situation of their transformation and earning merits, and evidence in the case, etc, the terms of sentencing can be reduced, suspended, or waived. However, it is absolutely not allowed for a “not guilty” sentencing to be issued.

4. Increasing our professional skills in the anti-cult struggle. Our trying of “Falun Gong” cases is not simply the handling of criminal cases. More importantly, it is a concrete manifestation of political struggles. It is an important platform on which to solidify the Party’s ruling position, to solidify the foundation of the ruling Party. As a result, comrades in our law enforcement organizations must be reminded that any talk in whatever name that violates the basic standards of the Constitution or the Criminal Law must be firmly fought back, in order to safeguard the authoritativeness of the Constitution and the Criminal Law, to safeguard the rights of the political and judiciary organizations. Our procuratorate organizations must be reminded to strengthen the study on cult related violations and crimes, so as to better anticipate court session scenarios, take initiatives in the struggle, to crack down on all cult activities with reason and restraint. Comrades in handling the cases must be reminded to strengthen the review of defense attorneys’ defense statements as submitted to them, and take proper measures based on the law to handle those defense statements with apparent discussions which violate the law, to firmly stop, during court sessions, any talk that seriously violates the law and any cult reactionary propaganda, to take good control of court session order and situation, and

require the court to come up with concrete measures and opinions in handling this type of incidents.

5. Coordinating well the preparation of trial related work. District 610 Offices must strengthen discussion and study specifically regarding the latest development of enemy situations to offer the maximal coordination and support to departments that are trying the cases. The following specific issues call for attention in their handling:

First, district 610 Offices are required to dispatch personnel to attend the court sessions of trials involving “Falun Gong” cases, and to be better prepared to help sudden events when necessary. We should ask the court to brief the 610 Office in advance on the schedule of court sessions.

Second, district 610 Offices are required to coordinate and remind courts to pay attention to setting up a proper court room environment, to select a court with a relatively small room for people to attend the court session, to restrict people who are going to show up, and to prepare tape recording for archive both inside and outside of the courtroom, and to support the work of the court marshal and security staff.

Third, district 610 Office, district courts, and district justice departments are required to pay attention to the gathering and discovering of any abnormal situations. Upon discovery of out-of-town or out-of-province attorneys, information on the attorneys’ names and their local law firms, etc should be collected. Especially when there is any abnormal inclination of talk, 610 Office must be notified promptly District 610 Offices will promptly report to the provincial 610 Office to notify any relevant departments [of the out-of-town or out-of-province attorneys and law firms].

Fourth, district 610 Offices and district courts must properly handle all sudden events, coordinate the public security and domestic security departments to arrange police forces in response to possible abnormal situations, carry out relevant reconnaissance and evidence gathering work, to assist trial organizations to properly manage the control at the scene and handling sudden events; district courts, district public security department, and the domestic security division must have prepared solutions to these incidents, and prepare corresponding foreign propaganda terms in advance. When handling the so-called “not guilty” defense in the courtroom and other abnormal incidents during the trial of the cases, both decisiveness and appropriateness are required, so as to prevent the incident from spreading further as a result of intertwining conflicts, or even evolving into a mass incident on a large scale. When it comes to reactionary propaganda material that appears outside the court room, if necessary, evidence can be secretly gathered at the scene and handling can be postponed till after the incident. Attention must also be paid to prevent people with ulterior motives from taking audio and video footage.

Note: City 610 Office already made it clear during the meeting when briefing on enemy situations to ask judicial and administrative organizations to carry out the management, review and education of our attorneys, who are prohibited to engage in “human rights” activities by “Falun Gong” or engage in their “not guilty” defense which violates the Constitution and the Criminal Law.

Exhibit 9. Campaign for Tibet, Excerpts from "Torture and Impunity: 20 cases of Tibetan Political Prisoners, 2008-2014."


<http://www.savetibet.org>

A Special Report by the International Campaign for Tibet



EXECUTIVE SUMMARY

METHODOLOGY

RELEASED PRISONERS

TORTURED PRISONERS

Prisoners Who Did Not Survive

Released Prisoners

Long Serving Prisoners – Released 2013

He “*simply folded his hands and died.*”

Sources from Tibet close to 43-year old Goshul Lobsang, who never recovered from injuries due to torture and malnourishment in prison and who died at home in March 2014, soon after his release.

1. Executive Summary

This report documents a pattern of torture and mistreatment of Tibetans through an investigation into cases of recently released prisoners, including details of 14 Tibetans who have died as a consequence. The report concludes that although the PRC officially prohibits torture, it has become endemic in Tibet, a result both of a political emphasis on ensuring ‘stability’ and a culture of impunity among officials, paramilitary troops and security personnel.

Since the unrest in 2008 and crackdown in Tibet, the Chinese authorities have adopted a harsher approach to suppressing dissent and there has been a significant spike in the number of Tibetan political prisoners taken in Tibetan areas of the PRC. There is also evidence that since 2008 torture has become more widespread and directed at a broader sector of society.

A younger generation of Tibetans is paying a high price with their lives for peaceful expression of views in a political climate in which almost any expression of Tibetan identity not directly sanctioned by the state can be characterized as ‘reactionary’ or ‘splittist’, and therefore ‘criminal’. But even despite the intensified dangers, Tibetans are continuing to take bold steps in asserting their national identity and defending their culture.

This report details specific cases of 29 Tibetans, of whom 14 died as a result of torture. The report also details the impact of imprisonment – whether extra-judicial, interrogation or a formal sentence – on the lives of Tibetan political prisoners released over the past two years whose ordeals have become known to the outside world, despite rigorous controls on information flow.

Despite Chinese official assertions that China’s legislative, administrative, and judicial departments have adopted measures against torture, there are no indications of investigations into allegations of torture and mistreatment, let alone into cases of Tibetans who have been subjected to arbitrary detentions. Financial aid or compensation for injuries suffered during detention is extremely rare. Provided there is an – albeit limited – debate about cases of torture in the PRC outside of Tibet, the complete silence on such cases in Tibet contributes to the discriminatory policies and the lawlessness persisting in Tibet.

“I cry not only for my son who died a tragic death, I cry even more for those sons who are being tortured. As a mother, I

this report. This contravenes both international and Chinese Criminal Law regarding medical access for detainees.^[7] In August 2014, four Tibetans died of a combination of untreated wounds and torture in custody after paramilitary troops opened fire into a group of Tibetan demonstrators in Sershul, Kardze (Chinese: Ganzi), Sichuan.^[8] This also occurred in earlier incidents where Tibetans were initially injured by either gunfire or beatings while being taken into custody.^[9] Although the initial injuries may not have been life-threatening, torture following detention has in a number of cases led to dramatic deterioration and death. Similarly, in March, 2008, Tibetans taken into custody with bullet wounds were rarely given medical treatment according to sources.^[10] According to anecdotal reports from Lhasa, the worst torture was carried out by People's Liberation Army and People's Armed Police troops brought in from outside the city.^[11]

- There are no indications of investigations into allegations of torture and mistreatment, let alone into cases of Tibetans who have been subjected to arbitrary detentions.^[12] Financial aid or compensation for injuries suffered during detention are extremely rare.^[13] This is despite Chinese official assertions that China's legislative administrative and judicial departments have adopted "forceful measures against torture". Dr. Xia Yong, deputy director of Law Institute of the Chinese Academy of Social Sciences, was cited in Chinese official media in March, 2001, as saying: "Relevant regulations adopted by the State Council in 1996 and 1997 have played a significant role in preventing policemen from torturing criminal suspects and punishing them for such acts."^[14]
- Prison sentences are usually followed by a period of "deprivation of political rights", which deprive the individual of, among other things, "the right to freedom of speech, of the press, of assembly, of association, of procession, and of demonstration".^[15] While these are rigorous in themselves, the scope of "deprivation of political rights" does not cover all of the restrictions that Tibetan former prisoners experience.

were many wounds on his back and on his face. One of the wounds was covered with transparent tape. Because he had not received any medical care, he was already on the verge of death."

– A Tibetan blogger writing in Chinese about twenty-eight year old Tibetan Tendar who died following severe torture.

TIBETANS WHO DID NOT SURVIVE IMPRISONMENT



Goshul Lobsang, 2014

Norlha, 2011

Bulug, 2011

Yangkyi Dolma, 2009

Thupten Lektso, 2010

Ngawang Yonten, date unknown

Pema Tsepa, 2009

Thinlay, 2011

Ngawang Jampel (Ngawang Jamyang), 2013

Yeshe Tenzin, 2011

Tsering Gyaltsen, 2012

Tendar, 2008

Paltsal Kyab, 2008

Tenzin Choedak, 2014



4. ‘He was a shell of his former self’: torture of Tibetan prisoners

“I cry not only for my son who died a tragic death, I cry even more for those sons who sons who are being tortured. As a mother, I can’t imagine the torments and suffering my son endured in prison.”

The mother of Tendar, a Tibetan man in his late twenties, who died as a result of torture after being detained trying to help an elderly monk.^[16]

Brutal torture has been consistently reported by Tibetan political prisoners since the earliest days of Communist Party rule in Tibet. Palden Gyatso, a Tibetan monk who was arrested in 1959 and spent 33 years in prison, was first tortured in 1960 when his arms were wrenched out of their sockets by a team of Chinese interrogators.^[17] He later lost all of his teeth after an electric cattle prod was activated inside his mouth.

But since 2008, there is evidence that torture has become more widespread and directed at a broader sector of society in the context of a deepening crackdown in Tibet. A number of detailed accounts, documenting extreme brutality while in detention, have emerged in the past five years.

Labrang Jigme, a Tibetan monk who was detained first in 2008, gave a rare video testimony, uploaded onto Youtube, of torture following the March, 2008 protests. Speaking on camera later, he gave an account that was chilling in its detail of his treatment, and consistent with other accounts received by ICT.^[18]

"I was put on a chair with my hands tied at the back. A young soldier pointed an automatic rifle at me and said in Chinese, "This is made to kill you, Ahlos [derogatory term used for Tibetans by some Chinese]. You make one move, and I will definitely shoot and kill you with this gun. I will throw your corpse in the trash and nobody will ever know."

Later he was subjected to days of abuse: "They would hang me up for several hours with my hands tied to a rope... hanging from the ceiling and my feet above the ground. Then they would beat me on my face, chest, and back, with the full force of their fists. Finally, on one occasion, I had lost consciousness and was taken to a hospital. After I regained consciousness at the hospital, I was once again taken back to prison where they continued the practice of hanging me from the ceiling and beating me. As a result, I again lost conscious and then taken to the hospital a second time. Once I was beaten continuously for two days with nothing to eat nor a drop of water to drink. I suffered from pains on my abdomen and chest. The second time, I was unconscious for six days at the hospital, unable to open my eyes or speak a word.

"In the end, when I was on the verge of dying, they handed me over to my family. At my release, my captors lied to the provincial authorities by telling them that that they had not beaten me. Also, they lied to my family members by telling them that they had not beaten me; they also made me put down my thumbprint (as a signature) on a document that said that I was not tortured."

Other known cases from 2008 involved two Tibetan men named Tendar and Paltsal Kyab.^[19] Tendar was shot by the police while attempting to intervene on behalf of an elderly monk they were beating, and was subsequently taken away and beaten repeatedly by teams of Chinese police, who used iron rods on him and burned his skin with cigarette butts. He later passed away. In the case of Paltsal Kyab, although officials said that he had died "of natural causes" while being held in custody, when the body was released to the family there were clear signs of torture and brutal beatings. His younger brother, who now lives in exile, told ICT that according to witnesses who saw his body, "The whole front of his body was completely bruised blue and covered with blisters from burns. His whole back was also covered in bruises, and there was not even a tiny spot of natural skin tone on his back and front torso. His arms were also severely bruised with clumps of hardened blood."

A further report of torture comes from Golog Jigme, the Tibetan monk who helped Dhondup Wangchen film the documentary *Leaving Fear Behind*. He found himself pursued and harassed by the police in retaliation, and was eventually taken into police custody. Speaking with ICT after his daring escape from Tibet,^[20] Golog Jigme said that "[the authorities] had tried to torture me to death... The treatment we received in prison was underpinned by a determination to defeat our spirits. In prison, they were literally trying to kill me. They want to kill prisoners like me."

Tibetan writer Kunsang Dolma gives an account of a detention of a relative under suspicion of involvement in protests in 2008 that is typical of many 'disappearances' and incidents of torture. "[My cousin's son] was never formally charged with any crimes, did not receive a trial, and no explanation was given to his family about what was happening or when he would get out. The family didn't know whether he was dead or alive. His family even thought it might be good if he were dead because death is better than torture. [...]

"My cousin's son was released six months after he disappeared. He came out a shell of the person he used to be. While in jail, he had been kept in a dark room where the police repeatedly questioned him about the identities of other people at the protest, to which he only answered that he wasn't there and didn't know who was. He [...] was nearly dead from the brutality when he got out. When he left the jail, he saw sunlight for the first time since his capture, and he was amazed at the sight of the green grass outside. He was only seventeen years old."^[21]

Some former prisoners report procedures such as medical injections that cause immense pain. Goshul Lobsang, who died in March 2014 following his release from custody, apparently received injections that caused immense pain. It is not known what these injections could have been but they may have been administered by medical personnel.^[22] Police also used sharp-pointed objects such as toothpicks to repeatedly pierce and penetrate into the tops of Goshul Lobsang's finger nails and cuticles. This stabbing, applied with force and consistency, resulted in severe bleeding, swelling and pain making Goshul Lobsang unable to temporarily use his hands, according to a report by the Tibetan Center for Human Rights and Democracy.^[23]

"I might lose this bony and haggard body..." – Tibetans who did not survive imprisonment

"I am an ordinary nomad who loves his people, so I am willing to do anything for my people. I might lose this bony and haggard body that has suffered brutal pain and torture inflicted out of sheer hatred, I still will not have any

regrets. I have the desire to follow in the footsteps of martyrs who expressed everything through flaming fire, but I lack courage [to do such a thing].”

– from the last note of Goshul Lobsang, who died following torture in March 2014^[24]

Since protests broke out across Tibet in March 2008, the Chinese government has sought to block information from reaching the outside world on the torture, disappearances and killings that have taken place across Tibet. Hereafter, this report details the deaths of 14 Tibetans in different areas of Tibet as a result of being subjected to excessive brutality in custody. They are not isolated incidents; other deaths following torture have occurred, but full details are often not known.

GOSHUL LOBSANG

“He could not say anything, but simply folded his hands and died.”

Goshul Lobsang, 43, died at home on March 19, 2014, following severe torture during his imprisonment. Goshul Lobsang, who was accused of being an organizer of a protest in 2008, had been beaten so severely that he could not even swallow his food. Images of him at his family home in the days before his death showed him looking emaciated and close to death at his family home in Machu (in Chinese, Maqu) county in the Kanlho (Gannan) Tibetan Autonomous Prefecture in Amdo, today a part of northwestern China's Gansu province.

Goshul Lobsang was so ill that in the weeks before his death he could barely speak, but according to Tibetan sources, he still managed to utter some sentences about the well-being of the Tibetan people and the importance of freedom in Tibet. According to the same sources, among his final words were that he did not regret his death, because he had done what he could, and what he felt compelled to do.

Goshul Lobsang was born in a small village in Machu, and spent some years in India studying at an exile Tibetan school before going back to Tibet to continue his nomadic life.^[25]

According to Tibetans who knew him, in the 1990s, following his return from India, a number of leaflets with a political content were disseminated in Goshul Lobsang's home area. Goshul Lobsang was detained under suspicion of involvement but was released a few weeks later. However, he remained under suspicion. As this report shows, Tibetans who are detained even for a short period by the Chinese authorities remain under close surveillance and they are subject to even more attention if they have travelled to India, as they are perceived to have come under the influence of the 'Dalai clique'.

Due to the restrictions he experienced, Goshul Lobsang finally left Machu and travelled to Lhasa, where he lived for a couple of years. He returned to his home town after 2000, and began to teach short English language courses to nomad students in order to further their opportunities for obtaining work. He was known among his friends to be a strong and determined individual who had on occasion raised a handmade Tibetan flag above his nomadic tent.^[26]

In March, 2008, as unrest rippled across the Tibetan plateau, major protests were held in Machu county, including in Goshul Lobsang's hometown area, on March 17-19. According to Tibetan sources, Goshul Lobsang was involved in the protests.

In 2009, leaflets circulated in the area encouraging people not to celebrate Tibetan New Year; this was a development that occurred across Tibet. It was a heartfelt demonstration of solidarity with protestors who were suffering in prison or who had died, and an expression of mourning and grief. In Machu, the leaflets also encouraged local people to monitor the situation and to inform others about the reality of the oppression.

On April 10, 2009, an incident occurred which led to Goshul Lobsang's detention. Although details are sketchy of the circumstances, it appears that Goshul Lobsang and some other Tibetans challenged some of the armed forces about their presence and methods. When Goshul Lobsang and another Tibetan named as Dakpa were detained, local people managed to argue with the armed forces and to secure their release. Although the paramilitary forces then backed down slightly from the township, officials demanded the detention of 'leading separatists' including Goshul Lobsang, and demanded that they were handed in by local people.

Goshul Lobsang and several others remained in hiding in the mountains for some time, until 2010, when he decided to return to normal life. He told one of his friends that if he were to be caught again, then he would bear the consequences.

He was detained in June, 2010, and spent five months in the main detention center in Machu. According to a Tibetan source familiar with the case, he was subjected to intensive interrogation, brutality, and deprivation of both sleep and food. On November 26, 2010, Goshul Lobsang was sentenced to ten years in prison and transferred to Dingxi city in Gansu province. At his trial, he was said to be in such a critical condition that he had to be supported by two police officers.



In November 2013, Goshul Lobsang's health took a turn for the worst and the authorities decided to release him so that he would not die in custody. Despite making every effort to provide him with medical treatment, Goshul Lobsang was not even able to swallow food and did not recover.

As he was dying, he told friends that while he knew it was 'selfish' to request it, his wish as a humble Tibetan nomad was for the Dalai Lama to bless him, and secondly he wanted to let the outside world know about the life of Tibetan political prisoners under Chinese oppression.

He passed away in his bed at home surrounded by family members; Tibetan sources said that: "[At the end] he could not say anything, but simply folded his hands and died." He leaves his mother, wife, and a teenage son and daughter.

NORLA and BULUG

Former political prisoner Norlha (known by only one name) passed away in Lhasa on December 27, 2011, following torture in prison, according to Tibetan exile sources.^[27]

Bulug, a Tibetan in his mid fifties, who was sentenced at the same time as Norlha, passed away in hospital on March 25, 2011.^[28]

Norlha, who was in his late forties, was born to the Ashak Tsang family in Pema Township, Jomda (Chinese: Jiangda), Chamdo (Chinese: Qamdo) in the Tibet Autonomous Region. Bulug was born in Dzorgang Township also in Jomda.



In 2008, Tibetans in Norlha and Bulug's home area of Jomda had developed a new means of demonstrating their solidarity. Some farmers had stopped farming as a form of resistance. In June 2009, the Chinese authorities enforced an intense patriotic education campaign in Kyaptse monastery and sought to compel monks to denounce the Dalai Lama as a 'separatist'. Monks remained silent, refusing to denounce His Holiness, and later many ran away from the monastery. Except for the presence of the patriotic education work team, the monastery was empty. Police and officials arrived in the area and sought to compel the monks to return.

The authorities threatened local officials to force monks to return, and then detained several Tibetan officials as a warning. Both Norlha and Bulug were leading figures from the local community who sought their release. According to the same Tibetan sources, they were then detained in the ensuing crackdown.

In August, 2009, Norlha and Gonpo Dargye, blamed for being the lead organisers of the protest, were sentenced to two years in prison. According to Tibetan sources, Norlha was brutally tortured and his health almost destroyed. He was also denied medical treatment.

Norlha was released in 2011, but his health condition continued to deteriorate. Despite being taken to a leading hospital in Chengdu on several occasions, he passed away on December 26, 2011.^[29]

Bulug was also subjected to severe torture in custody over many months, and he was also denied medical treatment. Family visitors were also restricted. He died in hospital on March 24, 2011.

YANGKYI DOLMA

According to various Tibetan sources, Yangkyi Dolma had staged a demonstration along with another nun from Lamdrag nunnery named Sonam Yangchen, shouting slogans calling for the return of the Dalai Lama, human rights for Tibetans, and religious freedom. Both nuns were severely beaten by the security forces at the site of the demonstration at the Kardze County main market square on March 24, 2009. She died on December 6, 2009, in Chengdu hospital. It is not known whether Yangkyi Dolma had been sentenced.

Following the incident, at around 7 pm in the evening, paramilitary police raided Yangkyi's family home, ransacked the portrait of the Dalai Lama and rebuked the family members for being the supporter of 'separatist forces'.^[30]

THUPTEN LEKTSOG

A Tibetan monk called Thupten Lektsog from Draklha Ludrig monastery^[31] in Lhasa never recovered from severe torture in custody after a period of imprisonment following his participation in peaceful protests in October, 1989. He died in January, 2010, according to Tibetan exile sources.

Thupten Leksog was born in Meldrogungkar (Chinese: Mozhu Gongka), Lhasa municipality, the Tibet Autonomous Region. Together with other monks from his monastery, he participated in the demonstrations in Lhasa in 1989, displaying the Tibetan national flag. During the following crackdown and imposition of martial law in Tibet's capital, Thubten Leksog was arrested and they were subjected to brutal torture in Gutsa detention center in Lhasa. He was later sentenced to three years in prison, where he continued to be tortured. Thubten Leksog's hands and legs were broken, he was beaten so badly that he vomited blood and lost consciousness, and he eventually became paralysed. He died at his home in January, 2010.

NGAWANG YONTEN

Ngawang Yonten, a Drepung monk from Lhundrub (Chinese: Linzhou) county in Lhasa municipality, was arrested after he participated in protests in Lhasa in March, 2008.^[32] Tibetan sources told ICT: "Before his detention, Ngawang Yonten was one of the healthiest, strongest monks in his group." He suffered from severe torture in prison and died while still in custody. The authorities did not, at first, return his body to his family. Following appeals to senior officials, his body was finally returned for traditional funeral rites.^[33]

PEMA TSEPAK

Pema Tsepak, 24, a resident of Punda town in the Dzogang county of Chamdo prefecture in the Tibet Autonomous Region, died after torture following his detention for participating in a peaceful protest in January, 2009. Tibetan sources told Radio Free Asia that the Chinese authorities were trying to cover up the circumstances of Pema Tsepak's death, saying that he jumped off a building. A local Tibetan said: "We believe he was beaten to death and then thrown off the building."^[34]

A Tibetan living in Delhi, India, said in an interview with RFA that Pema Tsepak had been hospitalized following mistreatment at the hands of his captors. "He was so severely beaten that his kidneys and intestines were badly damaged. He was initially taken to Dzogang [county] hospital, but they could not treat him, and they took him to Chamdo hospital instead," the Tibetan source said.^[35]

A convoy of 18 vehicles, including army trucks carrying soldiers and officials, arrived in Punda town and began searching the homes of other detainees following the protest. They took away pictures of the Dalai Lama, and informed Pema Tsepak's family that he had committed suicide.

Pema Tsepak, Thinley Ngodrub, 24; and his brother Thargyal, 23, had been detained on January 20, 2009, as they walked towards the local police headquarters in Tsawa Dzogang. They were carrying a white banner reading "Independence for Tibet," distributing fliers, and shouting slogans against Chinese rule, according to Tibetan sources.

THINLAY

Thinlay, who was from a village in Kardze Tibetan Autonomous Prefecture in Sichuan Province, participated in a peaceful protest in the area in April, 2009, according to exile Tibetan sources. Together with several other Tibetans, he was detained without trial for seven months. According to the same sources, he was broken by the torture; nearly half his body was paralysed, and he suffered from extreme psychological trauma. After seven months, he was released to his family. Despite medical attention, Thinlay died on August 10, 2011. Doctors reported that he had suffered from irreversible brain damage.

NGAWANG JAMPEL (Ngawang Jamyang)

A senior Tibetan Buddhist scholar monk Ngawang Jampel (also known as Ngawang Jamyang) died in custody in December, 2013. Ngawang Jampel, 45, was among three monks from Tarmoe monastery in Driru (Chinese: Biru), who 'disappeared' into detention on November 23, 2013 while on a visit to Lhasa. This followed a police raid on the monastery, which was then shut down, and paramilitary troops stationed there.^[36]

Less than a month later, Ngawang Jampel, who had been healthy and robust, was dead, and Tibetan sources in contact with Tibetans in Driru said it was clear he had been beaten to death in custody. Ngawang Jampel had been one of the highest-ranking scholars at his monastery and had founded a Buddhist dialectics class for local people. He gave free teachings on Tibetan Buddhism and culture to lay people and monks, and was known for his skills in mediation in community disputes.

According to the same Tibetan sources, Ngawang Jamyang was born in 1968 in Nakshul Township, Driru in Nagchu (Chinese: Naqu) in the Tibet Autonomous Region. He joined his local monastery in 1987. Two years later, he escaped to India where he joined Sera monastery in exile in south India. He became known for his intense focus on study and dedication to Tibetan Buddhism, and was admired by many young monk students in Sera. In 2007, he decided to return to Tibet because he felt so strongly about the need for educated monks to help preserve the culture and religion inside Tibet.

YESHI TENZIN

Yeshe Tenzin, who was accused of disseminating political leaflets, died after being released from a ten-year prison sentence in December, 2010.^[37]

Yeshe Tenzin had attended a major religious ceremony led by the Dalai Lama in exile in India in early 2000, and upon his return he was accused of organizing the dissemination of leaflets deemed as 'separatist'. He served his prison sentence in Tibet Autonomous Region Prison, known as Drapchi, and later in Chushur (Chinese: Qushui) prison, also in Lhasa.

Yeshe Tenzin died ten months following his release, on October 7, 2011, in hospital in Lhasa. Tibetan sources said that half of his body was paralyzed, and that he had been deprived of medical treatment despite enduring severe torture.

TSERING GYALTSSEN

On January 23, 2012, security forces in Luhuo (Draggo) County, Ganzi (Kardze) Tibetan Autonomous Prefecture, Sichuan fired at a crowd of protesters, wounding at least 32 and killing at least one – Norpa Yonten, a 49-year-old layperson.^[38] According to some reports, the protesters were demonstrating against the arbitrary detention of Tibetans and calling for the return of the Dalai Lama to Tibet and for additional self-immolations if Tibetans' concerns were ignored. According to a report published by the exile Tibetan website Phayul.com, Tsering Gyaltzen, a monk from Draggo Monastery in Luhuo County, died February 9 from injuries sustained after being beaten by police who were arresting him for allegedly participating in the January 23 protest.

A Tibetan source said: "Relatives went to local officials to try to find out where he was, but they had no success. Later it was learnt that he had been tortured mercilessly and we heard his spine was broken among other injuries." The same sources also learnt that Tsering Gyaltzen had been taken from detention to the main military hospital in Kardze prefecture for medical treatment, but that this was too late to save his life. He died in May, 2012, in hospital and his body was never returned to the family.

TENDAR

Twenty-eight year old Tendar's death following torture after his arrest for trying to help an elderly monk was featured in a video released by the Central Tibetan Administration in March 2009.^[39]

A Tibetan blogger writing in Chinese described the images as follows: "One of his legs was cut with many bloody knife wounds and a nail had been driven in to a toenail on his right foot. A great deal of flesh had been cut away from his bottom, where the wound was rotting and infested with insects. Where his waist had been beaten with electric batons, the flesh had started to decay. There were many wounds on his back and on his face. One of the wounds was covered with transparent tape. Because he had not received any medical care, he was already on the verge of death."

Tendar worked in the customer services department of a Chinese telecommunications company and lived in Lhasa. On March 14, 2008, when Tibetan protests turned violent on the streets of Lhasa, Tendar witnessed an elderly monk being beaten by Chinese security personnel. Although details of what happened are sketchy, according to reports by Tibetans who know Tendar, and others in Lhasa on that day, it seems that Tendar tried to help the monk, by telling the police to have mercy on him. He did so at a time when armed police were opening fire on the rioters. Tendar was shot and fell to the ground. Still conscious, he was taken away by police.

A Tibetan source who was in Lhasa after the incident and spoke to Tibetans who know Tendar said: "The injury didn't appear to be life-threatening. I was told that he was taken to the Lhasa General Hospital that is run by the People's Liberation Army. While he was at the hospital, a team of four to five Chinese security personnel visited him every four to six hours. During those times they took turns in beating him while interrogating him about his involvement [in the March 14 protests]. They were using iron rods and cigarette butts to burn his skin. He was tortured repeatedly and his condition deteriorated rapidly."

At this time, none of Tendar's family or friends knew where he was, a pattern consistent with the wave of disappearances that took place after March 14, and that is still occurring in some areas. Through connections, Tendar's family managed to locate him. When they were allowed to visit, he was "in shock, and in excruciating pain. Every movement of his body would cause him to scream with pain", said the same Tibetan source. He was unable to walk and his body appeared to be paralysed from the waist down. Tendar said that he had witnessed a Tibetan monk at the hospital being beaten to death with iron bars by security personnel. He begged to be taken home.

The same Tibetan source said: "While at hospital, Tendar had tried to kill himself twice by jumping off the window from his room. He had managed to drag his body to the window but was unable to get out as he could not move the lower part of his body."

The Tibetan source believes that Tendar was only released to his family as the authorities knew there was no hope of his recovery. This is consistent with other cases where Tibetans have died after torture; the authorities seek to avoid being responsible for a person's death while they are under their charge. His relatives attempted to get medical care for him but

hospitals were reluctant to take him into their care due to the political sensitivity of a patient who had been involved on March 14. Tendar was finally admitted to the Peoples' Hospital near the Potala Palace, where he was immediately taken into intensive care. The Tibetan source said: "Some of the nursing staff had tears in their eyes when they saw the serious nature of his injuries."

Tendar spent 20 days in hospital and his condition continued to deteriorate. He became unconscious, and medical staff told his family that there was nothing more they could do for him. Tendar's family had to pay a medical bill of 90,000 yuan (\$13,000) before they could take him home.

Tendar died at home 13 days later, on June 19, 2008. Video footage obtained by the Tibetan government in exile depicts vultures at his sky burial site at Toelung, west of Lhasa. The same Tibetan source, who is no longer in Tibet but who spoke to eyewitnesses, said: "One could see on his body the marks of iron rods. His body was nothing but bone and skin. When his body was being prepared for the vultures [a ritual called Jhador in Tibetan], a slender metal bar or long nail about one-third of a meter in length was found inserted through the bottom of his leg. This appeared to be one of the torture instruments used during interrogation."

The story of Tendar's death became well-known in Lhasa and has even been written about by Tibetan bloggers in Chinese. Many people who did not know Tendar but who had heard about him came to mark his death at important dates afterwards. "Those who were fearful of attending these occasions due to being seen by security personnel sent money and khatags [white Tibetan blessing scarves]," said the same source.

A Tibetan writer said: "Several hundred Tibetans came to his funeral services. Many came out of deep sympathy for a stranger who suffered a terrible tragedy. At the funeral service, Tendar's mother said sadly, 'I cry not only for my son who died a tragic death, I cry even more for those sons who are being tortured. As a mother, I can't imagine the torments and suffering my son endured in prison.'"

PALTSAL KYAB

On May 26, 2008, two local township leaders in Charo township, Ngaba (Chinese: Aba), Sichuan (the Tibetan area of Amdo) came to tell the family of 45-year old nomad Paltsal Kyab, also known as Jakpalo, that he was dead. Although officials said that he had died "of natural causes" while being held in custody following a protest in the area on March 17, 2008, when the body was released to the family there were clear signs of torture and brutal beatings.

Paltsal Kyab's younger brother, Kalsang, who now lives in exile, told ICT that according to witnesses who saw his body, "The whole front of his body was completely bruised blue and covered with blisters from burns. His whole back was also covered in bruises, and there was not even a tiny spot of natural skin tone on his back and front torso. His arms were also severely bruised with clumps of hardened blood."

Paltsal Kyab, who was married with five children, was taken into custody following a peaceful demonstration that occurred in Charo on March 17, 2008. According to anecdotal accounts from the area given to Paltsal Kyab's brother, around 100 young Tibetans held a protest on the main street "because they believed that the United Nations and foreign media chose not to listen to and see the truth in Tibet." The Tibetans began to talk about burning a building down. According to his brother, Paltsal Kyab told the Tibetans that it was important not to take this action, saying: "We Tibetans must follow His Holiness the Dalai Lama's non-violent path. Our only weapon is our truth. The building belongs to the government, but several Tibetan and Chinese families are living in there." At least three people in a building nearby testified to police that Paltsal Kyab had persuaded the Tibetans not to be violent, according to Kalsang.

After the incident, according to his friends, Paltsal talked about going to the police station to tell officers that he had not committed any violation such as destroying buildings or cars, or harming anyone. But he heard from his friends that his name was already on the wanted list, and that individuals who were detained were being badly beaten. Paltsal went to see a relative who was ill out of town.

On April 9, 2008, at around midnight, 11 police raided Paltsal's home, while a truckload of armed soldiers waited outside. According to reports from the family, one police officer pointed a gun at the head of Paltsal's 14 year old son and asked him where his father was. His son replied that his father had gone to see his relative who was ill. Paltsal's wife was then dragged out of her room and asked the same question. She gave the same answer as her son, but gave a different name of the relative. Because they had given different names, the police claimed that they were lying, and Paltsal's son was taken into custody. On arrival at the police station the teenager was slapped, kicked and punched for hours during interrogation. He was released the next day.

When Paltsal was told about his son, he came home immediately. Kalsang said: "Our family had heard that the Chinese government says that people involved in protest must surrender voluntarily and that people who did so would be treated leniently, as opposed to people who are seized by police. Paltsal's relatives told him that he was a father of five children so that it wouldn't be possible for him to hide from police throughout his life. Paltsal also knew that his son had been beaten and interrogated. So he decided to surrender voluntarily."

On April 17 or 18, 2008, Paltsal went to the local police station and gave himself up. He was held there for two weeks and then transferred to a detention center in Ngaba on April 27, 2008. The family heard nothing about his condition or whereabouts until May 26, 2008, when two local township leaders came to Paltsal's home to inform his wife and children of his death.

Paltsal's family members were allowed to collect his body from the detention center. Kalsang says: "Upon arrival, the relatives were told by the Ngaba police that the cause of his death was sickness, not torture. They also allegedly claimed that they had taken him to a hospital twice because of his kidney and stomach problems. But his relatives said that when Paltsal went to the police station to surrender he was a normal healthy man with no history of any major health problems. The police officers never acknowledged the cause of death as torture but they immediately started to offer money to the family. The family was not allowed to take photos of his body or tell anyone anything about what had happened."

Kalsang said that he was later informed by various sources that his elder brother had been very badly tortured in custody. Family members asked for permission to take his body to Kirti monastery in Ngaba. It is important in Tibetan culture for prayers to be said for a person immediately after his death in order to help ensure a peaceful transition. But the army refused permission. Kalsang said: "They even could not take Paltsal's body to Kirti monastery to pray for Paltsal's soul."

Paltsal was given a traditional sky burial, with police officers present, including two senior Tibetan police officers. Kalsang said: "It was obvious from the condition of Paltsal's body that he had suffered an agonizing and painful death due to severe torture, not of natural causes." Those preparing his body for burial, which involves dismemberment, told the family that there was severe damage to his internal organs, including his small intestines, gall-bladder and kidneys.

DEATH OF A TIBETAN NGO WORKER FROM LHASA FOLLOWING TORTURE

Tenzin Choedak, a 33-year old young NGO worker, died on March 19, 2014, less than six years into his 15-year jail term and following severe torture in prison.

Tenzin Choedak, also known as Tenchoe, aged 33, did not recover from injuries sustained while in police custody following his arrest for involvement in protests against Chinese rule in Lhasa in March, 2008, according to the India-based NGO Tibetan Centre for Human Rights and Democracy.

Quoting a local eyewitness cited by TCHRD, Tenchoe was taken to hospital just before his death with his hands and legs heavily shackled. "He was almost unrecognizable," said the source. "His physical condition had deteriorated and he had a brain injury in addition to vomiting blood." The authorities sought to treat him in three hospitals, but when his condition continued to worsen, released him to the care of his family. He died two days later at the Mentsikhang, the traditional Tibetan medical institute in Lhasa, just hours after his family took him there.

Tenzin Choedak, who was born in Lhasa, escaped into exile as a child and was educated at Tibetan Children's Village school in India for a few years. In 2005 he returned to Lhasa, and joined a European NGO affiliated to the Red Cross.

Tenchoe was arrested in April, 2008, accusing him of being one of the ringleaders of the March protests, and he was sentenced to 15 years in prison, according to the Tibetan Center for Human Rights and Democracy. He was imprisoned in Chushur (Chinese: Qushui) Prison on the road to Shigatse outside Lhasa.

Released prisoners: the urgent need for justice

TORTURE FOLLOWING PEACEFUL POLITICAL PROTEST: DHONDUP

Thirty-year old Dhondup^[40] was released from prison on May 20, 2013 after he served a one year and two month term on charges of "splittism" for his participation in a large-scale peaceful protest against the Chinese government. Dhondup was severely tortured over the course of several weeks while in detention prior to his sentencing, sustaining damage to his wrists from being handcuffed and hung in the air. It is common for authorities to handcuff and hang Tibetan political prisoners for hours at a time, or even for an entire night, during interrogation.

The charges against him stem from a protest held on January 15, 2012, at which Dhondup, along with local Tibetans and monks from Bha Shingtri monastery, held a peaceful demonstration against the Chinese government. Dhondup and several other protestors were subsequently arrested and later sentenced by the Gepa Sumdo (Chinese: Tongde) county Intermediate People's Court on March 19, 2013 on charges of "splittism." While it is unknown if Dhondup was one of the organizers of the protest, it is common for authorities to target those who they view as ringleaders for arrest and abuse. The charges and prison terms for those arrested with Dhondup remain unclear.

Dhondup served his sentence at a local prison in Gepa Sumdo county, the same location where he was tortured during interrogation before his trial.

Dhondup was born in the village of Palchok Ponkor, located in Gon Kongma township, Township, Gepa Sumdo, Tsolho Tibetan Autonomous Prefecture (Chinese: Hainan) in Qinghai province.

TIBETAN INTELLECTUAL 'UNRECOGNIZABLE' AFTER PRISON TERM

Jigme Gyatso, a 28-year Tibetan intellectual and former monk, was released from prison on April 17, 2013, in very poor health. His condition remains weak and his eyesight badly damaged due to the torture and hard labor he was subjected to in prison. He also suffers from kidney damage and back problems as a result of his imprisonment.

A Tibetan who visited Jigme Gyatso in person after he was released said, "We grew up together in the same hometown and monastery, and yesterday I could not recognize Jigme Gyatso, due to his deteriorated health condition, and during our conversation, I could tell his mental health is not as good as it was before."

Jigme Gyatso was arrested in October 2011, by the Public Security Bureau in Tsoe City, Kanlho (Chinese: Gannan) Tibetan Autonomous Prefecture, Gansu province. He was sentenced to three years imprisonment on January 14, 2012 by the Intermediate People's Court in Tsoe City. He was accused of visiting Tibetan areas, including Rebkong, and encouraging students to protest against government policies regarding the use of Tibetan language in the region. In addition, the Kanlho Public Security Bureau detained two of Jigme Gyatso's close friends and took them to the provincial capital of Lanzhou for interrogation, before releasing them two weeks later.



Jigme Gyatso was born in Keyesen township, Yugan (Chinese: Henan) Mongolian Autonomous County, Malho (Chinese: Huangnan) Tibetan Autonomous Prefecture, Qinghai province. He joined Labrang monastery in 1995 and began studying Tibetan Buddhism, later joining the Labrang Buddhist Institute of Gansu province in August 2006, graduating in 2010 with a concentration in Tibetan education. He has published articles in numerous newspapers and magazines on various topics, however since 2008, Jigme Gyatso, as well as many other Tibetan writers, turned his attention to strongly expressing support for the freedom and human rights of the Tibetan people, and wrote critically of Chinese policies in the region.

Jigme Gyatso, nicknamed 'America,' disrobed and left the clergy in 2010 and joined a local song and dance group called 'Kelsang Metak Song and Dance Troupe', and travelled to a number of places across Tibet for performance before his arrest. He also wrote about several Tibetan political prisoners via social media and articles.

TORTURE LEAVES MONK WITHOUT USE OF HIS HAND AFTER AUTHORITIES FOUND PHOTOS OF DALAI LAMA

Namgyal Tseltrim, a Tibetan Buddhist monk, was released from prison in Lhasa on May 11, 2013, after spending nearly eight months in detention without formal arrest, charges, or sentencing. During his detention, he suffered severe torture, which left him without the use of his right hand.^[41]

Namgyal Tseltrim, a monk at the historic Tsenden monastery in Nagchu prefecture, Tibet Autonomous Region, was initially detained from the monastery on October 6, 2012, by the local Public Security Bureau (PSB). According to a Tibetan source from the region, authorities found photos of the Dalai Lama, along with DVDs of Buddhist teachings by the Dalai Lama, in Namgyal Tseltrim's residence at the monastery. Authorities subsequently accused Namgyal Tseltrim of "separatism". After approximately five months of torture and interrogation at the local PSB station and Nagchu, Namgyal Tseltrim was transferred to Toelung detention facility in Lhasa municipality, where he was further interrogated and held without charge for nearly three months.

Namgyal Tseltrim was born in the Kham region of Tibet, in Yala township, Sog (Chinese: Suo) county, Nagchu (Chinese: Naqu) prefecture, Tibet Autonomous Region. His monastery, Tsenden monastery, located in Sog county, dates back nearly 350 years. It was founded by the 5th Dalai Lama, Ngawang Lobsang Gyatso, and closely resembles that of the Potala Place in its design. The monastery was destroyed during the Cultural Revolution (1966-1976), and was rebuilt by the local Tibetan community in the mid-1980s.

Namgyal Tseltrim remains under close surveillance by authorities, and is required to register with the local police department every month.

TIBETAN MONKS TORTURED AND IMPRISONED, ACCUSED OF MAKING COPIES OF TIBETAN FLAG

On June 6, 2008, amidst a wave of peaceful protests that was sweeping across the Tibetan plateau, three Tibetan monks from a local monastery in Draggo (Chinese: Luhuo) county, made copies of the banned Tibetan national flag and began distributing them in Draggo county town. The three monks, Tsewang Dakpa, Thupten Gyatso, from Tawu (Chinese: Dawu) county, Kardze TAP, and Shangchup Nyima, from Dzato (Chinese: Zaduo) county, Yushu (Chinese: Yushu) TAP, Qinghai province, were arrested by local security forces and accused of conducting "separatist activities." The three were detained and interrogated for one month in Draggo prison, where one local visitor confirmed that the three were beaten and tortured during interrogation.

The monks were then transferred to Dartsedo (Chinese: Kangding) county, where they were detained for another month before the Kardze Intermediate People's Court in Dartsedo county town sentenced them on August 23, 2008. Tsewang Dakpa was given a five year prison term, while Thupten Gyatso received four years, and Shangchup Nyima was sentenced to three years, respectively. Sources in Tibet believe that Thupten Gyatso and Shangchub Nyima were released in 2011 and 2012, when their respective sentences were up, but this could not be confirmed.

Tsewang Dakpa was released from Mianyang prison in 2013.

MONKS STILL IN 'CRITICAL CONDITION' AFTER IMPRISONMENT

Monks Lobsang Ngodrup, 34, and Soepa, 36, from Sershul county (Chinese: Shiqu) Kardze (Chinese: Ganzi) Tibetan Autonomous Prefecture, Sichuan province, the Tibetan area of Kham, were released from prison on March 10, 2013, five years after participating in what became the beginning of the largest wave of Tibetan protests in 50 years.

Both Lobsang Ngodrup and Soepa remain in critical condition due to the torture and harsh interrogation they endured in prison. Lobsang Ngodrup is currently seeking treatment at a hospital in Xining, the capital of Qinghai province, while Soepa continues to suffer psychological trauma while living at his monastery in Sershul.^[42]

Lobsang Ngodrup and Soepa were among 14 Tibetans detained in a demonstration in front of the Jokhang temple in Lhasa, protesting in response to the government's security crackdown on a peaceful Tibetan protest held earlier that day, March 10, 2008.

The Lhasa Intermediate People's Court later sentenced those 14 to varying prison terms. Lobsang Ngodrup and Soepa were both sentenced to five years imprisonment on charges of "separatism" and incarcerated at Chushur prison, the main detention center for political prisoners in the Tibet Autonomous Region. Lobsang Ngodrup is a monk from Bon monastery and Soepa is a monk from Mange monastery in Sershul county. At the time of their arrest, both monks were in Lhasa to study at Sera monastery, one of the three main monasteries located in Lhasa, along with Drepung and Ganden.

Following their release, Lobsang Ngodrup and Soepa were returned to their home area in Sershul county, Sichuan province, under police escort. Shortly afterwards, Soepa was detained by police in Sershul county for four days, and later again in Chengdu, the capital of Sichuan province, for a week, requiring Soepa's family to appeal to authorities for his release. Both Lobsang Ngodrup and Soepa were required to register with officials from the local United Front Work Department.

Two other Tibetans who were among the 12 sentenced along with Lobsang Ngodrup and Soepa are known to be still in prison. Sonam Dakpa, a monk, and Dashar, a layperson, were sentenced to 10 years imprisonment on the same charges as Lobsang Nyedup and Soepa, and are currently serving their sentences in Chushur.

HUNDREDS OF LOCALS WELCOME MONK KNOWN FOR DEFENSE OF RELIGION AND CULTURE AFTER RELEASE

Hundreds of local Tibetans welcomed monk Sungrab Gyatso home on May 21, 2013, following his early release from a three-year prison sentence following involvement in peaceful protests and promotion of Tibetan language and culture.

Sungrab Gyatso, a Tibetan Buddhist monk and editor of a Tibetan-language newspaper called 'The Path of Hope', was likely to have been granted an early release from Dingxi prison in Gansu province due to fears that he might die in prison following severe torture during his detention, according to Tibetans in exile.

He had been serving a three-year prison sentence after authorities accused him of organizing and participating in peaceful protests in 2008 and 2010 in his home area of Machu (Chinese: Maqu) county, Kanlho (Chinese: Gannan) Tibetan Autonomous Prefecture (TAP), Gansu province.^[43]

Sungrab Gyatso faced severe torture during his detention, causing health complications, including kidney damage. It is common for prison authorities to release prisoners with severe health difficulties in order to avoid the prisoner's death while in their custody.

Sungrab Gyatso was arrested on August 20, 2010 by Public Security Bureau (PSB) officials and held in detention in Tsoe (Chinese: Hezuo) City, Gannan TAP, where he was interrogated and tortured for nearly two months. On October 16, 2010, the Gannan People's Intermediate Court sentenced him to three years imprisonment.

Sungrab Gyatso had been detained two previous times, both during the widespread security crackdown that followed the wave of overwhelmingly peaceful Tibetan protests in 2008. On March 17, 2008, he was detained by the Kanlho TAP Public Security Bureau for one week, and held without charge before being released. Nearly a month later, on April 18, 2008, he was detained in Barkham (Chinese: Ma'erkang) county, Ngaba (Chinese: Aba) TAP, Sichuan, before being released several weeks later, again without charge.

Sungrab Gyatso had been active in efforts to promote the use of the Tibetan language, including teaching Tibetan language classes to local children who were previously unable to attend school in Mura township.

Sungrab Gyatso, 37, was born in Mura township, Machu (Chinese: Maqu) county, Kanlho TAP. He is a monk at Mura monastery (also known as Mura Samten Chokorling monastery).

MONK BLIND IN ONE EYE AFTER IMPRISONMENT FOLLOWING PROTESTS IN NGABA

Tenpa Gyatso was welcomed home by a large crowd of Tibetans on March 29, 2013, upon release from a five-year prison sentence after local authorities accused him of being an organizer of a protest in Ngaba on March 16, 2008.

Tenpa Gyatso, a monk from Taktsang Lhamo Kirti monastery, suffered torture and abuse during weeks of interrogation following the protests against Chinese rule by local people and monks on March 16, 2008, in Ngaba (Chinese: Aba) county town, Ngaba Tibetan and Qiang Autonomous Prefecture, Sichuan province.

The Ngaba Intermediate People's Court in Barkham (Chinese: Ma'erkang) county town sentenced Tenpa Gyatso to five years imprisonment on March 29, 2008, which he served in Mianyang prison, outside Chengdu, the capital of Sichuan province. Today, Tenpa Gyatso is nearly blind in one eye due to mistreatment during his detention and imprisonment.

On March 16, 2008, a large crowd of Tibetans had taken to the streets in Ngaba county town, calling for the return of the Dalai Lama and for him to live a long life. At least 10 Tibetans – including a 16-year old schoolgirl, Lhundup Tso – were shot dead when police opened fire on the protestors.

In the crackdown that followed, numerous monks and laypeople were detained, including Tenpa Gyatso. Most were released after a few weeks or months in detention. In addition to Tenpa Gyatso's five-year prison sentence, however, two Taktsang Lhamo Kirti monks, named Kunchok Dakpa and Kunchok Tsultrim, were sentenced to three years imprisonment. They were released in 2011, also from Mianyang prison.

Tenpa Gyatso, age 32, was born in Upper Shangsa village, Akyi township, Dzoege (Chinese: Ru'ergai) county, Ngaba TAP, Sichuan.

TIBETAN HELD FOR YEAR WITHOUT CHARGE AFTER POLICE RAID IN WHICH BROTHERS KILLED

Yonten Sangpo was released on April 21, 2013, after being detained for more than a year without charge after a police raid on his home. In February, 2012, police raided his home and shot his two brothers dead, injuring Yonten Sangpo, his mother and children.^[44] According to Tibetan sources, Yonten Sangpo was threatened with life imprisonment and even execution while in detention before his release.

Officials had conducted the raid while looking for organizers of a protest held earlier in Draggo (Chinese: Luhuo) county, Kardze (Chinese: Ganzi) Tibetan Autonomous Prefecture, Sichuan. Exemplifying the extra-judicial punishment Tibetans are routinely subjected to, Yonten Sangpo was held for over a year without charge, and continues to struggle with severe jaw and spine injuries he suffered during the raid.

Long-serving political prisoners released in 2013

LOBSANG TENZIN

On May 4, 2013, Lobsang Tenzin, one of the most high-profile Tibetan political prisoners, was released from Chushur prison in Lhasa. After 25 years in detention, he was Tibet's longest current serving political prisoner at the time of his release.

Originally from the Tibetan capital of Lhasa, Lobsang Tenzin was a student at Tibet University when on March 5, 1988, he participated in a large-scale protest. Amidst the response to the protest by security personnel, a police officer fell from a window and died. Government officials eventually charged Lobsang Tenzin, along with four other Tibetans, with pre-meditated murder in the officer's death and was sentenced to death with a two-year reprieve in January 1989. Lobsang Tenzin's sentence was eventually commuted to 20 years imprisonment in April 1993.

While in prison, Lobsang Tenzin faced severe punishment and torture. In 1991, while interred at Lhasa's infamous Drapchi prison, then the main detention center for political prisoners in the Tibet Autonomous Region, Lobsang Tenzin and his friend Tenpa Nyindak, attempted to pass on a letter to the visiting US Ambassador, James Lilly. When discovered by the authorities, the two men were severely tortured, beaten, and transferred to another prison. In all, Lobsang Tenzin served his 25-year sentence at six different prison facilities in the Tibet Autonomous Region.

Now 47-years old, Lobsang Tenzin is believed to be in poor health after years of abuse and neglect while in prison.^[45]

JIGME GYATSO

One of Tibet's longest-serving political prisoners, Jigme Gyatso, was released from prison on March 31, 2013, after 17 years. Images received from Tibet show Tibetans waiting to receive him with khatags (white blessing scarves) to indicate respect and welcome him back to his home area in the Tibetan area of Amdo following his release. He was described as "very weak" upon arrival back to Sangchu (Chinese: Xiahe) county in Gansu province's Kanlho (Gannan) Tibetan Autonomous Prefecture, where he had been a monk at Labrang Tashikyil monastery before his imprisonment in 1996. There are now serious concerns for his health, which is believed to be critical, and his psychological well-being.^[46]

During his imprisonment, the former monk endured severe torture on several occasions. Originally sentenced to 15 years on November 23, 1996, Jigme Gyatso received the longest sentence of a group of five Tibetans who carried out various acts of peaceful resistance, including putting up a Tibetan national flag at Ganden monastery and raising the issue of Tibetan independence. The sentencing document issued by the Lhasa Intermediate People's Court makes it clear that Jigme Gyatso was regarded by the Chinese authorities as the ring-leader. At the time of his arrest in March 1996, he was running a restaurant in Lhasa after leaving Ganden monastery.

When he was first detained in March 1996, he was held at Gutsa detention center in Lhasa prior to his sentencing. A friend of Jigme Gyatso's who is now in exile told ICT: "Jigme Gyatso was severely tortured at Gutsa. He was held in a dark room, separate to about 17 other Tibetans who were detained at the same time. He was kept in heavy shackles."

The same Tibetan source said that during his initial detention, Jigme Gyatso managed to smuggle out a letter to a comrade saying that he was likely to receive a long prison sentence, but that he had no regrets. He referred to the 10th Panchen Lama's long prison sentence and others who had served terms in jail for freedom, including the South African civil rights leader Nelson Mandela. When prison officials discovered that he had sent this letter, Jigme Gyatso was beaten.

In September 1997, security personnel from his home area came to interrogate him and tortured him so severely that he was reportedly unable to move for several days. He also endured torture together with all other political prisoners in Drapchi, following protests coinciding with the visit of a European Union delegation of Beijing-based ambassadors from three different European countries to the prison in May 1998. Jigme Gyatso reportedly sustained head wounds during the beatings in the aftermath of the protests on May 1 and 4 1998.

He was severely kicked and beaten, including with electric batons, following an incident in March 2004 in which he shouted: "Long live the Dalai Lama," for which he received a sentence extension. In 2006, he was hospitalized and was unable to walk properly due to an injury apparently incurred through torture. There were fears for his life in 2007 after he spoke about prison conditions on a rare visit by the then UN Special Rapporteur on Torture Manfred Nowak to Chushur (Chinese: Qushui) prison in Lhasa where he was being held. Dr. Nowak had been the first official international observer to visit Chushur; he noted that in the prison there was a "palpable level of fear and self-censorship" and called for Jigme Gyatso's release.

Jigme Gyatso, now in his early 40s, was born in Tara village of Gangya township, Sangchu county, Kanlho Tibetan Autonomous Prefecture, Gansu province. He became a monk at the age of 21 at Labrang Tashikhyil Monastery in Gansu, before transferring to Ganden monastery in Lhasa. In 1985 he travelled into exile and studied at Drepung monastery in the south of India, before returning to Tibet.

LODOE GYATSO (Sogkar Lodoe)

After serving over 20 years in prison that included long-term torture and physical abuse, authorities released Lodoe Gyatso from Chushur prison on May 3, 2013. Lodoe Gyatso's case became a cause for international concern after authorities called for him to be executed after he and other inmates in Lhasa's infamous Drapchi prison staged a large-scale peaceful demonstration on March 4, 1995.

Lodoe Gyatso, age of 52, was born in Tsatak township, Sog (Chinese: Suo) county, Nagchu (Chinese: Naqu) prefecture, Tibet Autonomous Region (TAR). At the time of the Drapchi protest, Lodoe Gyatso was serving a 15-year sentence after an altercation in which he was attacked by another Tibetan in January 1993, resulting in the other man's death.

While in prison, Lodoe Gyatso met a number of Tibetans who had been convicted for political crimes. Together, they held a peaceful protest in which they shouted slogans calling for Tibetan independence and the unity of the Tibetan people across the country, as well as for the long life of the Dalai Lama. The prisoners distributed over 200 hand-written leaflets before authorities mobilized a severe crackdown. Prison officials accused Lodoe Gyatso of being the main organizer of the protest and appealed to the TAR Intermediate People's Court in Lhasa to sentence Lodoe Gyatso to death. News of the possible execution sparked international pressure, including by the then UN High Commissioner for Human Rights, leading Chinese authorities to hand down a suspended death sentence that resulted in a six-year prison extension.

Despite his release, serious concerns remain for Lodoe Gyatso's health as a result of the torture he received in prison. The long-term physical abuse to which Lodoe Gyatso was subjected included a month-long confinement to a small, dark, solitary cell, during which authorities subjected him to daily interrogation and torture. The methods authorities used included hanging him in the air by his thumbs, resulting in permanent damage.

DAWA GYALTSSEN

Dawa Gyatsen, age 47, was released from prison toward the end of March 2013, after he served nearly 16 years in prison on political charges related to the distribution of pro-Tibetan independence materials. Tibetans from the area and other sources confirm that Dawa Gyaltzen is now disabled, having lost the use of one of his legs due to the effects of long-term hard labor and abuse, and suffers from mental anguish from the trauma he endured during his 16 years in prison.

Dawa Gyaltzen, who was born in Nagchu (Chinese: Naqu) county, Nagchu prefecture, Tibet Autonomous Region, was an accountant at a local bank in Nagchu county when in March 1995, he and other Tibetans staged a protest against Chinese policies in Tibet. He was detained and interrogated for two months before being released. Dawa Gyaltzen was later formally arrested in May 1997, and sentenced to 18 years imprisonment by the Nagchu Intermediate People's Court on July 18, 1997. His sentence was later reduced in 2002 and 2004 by a total of 25 months.

Dawa Gyaltzen's brother, Nyima Dhondup, a monk who also goes by the name of Tenzin Dorjee, was also detained in connection with the pro-independence materials and sentenced to a thirteen year prison sentence.

Dawa Gyaltzen served his sentence at several prisons in Tibet, including Drapchi prison, Chushur prison, Gutsa prison, and a prison in Nagchu prefecture, where he was released from at end of March, 2013.

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- **Download this report as a PDF (A4)** » (<http://www.savetibet.org/wp-content/uploads/2015/02/torture-and-impunity-A4.pdf>)

Footnotes

[1] Tendar's case is documented in this report and also in International Campaign for Tibet, May 21, 2009: "Deaths of two Tibetans after torture";

[2] International Campaign for Tibet, August 19, 2014: "Tibetans with wounds after shooting denied medical treatment: deployment of military leads to mass detentions in village in Kham";

[3] China is a signatory to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (commonly known as the United Nations Convention against Torture);

[4] The UN Convention Against Torture is an international human rights treaty under the review of the United Nations, that aims to prevent torture and cruel, inhuman degrading treatment or punishment around the world. The Convention against Torture defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession." (Art. 1). It may be "inflicted by or at the instigation of or acquiescence of a public official or other person acting in an official capacity." International law also prohibits mistreatment that does not meet the definition of torture, either because less severe physical or mental pain is inflicted, or because the necessary purpose of the ill-treatment is not present. It affirms the right of every person not to be subjected to cruel, inhuman or degrading treatment. The Convention requires states to take effective measures to prevent torture within their borders, and forbids states to transport people to any country where there is reason to believe they will be tortured. The text of the Convention was adopted by the United Nations General Assembly on December 10, 1984, and, following ratification by the 20th state party, it came into force on June 26, 1987;

[5] Amendments to the Criminal Procedure Law, which took effect from January 1, 2013, incorporated into Chinese national law the requirement to exclude confessions obtained through torture. Association for the Prevention of Torture, January 13, 2013, http://www.ap.t.ch/en/news_on_prevention/china-banning-confessions-obtained-through-torture/#.VDVO_yldXvM (http://www.ap.t.ch/en/news_on_prevention/china-banning-confessions-obtained-through-torture/#.VDVO_yldXvM) ;

[6] The prohibition against torture in international law as well as cruel, inhuman or degrading treatment is not limited to acts causing physical pain or injury. It includes acts that cause mental suffering, for instance through threats against family or loved ones.

[7] Numerous international agreements address a prisoner's right to health, including the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (<http://www.un.org/documents/ga/res/43/a43r173.htm> (<http://www.un.org/documents/ga/res/43/a43r173.htm>)), which stipulates that state authorities shall provide medical care and treatment to detainees "whenever necessary." According to the Standard Minimum Rules for the Treatment of Prisoners, "sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals." (http://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf (http://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf)). According to analysis by the Congressional-Executive Commission on China, Chinese laws and rules provide for, but only give vague guidance regarding, releasing detainees to receive medical care. A CECC report states: "Article 65(3) of the PRC Criminal Procedure Law (Chinese, <http://www.cecc.gov/resources/legal-provisions/criminal-procedure-law-of-the-peoples-republic-of-china> (<http://www.savetibet.org/the-international-campaign-for-tibets-statement-on-the-shugden-demonstration-in-washington-d-c/>)) and Article 77(3) of the Security Agency Rules for Handling Criminal Cases provide for bail 'guarantee pending further investigation' for 'those who have a serious illness and cannot care for themselves' if it does not "endanger society." (CECC report, April 2, 2014, <http://www.cecc.gov/publications/commission-analysis/inadequate-medical-care-for-cao-shunli-before-her-death-contradicts> (<http://www.cecc.gov/publications/commission-analysis/inadequate-medical-care-for-cao-shunli-before-her-death-contradicts>));

[8] International Campaign for Tibet, August 28, 2014: "Chinese police officer dies after Kardze shooting; pregnant wife of Tibetan killed commits suicide";

[9] For instance, following the shooting at Draggo, Kardze, eastern Tibet, see International Campaign for Tibet, January 23, 2012: "Three Tibetans shot dead on first day of Chinese New Year";

[10] See International Campaign for Tibet, March 2009: "A Great Mountain Burned by Fire: China's Crackdown in Tibet";

[11] Also see International Campaign for Tibet, , August 2008: "Tibet at a Turning Point";

[12] The Committee of the UN Convention against Torture recognized that China has yet to establish effective mechanisms to receive torture complaints, investigate them and prosecute and punish perpetrators. It has expressed concern about the absence of a uniform and effective investigation mechanism to examine allegations of torture. The Committee recommended that China ensure the prompt, thorough, effective and impartial investigation of all allegations of torture. Report by Human Rights in China, July 19, 2000, <http://www.hrichina.org/en/content/4799> (<http://www.hrichina.org/en/content/4799>) ;

[13] In some cases, compensation is given. In an example of the culture of impunity, a Tibetan man in his twenties was beaten to death by police in December, 2011, after he was stopped for driving a motorbike in the town of Labrang (Chinese: Xiahe) in Gansu, eastern Tibet. The family was compensated with a large fee from the local authorities after strong representations were made by senior monks from Labrang Tashikyil monastery and people from the Tibetan's village who traveled to Labrang following news of his death on the night of December 9. International Campaign for Tibet, December 15, 2011: "Tibetan beaten to death by police in Labrang";

[14] China Internet Information Center, March 2001: "Law Assures Fight Against Torture in China", <http://www.china.org.cn/english/2001/Mar/8387.htm> (<http://www.china.org.cn/english/2001/Mar/8387.htm>) ;

[15] Section 7, Article 54 of the Criminal Law of the People's Republic of China: <http://www.china.org.cn/english/government/207319.htm> (<http://www.china.org.cn/english/government/207319.htm>) ;

[16] Tendar's case is documented in this report and also in International Campaign for Tibet, May 21, 2009: "Deaths of two Tibetans after torture";

[17] "Fire Under The Snow" by Palden Gyatso with Tsering Shakya, Harvill, 1997;

[18] High Peaks Pure Earth, September 3, 2009: "VOA: Video Testimony of Labrang Monk Jigme"; Labrang Jigme is now back in prison and serving a five-year sentence;

[19] These cases are detailed below and in International Campaign for Tibet, May 21, 2009: "Deaths of two Tibetans after torture";

[20] International Campaign for Tibet, July 29, 2014: "An interview with Golog Jigme, respected monk and 'Information Hero' after his daring escape from Tibet";

[21] From "A Hundred Thousand White Stones: An Ordinary Tibetan's Extraordinary Journey" by Kunsang Dolma, Wisdom Publications, 2013;

[22] If so, this would contravene a resolution passed by the UN General Assembly in 1974 on Principles of Medical Ethics. While not legally binding on its own, the resolution recognized and emphasized a pre-existing rule of international law—that nobody is allowed to participate in torture. The resolution emphasized that medical professionals should not use their unique knowledge or position to facilitate torture. The full document is at: <http://www.un.org/documents/ga/res/37/a37r194.htm>; (<http://www.un.org/documents/ga/res/37/a37r194.htm>)

[23] Tibetan Centre for Human Rights and Democracy, March 31, 2014: "defiant note after untimely death";

[24] Tibetan Centre for Human Rights and Democracy (TCHRD), March 31, 2014: "Goshul Lobsang tortured with pain inducing injections, leaves a defiant note after untimely death";

[25] The information in this account is based on details from Tibetans who knew Goshul Lobsang;

[26] For an image of the flag flying above the tent, see TCHRD, *ibid.*;

[27] Radio Free Asia report in Tibetan, <http://www.rfa.org/tibetan/otherprograms/newsanalysis/former-political-prisoner-norlha-died-in-lhasa-01092012110750.html> (<http://www.rfa.org/tibetan/otherprograms/newsanalysis/former-political-prisoner-norlha-died-in-lhasa-01092012110750.html>) ;

[28] Radio Free Asia report in Tibetan, <http://www.rfa.org/tibetan/otherprograms/newsanalysis/tibetan-political-prisoner-died-in-lhasa-hospital-03252011105923.html> (<http://www.rfa.org/tibetan/otherprograms/newsanalysis/tibetan-political-prisoner-died-in-lhasa-hospital-03252011105923.html>) ;

[29] TCHRD, December 7, 2009: "Kardze nun protestor died under mysterious circumstances in Chengdu Hospital";

[30] TCHRD, *ibid.*;

[31] The monastery is on the road to Sera monastery, Lhasa;

[32] International Campaign for Tibet, August 2008: "Tibet at a Turning Point", for a detailed account of the protests in Lhasa;

[33] The death was reported on Radio Free Asia in Tibetan: <http://www.rfa.org/tibetan/sargyur/a-drepung-monastery-monk-dies-in-prison-09032009224931.html> (<http://www.rfa.org/tibetan/sargyur/a-drepung-monastery-monk-dies-in-prison-09032009224931.html>) ;

[34] Radio Free Asia report, January 30, 2009: "Tibetan Youth Dies in Custody";

[35] *Ibid.*;

[36] Details of Ngawang Jampel's death are from Tibetan sources from Driru who are now in exile;

[37] The Tibetan exile website www.phayul.com recently reported the release from prison of a Tibetan political prisoner called Tsering Lhagon from Sog, Nagchu (Chinese: Naqu) in the Tibet Autonomous Region, who was sentenced in the same case. Ngawang Tharpa, a Tibetan in exile with close contacts of the region, said that Tsering Lhagon had been released on March 23 (2014) after serving 15 years in prison. (Phayul.com, April 5, 2014, <http://www.phayul.com/news/article.aspx?id=34772&t=1> (<http://www.phayul.com/news/article.aspx?id=34772&t=1>));

[38] International Campaign for Tibet, January 23, 2012: "Three Tibetans shot dead on first day of Chinese New Year";

[39] <https://www.youtube.com/watch?v=xiZL9zvQ3Sc>;

[40] Tibetans are sometimes known only by one name;

[41] According to Tibetan sources, and a report in the exile Tibetan newspaper Tibet Post, <http://www.thetibetpost.com/en/news/tibet/3493-monk-released-under-surveillance-after-eight-years-in-jail> (<http://www.thetibetpost.com/en/news/tibet/3493-monk-released-under-surveillance-after-eight-years-in-jail>) ;

[42] TCHRD report, April 15, 2013, <http://www.tchrd.org/2013/04/monk-hospitalized-another-has-lost-mental-stability-on-release-from-prison/> (<http://www.tchrd.org/2013/04/monk-hospitalized-another-has-lost-mental-stability-on-release-from-prison/>) ;

[43] Radio Free Asia report, April 28, 2013, <http://english.rfa.org/english/news/tibet/freed-05282013152809.html> (<http://english.rfa.org/english/news/tibet/freed-05282013152809.html>) ;

[44] Also see Radio Free Asia report, March 8, 2013, <http://www.rfa.org/english/news/tibet/wounded-03082012170750.html> (<http://www.rfa.org/english/news/tibet/wounded-03082012170750.html>) ;

[45] TCHRD report, May 3, 2013, <http://www.tchrd.org/2013/05/freedom-at-last-released-from-25-years-imprisonment-longest-serving-tibetan-political-prisoner-under-surveillance-2/> (<http://www.tchrd.org/2013/05/freedom-at-last-released-from-25-years-imprisonment-longest-serving-tibetan-political-prisoner-under-surveillance-2/>) ;

[46] ICT report, <http://www.savetibet.org/one-of-tibets-longest-serving-political-prisoners-released-after-17-years/> (<http://www.savetibet.org/one-of-tibets-longest-serving-political-prisoners-released-after-17-years/>) ;

Exhibit 10. Human Rights Watch, Excerpts from “Relentless: Detention and Prosecution of Tibetans Under China’s ‘Stability Maintenance’ Campaign.”



HUMAN
RIGHTS
WATCH

RELENTLESS

Detention and Prosecution of Tibetans Under China's
“Stability Maintenance” Campaign



Relentless

**Detention and Prosecution of Tibetans Under China's
“Stability Maintenance” Campaign**

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Relentless

Detention and Prosecution of Tibetans under China’s “Stability Maintenance” Campaign

Map of China	i
Summary	1
Recommendations.....	6
To the Government of China	6
To the United Nations.....	6
To Concerned Governments.....	7
Methodology.....	8
I. “Stability Maintenance”	13
Public Security Spending in Tibet	15
Stability Maintenance in the TAR	17
Stability Maintenance in the Eastern Tibetan Areas.....	21
Stability Maintenance and the Legal System.....	23
II. Activities and Ideas Targeted by Chinese Authorities	29
Drivers of Dissent.....	35
III. The Criminalization of Sympathy	40
IV. Protests and Shootings	48
Changes in Use-of-Force Rules?	50
Village and Community Leaders	53
A New Type of Protest: Support for Detained Community Leaders.....	57
V. Sentencing	59
Trial Rates: The Likelihood of Prosecution.....	59
Local Variations	63
Length of Sentences.....	64
Official Sentencing Records and “Elastic Sentencing”	70

VI. Shift of Dissent to Rural Areas	74
Emergence of Protest “Cluster Sites”	76
VII. Eyewitness View: The Trial of the Abbots of Karma Gon.....	81
Acknowledgments.....	86

Stability Maintenance and the Legal System

The abuses described in this report violate China's obligations under international human rights law. They also appear to violate Chinese domestic legislation and the constitution of the People's Republic of China (PRC).⁴¹ Article 35 of China's constitution guarantees "freedom of speech, of the press, of assembly, of association, of procession and of demonstration." Article 36 of the constitution, along with article 11 of the Law on Regional National Autonomy, obligate the government to respect "freedom of religious belief." Article 238 of the Criminal Law and article 37 of the constitution explicitly prohibit unlawful detention. Criminal Procedure Law articles 33 and 37 ensure a suspect's immediate access to and communication with a defense lawyer. Under article 37 of the United Nations Convention on the Rights of the Child, which China has ratified, the detention and incarceration of children can only be in accordance with the law and as "a measure of last resort" for the shortest appropriate time, and children deprived of liberty are to be separated from adults. These protections are chronically violated in practice, with little accountability, especially for members of the security apparatus responsible for abuses. In 2015, new national security and anti-terrorism laws were enacted that contain vague and overly broad provisions which will make it easier to prosecute people in violation of their rights to freedom of expression and religion, among others.

In Tibetan areas within China and particularly in the TAR, there are further and more stringent limitations on the rights recognized in Chinese domestic law. Many of these additional limitations stem from the perceived threat of a "splittist" or pro-independence movement among Tibetans that Chinese officials say is orchestrated by the exiled Dalai Lama. This claim was first made in the late 1980s and has been repeated intensively since the 2008 protests. It is seen as justifying the use of police and courts in a wide range of legal or quasi-legal operations against people or groups viewed as supporting Tibetan independence, although the connection is often indirect or suppositional. The authorities routinely treat nonviolent expression of opinion and actions by Tibetans unrelated to Tibet's legal or political status as "hidden" or indirect forms of criminal separatist activity.

TAR Party Secretary Chen Quanguo's December 2013 statement demonstrates how the constant invocation of unspecified threats associated with the Dalai Lama has been used

⁴¹ Constitution of the People's Republic of China, 2004, http://www.npc.gov.cn/englishnpc/Constitution/node_2825.htm.

to present security initiatives as necessary legal operations to defend society and the state:

We have followed the law in striking out and relentlessly pounding at illegal organizations and key figures, and resolutely followed the law in striking at the illegal organizations and key figures who follow the 14th Dalai Lama clique in carrying out separatist, infiltration, and sabotage activities, knocking out the hidden dangers and soil for undermining Tibet's stability, and effectively safeguarding the state's utmost interests [and] society's overall interests.⁴²

This approach is associated with the introduction of major policy approaches in China known as “social management,” “social rectification,” and “preventive control” that required officials to shift the focus of security policy to “preventive” approaches to policing. This shift in emphasis was particularly prominent in Tibetan areas, as indicated in the 2013 annual work report of the TAR Higher People's Court, which stated the need to “innovate new methods of social management and engage fully in the core work of stability maintenance, so as not to give any opportunity to the separatists and to ensure continuous long-term and comprehensive security in society.”

These methods include formal detention of individuals deemed likely to commit an offense in the future, even if they had not carried out an offense so far, as well as the use of informal or extralegal detention of people who had not committed a formal offense in order to give them “legal education.” This happened in early 2012 when an estimated 2,000-3,000 Tibetans were detained and given various forms of political re-education for two to three months in schools, hotels, army camps, and other ad hoc premises after returning from religious teachings given by the exiled Dalai Lama in India.⁴³ In March 2015, TAR leader Gonpo Tashi appeared to refer to such measures when he advised a meeting on

⁴² Chen Quanguo, “Innovate Social Management System, Ensure Society's Lasting Peace and Order (Studying and Implementing the Guidelines of Third Plenary Session of 18th CPC Central Committee),” *Renmin Ribao*, December 13, 2013, p. 7.

⁴³ “China: End Crackdown on Tibetans Who Visited India,” Human Rights Watch news release, February 16, 2012, <http://www.hrw.org/news/2012/02/16/china-end-crackdown-tibetans-who-visited-india>.

stability maintenance work to “strengthen the detention of key individuals ... in order to do a good job of ideological education and guidance.”⁴⁴

The association of preventive policing in Tibet with campaigns against support for the Dalai Lama was shown in the 2016 report of the procuracy in the TAR on its work and achievements during the previous year. The report focused on the success of the procuracy in having countered “covert conspirators,” threats “at the root,” communication channels leading to plots, and rumors:

With respect to preventive methods, the targeted nature of the anti-splittist struggle was uninterruptedly stepped up, [and] rectification, coordination, and vigilance were spontaneously carried out at all times, so that the struggle against self-immolation and conspiracy was fought deeply, and conditions harmful to stability were able to be eliminated at the root.

The smashing of various illegal organizations was strengthened, covert conspirators and organizers were thoroughly exposed, and their internal organizational systems and external channels of collusion were eradicated. Giving high importance to the solution of important cases, a group of important cases was solved. The use of religion to commit splittist crimes, the creation of rumors, and harming overall stability were resolutely smashed.⁴⁵

The use of the courts to suppress protests was even more marked in the eastern Tibetan areas. From December 2012, following a new legal ruling by China’s Supreme Court, the charge of “intentional homicide” was used against those accused of involvement in self-immolation protests, including those said to have encouraged self-immolation or to have assisted a victim after self-immolation. In 2013, according to Chinese authorities, 33

⁴⁴ “གཞི་རྩེ་གྲོང་ཁྱེར་གྱིས་བཞུགས་པའི་གྲོང་ཁྱེར་གྱི་མཉེན་རྒྱུ་ལྷན་ཁྲིམས་འདུ་འཚོགས་པ།” (“Gzhi rtse grong khyer gyis brtan lhing srung skyong las don gyi snyan zhu’i tshogs ‘du ‘tshogs pa,” “The Shigatse Municipality stability maintenance work report meeting was held”), *China Tibet News*, March 23, 2015, http://tb.chinatibetnews.com/sylm/syyw/201503/t20150323_354487.html.

⁴⁵ “བོད་རང་སྐྱོང་ལྗོངས་མི་དམངས་ཞིབ་དཔྱད་ཁང་གི་ལས་དོན་ལྷན་ཁྲིམས། (གནད་བསྐྱུལ) 2016 སྟེང་ཐད་པོའི་ཚུལ་29 ཉིན་བོད་རང་སྐྱོང་ལྗོངས་མི་དམངས་འཐུས་མི་ཚོགས་ཆེན་ཀླབས་བསུ་པའི་ཚོགས་འདུ་ཐེངས་བཞི་པའི་ཚོགས་” (“Bod rang skyong ljongs mi dmangs zhib dpyod khang gi las don snyan sgron, (gnad bsdus) 2016 lo’i zla dang po’i tshes 29 nyin bod rang skyong ljongs mi dmangs ‘thus mi tshogs chen skabs bcu pa’i tshogs ‘du thengs bzhi pa’i thog,” “The TAR People’s Procuracy work report (summary) delivered to the 4th session of the 10th TAR People’s Congress on January 29, 2016”), *China Tibet News*, March 2, 2016, http://tb.chinatibetnews.com/sylm/syyw/201603/t20160302_1096715.html.

people were formally arrested in Qinghai province alone for involvement in cases of “criminal self-immolation,” among whom 27 were convicted by the end of the year.⁴⁶

The Supreme Court Opinion on Self-Immolation Cases

A December 2012 opinion issued by the Supreme Court marked a new stage in the effort to bring self-immolations to an end. It stated that persons who “organize, direct, and plot [self-immolations], as well as those who actively participate in inciting, coercing, enticing, abetting, or assisting others to carry out self-immolations, will be held criminally liable for intentional homicide.”⁴⁷

The charge of intentional homicide in article 232 of the Revised Criminal Law had already been applied in an immolation-related trial in August 2011, over a year earlier. On that occasion, it was used against three Tibetan monks in Ngaba, Sichuan province who were said to have “plotted” or “assisted” in the protest. It was also alleged that after the immolation they “hid the injured monk and prevented emergency treatment.” The three monks were found guilty and sentenced to 10, 11, and 13 years in prison.

After the Supreme Court ruling was issued, the related charge of “inciting homicide” was used in numerous cases against those accused of less direct involvement in such protests. These included local monks, writers, community leaders, and bystanders who were accused of assisting or encouraging a self-immolator or of supporting the principle of self-immolating in some way.⁴⁸ Some exile reports claimed that those charged with inciting homicide may have only expressed personal sympathy with the families of people who had self-immolated.

⁴⁶ “青海省人民检察院工作报告—2014 年 1 月 22 日在青海省第十二届人民代表大会第三次会议上 青海省人民检察院检察长 王晓勇” (“Qinghai xing renmin jianchayuan gongzuo baogao—2014 nian 1 yue 22 ri zai Qinghai sheng di shi'er jie renmin daibiao dahui di san ci huiyi shang Qinghai xing renmin jianchayuan jiancha zhang Wang Xiaoyong,” “Qinghai Provincial People's Procuratorate work report—the third meeting of the Conference of the Twelfth People's Congress of Qinghai Province, on January 22, 2014 [by] Qinghai Provincial People's Procurator Wang Xiaoyong”), *Qinghai Ribao*, February 12, 2014, <http://news.12371.cn/2014/02/12/ART1392195834787799.shtml>.

⁴⁷ “Official Opinion Urges Criminal Prosecution of Persons Linked to Self-Immolations,” CECC, January 18, 2013, <http://www.cecc.gov/publications/commission-analysis/official-opinion-urges-criminal-prosecution-of-persons-linked-to;> “China Outlines Criminal Punishments for Tibetan Self-Immolations,” *Dui Hua Human Rights Journal*, December 5, 2013, <http://www.duihuahrjournal.org/2012/12/china-outlines-criminal-punishments-for.html>. For the original source in Chinese, see “我国将协助他人自焚行为定为故意杀人罪” (“Woguo jiang xiezhu taren zifen xingwei ding wei guyi sharen zui,” “China will treat others who assist in acts of self-immolation as intentional homicide”), *Gannan Ribao in Renmin Wang*, December 9, 2012, <http://politics.people.com.cn/n/2012/1209/c1001-19836846.html>; “煽动自焚者必将受到法律严惩” (“Shandong zifen zhe bi jiang shoudao falu yancheng,” “Incitement to self-immolation will be severely punished by law”), *Gannan Ribao*, December 3, 2012, <http://gn.gansudaily.com.cn/system/2012/12/03/013508017.shtml>.

⁴⁸ “Acts of Significant evil—the Criminalization of Tibetan Dissent,” International Campaign for Tibet, July 2014, <http://www.savetibet.org/acts-of-significant-evil/>; “China uses religious propaganda to counter Tibetan self-immolations,” TCHRD, March 20, 2013, <http://www.tchrd.org/china-uses-religious-propaganda-to-counter-tibetan-self-immolations/>.

Other legal charges used in many of the politicized trials since January 2013 include “endangering state security” or “jeopardizing social stability.”⁴⁹ The meanings of such charges are not defined precisely in Chinese law and can be widely used against any person suspected of dissent or even challenging an official. Article 83 of the 2012 revision of the PRC’s Criminal Procedure Law entitles the police to detain people incommunicado “in cases involving crimes of endangering state security or terrorist activity,” or when notifying relatives of an individual’s detention “has the potential to interfere with the investigation.”⁵⁰ Under such circumstances, legal assurances such as due process rights for detainees are effectively withdrawn.

Since at least mid-2014, officials have invoked terrorism with some frequency as a principal concern of “stability maintenance” work in the Tibetan context. For example, in July 2013, Deng Xiaogang, a senior Party and government official who oversees the police and judicial system in the TAR, told a meeting of the People’s Armed Police in Lhasa that they should remain “pioneers in the maintenance of social stability, fists against sudden incidents, and the edge of the knife against terrorism.”⁵¹ Yet there has been little indication of any credible terrorist threat in the area.⁵²

As in the rest of China, in Tibet there are very limited legal safeguards against wrongful detention or prosecution. The acquittal rate in criminal cases was less than 0.1 percent in 2014, and is believed to be lower still in cases with political implications.⁵³ Because of the repressive attitude taken by the authorities toward any Tibetan expression of dissent,

⁴⁹ Dui Hua noted a China-wide increase in indictments for endangering state security in 2013, but was unable to obtain a breakdown of the numbers of cases by province. Of the 31 cases that it identified from 2013, more than half were Tibetans implicated in self-immolation protests. See “State Security Indictments, Cult Trials Up in Xi Jinping’s 2013,” *Dui Hua Human Rights Journal*, January 7, 2015.

⁵⁰ “China’s New Criminal Procedure Law: ‘Disappearance Clauses’ Revised,” *Dui Hua Human Rights Journal*, March 19, 2012, <http://www.duihuahrjournal.org/2012/03/chinas-new-criminal-procedure-law.html>.

⁵¹ “西藏武警部队举行反恐维稳誓师大会 邓小刚出席并讲话” (“Xizang wujing budui juxing fankong *weiwen* shishi dahui dengxiaogang chuxi bing jianghua,” “TAR People’s Armed Police corps hold maintenance of social stability and anti-terror dedication conference, Deng Xiaogang presides and delivers speech”), July 1, 2013, *Tibet Daily*, <http://cpc.people.com.cn/n/2013/0701/c117005-22033230.html>.

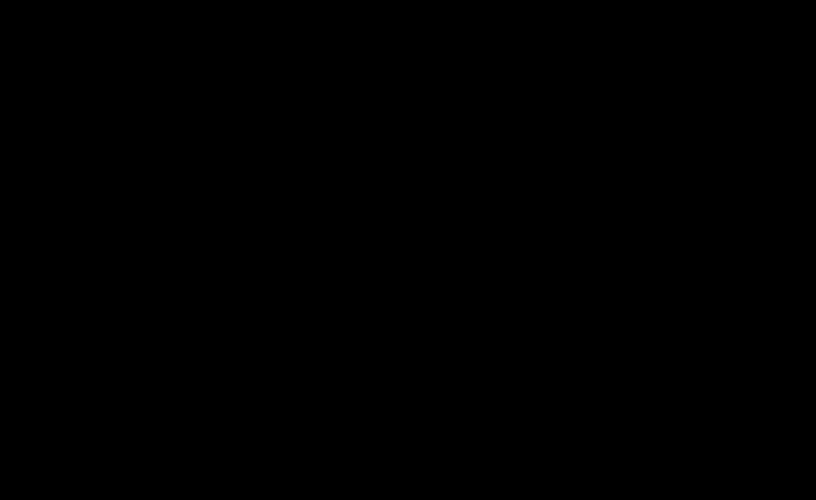
⁵² Officials in the TAR invoked the threat of “terrorism” from as early as 2004, although no incidents of terrorism are known in the region at that period. See *Lasa Wanbao*, November 4, 2004 in “China relaunches ‘Strike hard’ campaign to curb Tibetan dissidence and religion,” TCHRD, November 8, 2004, <http://www.tchrd.org/china-relaunches-strike-hard-campaign-to-curb-tibetan-dissidence-and-religion/>. About six incidents involving small explosions have been reported in eastern Tibetan areas since 2000, with one reported fatality.

⁵³ Terence McCoy, “China scored 99.9 percent conviction rate last year,” *Washington Post*, March 11, 2014, <http://www.washingtonpost.com/news/morning-mix/wp/2014/03/11/china-scored-99-9%-conviction-rate-last-year/>.

Tibetan defendants face additional difficulties in accessing the due process rights to which they are entitled under Chinese law. Judicial authorities have reportedly often ignored or blocked the right of Tibetan defendants to have independent legal representation in politicized cases.⁵⁴ We are aware of only one case during this period—that of the abbots of Karma Gon, discussed in Section VII and Appendix I—where Tibetan defendants had independent legal representation.

⁵⁴ For example, shortly after major protests in Ngaba prefecture, Sichuan province, local judicial authorities told lawyers at a meeting on April 29, 2008, that “all legal personnel should ... strengthen their attitude for the struggle against separatism in defense of the political stability in Aba prefecture.” See Aba Prefecture People’s Government’s Official Website (中国阿坝网, Zhongguo Aba wang), www.abazhou.gov.cn, April 30, 2009. In April 2008, a group of 18 prominent human rights lawyers in China ordered by the judicial authorities in Beijing to withdraw their offers of assistance in “sensitive cases” involving Tibetans. See “China: Rights Lawyers Face Disbarment Threats,” Human Rights Watch news release, May 30, 2008, http://china.hrw.org/press/news_release/china_rights_lawyers_face_disbarment_threats.

Exhibit 11. United States Commission on International Religious Freedom, Excerpts from “2017 Annual Report.”



UNITED STATES COMMISSION ON
**INTERNATIONAL
RELIGIOUS
FREEDOM**



2017 ANNUAL REPORT



ANNUAL REPORT

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KEY FINDINGS

During 2016, as China's President Xi Jinping further consolidated power, conditions for freedom of religion or belief and related human rights continued to decline. Authorities target anyone considered a threat to the state, including religious believers, human rights lawyers, and other members of civil society. In 2016, the Chinese government regularly emphasized the "sinicization" of religion and circulated revised regulations governing religion, including new penalties for activities considered "illegal" and additional crackdowns on Christian house churches. The government continued to suppress Uighur Muslims in Xinjiang, including through new regional government regulations that limit parents' rights to

include their children in religious activities. Authorities evicted thousands of monks and nuns from the Larung Gar Buddhist Institute in Tibet before demolishing their homes. The government continued to detain, imprison, and torture countless religious freedom advocates, human rights defenders, and religious believers, including highly persecuted Falun Gong practitioners. Based on China's longstanding and continuing record of severe religious freedom violations, USCIRF again finds that China merits designation in 2017 as a "country of particular concern," or CPC, under the International Religious Freedom Act (IRFA). The State Department has designated China as a CPC since 1999, most recently in October 2016.

RECOMMENDATIONS TO THE U.S. GOVERNMENT

- Continue to designate China as a CPC under IRFA;
- Continue to raise consistently religious freedom concerns at the Strategic and Economic Dialogue and other high-level bilateral meetings with Chinese leaders, and at every appropriate opportunity encourage Chinese authorities to refrain from imposing restrictive and discriminatory policies on individuals conducting peaceful religious activity, including activities the Chinese government conflates with terrorism or perceives as threats to state security;
- Coordinate with other diplomatic missions and foreign delegations, including the United Nations (UN) and European Union, about human rights advocacy in meetings with Chinese officials and during visits to China, and encourage such visits to areas deeply impacted by the government's religious freedom abuses, such as Xinjiang, Tibet, and Zhejiang Province;
- Ensure that the U.S. Embassy and U.S. consulates, including at the ambassadorial and consuls general level, maintain active contacts with human rights activists and religious leaders;
- Press for at the highest levels and work to secure the unconditional release of prisoners of conscience and religious freedom advocates, and press the Chinese government to treat prisoners humanely and allow them access to family, human rights monitors, adequate medical care, and lawyers and the ability to practice their faith;
- Press the Chinese government to abide by its commitments under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and also independently investigate reports of torture among individuals detained or imprisoned, including reports of organ harvesting;
- Initiate a "whole-of-government" approach to human rights diplomacy with China in which the State Department and National Security Council staff develop a human rights action plan for implementation across all U.S. government agencies and entities, including providing support for all U.S. delegations visiting China;
- Increase staff attention to U.S. human rights diplomacy and the rule of law, including the promotion of religious freedom, at the U.S. Embassy in Beijing and U.S. consulates in China, including by gathering the names of specific officials and state agencies who perpetrate religious freedom abuses;
- Use targeted tools against specific officials and agencies identified as having participated in or being responsible for human rights abuses, including particularly severe violations of religious freedom; these tools include the "specially designated nationals" list maintained by the Treasury Department's Office of Foreign Assets Control, visa denials under section 604(a) of IRFA and the Global Magnitsky Human Rights Accountability Act, and asset freezes under the Global Magnitsky Act; and
- Press China to uphold its international obligations to protect North Korean asylum seekers crossing its borders, including by allowing the UN High Commissioner for Refugees and international humanitarian organizations to assist them, and by ending repatriations, which are in violation of the 1951 Refugee Convention and Protocol and/or the Convention Against Torture.

BACKGROUND

The year 2016 marked 50 years since the Cultural Revolution, some of the darkest days for China's religious and faith believers. Five decades later, Chinese government repression under President Xi increasingly threatens human rights, including freedom of religion or belief. For example, in 2016 China revised and enhanced its Regulations on Religious Affairs that limit the right to religious practice. New restrictions include tighter government control over religious education and clergy, and heavy fines for any religious activities considered "illegal," as well as new language formally forbidding religion from harming "national security" concerns. Earlier in the year, President Xi convened a National Conference on Religious Work where he stressed the importance of making religions more Chinese, in part by disconnecting them from foreign "infiltration" and influence. These actions coincided with the release of China's National Human Rights Action Plan (2016–2020), which includes a section on "freedom of religious belief" with undertones of restrictive government management of religion.

January 1, 2017, marked the effective date of a new Chinese law regulating foreign nonprofit and nongovernmental organizations (NGOs). Under the law, NGOs must obtain sponsorship from state bodies that will act as "supervisors," register with the police, and report their activities to the government. Some religious NGOs

expressed concern about how the law will impact their charity and aid work in China.

During 2016, the Chinese government reinforced its crackdown on lawyers and other human rights defenders. At the time of this writing, human rights lawyer and advocate Jiang Tianyong remained in detention at an unknown location after Chinese authorities detained him in November 2016 on suspicion of alleged "state subversion." In December 2016, a group of UN experts called on the Chinese government to investigate Jiang's whereabouts and expressed concern that his human rights work—including representing Tibetans, Falun

Gong practitioners, and others—puts him at risk for beatings and torture by police. Longtime human rights activist, lawyer, and political prisoner Peng Meng died in prison in late 2016. His family requested an autopsy, but according to reports, Chinese author-

New restrictions include tighter government control over religious education and clergy, and heavy fines for any religious activities considered "illegal". . . .

ities removed some of his organs and cremated his body, ignoring the family's wishes. Nobel Peace Prize laureate and democracy advocate Liu Xiaobo remains in prison after being sentenced in December 2009 to 11 years in prison; his wife, Liu Xia, is under strict house arrest.

Through five state-sanctioned "patriotic religious associations," China recognizes five religions: Buddhism, Taoism, Islam, Catholicism, and Protestantism. The Chinese Communist Party officially is atheist, and more than half the country's nearly 1.4 billion population is unaffiliated with any religion or belief. Nearly 300 million people practice some form of folk religion, approximately

250 million are Buddhist, about 70 million Christian, at least 25 million Muslim, and smaller numbers practice Taoism, Hinduism, Judaism, or some other faith.

RELIGIOUS FREEDOM CONDITIONS 2016–2017

Uighur Muslims

In 2016, the Chinese government continued to suppress Uighur Muslims, often under the rubric of countering what it alleges to be religious and other violent extremism. An estimated 10 million Uighur Muslims reside in the Xinjiang Uighur Autonomous Region in northwest China where the government presumes their guilt if they are found practicing “illegal” religious activities, including praying or possessing religious materials in their own homes. Authorities

even question school-children to coerce them into revealing that their parents pray at home. To constrain what it claims to be widespread radicalism that breeds violent tendencies among Uighur Muslims, the government

imposes manifold regulations and restrictions on religious and other daily practices. For example, in a move critics described as targeting Uighur Muslims, in July 2016 the regional government adopted a new counterterrorism measure, which dovetails with a national law that went into effect January 1, 2016. (The national Counterterrorism Law contains vague definitions of “religious extremism” and “terrorism,” which the government has routinely used to target the freedom to practice religion and peaceful religious expression.) Also, in June 2016, Beijing issued a white paper, *Freedom of Religious Belief in Xinjiang*, that alleged the government protects “normal” religious activities and respects citizens’ religious needs and customs. Just days later, however, the government once again imposed its annual ban on the observance of Ramadan; authorities prevented government employees, students, and children from fasting, and in some cases praying, during Ramadan. As of November 1, 2016, Uighur Muslim parents are forbidden from including their children in any religious activity, and citizens are encouraged to inform authorities about

. . . Uighur Muslim parents are forbidden from including their children in any religious activity, and citizens are encouraged to inform authorities about their neighbors. . . .

their neighbors who may be involved in government-prohibited activities.

Authorities continue to restrict men from wearing beards and women from wearing headscarves and face-covering veils. According to reports, in 2016 the Chinese government destroyed thousands of mosques in Xinjiang, purportedly because the buildings were considered a threat to public safety. USCIRF received reports that Uighur Muslims must register to attend mosques—which often are surveilled by authorities—and must obtain permission to travel between villages.

Uighur Muslim prisoners commonly receive unfair trials and are harshly treated in prison. Well-known Uighur scholar Ilham Tohti is currently serving a life sentence after being found guilty in 2014 of “separatism” in a

two-day trial that human rights advocates called a sham. On October 11, 2016, Professor Tohti was awarded the 2016 Martin Ennals Award for Human Rights Defenders; China responded with anger when UN High Commissioner for Human Rights

Zeid Ra’ad Al Hussein attended the ceremony. Gulmira Imin, who was a local government employee at the time of her arrest, also continues to serve a life sentence for her alleged role organizing the July 2009 protests in Urumqi—an allegation she denies.

Tibetan Buddhists

The Chinese government claims the power to select the next Dalai Lama with the help of a law that grants the government authority over reincarnations. The Chinese government also vilifies the Dalai Lama, accusing him of “splittism” and “blasphemy,” including in at least 13 white papers on Tibet since the 1990s. Moreover, in December 2016, Tibet’s Communist Party Chief Wu Yingjie publicly said he expects the party’s control over religion in Tibet to increase. In 2016, Tibetan activist Nyima Lhamo, the niece of prominent Tibetan Buddhist leader Tenzin Delek Rinpoche, who died in prison in July 2015, fled China to seek justice for her uncle’s death and later traveled to Europe where she gave a presentation before the 9th Geneva Summit for Human Rights and Democracy. The

Chinese government has held Gedhun Choekyi Nyima, also known as the Panchen Lama, the second-highest position in Tibetan Buddhism, in secret for more than two decades. When the Chinese government abducted the Panchen Lama at age six and replaced him with its own hand-picked choice, the Dalai Lama had just designated him as the reincarnation of the 10th Panchen Lama. Although in 2016 the government released several Tibetan prisoners who completed their sentences, such as Tibetan religious teacher Khenpo Kartse, it detained and charged several others. For example, in March 2016 Chinese police arrested Tashi Wangchuk on “separatism” charges; he is an advocate known for promoting a deeper understanding of the Tibetan language as integral to the practice of Tibetan Buddhism. As of this writing, Tashi Wangchuk’s case is still pending; he could serve up to 15 years if convicted. In protest of repressive government policies, at least 147 Tibetans have self-immolated since February 2009, including Tibetan monk Kalsang Wangdu and Tibetan student Dorjee Tsering, both in 2016.

In July 2016, the Chinese government launched a sweeping operation to demolish significant portions of the Larung Gar Buddhist Institute located in Sichuan Province. Larung Gar is home to an estimated 10,000 to 20,000 monks, nuns, laypeople, and students of Buddhism from all over the world. Local officials instituting the demolition order referred to the project as “construction” or “renovation” to reduce the number of residents to no more than 5,000 by the end of September 2017.

As a result, officials have evicted thousands of monastics, laypeople, and students, some of whom reportedly were locked out of their homes before they could collect their belongings, or were forced to sign pledges promising never to return. Many others were forced to undergo so-called “patriotic reeducation programs.” The demolition order contains language governing ideology and future religious activities at Larung Gar and gives government officials—who are largely Han Chinese, not Tibetan—greater control and oversight of the institute, including direct control over laypeople. The order also mandates the separation of the monastery from the

institute, running counter to the tradition of one blended encampment with both religious and lay education. The destruction at Larung Gar exemplifies Beijing’s desire to eviscerate the teachings and study of Tibetan Buddhism that are integral to the faith.

Protestants and Catholics

In 2016, the Chinese government continued its campaign to remove crosses and demolish churches. Since 2014, authorities have removed crosses or demolished churches at more than 1,500 locations in Zhejiang Province alone. The government also has targeted individuals opposing the campaign. In February 2016, Protestant Pastor Bao Guohua and his wife Xing Wenxiang, from Zhejiang, were sentenced to 14 and 12 years’ imprisonment, respectively, for opposing cross removals. Additional removals and demolitions have occurred elsewhere in the country. In one particularly egregious example from April 2016, Ding Cuimei, wife of church leader Li Jiangong, suffocated to death while trying to protect their house church in Henan Province from a bulldozer during a government-ordered demolition; Li survived but barely escaped the rubble. In March 2016, authorities released human rights lawyer Zhang Kai on bail after detaining him in secret for six months and coercing him to give a televised confession.

On December 27, 2016, police summoned Zhang to the police station and detained him for two days before releasing him again. Zhang is well known for his work on behalf of individuals and churches affected by the government’s cross

removal and church demolition orders.

During 2016, Chinese authorities arrested Christians for displaying the cross in their homes and printing religious materials, threatened parents for bringing their children to church, and blocked them from holding certain religious activities. In August 2016, a Chinese court found underground church leader and religious freedom advocate Hu Shigen guilty of subversion and sentenced him to seven and a half years in prison and another five years’ deprivation of political rights. In January 2017, a Chinese court sentenced Pastor Yang Hua, also known as Li Guozhi, to two and a half

The destruction at Larung Gar exemplifies Beijing’s desire to eviscerate the teachings and study of Tibetan Buddhism. . . .

years in prison. Originally detained in December 2015, Pastor Yang presided over the Living Stone Church, an unregistered house church in Guizhou Province.

China also continued to target individuals affiliated with state-sanctioned churches. On March 31, 2016, Gu “Joseph” Yuese, former pastor at Chongyi Church, a Protestant megachurch in Zhejiang Province, was released from more than two months’ detention after being arrested on embezzlement charges. Authorities detained him again in December 2016, and on January 7, 2017, Pastor Gu was formally charged with embezzlement. Pastor Gu publicly criticized the government’s cross removal campaign in Zhejiang. In addition to his arrests, he was removed from his post at Chongyi Church and his role with the local state-run China Christian Council. Also, Pastor Zhang Shaojie of the state-registered Nanle County Christian Church remains in prison after being sentenced in 2014 to 12 years in prison for “gathering a crowd to disrupt public order.”

In 2016, the Vatican and Beijing attempted to reach agreement on the appointment of Catholic bishops. Although there are several bishops both appointed by the Chinese government and recognized by the Vatican, Beijing refuses to respect papal authority, and bishops seeking Rome’s blessing do so at risk of imprisonment or other persecution. Proponents of an agreement see it as a means to repair the nearly 70-year dispute between the Vatican and Beijing and create uniformity across Catholic clergy in China. However, critics worry that by aligning with Beijing, the Vatican risks betraying the underground clergy and followers who have remained loyal to the Pope’s authority to appoint bishops. At a December meeting of China’s state-run Catholic Patriotic Association, Chinese officials stressed “sinicization,” socialism, and independence from foreign influence, a message seemingly incongruous with Beijing’s attempts to reach agreement with the Vatican. Prospects for an agreement also became strained when excommunicated Bishop Lei Shiyin participated in two ordinations approved by both the Vatican and the Chinese government in late November and early December 2016.

Falun Gong

The practice of Falun Gong has been banned since 1999 after the Chinese government labeled it an “evil cult,” and practitioners have been severely mistreated ever

since. They are regularly confined in labor camps or prisons, or disappear altogether. While detained, Falun Gong practitioners suffer psychiatric and other medical experimentation, sexual violence, torture, and organ harvesting. A new report released in June 2016 by the International Coalition to End Organ Pillaging in China revealed that 60,000–100,000 organ transplants are performed in the country each year, an alarming discrepancy from the government’s claim of 10,000. Organ donors often are nonconsenting, particularly executed Falun Gong prisoners and detainees, though individuals from other faiths also have been targeted, such as Uighur Muslims, Tibetan Buddhists, and Christians.

Organ donors often are nonconsenting, particularly executed Falun Gong prisoners and detainees. . . .

Zhiwen Wang, a Falun Gong practitioner who was persecuted and imprisoned for 15 years, was released in 2014, but the Chinese government has prevented him from receiving proper medical care and reuniting with his family in the United States. In 2016, Zhiwen was granted a passport and U.S. visa to leave China, but a customs agent at the airport nullified his passport. This occurred after Chinese police and undercover agents harassed and intimidated Zhiwen and his family for several days. For the second year in a row, in 2016 Chinese authorities attempted to suppress Chinese-born human rights advocate and Falun Gong practitioner Anastasia Lin. Chinese authorities had denied her a visa and barred her entry into mainland China from Hong Kong when the country hosted the 2015 Miss World competition. She competed in the 2016 Miss World competition in Washington, DC, but Chinese journalists and other “minders” relentlessly followed her, and pageant officials interfered with her ability to speak to the media and initially barred her from attending a screening of “The Bleeding Edge,” a movie about China’s forced organ harvesting in which she stars.

Forced Repatriation of North Korean Refugees

The Chinese government claims North Koreans entering China without permission are economic migrants, but

it does so without evaluating each individual's case to determine whether they qualify for refugee status and ignoring the near certainty that these individuals will be tortured upon their forced return to North Korea. This violates China's obligations under the 1951 UN Refugee Convention and its 1967 Protocol. Not only does the government of China refuse to evaluate asylum claims, but it also increasingly appears to closely coordinate with the North Korean government in the arrest and forced repatriation of North Koreans attempting to cross the border. Moreover, some reports indicate Chinese authorities actively urge citizens to inform them about suspected North Korean asylum seekers and they punish those found offering assistance.

U.S. POLICY

China does not comply with international standards concerning the freedom of religion or belief and related human rights, and defiantly dismisses what it considers to be international interference, including by the United States. It is crucial that the U.S. government not only integrate human rights messaging—including on freedom of religion or belief—across its interactions with China, but also consistently make clear that it opposes Beijing's overt violations of international human rights standards.

During 2016, high-level representatives of the United States and China engaged several times, with U.S. officials raising human rights concerns. In connection with the Nuclear Security Summit in Washington, DC, from March 31 to April 1, 2016, then President Barack Obama met with President Xi and expressed "support for upholding human rights and fundamental freedoms in China," according to the official White House readout of the meeting. In June 2016, then Secretary of State John Kerry and then Treasury Secretary Jacob Lew met with Chinese counterparts in Beijing for the U.S.-China Strategic and Economic Dialogue (S&ED), which reportedly included some human rights discussions. In September 2016, China hosted the G20 Summit in Hangzhou, the capital of Zhejiang Province and home to a large Christian population of underground churches and parishioners whom the Chinese government has repressed and, at times, violently attacked, including through the destruction of churches and crosses. Ahead of the summit, then National Security Advisor Susan E. Rice met at the White House with a group of Chinese human rights advocates and discussed human rights and religious

freedom. On the sidelines of the summit, then President Obama met with President Xi, and according to the official White House readout, the president spoke about human rights and "the need for China to protect religious freedom for all of its citizens."

In June 2016, then President Obama welcomed the Dalai Lama to the White House for an unofficial meeting, which China criticized. In August 2016, the State Department issued a statement urging China to release lawyers and human rights advocates detained since 2015 when the Chinese government conducted a sweeping roundup of nearly 300 individuals. The statement referred specifically to Hu Shigen (mentioned above), Zhou Shifeng, Zhai Yanmin, Guo Hongguo, and Li Heping. On December 16, 2016, then President Obama signed into law the Fiscal Year 2017 Department of State Authorities Act (P.L. 114-323), which requires the secretary of state, in coordination with the secretary of treasury, to submit to Congress a report that, in part, assesses "the treatment of political dissidents, media representatives, and ethnic and religious minorities" within the context of the U.S.-China bilateral relationship and the overall effectiveness of the S&ED.

In addition to its individual critiques of China's human rights record discussed above, the United States also joined multilateral efforts. For example, in January 2016 the United States was one of four diplomatic missions that jointly sent China a letter expressing concern about the counterterrorism law and then-drafts of the NGO law and a cybersecurity law. In part, the letter questioned China's willingness to protect human rights under the law. The U.S. government expressed further concerns about the NGO law at other times during the year. Also, in March 2016 the United States was one of 12 countries signing the first-ever joint statement on China's human rights situation at the UN Human Rights Council. Although the statement did not specifically mention freedom of religion or belief, it did reference the detention of rights activists and lawyers, many of whom have advocated on behalf of religious freedom and religious freedom activists.

In February and October 2016, the State Department redesignated China as a CPC. At the same time, then Secretary Kerry extended the existing sanctions related to restrictions on exports of crime control and detection instruments and equipment.

Exhibit 12. Declaration of Dr. Can Sun

DECLARATION OF DR. CAN SUN

I am over 18 years of age, of sound mind, and otherwise competent to make this Declaration.

1. My name is Dr. Can Sun.
2. I am fluent in Mandarin Chinese and English.
3. I have reviewed hundreds of technical documents relating to Cisco's assistance in constructing China's Golden Shield project in connection with *Doe v. Cisco*, a case currently pending in the Ninth Circuit Court of Appeals.
4. My findings are summarized below:

Identification and Apprehension

5. Cisco custom-designed and created a unique subsystem of the Golden Shield dedicated to persecuting Falun Gong believers (the "***Anti-Falun Gong System***").
6. The Anti-Falun Gong System was separate and apart from the ordinary criminal justice and other dual-purpose systems such as those for violent crimes, sex offenders, drug addicts, etc.
7. Instead, the Anti-Falun Gong System was part of a larger platform titled "Maintenance of Social Stability Platform" of the Golden Shield. Other than Falun Gong, this platform also contains various other systems and subsystems targeting almost exclusively political crimes—such as Tibetans, Uyghurs, democracy activists, human rights lawyers, etc.
8. The Anti-Falun Gong System was designed and implemented with specialized specifications and unique first-of-a-kind features.
9. A key feature used for identifying Falun Gong practitioners are a set of digital "signatures" customized in San Jose, boasting an ability of recognizing over 90% of Falun Gong pictorial information, many of which depicts torture and human rights abuses.
10. Such industry-leading ability was only achieved by collecting and analyzing thousands and thousands of Falun Gong-related pictorial content depicting such torture and abuse, following by tests, optimizations and continuous updates to differentiate such content from other Falun Gong images widely distributed by Party-outlets. In doing so, Cisco was fully aware of the persecutory nature of the campaign of Falun Gong.
11. The identification tools were integrated with China's Internet Surveillance System and other public sensors such as video camera, airports and railway centers to identify Falun Gong practitioners both online and offline.
12. All identified Falun Gong information is further stored in a central database in the Anti-Falun Gong System and linked with a myriad of other public security systems such as command and control centers and frontline police to subject Falun Gong practitioners to identification, apprehension, detention, and as described below, mental transformation via torture.

Forced Conversion Through Torture

13. San Jose designs further enabled Chinese security to subject believers to forced conversion through torture via unique network features not necessary for identification, apprehension or detention.

14. These designs include special integration into torture sites, public security “psychiatric hospitals,” and Office 610 facilities, whereby they are used to determine the victim’s resistance and vulnerabilities, and determining the most appropriate methods for their forced conversion.
15. The Cisco-designed network enabled torture using its Falun Gong database to collect, store, and analyze Falun Gong believers’ profile information, including unique data not necessary for identification and only used for torture such as susceptibility to threats and torture, and previous torture experience.

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

Executed on this 5th day of March 2018, in Seattle, Washington

CAN SUN

Exhibit 13. Freedom House, "The Battle for China's Spirit (Islam)."

III: Islam

Degree of persecution:

Hui Muslims

LOW

Uighur Muslims

VERY HIGH

Trajectory of persecution:

Hui Muslims



Minor
Increase

Uighur Muslims



Increase

Key findings

- 1 Revival and growth:** Islam, with about 21 million believers in China, has experienced visible expansion over the past decade. Hui Muslim communities have constructed thousands of new mosques, while many Uighurs are adopting religious practice in part to assert an independent identity from the Han Chinese majority. The influence of the ultraconservative Salafi strand of Islam has also expanded, even attracting a small number of Han converts.
- 2 Bifurcated controls:** Chinese government treatment of Muslims differs significantly across ethnic and geographic lines. Hui Muslims have much greater leeway than Uighurs to practice core elements of the Islamic faith like praying five times a day, fasting during Ramadan, going on the Hajj pilgrimage, or donning a headscarf. Uighurs who engage in such acts increasingly face job dismissal, fines, and imprisonment.
- 3 Under Xi:** Both Hui and Uighur Muslims have experienced intensified restrictions and Islamophobia since Xi Jinping became leader of the Chinese Communist Party (CCP) in November 2012, with controls deepening and expanding in the Xinjiang Uighur Autonomous Region especially. Previously informal or local restrictions in Xinjiang—on issues such as religious dress or children's education—have been codified at the regional and national levels, and authorities have launched new campaigns to more closely monitor smartphone usage and force businesses to sell alcohol.
- 4 Increased violence:** Restrictions on religious practice and their intrusive implementation have been linked to a growing number of violent clashes or premeditated attacks by some Uighurs against police, pro-Beijing religious leaders,



A Hui mosque in Linxia, Gansu Province, also known as “Little Mecca,” where restrictions on Islam are more lax than in Xinjiang.

Credit: Wikimedia

and civilians. Central authorities have prioritized “maintaining stability,” launched a “strike hard” campaign, armed more police, and meted out harsh punishments even for peaceful religious practice. Incidents of security forces opening fire on Uighur civilians have become more common.

5 Economic incentives: The economic priorities of the Chinese government have contributed to greater repression in some circumstances, but have also encouraged government actors to invest funds in projects that promote Islam or the export of related goods. Authorities in Xinjiang make extensive use of economic rewards and punishments when enforcing controls on religion.

6 Adaptation and resistance: Hui Muslims have traditionally adapted their religious practice to Chinese thought and worked through the existing political system to influence policymaking. Many Uighurs, facing more restrictive conditions, have chosen to secretly circumvent official controls, access unapproved religious publications, privately affirm their faith, or refuse to participate in official celebrations. Others have acted more defiantly, growing beards or donning headscarves even where it is forbidden, or confronting police when they try to enforce intrusive regulations.

“After 2009, everything changed. Now the rule is, if I go to your house, read some Quran, pray together, and the government finds out, you go to jail.”

—Barna, Uighur woman from Xinjiang now living in the United States, 2015⁵

“This video [of a young Hui girl reciting Quran verses] has drawn a gasp from the public.... The Education Department of Gansu Province strongly condemns the act that harms the mental health of the youth, and demands education agencies... strictly ban religion from campuses.”

—Education Department of Gansu Province, May 2016⁶

Islam in China: Past and present

Islam first came to China during the Tang Dynasty (618–907), not long after the prophet Muhammad's death, as Muslim traders arrived via the Silk Road. Under the Yuan Dynasty (1271–1368), some of whose leaders were themselves converts, Islam's influence and the number of Muslims in China expanded, particularly in Uighur-populated areas.³ After the CCP came to power in 1949, China's Muslims were brought under the authority of the "patriotic" Islamic Association of China (IAC), established in 1953. During the Cultural Revolution, many mosques were destroyed and any public displays of faith were fiercely suppressed and punished.⁴

Following the death of Mao Zedong, religious practice was permitted again, the IAC was reestablished, and the rebuilding of mosques and Muslim shrines was allowed. According to the 1982 Central Committee Document No. 19 on CCP religious policy, there were 10 million Muslims in China.⁵ The figure has more than doubled since then.

China's current population of 21 to 23 million Muslims outnumber the Muslim populations in many Middle Eastern countries and features great ethnic diversity.⁶ Approximately half of China's Muslims (10.5 to 11 million) are Hui,⁷ descendants of Arab and Persian traders who have assimilated into Chinese society and culture. Their physical appearance closely resembles that of the country's Han majority, and while parts of Ningxia, Gansu, and Yunnan Provinces have high concentrations of Hui, many have settled elsewhere in China. The second-largest contingent of Muslims are Uighurs, a Turkic minority of approximately 10 million people with its own language, customs, and Eurasian appearance that is largely concentrated in the northwestern region of Xinjiang.⁸

The country's remaining Muslims are members of various Central Asian ethnic groups—including Uzbeks, Kazakhs, and Tajiks—or migrants from Middle Eastern or African countries who reside in Beijing and other major cities.⁹

China is home to over 35,000 mosques, half of them in Xinjiang, and 45,000 imams dispersed across multiple provinces.¹⁰ There are important pilgrimage sites in Kashgar and Turpan in Xinjiang, as well as in Gansu Province's Linxia, a heavily Hui Muslim city that is often referred to as "Little Mecca."¹¹

This ethnic and geographic diversity is also reflected in the practice of Islam. Most of China's Muslims are Sunni, with some Uighurs also following Sufi traditions. Some practices are common to all Chinese Muslim communities, such as abstention from pork and celebration of Ramadan, but the degree to which individual worshippers pray five times a day or regularly attend Friday services at a mosque varies widely. In addition, certain practices related to marriage or funeral rites are common in Uighur areas as part of their cultural heritage, but absent among other Muslim communities. Meanwhile, a unique dimension of Hui Muslim practice is the existence of women-only mosques led by female imams.¹² Uighur women traditionally avoid attending mosque services with men, instead congregating informally in one another's homes to pray, read the Quran, and socialize, though some mosques have spaces for women to pray.¹³ The diversity of practice among Muslims in China is such that even within the same ethnic community and province, the manifestation of Islamic identity can vary significantly.¹⁴

Like other religions in China, Islam has experienced a revival over the past decade. For

many Uighurs, increased religiosity and adoption of religious symbols or attire are ways of asserting an independent identity from the Han Chinese majority. Among the Hui, people are often seeking spiritual and moral guidance in a commercialized and materialistic society, and newly affluent Muslim entrepreneurs have more resources to contribute to religious institutions. One visible sign of this revival is the growing number of newly constructed mosques and Sufi shrines even in small villages, particularly in parts of Gansu and the Ningxia Hui Autonomous Region that are sometimes referred to as the Quran Belt.¹⁵

A small number of Han Chinese have converted to Islam, either for spiritual reasons or to facilitate marriage to a Hui spouse. But most of those becoming more devout are rediscovering their own Islamic heritage. Government statistics do not necessarily provide an accurate tally of the country's practicing Muslim community because they are based largely on counts of ethnic minorities, embedding an assumption that all Hui or Uighurs are Muslims, and that all Muslims are not Han.¹⁶

Other factors are also fueling the Islamic revival, such as increased translation of texts from Arabic to Chinese, the rise of social media for sharing religious content, and a growing number of Dawa missionaries from the Middle East and South Asia.¹⁷

Bifurcated policy and implementation

The nature of Muslim communities' interaction with the Chinese authorities varies greatly. Non-Uighur believers encounter significantly fewer government restrictions on religious practice, attire, and media consumption than their Uighur coreligionists. Routine elements of Muslim practice that are common around the world are quite visible among Hui, but severely restricted and even criminalized for Uighurs. These include mosques using loudspeakers to summon Muslims to Friday prayers, believers fasting during Ramadan, adolescents studying at madrassas, children accompanying parents to prayers, individuals watching educational videos on Islamic teachings, or men growing beards and women wearing headscarves.

Routine elements of Muslim practice are visible among Hui, but severely restricted and even criminalized for Uighurs.

In addition, Hui government employees—including civil servants, teachers, police officers, and workers at state-owned enterprises—are permitted to openly practice their faith and wear headscarves, while for Uighurs this has become strictly forbidden. Non-Uighur Muslims are also much more likely to obtain a passport and permission to go on Hajj to Mecca, a core Islamic obligation that has become increasingly rare and difficult for Uighurs to fulfill.

Similarly, within Xinjiang, restrictions tend to be tighter and repression more violent in the region's southern prefectures (such as Aksu, Hotan, and Kashgar) than in the north. The vast majority of the population in the south is Uighur, and these areas have also been the site of more violent altercations or attacks than the north, with the possible exception of Urumqi.

After a period of relative openness and religious resurgence in Xinjiang in the 1980s, new regulations limiting religious practice emerged in the 1990s, alongside violent clashes between Uighur residents and the Chinese authorities. The tightening of religious management and the criminalization of peaceful religious activities accelerated following the September 11, 2001, terrorist attacks in the United States. The CCP quickly expanded

its rhetoric on security threats involving Uighurs from a focus on separatism to a campaign against the “three evil forces” of separatism, terrorism, and religious extremism.¹⁸ To date, the precise definition of “religious extremism” remains unclear, and there are numerous well-documented cases of Uighurs being harshly punished for seemingly benign religious or educational activities that the government arbitrarily labels “extremist.”

A second watershed moment for Chinese government relations with Uighur Muslims occurred in July 2009. On July 5, police forcibly suppressed a peaceful demonstration in Urumqi by Uighurs voicing frustration over a limited investigation into the deaths of Uighur factory workers in a brawl with Han employees in southern China.¹⁹ The police action—which according to Amnesty International included the use of tear gas and live ammunition against crowds of peaceful protesters—sparked an outbreak of violence between Uighurs and Han residents.²⁰

State-run media reported that 197 people were killed, but the details of events that day could not be fully verified due to tight government control of information and the intimidation of witnesses. The July 5 clashes were followed by a harsh crackdown that included large-scale “disappearance,” imprisonment, and execution of Uighurs in questionable legal proceedings, and an almost complete shutdown of internet access in the region for ten months.²¹ Seven years later, hundreds of young Uighur men who were detained in the aftermath remain unaccounted for.²²

Islam under Xi Jinping

When Xi Jinping took the helm of the CCP in November 2012, the space for peaceful religious practice or other expressions of Uighur Muslim identity had already shrunk considerably in the years since July 2009. By contrast, Hui Muslims enjoyed significantly greater leeway to practice core elements of their Islamic faith. Under Xi, both groups have experienced intensified restrictions, though the gap in treatment between Hui and Uighur Muslims remains wide.

The period since November 2012 has also featured an increase in violent attacks by Uighurs against police officers, symbols of official authority, fellow Uighurs who are seen as government collaborators (including religious leaders), and civilians. Several incidents have occurred in areas outside Xinjiang, most notably a March 2014 stabbing attack at Kunming train station in Yunnan Province that left at least 29 people dead.²³

Codification and tightening in Xinjiang

State control over Uighurs’ religious practice in Xinjiang has grown substantially since 2009, and the trend has only deepened and expanded under Xi. A wide range of routine and peaceful aspects of religious observance that were once permissible have been arbitrarily labeled as “illegal religious activities” or “religious extremism.”

One key feature of this pattern has been a shift toward codification. Since November 2012, the Chinese government has adopted laws and regulations that formalized local practices on restricting or punishing religious behavior. This is consistent with Xi’s broader effort to “rule by law.” The new measures have included national counterterrorism legislation that took effect in January 2016,²⁴ Xinjiang Religious Affairs Regulations that took effect in January 2015,²⁵ and Urumqi regulations on religious attire that took effect in February 2015.²⁶

While the replacement of informal political directives with written laws could be a positive

development in theory, the trend has been problematic in practice. The provisions' vague wording has done little to restrict abusive and expansive interpretations of terms like "terrorism," "separatism," and "religious extremism," and their regional or national application has broadened the reach of certain rules that were once fairly localized. Meanwhile, the stricter legal environment and a "strike hard" campaign launched in May 2014 have increased pressure on local officials to enforce oppressive rules that they might otherwise implement laxly.²⁷

The new legislation and additional informal directives have affected a wide array of Uighur religious practices:

- 1. Religious attire and appearance:** Under Xi, a campaign to discourage Uighur women from covering their faces or even heads and men (particularly young men) from growing long beards has intensified, expanded, and become more formalized. Previously, prohibitions on religious dress were enforced unevenly through local directives with no basis in law.²⁸ Today, signs in public places like hospitals, libraries, and banks explicitly deny service to veiled women and bearded men. In August 2014, city authorities in Karamay announced that such individuals would be barred from public transportation during a 14-day sporting event.²⁹ In January 2015, the Urumqi government announced a prohibition on "wearing items that mask the face or robe the body."³⁰ Government workers or university students who defy such bans risk dismissal or expulsion.

During Ramadan, authorities have launched programs requiring people to physically exert themselves to discourage fasting.

Police increasingly approach women to enforce the rules, search homes based on informant tips, and fine violators. In at least one case, a Kashgar man was sentenced to six years in prison for refusing to shave his beard, and his wife was given a two-year term for retaining her veil.³¹ In an example of the ambiguity surrounding even codified restrictions, scholars James Liebold and Timothy Grose note that it remains unclear exactly which garments are prohibited, though the rules appear to include popular head coverings as well as more conservative burqas.³² Veils and beards grew more common from 2009 to 2013, but as a result of the regulations, many fewer Uighurs appear to be expressing their religious identity in this way.

- 2. Ramadan:** Restrictions on Uighur fasting during Ramadan are not a new phenomenon, but have become more systematic since 2012.³³ Restaurants are required to stay open, police must monitor homes where the lights are turned on before dawn, students are forced to eat in front of their teachers, and opportunities to attend prayers are limited. Some civil servants and teachers have reportedly been forced to sign pledges affirming that they would not fast or have been "invited to tea" by security agencies to ascertain whether they were fasting.³⁴ The authorities have even launched programs requiring people to dance or otherwise physically exert themselves to discourage fasting.³⁵ These measures, which go beyond prohibitions by actually compelling individuals to perform certain actions, underscore the extreme intrusiveness of the government's religious controls.
- 3. Informal prayer:** It has become increasingly difficult—and even dangerous—to pray with other Muslims outside of a mosque. The Xinjiang Religious Affairs Regulations that came into effect in January 2015 state that religious activities can only take place in registered venues, while practice in government offices, public schools, businesses, and

A town in Hotan Prefecture held a public trial for 25 people who had taught or participated in private religious lessons for local children.

"other places" is prohibited.³⁶ In September 2015, a group of eight farmers and a local imam from a village in Aksu Prefecture were sentenced to between seven and nine years in prison for praying together in a field. One of the farmers' wives said of the trial, "I did not hear anything that indicated that these eight people committed any crimes, but only prayed together outside the government-designated mosque. The whole neighborhood was shocked [by their arrest]."³⁷

Prohibitions on unofficial prayer particularly affect Uighur women, who generally do not pray in mosques and have traditionally gathered informally at one another's homes to pray and read the Quran. Such meetings can now lead to arrest.³⁸ Unofficial preaching by lay believers and various other Uighur spiritual traditions, such as shrine festivals or wedding- and funeral-related ceremonies, are also more strictly forbidden than in the past.³⁹

- 4. Children's religious participation:** Chinese authorities have long disapproved of religious education for young Uighurs, and like other faiths in China, Islam is subject to rules that attempt to limit the religious exposure of Chinese citizens under the age of 18. Nevertheless, the new 2015 Religious Affairs Regulations in Xinjiang include the most explicit and sweeping wording to date. According to Article 37, "Minors cannot participate in religious activities." Those who violate such rules are harshly punished. In March 2015, a town in Hotan Prefecture held a public trial for 25 people who had taught or participated in private religious lessons for local children. In addition to four teachers, those tried before a crowd of 15,000 included students as young as 6 and a 60-year-old woman who sent her grandchildren to attend the classes. The punishments handed down to the group remain unknown.⁴⁰ The home of the couple that hosted the lessons was demolished.⁴¹

While limits on the religious practices above have been evident for some time and simply escalated in recent years, four other forms of repression had previously been quite rare but have occurred repeatedly since 2012.

- 1. Promoting the sale of alcohol and cigarettes:** In 2015, notices that appeared in a village in Hotan Prefecture required restaurants and supermarkets to sell "five different brands of alcohol and cigarettes" and to create "eye-catching displays" to promote the products.⁴² A local CCP cadre said this was part of a campaign to weaken religion in the area and a response to the fact that businesses had stopped selling the items since 2012 after many local residents quit smoking and drinking due to their Muslim faith. In June 2015, a village in southern Xinjiang held a beer festival and drinking competition, widely touted by state media as aiming to "squeeze the space for illegal religious promotion."⁴³
- 2. Imprisonment for media consumption:** Uighurs have long received harsh prison sentences for publishing or circulating information on religious affairs or human rights abuses. In recent years, however, a growing number of Uighurs—including teenage boys—have been harshly punished for simply consuming banned religious content, in some cases without realizing it was even forbidden.⁴⁴ In a stark example of the disparate treatment of Uighurs and Hui Muslims, some Uighurs have been detained for watching videos about Islam that were legally produced in Chinese by Hui Muslims. Such incidents are part of a

broader official sensitivity to online content as smartphones proliferate. Security checks of people's phones have become more common,⁴⁵ blanket interference with social media applications has been reported in sensitive regions like Hotan,⁴⁶ and updated Religious Affairs Regulations have incorporated references to digital media.⁴⁷

- 3. Excessive use of deadly force by police:** On several occasions since November 2012, police have opened fire on Uighur civilians, both during clashes with protesters and while conducting house searches. The use of live ammunition has resulted in the injury or death of bystanders, including children.⁴⁸ Police have resorted to deadly force at the first sign of an altercation and in situations that would not draw such a heavy-handed response if they occurred in Han-populated areas.⁴⁹ Local tensions and further repression following such incidents often persist for years.
- 4. Symbolic humiliation:** Many mosques have been required to fly the Chinese flag on their premises, an action that many Uighur Muslims find deeply humiliating. In at least one instance, officials positioned the flag in the direction of Mecca, creating the appearance that congregants are praying to it.⁵⁰ Similarly, while it is no longer permitted for Uighur men to engage in traditional forms of public religious dance after prayers, imams have been forced to participate in state-sponsored secular dance performances.⁵¹ During state-supported theatrical performances, the individual playing the villain often wears a costume that identifies him as a religious believer, for instance by including a long beard.⁵²

Taken together, these controls and their implementation represent a new level of state intrusion into the religious practice and daily lives of Uighurs across Xinjiang. Bans on religious dress, house searches, business interference, and extensive surveillance have expanded the range of individuals targeted, leaving few unaffected.

The result has been growing resentment and anger at the Chinese government among Uighurs, at times resulting in violence against representatives of the state and even some civilians. Such violence increased in the latter part of 2014 after the authorities launched a new "strike hard" campaign in May.⁵³ Some violent acts appear to have been spontaneous outbursts of public frustration or attempts to protect a fellow Uighur from arrest or humiliation. This seemed to be true of deadly clashes in Yarkand, near Kashgar, in July 2014. Riots and a corresponding crackdown were reportedly triggered by Uighur anger at Ramadan restrictions and security forces' killing of a family of five during a quarrel over the screening of women for headscarves in house-to-house searches.⁵⁴ Other incidents were clearly premediated crimes. A state-sanctioned imam who headed one of the country's largest mosques in Kashgar was assassinated shortly after he expressed support for the government's actions in the Yarkand violence.⁵⁵

The Chinese authorities have argued that their policies toward Uighur Muslims are necessary as part of the battle against the "three evils," and the rise in violence in Xinjiang poses legitimate security concerns. Moreover, some restrictions—such as banning veils that cover the face—have also been adopted or considered in democratic societies. But the steps being taken by the Chinese government go far beyond what might be required for security purposes and fail to differentiate between violent attacks and peaceful religious activity.

In fact, several other considerations appear to be driving the restrictions on clearly nonviolent religious practice and their intensification since November 2012:

- **Central government emphasis on stability over development:** While some new regulations appear to be experiments by local officials, others are clearly the initiatives of central or provincial authorities. The center also sends broad signals that indirectly influence the actions of local authorities. Under Xi, it has become obvious that the top priority for the region is “maintaining stability,” meaning even economic development is of secondary importance. This represents a shift from the Hu Jintao era and is evident from a comparison of rhetoric at the May 2014 Work Forum on Xinjiang with that from the 2010 Work Forum, as well as in Xi’s own speeches.⁵⁶ Government resources have been allocated accordingly, with the public security budget for the region growing from 7.57 billion yuan (\$1.16 billion) in 2011 to 10.72 billion yuan (\$1.6 billion) in 2015, an increase of 41 percent over four years.⁵⁷
- **Bureaucratic incentives and personnel changes:** There are strong incentives for local officials to err on the side of punishing peaceful believers rather than taking the risk that a potentially violent perpetrator might slip through the cracks. Particularly during a “strike hard” campaign like the one launched in May 2014, local officials are typically given quotas for the number of “separatists,” “terrorists,” and “religious extremists” they must arrest.⁵⁸ Two other developments may have also contributed to lower quality policing and the tendency to use lethal force in recent years. Following the 2009 riots and crackdown, many Uighur police officers reportedly resigned on ethical grounds. They were reportedly replaced with less scrupulous individuals, including some who had been convicted of violent crimes.⁵⁹ In addition, as violent attacks against police increased in 2013, more officers were armed with guns and did not necessarily receive adequate training.⁶⁰
- **Efforts to reduce Uighur solidarity and communal life:** Alongside their religious significance, holidays like Ramadan, shrine festivals, and informal female prayer gatherings are opportunities for Uighurs to socialize and reinforce a sense of communal identity.⁶¹ However, the government sees such solidarity as a threat to national unity. During Ramadan, many Muslims traditionally seek to help the needy in their community, and the families facing hardship are often those with children or husbands in jail. The Chinese authorities view attempts to visit or assist them as an expression of antigovernment sentiment.⁶² Ramadan has also become politically sensitive due to its timing, which has roughly coincided in recent years with the anniversary of the July 2009 protests and crackdown. Religious dress and appearance have similarly taken on new meaning as markers of Uighur solidarity and resistance. When Uighurs see others wearing veils or growing beards, a sense of unity is reinforced.⁶³ And by reducing their visibility, local authorities hope to demonstrate to superiors that their campaign against the “three evils” has achieved results.
- **Campaign to reduce the ‘religious consciousness’ of future generations:** The Chinese authorities’ ban on religious practice and education for children under the age of 18 and heavy restrictions on religious practice among university students are essential components in a systematic effort to dilute religiosity and Uighur identity among youth, particularly those with higher education.⁶⁴ Other aspects of this effort include the proactive promotion of atheism in school textbooks and controls on the presence of devout believers among the adults who might influence young people, such as public school teachers or university professors.⁶⁵ As restrictions have intensified, devout

Exhibit 14. Freedom House, "The Battle for China's Spirit (Falun Gong)."

V: Falun Gong

Degree of persecution:

Falun Gong

VERY HIGH

Trajectory of persecution:

Falun Gong



Minor
Decrease

Key findings

- 1 Survival:** Despite a 17-year Chinese Communist Party (CCP) campaign to eradicate the spiritual group, millions of people in China continue to practice Falun Gong, including many individuals who took up the discipline after the repression began. This represents a striking failure of the CCP's security apparatus.
- 2 Ongoing large-scale persecution:** Falun Gong practitioners across China are subject to widespread surveillance, arbitrary detention, imprisonment, and torture, and they are at a high risk of extrajudicial execution. Freedom House independently verified 933 cases of Falun Gong adherents sentenced to prison terms of up to 12 years between January 1, 2013, and June 1, 2016, often for exercising their right to freedom of expression in addition to freedom of religion. This is only a portion of those sentenced, and thousands more are believed to be held at various prisons and extralegal detention centers.
- 3 Cracks in the crackdown:** Despite the continued campaign, repression appears to have declined in practice in some locales. President Xi Jinping has offered no explicit indication of a plan to reverse the CCP's policy toward Falun Gong. But the purge and imprisonment of former security czar Zhou Yongkang and other officials associated with the campaign as part of Xi's anticorruption drive, together with Falun Gong adherents' persistent efforts to educate and discourage police from persecuting them, have had an impact.
- 4 Economic exploitation:** The party-state invests hundreds



Falun Gong practitioners meditating in public in Guangzhou in 1998, before the Communist Party banned the spiritual group in 1999. Such sessions remain forbidden.

Credit: Minghui

of millions of dollars annually in the campaign to crush Falun Gong, while simultaneously engaging in exploitative and lucrative forms of abuse against practitioners, including extortion and prison labor. Available evidence suggests that forced extraction of organs from Falun Gong detainees for sale in transplant operations has occurred on a large scale and may be continuing.

- 5 Response and resistance:** Falun Gong practitioners have responded to the campaign against them with a variety of nonviolent tactics. They have especially focused on sharing information with police and the general public about the practice itself, the human rights violations committed against adherents, and other content aimed at countering state propaganda. In recent years, a growing number of non-Falun Gong practitioners in China—including human rights lawyers, family members, and neighbors—have joined these efforts.

“[The Communist Party initiated] the worst instance of religious persecution since the Cultural Revolution, with the clampdown against Falun Gong.”

—André Laliberté, *Ottawa University, leading scholar on religion in China, 2015*¹¹

“Orders for arrests continue to come down from high-level authorities, but sometimes the Public Security Bureau agents will say no, they are only exercising to be healthy.”

—Chinese human rights lawyer, 2013¹²

Fierce crackdown on a popular qigong

Falun Gong is a spiritual practice whose key features are five meditative *qigong* exercises and teachings reminiscent of Buddhist and Taoist traditions, with particular emphasis placed on the tenets of truthfulness, compassion, and tolerance (*Zhen-Shan-Ren* in Chinese). Adherents perform the exercises, study spiritual texts, and attempt to conform to these values—believed to be in harmony with the spiritual nature of the universe—in their daily lives, with the understanding that doing so leads to better physical health, mental well-being, and spiritual enlightenment.³ While Falun Gong includes some spiritual attributes of religion, it is loosely organized and lacks a professional clergy, formal membership, acceptance of donations, and specialized places of worship.⁴

Throughout the early and mid-1990s, Falun Gong, its practitioners, and founder Li Hongzhi enjoyed substantial government support and positive coverage in state media. Li first introduced the practice to the public in China in 1992.⁵ For the next two years, he traveled the country under the auspices of the state qigong association, giving lectures and teaching the five Falun Gong exercises.⁶ State media reports from that period laud the benefits of Falun Gong practice and show adherents receiving “healthy citizen awards.” In an event that would be unimaginable today, Li gave a lecture at the Chinese embassy in Paris in 1995, at the government’s invitation.⁷

After Li completed his formal lecture series, the practice continued spreading by word of mouth and through an informal network of local volunteers who would teach the exercises and share copies of the spiritual texts with friends and at public exercise sites. Chinese people from every stratum of society—doctors, farmers, workers, soldiers, intellectuals, Communist Party members—began taking up the practice. Though students of Falun Gong would gather in groups to practice exercises, many saw the discipline as a personal rather than a collective endeavor to enhance their physical and mental well-being. There were no signs of a political agenda or even criticism of the CCP, as now appears in Falun Gong literature years after

the persecution began. By 1999, according to government sources and international media reports, at least 70 million people were practicing; Falun Gong representatives claimed that the community had reached 100 million.⁸

In the 1990s, Chinese people from every stratum of society—including Communist Party members—began taking up Falun Gong.

In July 1999, the spiritual discipline was abruptly banned. Prominent adherents were arrested, and anyone who continued practicing was pursued as an enemy of the state. Reports began emerging of Falun Gong believers being abducted, tortured, and even killed. The name of the practice, the name of its founder, and a wide assortment of homonyms became some of the most censored terms on the Chinese internet. Any mention in state-run media or by Chinese diplomats was inevitably couched in demonizing language.

What went wrong?

The CCP’s dramatic about-face regarding Falun Gong was unusual, even in the context of the party’s restrictive religious policies. Observers have consequently speculated about why it happened and whether it could have been avoided.

The CCP generally displays low tolerance for groups that place any spiritual authority above

their allegiance to the party. Still, scholars, eyewitnesses, and other knowledgeable observers point to a constellation of processes and factors specific to Falun Gong that probably contributed to the particularly harsh assault against the group:

- **Popularity:** With over 70 million followers, Falun Gong exceeded the CCP's own membership of 63 million as of 1999,⁹ and represented the second-largest faith community in China after Chinese Buddhism.
- **Ideological competition:** Falun Gong's emphasis on the values of truthfulness, compassion, and tolerance as part of its spiritual worldview appears to have attracted the party's ire, as it conflicted with principles underpinning Marxist ideology and the legitimacy of CCP rule, like materialism, political struggle, and nationalism.¹⁰ Falun Gong effectively offered an alternative moral compass, and its spread came to be seen as a fundamental challenge to the party's authority.¹¹
- **Party-state 'infiltration':** Falun Gong was becoming popular within parts of the party-state apparatus that were critical to maintaining CCP rule, including the military, internal security forces, state media, and the party disciplinary inspection committee.¹² Fear that these Falun Gong adherents could place their allegiance to the discipline's principles above loyalty to the CCP leadership apparently began to take hold.
- **Independent civil society network:** The CCP has long sought to co-opt and suppress independent civil society organizations and other forms of grassroots collective activity.¹³ The party attempted to bring all qigong groups under closer control in the mid-1990s. In 1996, the state-run qigong association, with which Falun Gong was linked, called for the establishment of party branches among the practice's followers and sought to profit from Falun Gong teachings. Li Hongzhi chose to part ways with the association, intending for Falun Gong to remain a personal practice without formal membership and shared free of charge.¹⁴ Falun Gong continued to spread through a loosely knit network of meditation sites and volunteer coordinators across the country.
- **A period of escalating repression:** From 1996 to 1999, many in the party-state still held favorable views of Falun Gong, publicly citing its benefits for health and even social stability.¹⁵ But several top cadres began perceiving it as a threat, resulting in periodic acts of repression. State printing presses ceased publishing Falun Gong books in 1996. Attempts to register with various government organizations were denied. Articles that appeared sporadically in state-run news outlets smeared Falun Gong. Security agents monitored practitioners and occasionally dispersed meditation sessions.¹⁶
- **High-profile appeal to the leadership:** In April 1999, the escalating harassment culminated in the beating and arrest of several dozen practitioners in Tianjin. Those calling for their release were told that the orders had come from Beijing. On April 25, over 10,000 adherents gathered quietly outside the national petitions office in Beijing, adjacent to the Zhongnanhai government compound, to ask for an end to abuses and recognition of their right to practice. Some observers have argued that this very public demonstration took party leaders by surprise and triggered the crackdown that followed.¹⁷ However, the mass petition itself was a response to growing persecution led by central

officials—including then security czar Luo Gan—suggesting that repression was already being implemented by parts of the party apparatus before the incident.¹⁸

- **Jiang Zemin's personal role:** Then premier Zhu Rongji took a conciliatory stance toward Falun Gong after the April 25 demonstration.¹⁹ He met the petitioners' representatives and orchestrated the release of the adherents in Tianjin, after which those in Beijing voluntarily dispersed. But Jiang Zemin, then the CCP general secretary and state president, overruled Zhu, calling Falun Gong a serious challenge to the regime's authority, "something unprecedented in the country since its founding 50 years ago."²⁰ In a circular dated June 7, Jiang issued an unequivocal order to "disintegrate" Falun Gong.²¹ The decision was unusually abrupt and ran contrary to earlier investigations by domestic intelligence agencies that concluded Falun Gong posed no threat.²² Some experts have claimed that Jiang was unsettled by the evident enthusiasm for Falun Gong at a time when he saw his own standing with the public was flagging.²³

Chinese state media and officials have offered their own explanation for the crackdown, seeking to frame the campaign as a necessary move against an alleged "evil cult" that had a nefarious influence on society. But such claims run counter to internal party documents and the lack of harmful outcomes in other countries where Falun Gong has spread. International scholars have repeatedly concluded that Falun Gong does not have the attributes of a cult.²⁴ Even in China, the label only appeared in party discourse in October 1999, months after the crackdown was launched, as the propaganda apparatus seized on a manipulated English translation of the Chinese term *xiejiao*. This suggests that the term was applied retroactively to justify a violent campaign that was provoking international and domestic criticism. David Ownby, a leading scholar on Chinese religions, notes:

The entire issue of the supposed cultic nature of Falun Gong was a red herring from the beginning, cleverly exploited by the Chinese state to blunt the appeal of Falun Gong and the effectiveness of the group's activities outside China.²⁵

In the context of China's authoritarian political system, once Jiang made the arbitrary and arguably illegal decision to ban Falun Gong and asserted his will over other members of the Politburo Standing Committee, there were few institutional or legal obstacles to stop what came next. Over the following months, Jiang created a special party leadership group with an extralegal, plainclothes security force to lead the fight. Established on June 10, 1999, it came to be known as the 6-10 Office.²⁶

In July 1999, the campaign began in earnest, and the full weight of the CCP's repressive apparatus was brought down on Falun Gong. Demonizing propaganda flooded the airwaves, thousands of people were detained, and millions were forced to sign pledges to stop practicing. Zhao Ming, a former Falun Gong prisoner of conscience from Beijing, explained that "the party's machinery of persecution was there—Jiang pushed the button."²⁷

Falun Gong had been allowed to grow in part because it operated in the grey zone of qigong, outside the scope of the broader restrictions on organized religion that were already in place in the 1990s. It essentially slipped through a tenuous loophole in the CCP's ideological defenses, and from that perspective, a conflict between the loosely organized, independent-

minded spiritual group and the authoritarian, atheist regime may have been inevitable. Still, under another paramount leader, the party's belated response might not have been as violent or deadly, or even taken place at all.

The Falun Gong community in China today

Given the force of the CCP's crackdown, few observers inside or outside China would have expected Falun Gong to survive. Indeed, the conventional wisdom among many scholars, journalists, and policymakers is that it was successfully crushed inside China.²⁸ In an environment of long-standing repression, it is nearly impossible to know how many people practice Falun Gong in China today. Yet 17 years after it was banned, there is reason to believe that the number remains in the millions,²⁹ and possibly the tens of millions.³⁰

Several points of information suggest that a reasonable estimate of the minimum number of people in China practicing Falun Gong today would fall in the range of 7 to 10 million, while overseas Falun Gong sources have estimated that the total is 20 to 40 million.³¹

As part of nationwide campaigns launched since 2010 to reduce the number of Falun Gong practitioners, local government websites often refer to adherents who have yet to renounce the practice and to "relapses," in which individuals resume practice following release from custody.³² In some cases, government directives provide quotas to low-level officials regarding these populations. For example, an April 2009 work plan in Jiangxi Province called for officials to reduce by 50 percent the number of people who had not renounced Falun Gong and to keep the proportion of "recidivists" within 10 percent of the local Falun Gong practitioners who had renounced the practice.³³ Applying a 10 percent return rate to the 70–100 million who were practicing in 1999 yields an estimated 7 to 10 million remaining adherents, though not all have been forced to recant in the first place, while others abandoned the practice voluntarily.

Minghui, a Chinese-language, overseas-based Falun Gong website with a robust network of contacts in China, reported in May 2009 that users uploaded and downloaded material on the site through approximately 200,000 secure internet connections in China. Official documents indicate that the sites remain active throughout the country.³⁴ Freedom House interviews with Falun Gong activists involved in coordinating such sites found that each one typically relays printed materials or discs to several dozen adherents.³⁵ This information similarly produces a minimum estimate of 7 to 10 million people practicing and sharing Falun Gong–related information, particularly since not all people practicing are necessarily engaged in such risky activity.

In terms of trajectory, lawyers interviewed by Freedom House noted numerous cases of individuals taking up the practice in recent years, long after the 1999 ban.³⁶ Documents published in mid-2013 on local government websites in Zhejiang and Hunan Provinces also speak of Falun Gong's "resurgence" and "expansion" in the area.³⁷

Given its rapid growth in the 1990s, the Falun Gong community in China might have expanded well beyond 70 million if the practice had not been banned. Accounts by adherents

Over 17 years after Falun Gong's ban, there is reason to believe that millions, and possibly tens of millions, in China continue to practice.

point to the combination of its reputed effectiveness in improving physical health and its offer of spiritual advancement without the requirement of a monastic lifestyle as a key factor that makes it attractive vis-à-vis other qigong disciplines or religious faiths.³⁸ As described in more detail below, repression has apparently eased in some locales despite the continuation of severe abuses nationally. If the perceived risk of punishment ultimately wanes in the coming years, many in China could resume their practice or take it up for the first time.

Falun Gong under Xi Jinping

After the launch of the crackdown in 1999, it became clear that Falun Gong adherents would not simply cease practicing on government orders, and the party began intensifying its efforts in 2001. A new round of demonizing propaganda flooded the airwaves in January,³⁹ and by midyear a *Washington Post* investigation found that central authorities had sanctioned the systematic use of violence to force people to renounce their belief in Falun Gong.⁴⁰ When Hu Jintao took over as general secretary of the CCP in 2003, Jiang retained significant influence as head of the military. Meanwhile, a number of Jiang's associates—including Luo Gan and later Zhou Yongkang—were placed in top positions that enabled them to continue Jiang's Falun Gong campaign after his full retirement in 2004.

Since November 2012, at least 900 people have been imprisoned for practicing Falun Gong or disseminating information about it.

As a result, during the period of Hu's leadership, hundreds of thousands of Falun Gong adherents were sent to labor camps and prisons, where they were subjected to horrific forms of torture.⁴¹ Many were detained and punished for simply possessing spiritual texts in the privacy of their homes.⁴² Central authorities periodically launched new rounds of arrests, including around the 2008 Beijing Olympics and the 2010 World Expo in Shanghai.⁴³ In 2006, the first allegations emerged of Falun Gong prisoners of conscience being killed so that their organs could be used in transplant operations.⁴⁴

Since November 2012, when Xi Jinping took the helm of the CCP, the party-state's relationship with Falun Gong has been marked by two seemingly contradictory dynamics—ongoing severe and large-scale violations on the one hand, and reduced persecution in some locales on the other.

Ongoing violations, some escalation

Xi has made no official change to the party's policy toward Falun Gong and its stated aim of eradicating the practice. Falun Gong practitioners throughout China continue to be detained, imprisoned, tortured, and sometimes killed in what is still a massive campaign of religious persecution.

In 2013, the central 6-10 Office launched a two-year nationwide campaign titled the "final battle on education and transformation."⁴⁵ Notices of the campaign appeared on government websites throughout China and included quotas on the percentage of local Falun Gong residents who "must undergo education-study classes" each year.⁴⁶ Despite the abolition of the "reeducation through labor" (RTL) camp system in 2013, large numbers of Chinese citizens known to the authorities to practice Falun Gong remain at risk of incarceration, either through the normal court system or in extralegal detention facilities where forced renunciation sessions are conducted.⁴⁷

Freedom House analysis of Chinese court documents found evidence of at least 597 Falun Gong adherents sentenced to prison by a first instance court between January 1, 2014, and June 1, 2016, with punishments of up to 12 years.⁴⁸ In addition, the Duihua Foundation reported documenting the trials of 336 Falun Gong prisoners of conscience in 2013,⁴⁹ bringing the total to at least 933 Falun Gong practitioners imprisoned since Xi assumed leadership of the CCP. Cases of imprisonment were found in 29 out of China's 31 provinces and provincial-level municipalities.

This total is not comprehensive, however. According to Duihua, Chinese government sources suggest that the number of Falun Gong practitioners tried in 2013 could reasonably be three times the number it was able to document.⁵⁰ Falun Gong sources like Minghui have recorded over 2,500 practitioners sentenced to prison during that time period, and at least 22,000 individuals arrested since January 2013, although at least a third were later released.⁵¹ Thousands of Falun Gong practitioners are also believed to be held at extralegal “legal education centers,” “black jails,” and pretrial detention centers, and many others sentenced during the Jiang and Hu eras remain imprisoned.⁵²

45-year-old Gao Yixi died in police custody in April 2016, just 10 days after he and his wife were taken from their home under apparent suspicion of practicing Falun Gong.

Once in detention, Falun Gong adherents—young and old, male or female—are routinely subject to various forms of psychological and physical torture in an effort to break their will. The most prevalent methods are being forced to watch videos slandering Falun Gong and its founder, sleep deprivation, beatings, stretching in awkward postures for long periods of time, and shocks with electric batons, including to the breasts and genitals.⁵³ Such abuse has been known to cause long-term disability and sometimes death. In one high-profile case in Heilongjiang Province, 45-year-old Gao Yixi died in police custody in April 2016, just 10 days after he and his wife were taken from their home under apparent suspicion of practicing Falun Gong and disseminating information about it.⁵⁴ Minghui recorded another 292 deaths of Falun Gong practitioners as a result of abuse in custody or other forms of persecution between January 2013 and November 2016.⁵⁵

A thorough online search of references to the 6-10 Office and its work found evidence that as of June 2016, the extralegal security force remained active in all of China's provinces, autonomous regions, and provincial-level municipalities, with the exception of Tibet. A key aspect of the agency's work appears to be monitoring local residents known to practice Falun Gong and being vigilant around politically sensitive dates, such as May 13 (the anniversary of Falun Gong's introduction), April 25 (the date of the 1999 appeal at Zhongnanhai), and July 20 (marking the launch of the persecutory campaign), when Falun Gong adherents may attempt to gather together privately or engage in a public display of resilience and community education, for instance by hanging banners or disseminating literature. Indeed, interviewees repeatedly noted that large-scale arrests often occur around such dates.⁵⁶

Two developments could indirectly exacerbate conditions for Falun Gong practitioners:

1. **Harsher penalties under Article 300 of the criminal code:** An amendment to the criminal code that came into effect in November 2015 raised the penalty under Article 300 from 15 years to life imprisonment.⁵⁷ The article, which punishes “using a heterodox religion to

undermine implementation of the law,” was added to the criminal code in October 1999 in a retroactive attempt to legalize the ban on Falun Gong.⁵⁸ Chinese judges have used the article as the basis for sentencing thousands of Falun Gong adherents, a small number of human rights lawyers, and members of various other banned faiths to prison. As of November 2016, Freedom House found no evidence that the amended article had been employed to sentence a Falun Gong practitioner to life in prison.

- 2. Crackdown on rights lawyers who defended Falun Gong clients:** In July 2015, Chinese security agencies launched an aggressive assault on the country's contingent of human rights lawyers and the broader “rights defense” movement, detaining over 300 lawyers and their assistants. Most were subsequently released, but others remain in detention and face serious political charges of “subversion.” Several of the detained—including Wang Yu, Wang Quanzhang, and Li Heping—had assisted detained Falun Gong practitioners, including in the period shortly before their own arrests. Obtaining a lawyer has become slightly more difficult for Falun Gong practitioners as a result, but hundreds of attorneys still appear willing to take up the sensitive cases.⁵⁹ This is a stark contrast to the early 2000s, when finding a lawyer who would enter a “not guilty” plea for a Falun Gong defendant was nearly impossible.

Cracks in the crackdown

Considering the CCP's track record regarding Falun Gong, a trajectory of rigid or endlessly escalating persecution might be expected. In a 2015 article, scholar Stephen Noakes and researcher Caylan Ford argue that the party is caught in a path-dependency dilemma when it comes to the group.⁶⁰ Billions of dollars have already been invested, the party's legitimacy would be seriously undermined if it were to suddenly announce a reversal of its policy, and such a change would generate pressure to loosen its grip on other religious groups. Meanwhile, one of the underlying factors that contributed to the ban—the party's deep-seated fear of any large, independent civil society group—remains firmly in place.

Surprisingly, however, there is now evidence of cracks in the repressive apparatus that have allowed some local officials to refrain from persecuting Falun Gong residents. Dynamics that were unimaginable a few years ago—the release of a veteran practitioner after only a few days detention,⁶¹ police permitting adherents to meditate in custody,⁶² or officers actively protecting people⁶³—have emerged across the country and do not appear to be isolated incidents.

The trend may have begun to affect judicial decisions, a remarkable development for a repressive campaign that has epitomized the “rule by man” attributes of China's legal system. In June 2015, a judge in Shaanxi Province issued the first known “exemption from punishment” verdict for a Falun Gong practitioner, Pang You, who was immediately released after an intense campaign on his behalf.⁶⁴ More adherents have apparently been sentenced to regular prisons since the 2013 abolition of the RTL camp system removed that alternative form of incarceration,⁶⁵ but available data indicate that the total number of people incarcerated remains far lower than when the RTL system was in place.

Several overlapping factors appear to be driving these changes:

- **Purge of key officials affiliated with the anti-Falun Gong campaign:** As part of Xi's crackdown on corruption, several high-ranking “tigers” who played a pivotal role

in promoting and implementing the anti-Falun Gong effort have been purged and sentenced to prison. The two most important are former security czar Zhou Yongkang and former 6-10 Office chief Li Dongsheng. On June 11, 2015, state media announced that Zhou had been sentenced to life imprisonment; this was almost the same day that the Shaanxi practitioner was effectively acquitted in the case mentioned above. Falun Gong activists who interact with security forces have been adept at capitalizing on such events to encourage lower-level cadres to distance themselves from the persecutory campaign.⁶⁶

- **Bureaucratic weakening of repressive institutions:** The purge of Zhou and Li, along with the abolition of the labor camp system, appears to have weakened the influence of institutions that had been critical to the campaign. Since Li's initial arrest in 2013, the central 6-10 Office has had three different leaders in as many years, with the most recent appointee—Huang Ming—assigned to the post in May 2016.⁶⁷ Such turnover, with periods of vacancy, stands in contrast to Li's four-year tenure. Meanwhile, since the conclusion of the 2013–15 "transformation" campaign, Freedom House found no evidence of a new centralized push against Falun Gong. By comparison, almost as soon as the 2010–12 effort ended, the next mobilization was launched in 2013.

In an additional sign of dwindling enthusiasm, the CCP's powerful central disciplinary inspection committee initiated a first-ever, two-month inspection tour of the central 6-10 Office in July 2016.⁶⁸ Local branches of the agency continue to function throughout the country, but with uncertainty and weaker leadership at the upper echelons, there is more room for foot-dragging by local police who find the task of persecuting Falun Gong distasteful, or are concerned that they could later be punished for any abuses.

- **Long-term impact of direct outreach to legal-security apparatus:** For over a decade, Falun Gong practitioners inside and outside China, along with their lawyers and family members, have been directly communicating with security agents and judges by phone and in person, urging them not to arrest local Falun Gong residents or arguing that the campaign is illegal and the defendant innocent. Gradually, these efforts appear to be bearing fruit. One interviewee who has made thousands of such calls reflected that "in places all over China, [police] are clearer about the true situation; there are many cases of police secretly helping Falun Gong."⁶⁹ A lawyer who has represented Falun Gong clients made a similar observation that "because Falun Gong practitioners have talked to local officials, some of them have changed their attitude and realize that Falun Gong members are not that threatening, so they won't arrest them."⁷⁰

A new set of Supreme People's Court guidelines to ease filing procedures came into effect on May 1, 2015, and adherents in China and abroad have taken advantage by initiating an even more daring effort: filing criminal complaints with the Supreme People's Court and Supreme People's Procuratorate regarding the abuses they have suffered, and naming Jiang Zemin as responsible for the crimes (see below).⁷¹ While many factors appear to drive torture victims to file such complaints, one motivation repeatedly raised by interviewees was the desire to inform those at the highest echelons of the legal system as to Jiang's culpability, with the hope that they will make "the right choice" and either "bring Jiang to justice" or at least avoid participating themselves.⁷²

Key methods of political control

Since July 1999, the full array of CCP suppression tactics have been deployed against Falun Gong. In the first days and months of the campaign, the party's methods were very public, reminiscent of a Cultural Revolution–like “struggle”: a state media propaganda blitz, public book burnings, mass detentions in stadiums, televised show trials, beatings of protesters on Tiananmen Square.⁷³ Over time, especially once it became apparent that Falun Gong would not be so easily crushed and that public displays of repression were hurting China's international reputation, the tactics became more discreet.

Seventeen years into the campaign, measures like detention, imprisonment, torture, and censorship remain routine in the party's handling of Falun Gong. However, a number of trends in the past five years provide additional insight into Chinese officials' evolving priorities and methods:

Falun Gong practitioners have been jailed for leaving voicemail recordings, posting messages to WeChat or QQ, or circumventing censorship to access blocked websites.

1. Electronic surveillance to supplement physical monitoring: Chinese citizens known to practice Falun Gong have long been under intensive surveillance by both security forces and neighborhood committee members, who track their movements and make periodic home visits to determine whether they continue to practice. Authorities have also monitored targets' phone and internet use since the early days of the persecution, but the Chinese government's surveillance capabilities have expanded significantly over the past decade. Today, Chinese security forces also draw on video cameras in public places and geolocation data to identify Falun Gong practitioners and catch those disseminating information. Court documents and anecdotes provided by Falun Gong refugees illustrate the varied and detailed types of evidence that authorities collect to convict adherents, from video footage on a bus to internet browsing histories and mobile phone records.⁷⁴

2. Continuing focus on ‘transformation’ as a key goal: In 2008, the U.S. Congressional-Executive Commission on China defined “transformation” as “a process of ideological reprogramming whereby practitioners are subjected to various methods of physical and psychological coercion until they recant their belief in Falun Gong.”⁷⁵ From the start, it has been a central goal of the anti-Falun Gong campaign, a way of “eradicating” the practice by forcing its believers to renounce it, often in writing. Authorities use any means necessary to achieve this aim, including physical torture, punishing family members or fellow inmates, and administering drugs to weaken adherents' mental resolve.⁷⁶

Government websites refer to “transformation quotas” and the need to check on those who have been released to make sure they do not resume practice.⁷⁷ Though recanting one's beliefs is often a precondition for early—or any—release from custody, submitting to such pressures does not necessarily put an end to a detainee's persecution. Many “reformed” adherents are simply moved to another section of the prison to focus on forced labor, and some are required to prove the sincerity of their own transformation by pressuring other Falun Gong detainees to recant. Former prisoners who have recanted under pressure speak about the long-lasting psychological impact of having been forced to betray deeply held beliefs.

3. Countering Falun Gong information efforts: Censorship and propaganda have been critical

components of the anti-Falun Gong campaign since its inception, as the CCP had to convince the majority of Chinese people that a popular qigong was suddenly a threat. Studies of online censorship in China have consistently found that terms related to Falun Gong are among the most heavily restricted.⁷⁸ Practitioners have responded with their own massive, multifaceted, and sophisticated public education campaign, both online and offline.⁷⁹

Making headway in the resulting cat-and-mouse game has become a core element of routine anti-Falun Gong work in the Chinese security services. In a sample of 59 available court verdicts from 2016 analyzed by Freedom House, all of the Falun Gong activists sentenced to prison were punished for exercising their right to free expression or access to information. Their alleged “crimes” included leaving voicemail recordings, posting messages to the social media platforms WeChat or QQ,⁸⁰ using a virtual private network (VPN) to download content from Minghui,⁸¹ or simply possessing large numbers of leaflets or discs for apparent dissemination.

Meanwhile, local 6-10 Office websites across the country constantly reference the need to clean up Falun Gong literature circulating in their district,⁸² encourage residents to turn in currency notes with pro-Falun Gong messages printed on them,⁸³ and prevent installation of satellite dishes that allow viewers to access otherwise blocked foreign and Chinese dissident stations.⁸⁴ On the propaganda side, authorities in Shaanxi Province have engaged in their own innovations, commissioning the April 2016 production of an apparent anti-Falun Gong “microfilm”—a short online video of the kind that has become increasingly popular in the smartphone era.⁸⁵

4. Isolating Falun Gong from societal support: In recent years, a growing number of nonpractitioners have taken steps to support Falun Gong, including human rights lawyers who defend practitioners in court and ordinary citizens who sign petitions to free a detained Falun Gong neighbor.⁸⁶ In response, Chinese authorities have employed various tactics to drive a wedge between Falun Gong believers and their existing or potential supporters. Lawyers who take Falun Gong cases or challenge abusive practices have been beaten, disbarred, harassed, and imprisoned. Collective punishment tactics threaten landlords, colleagues, and fellow inmates if someone in their midst is found to be practicing Falun Gong.⁸⁷ And anti-Falun Gong propaganda initiatives have encouraged the public to participate, for instance by signing “pledge cards” or writing essays for a school contest.⁸⁸

Wherever known
Falun Gong
practitioners go and
whatever they do,
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detention simply for
self-identifying as
a believer.

Taken together, these repressive activities seep into every corner of life and society—schools and workplaces, supermarkets and public transportation, passport requests and *hukou* residency registrations, laptops and smartphones. Wherever known Falun Gong practitioners go and whatever they do, particularly if it involves interaction with official agencies, they are under constant surveillance and at risk of detention simply for self-identifying as a believer.

Many of these measures and the way they are implemented are also illegal. They contravene China’s international human rights commitments, many Chinese laws, and even the CCP’s own stated policies, like the declaration that “any action which forces a believer not to believe” is an “infringement of freedom of religious belief.”⁸⁹

The money trail: Expenditures, exploitation, and organ harvesting

The campaign against Falun Gong is very expensive, requiring significant investments of material and human resources. Determining the full annual cost is arguably an impossible task. Nevertheless, some official data are available online, including the annual reported expenditure calculations of 13 local 6-10 Office branches in various counties and districts across nine provinces in 2014 and 2015. The total expenditure for these branches, covering a population of some 14 million, was 8.9 million yuan (\$1.37 million). If that per capita investment is applied to China's total population of 1.37 billion, the estimated annual budget for all 6-10 Office branches nationwide is 879 million yuan (\$135 million).⁹⁰ And this is only for one part of the party-state apparatus involved in the suppression of Falun Gong.

The role of money in the CCP's campaign goes beyond simple expenditures, however. Various forms of economic incentives and exploitation have given individuals within the party-state apparatus a financial interest in continued repression. They include:

- Opportunistic extortion, bribe taking, or theft of property by local police⁹¹
- Officially sanctioned bonuses or financial demerits for security personnel, rewards for residents who report Falun Gong activities, and fines imposed on adherents by the courts⁹²
- Systematic forced labor by detained Falun Gong adherents, a phenomenon that continues at prisons and transitional detention centers even after the abolition of RTL camps⁹³

It is in the context of dehumanizing propaganda, severe abuse in custody, and economic inducements that the ultimate form of financial exploitation has been reported: the killing of Falun Gong detainees and the extraction of their organs to be sold at high prices to Chinese patients and foreign "transplant tourists" as part of a multibillion-dollar industry. The allegations first surfaced in 2006, and several investigations by foreign journalists and legal specialists have found them to be credible;⁹⁴ some members of the medical community have voiced their own concerns.⁹⁵

The estimated annual budget for all 6-10 Office branches nationwide is 879 million yuan (\$135 million).

There are indubitably serious problems surrounding the sources of organs for transplants in China.⁹⁶ A thorough investigation into these sources is beyond the scope of this study. Nevertheless, Freedom House reviewed available evidence compiled by other investigators (including phone calls made to Chinese doctors), interviewed former Falun Gong prisoners of conscience who provided detailed accounts of blood tests in custody, spoke to a Taiwanese doctor whose patients have traveled to China for transplants, and met with the friend of a military hospital employee who had firsthand knowledge of organ extraction from a Falun Gong detainee as recently as 2011.⁹⁷ The above review found credible evidence suggesting that beginning in the early 2000s, Falun Gong detainees were killed for their organs on a large scale.

There are reasons to believe that such abuses continue. The organ transplant industry in China remains enormous and growing, even as the number of judicially executed prisoners has declined over the past decade.⁹⁸ After admitting that extracting organs from executed prisoners was problematic, the Chinese government has initiated a voluntary organ-donor

system, but its capacity remains small. Moreover, in 2014, a top health official announced that organs from prisoners would be embedded within the same database, even though prisoners are not in a position to provide free consent for “voluntary” donations.⁹⁹

A detailed June 2016 study of publicly available data on the number of transplants being conducted at medical institutions in China found that the scale is many times greater than the 10,000 transplants per year often cited by officials.¹⁰⁰ This would indicate that the discrepancy between known supply and actual transplant volume may be even larger than previously appreciated, increasing the risk to Falun Gong practitioners, other prisoners of conscience, and criminal detainees.

Community response and resistance

Falun Gong believers in China have responded to CCP persecution with tenacity, nonviolence, and creativity. In the first days and weeks of the ban, many picketed local government offices. When these lower-level officials proved unreceptive, adherents began writing letters to higher authorities or petitioning directly in Beijing. They shared their positive experiences with the practice in an effort to convince officials that Falun Gong posed no threat to society. By 2000, practitioners unfurling banners and performing qigong exercises were a daily presence on Tiananmen Square, though most were immediately arrested.

Falun Gong believers in China have responded to CCP persecution with tenacity, nonviolence, and creativity.

In 2001, as it became clear that a top-down reversal of the ban was unlikely, adherents turned their focus to the Chinese public and local police, engaging in a proactive effort to educate them about Falun Gong and urge them not to participate in the persecution. Printed leaflets and homemade videos were produced and disseminated en masse in a form of activism that one scholarly account likens to a “Chinese samizdat.”¹⁰¹ Falun Gong devotees in the diaspora designed censorship circumvention software, produced videos for dissemination inside China, and developed newspaper, radio, and satellite television outlets to relay uncensored news about Falun Gong and other human rights issues to audiences inside and outside China.

The Minghui website has itself played a critical role, serving as a communications channel between overseas and Chinese practitioners, a clearinghouse for accounts of persecution, and an activist resource. One section of the website serves as something of a toolkit, replete with the latest versions of circumvention tools, videos for download, and instructions for hanging banners and making automated phone calls.¹⁰²

These distribution channels and content have evolved as practitioners gauge what might resonate with Chinese audiences, and as many lost faith in the CCP’s willingness—or even ability—to reverse the campaign. Some types of content have been consistent: personal accounts of the benefits of the practice, examples of rights abuses occurring nationwide and locally, evidence of Falun Gong’s spread around the world, and specialized content to debunk claims in party propaganda.¹⁰³

Over the past decade, a broader array of information has joined this regular repertoire for circulation in China, including DVDs of classical Chinese dance performances and the *Nine Commentaries on the Communist Party* (*Jiuping Gongchandang*), a book-length series

of articles first published in 2004 that offers a critical narrative of the CCP's history and a moral vision for how the country might recover from decades of violent political campaigns, including the one against Falun Gong. Such content suggests that Falun Gong activists are no longer focused simply on clearing the practice's name and ending the persecution, but are also seeking to help revive traditional culture and prepare the Chinese population for a future without the CCP.

Falun Gong practitioners' grassroots resistance and advocacy efforts in China since 2012 can be sorted into five major categories:

- 1. Campaigns to win the release of detained practitioners:** When a Falun Gong practitioner is detained, particularly if the person is well known within the community, adherents inside and outside China have developed various tactics for applying grassroots pressure on local officials to secure the detainee's release. For example, several teams of volunteers outside China make phone calls to local police, 6-10 Office agents, prosecutors, and judges, using numbers obtained from inside China (sometimes from sympathetic police). According to the coordinator of one such team, over 3,000 calls might be made on behalf of 350 detained individuals in a given week.¹⁰⁴ Within China, adherents write letters to local authorities, hire human rights lawyers to represent the detained believer, and increasingly circulate petitions among nonpractitioners calling for the individual's release.¹⁰⁵

Although it is difficult to track the impact of these efforts, there have been cases in which the detainee was released, as with Pang You in Shaanxi, noted above. Pang's lawyer reported that when he met with an officer to gain access to his client, a stack of letters was handed to the officer and phones were constantly ringing; the policeman said the calls were from friends of the detainee.¹⁰⁶ At least 1,000 residents in Pang's hometown of Beijing also signed a petition calling for his release.¹⁰⁷

- 2. Adapting public education to new technology and censorship:** Increases in mobile phone and internet penetration in China have created both challenges and opportunities for Falun Gong practitioners' public education efforts. Certain types of media, like video discs, have become less prevalent and therefore less effective. Some activists have switched to social media applications like QQ or WeChat, which allow them to share links to videos or other content in a manner that does not trigger automated keyword filtering.¹⁰⁸ Yet increased government censorship, tighter surveillance, and more consistent enforcement of real-name registration have created new obstacles, requiring constant innovation. For example, rather than making individual calls, it is now safer and more efficient to obtain a large number of registered phone cards and devices, then use them to make simultaneous calls with automated recordings. After a Beijing adherent was tracked down by authorities via geolocation technology, activists in that city began urging practitioners to move from place to place while making the calls.¹⁰⁹
- 3. Using legal channels to challenge persecution:** The Chinese legal system, with its institutionalized political control, is better suited to serve as a tool of repression than as a guarantor of justice. Nonetheless, as a matter of principle and with the hope of giving those within the system a chance to play a positive role, Falun Gong adherents have regularly engaged in legal activism. As a larger number of human rights lawyers have been willing to take Falun Gong cases, more adherents and their families have

been hiring attorneys to enter not guilty pleas and appeal convictions. Court documents analyzed by Freedom House found that between January 2014 and June 2016, second instance courts had issued at least 275 decisions in Falun Gong cases, indicating that a certain percentage of jailed adherents decided to appeal despite the extremely slim—or even nonexistent—chances of a reversed decision.

4. Lodging legal complaints against Jiang Zemin to seek accountability: Since May 2015, large numbers of Falun Gong torture survivors have gone on the offensive, taking advantage of a change in regulations to lodge criminal complaints that name Jiang Zemin as the one responsible for their suffering. New Supreme People's Court guidelines that took effect on May 1, 2015, require judicial authorities to accept criminal complaints submitted by individual citizens; previously, they had the leeway to reject the complaints. A number of articles on Minghui raised awareness of the change and proposed that adherents take advantage of Xi's anticorruption drive—which had brought down key Jiang allies—by submitting their accounts of persecution and calling for Jiang to be investigated.

Victims of persecution inside and outside China began drafting complaints and mailing them to the Supreme People's Court and the Supreme People's Procuratorate, either individually or jointly. One interviewee who had done so reported that he was able to track the package and received confirmation that it had arrived at its destination and was signed for, though he had received no further news of its processing.¹¹⁰ As of July 2016, Minghui reported that over 200,000 practitioners had submitted complaints, often sharing a copy for publication on the website. Although unable to verify such a large number of cases, Freedom House researchers obtained copies of several complaints and spoke to individuals from Beijing, Shanghai, Heilongjiang, and the United States who had submitted complaints and personally knew dozens of others who had done the same. Many noted that while some plaintiffs had been imprisoned, the vast majority had not experienced retribution or had been quickly released.

5. Encouraging fellow citizens to renounce the CCP: Since late 2004, a centerpiece of content disseminated by Falun Gong practitioners has been the *Nine Commentaries on the Communist Party* mentioned above, including text, video, and audio versions. Noakes and Ford explain that the book's publishers also "encourage citizens to issue 'tuidang' [withdraw from the party] statements, symbolically severing their affiliations with the Party, youth league, or young pioneers as a form of catharsis and a way to clear the conscience."¹¹¹ Freedom House interviews with Falun Gong activists and references in Chinese official documents indicate that this has become a focus of outreach efforts in China.¹¹²

A 2011 study of the phenomenon found that the aim of those involved was not to overthrow the CCP. Rather, the campaign stems from the belief that the CCP is on its last legs, but that in order to ensure a peaceful transition to a less repressive form of government, the Chinese people must undertake a process of moral awakening and a commitment to nonviolence.¹¹³ As of November 2016, the overseas website tracking the tuidang movement claimed that over 255 million people inside and outside China had published statements. Although this figure could not be verified, Chinese court documents from early 2016 identify multiple cases in which Falun Gong adherents were sentenced to prison for possessing tuidang literature, indicating that the CCP itself is taking the movement seriously.¹¹⁴

Falun Gong outreach efforts and advocacy campaigns appear to have had at least some success, despite the harsh environment in which Falun Gong adherents in China operate. The sheer scale of information sharing is evident from court documents, in which a single defendant is often accused of possessing hundreds of leaflets, DVDs, or phone cards. Some practitioners have been released after intense campaigns on their behalf, and some proportion of police who receive phone calls have reportedly changed their attitudes and committed to treat detained practitioners more humanely.¹¹⁵

Perhaps most impressive is the large contingent of nonpractitioners who have joined Falun Gong initiatives. Despite the 2015 crackdown on human rights lawyers, hundreds continue to represent Falun Gong clients.¹¹⁶ Tens of thousands of people around China have signed petitions, not only for the release of detained neighbors, but more recently in support of Jiang Zemin's prosecution.¹¹⁷ The aforementioned 2011 study of tuidang statements and accounts from Freedom House interviewees indicate that the majority of people making such commitments are not Falun Gong adherents. Meanwhile, a number of high-profile human rights and democracy activists have published their own separation statements over the years, including Gao Zhisheng, Hu Jia, Wei Jingsheng, and Yang Jianli.

The simple fact that Falun Gong has survived the CCP's onslaught is impressive and amounts to a genuine failure of the party's repressive apparatus.

Future outlook

In today's China, Falun Gong remains a taboo subject. Many Chinese still believe party propaganda that leads them to fear or even hate Falun Gong practitioners. And on a daily basis, large numbers of judges, prosecutors, and police play an active role in the arrest, imprisonment, and torture of Chinese citizens who persist in their devotion to Falun Gong. Nevertheless, in July 1999, few people inside or outside China would have suspected that 17 years later, millions might still be practicing Falun Gong, neighbors would be signing pro-Falun Gong petitions, and Jiang Zemin would be the subject of a wave of criminal complaints.

The simple fact that Falun Gong has survived the CCP's onslaught is impressive and amounts to a genuine failure of the party's repressive apparatus. When one considers this reality and the factors that led to the ban, it is hard not to conclude that Jiang and the CCP have created a self-fulfilling prophecy, generating the very threats they feared by turning tens of millions of politically loyal citizens and party members into an army of dedicated activists at odds with the CCP.

The contradictory trends evident since Xi became general secretary make it difficult to predict how the party will treat Falun Gong in the future, but this very uncertainty represents a change from the previous outlook of unrelenting repression. Given how unimaginable it was a few years ago that powerful figures like Zhou Yongkang would be imprisoned, it is not entirely outside the realm of possibility that Jiang Zemin might also come under fire, if only on corruption charges rather than for his pivotal role in the anti-Falun Gong campaign.

Absent such a move, which could clear the path for a top-down reversal of the campaign, the choices of individual local officials will continue to be both critically important and widely divergent, sometimes making the difference between life and death.¹¹⁸

Exhibit 14a. Freedom House, "The Battle for China's Spirit (Tibetan Buddhism)."

IV: Tibetan Buddhism

Degree of persecution:

Tibetan
Buddhism

VERY HIGH

Trajectory of persecution:

Tibetan
Buddhism



Minor
Increase

Key findings

- 1 **Revival and expansion:** Tibetan Buddhism has revived significantly since the rampant destruction of the Cultural Revolution. Over the past decade, it has gained millions of new believers from the urban Han elite across China, joining the widespread piety among roughly six million Tibetans.
- 2 **Extensive controls:** The Chinese authorities impose severe constraints on the religious practice of Tibetan Buddhists, particularly devotion to the exiled Dalai Lama, a core tenet for many believers. Intrusive official presence in monasteries, pervasive surveillance, routine reeducation campaigns, limits on travel and communications, and regulations discouraging religiosity among government employees and university students affect most monastics and many lay believers. Nevertheless, some controls are implemented unevenly across different geographic areas or schools of Tibetan Buddhism.
- 3 **Violent repression:** Chinese security forces in Tibetan areas are quick to employ coercive measures to suppress perceived religious dissent, including the use of live ammunition against unarmed civilians. Human rights groups and media reports indicate that at least 321 Tibetans have been detained since November 2012 in connection with religious activism or expression, of whom 75 were given prison sentences.⁹ Several individuals die in police custody each year.¹⁰
- 4 **Under Xi Jinping:** President Xi Jinping has largely continued Hu Jintao-era policies and campaigns while deepening and expanding certain controls. Some new measures have escalated tensions with monastics and lay believers. These include criminalizing assistance to



The prominent Larung Gar Buddhist Academy before and during demolitions in 2016. The authorities reportedly sought to reduce the number of Tibetan and Chinese students in residence.

Credit: Wikimedia/Jimmy Lee, Contact Magazine

self-immolators, canceling previously permitted festivals, increasing intrusive restrictions on private religious practice, and more proactively manipulating Tibetan Buddhist doctrine and the selection of religious leaders.



5 Economic carrots and sticks: Various rewards and punishments encourage local officials to use coercive rather than cooperative methods to handle disputes with Tibetan religious communities. Economic incentives are also increasingly being used as a form of collective punishment to deter acts of protest or resistance to religious repression, often affecting the livelihood of entire families or villages.

6 Resilience and resistance: Tibetans' private devotion to the Dalai Lama has proved incredibly resilient despite over two decades of suppression efforts. The constant denunciation and vilification of the Dalai Lama by Chinese officials and state media remains one of the most offensive aspects of the government's religious policy. The expansion of campaigns forcing monastics and lay believers to denounce him has been a key factor motivating protests, including 140 self-immolations since 2009. Many Tibetans also employ more subtle forms of resistance, creating avenues to discreetly engage in forbidden religious practices or share information.

"The central party committee is the real Buddha for Tibetans."

—Zhang Qingli, former party secretary of the Tibetan Autonomous Region, March 2007⁷

"The [government's] propaganda efforts don't work, as everybody knows these are false. His Holiness means the world to all Tibetans. Everyone in Tibet hopes to meet His Holiness one day."

—Nyima Lhamo, recently exiled refugee from Sichuan Province, August 2016⁸

Tibetan Buddhism in China today

For centuries, Tibetan Buddhism and its vast network of monasteries and nunneries have been a central component of economic, social, political, and religious life in Tibet. Many of the region's religious sites date back to the seventh century. Political and religious authority have been closely intertwined, particularly since a Dalai Lama began ruling the Tibetan Plateau in the mid-17th century.

Restrictions have intensified in most Tibetan areas over the past decade, but enforcement has varied among different monasteries and lay communities.

The unique religious traditions of Tibetan Buddhism—its religious texts, dances, tantric practices, and the philosophical debates that are central to monastic education—differ significantly from the form of Mahayana Buddhism practiced widely in other parts of China. Lay practice typically involves making offerings at temples, reciting prayers, maintaining a home shrine, celebrating annual festivals, and completing pilgrimages to sacred sites in Lhasa or elsewhere on the plateau.⁵ These activities are quite common and visible in Tibetan areas of China. Also visible, however, are the heavy paramilitary and police presence surrounding key monasteries and video surveillance cameras installed within or near religious sites.

According to official statistics, as of 2014 there were 3,600 active Tibetan Buddhist monasteries or temples and 148,000 Tibetan Buddhist monks and nuns throughout China, far exceeding the number of Chinese Buddhist monastics and illustrating the particularly important position that religious institutions hold in Tibetan communities.⁶ Of these, 1,787 religious sites and over 46,000 monks and nuns are reportedly located within the Tibet Autonomous Region (TAR).⁷ Although no specific figures are available on the number of lay believers, the vast majority of the 6.28 million Tibetans living in China are thought to engage in some kind of Tibetan Buddhist practice, unless they are members of the Chinese Communist Party (CCP) or government officials.⁸

In addition to public displays of both devotion and control, there is an array of behind-the-scenes restrictions on religious practice for monastics and many lay believers, and security forces regularly engage in severe—and at times fatal—acts of repression. Restrictions have intensified in most Tibetan areas over the past decade, but enforcement has varied among different monasteries and lay communities and fluctuated at particular moments in time. Several factors account for this variation:

- **Geography:** Conditions are significantly worse in the TAR compared with Tibetan prefectures in surrounding provinces, although the gap has been shrinking in recent years. Controls appear to be tighter in areas of Sichuan, Qinghai, and Gansu Provinces that are home to major monasteries, and looser in more rural areas and in the only Tibetan prefecture in Yunnan Province.⁹ Thus while some villages have undergone repeated rounds of “patriotic reeducation” that include obligatory denunciation of the Dalai Lama, other areas have been largely spared.¹⁰ Adherents of Tibetan Buddhism from China's ethnic Han majority often practice a hybridized version of the faith, combining its elements with Chinese Buddhist traditions; their practice may not include veneration of the Dalai Lama, meaning they encounter fewer official constraints.
- **Attitudes of local officials:** Despite hard-line policies that emanate from the central CCP,

local officials have some flexibility in governing their jurisdictions. In a small number of prefectures, certain officials, particularly those of Tibetan origin, tend to be more familiar with religious practice and retain a more cooperative relationship with local monasteries. They employ fewer hostile measures or turn a blind eye to infractions unless pressured by central authorities or forced to respond to high-profile protests.¹¹ Even in the TAR, distinctions in the degree of repression have been evident over time under different party secretaries.¹²

- **Schools of Tibetan Buddhism:** The Dalai Lama heads the largest school of Tibetan Buddhism, the Gelugpa school, although Tibetans from other schools also revere him. Many religious restrictions are also applied to monasteries and believers affiliated with the Nyingma and Karma Kagyu schools. Nevertheless, particularly in relations with local officials, it may be easier for senior monastics from non-Gelugpa schools to push back against restrictive measures. Meanwhile, worshippers of Shugden, a Tibetan Buddhist deity, have their own historical animosity toward the Dalai Lama. In recent years, the Chinese authorities have sought to exploit this internal division, providing funding and other support to Shugden monasteries and religious leaders, and even encouraging monks at Gelugpa institutes to adopt worship of the deity.¹³
- **Size of monastery:** Monasteries range in size from quite small institutions housing just 10 to 20 monks or nuns to enormous city-like complexes with thousands of people in residence. Large monasteries are more likely to draw government attention and generate political dissent, leading to security crackdowns and intrusive controls.
- **Sensitive dates or incidents:** The deployment of security forces, imposition of communications blackouts, and restrictions on large gatherings are not necessarily permanent in nature. Instead the authorities often resort to these measures ahead of politically sensitive dates—such as the March anniversaries of past Tibetan uprisings or the Dalai Lama’s birthday in July—or in response to incidents such as a self-immolation or a small protest at a marketplace.

Many of these variations have flattened out in recent years, as authorities have expanded intrusive restrictions, patriotic reeducation campaigns, and surveillance to more areas outside the TAR and to smaller monasteries.

While the number of practicing Tibetan Buddhists among ethnic Tibetans has remained more or less constant, one significant change to the religion over the past decade has been the growing number of Han Chinese followers, particularly urban elites. Several million are believed to have adopted the religion.¹⁴ Some observers attribute the rising popularity of Tibetan rather than Chinese Buddhism in this population to the more extensive spiritual guidance that Tibetan Buddhist monastics provide directly to lay believers, and to an interest in obtaining supernatural abilities.¹⁵

This change has had both positive and negative repercussions for religious practice in Tibetan areas. On the one hand, Tibetan Buddhist monasteries or temples with affluent Han Chinese devotees have greater access to donations and funding from nongovernmental sources, as well as greater political influence in Beijing. Such supporters may be able to

intervene in times of crisis, mitigate repressive actions, and encourage negotiated solutions to conflicts between local officials and monastic leaders.¹⁶

On the other hand, the increase in Han devotees may be motivating new state interference. For example, some experts interpret the Chinese government's publication of a database of approved reincarnated lamas in January 2016 as an effort to guide the growing number of Han Chinese followers of Tibetan Buddhism, since such pronouncements carry little legitimacy for Tibetan believers.¹⁷ One scholar also attributed a series of demolitions at the Larung Gar Buddhist Academy that began in the summer of 2016 to official concerns about its influence on Han believers, after at least 10,000 reportedly completed studies there and a senior religious leader garnered over two million followers on Chinese social media platforms.¹⁸

The ups and downs of Communist Party policy

In 1950, Chinese Communist forces entered ethnographic Tibet and easily defeated the Tibetan army. The region was formally incorporated into the People's Republic of China the following year. Initially, the CCP-led government tried to cultivate a cooperative relationship with Tibet's spiritual and political leader—the 14th Dalai Lama, Tenzin Gyatso. But this approach quickly unraveled.¹⁹ In 1959, Chinese troops suppressed a major uprising in Lhasa, reportedly killing tens of thousands of people. The Dalai Lama was forced to flee to India with some 100,000 supporters.²⁰

The increase in Han devotees may be motivating new state interference.

In 1965, much of Tibet's territory was reorganized into the TAR, while eastern portions of the plateau were incorporated into neighboring Chinese provinces as autonomous prefectures. Before and during the Cultural Revolution, nearly all of the region's monasteries were shuttered or destroyed. Hundreds of thousands of monks and nuns were disrobed, and any displays of religiosity were strictly forbidden and harshly punished.²¹

Under reforms introduced in 1980, limited religious practice was allowed again, as was the gradual reconstruction of monasteries. The scale and pace of the revival soon alarmed party leaders, who attempted to impose some intrusive controls on monasteries in the late 1980s. Between 1987 and 1989, these and other grievances spurred some 200 mostly peaceful demonstrations in Lhasa and surrounding areas. After antigovernment protests escalated in March 1989, martial law was imposed until May 1990, a period when Hu Jintao, who would later head the CCP from 2003 to 2012, was party secretary of the TAR.

The 1990s featured a steady escalation of CCP efforts to control Tibetan Buddhism and undermine the influence of the exiled Dalai Lama. The 1994 Third Forum on Tibet, at which party leaders identified the Dalai Lama as an enemy, proved pivotal. State media subsequently stepped up their vilification of him, and bans on possessing his image or worshipping him were soon reported, though their legal basis remains unclear and implementation has been uneven.²² Over the following years, the party's United Front Work Department (UFD) launched campaigns of patriotic reeducation in monasteries. These coercive study sessions routinely include requirements that monks and nuns denounce the Dalai Lama verbally and in writing.²³

By the mid-2000s, conditions were already highly restrictive in the TAR, but more open in

surrounding provinces, and travel across provinces and out of the country was permitted. As recently as 2007, thousands of Tibetans took advantage of opportunities to travel to Lhasa, and even to India, for pilgrimage or to listen to religious teachings.²⁴ Beginning around 2005, however, the Chinese authorities started expanding patriotic reeducation and other aggressive measures to reduce the influence of the Dalai Lama in Tibetan areas outside the TAR.

Scholars say this expansion was a crucial factor contributing to unrest that began on March 10, 2008, with a march by monks from Lhasa's Drepung monastery to mark the anniversary of the 1959 uprising.²⁵ After security agents suppressed the monks' protest, a riot erupted. Some Tibetans attacked Han Chinese residents and burned Han- or Hui-owned businesses and government offices. Over 150 other predominantly peaceful protests soon broke out in Tibetan-populated areas of the TAR and other provinces.

After initial hesitation, apparently to avoid a high-profile confrontation just months before the Beijing Olympics, the government responded with a massive deployment of armed forces. Security personnel opened fire on protesters on at least four occasions.²⁶ The authorities reported that 19 people were killed in Lhasa, primarily in fires,²⁷ but overseas Tibetan groups claimed that at least 100 Tibetans were killed as security forces suppressed the demonstrations.²⁸ After the initial clampdown, monasteries were inundated by security forces for months, while hundreds of both monastic and lay Tibetans suspected of involvement in the protests or of relaying information overseas were arrested and imprisoned.²⁹

The many large-scale protests by Tibetans across the plateau reportedly caught officials by surprise, as many had assumed that the absence of mass demonstrations in the previous nine years was the result of Tibetans accepting Chinese rule and reduced devotion to the Dalai Lama.³⁰ In their aftermath, party leaders reexamined policies in the region, but rather than easing restrictions that were fueling grievances, they reinforced them. Monks and scholars interviewed for this report repeatedly pointed to 2008 as a turning point in the government's management of Tibetan Buddhism. The years since have featured greater restrictions on travel, intensified political education campaigns, and enhanced deployments of security personnel at religious ceremonies and institutions.³¹

Tibetan Buddhism under Xi Jinping

When Xi Jinping took the helm of the CCP in November 2012, he inherited a particularly tense situation across the Tibetan Plateau. A series of self-immolation protests that began in 2009 were reaching their peak.³² The desperate acts were reportedly fueled by a sense of resentment and helplessness among both monastics and lay Tibetans as they faced long-term encroachment on Tibetan cultural space and growing restrictions on religious belief, travel, children's education, and day-to-day life in the wake of the 2008 protests.³³ During November 2012 alone, human rights groups reported 28 self-immolations, indicating that at least some Tibetans were hoping to draw Xi's attention and encourage him to adopt a less heavy-handed policy.³⁴

"Efforts should be made to promote patriotism among the Tibetan Buddhist circle, encouraging interpretations of religious doctrines that are compatible with a socialist society."

– Xi Jinping, 2015

During the first half of 2013, there was a brief, rare political moment when a handful of Chinese intellectuals studying Tibet published articles calling for a more tolerant policy in the region. One expert at the Central Party School suggested that the Dalai Lama no longer be viewed as “an enemy” and even be permitted to visit Hong Kong as a “religious leader.”³⁵ Some observers thought that the January 2015 arrest of Ling Jinghua³⁶—a former aide to Hu Jintao and head of the UFWD, which has played a central role in promoting hard-line policies in Tibet—might also create space for a “softer” policy.³⁷

Such optimism has gone unrewarded to date. Xi has not renewed talks with representatives of the Dalai Lama; the last known dialogue took place in 2010. Chinese authorities under Xi’s leadership have largely continued the approach taken under Hu Jintao, including severe, large-scale infringements on religious freedom and human rights more broadly, sometimes with fatal results.

During 2015, CCP policy regarding Tibet appeared to be high on the official agenda, with a series of senior-level discussions taking place. In April, the Chinese government released a white paper on the region,³⁸ and in August the CCP held its Sixth Forum on Tibet, led by Xi himself. State media reports on both signaled the Chinese government’s intent to maintain a hard-line position while intensifying indoctrination campaigns. Official statements explicitly rejected the Dalai Lama’s proposed Middle Way of genuine Tibetan autonomy within China, and asserted that the CCP would select his successor. Importantly, a top-level Strategy Forum in July focused on coordinating measures to ensure “stability” in both the TAR and Tibetan areas of surrounding provinces, which could signal more restrictions in the latter.³⁹

Despite the overall policy continuity, authorities have deepened and expanded the reach of a number of existing restrictions. Some of the measures cited below—including judicial guidelines on self-immolation cases and programs to alter Tibetan Buddhist doctrine—are directly driven by central authorities. At the Sixth Forum on Tibet held in August 2015, for example, Xi declared that “efforts should be made to promote patriotism among the Tibetan Buddhist circle ... encouraging interpretations of religious doctrines that are compatible with a socialist society.”⁴⁰ Other measures appear to be the initiatives of various lower-level authorities.

- 1. Collective punishment to stem self-immolations:** Beginning in late 2012, officials in some areas employed tactics such as canceling public benefits for the households of self-immolators or ending state-funded projects in their villages.⁴¹ In December 2012, central judicial and public security agencies unveiled guidelines indicating that engaging in self-immolations and organizing, assisting, or gathering crowds related to such acts should be considered criminal offenses, including intentional homicide in some cases.⁴² In 2013, the government implemented the new policy by arresting relatives and friends of self-immolators and handing down lengthy prison sentences.
- 2. Frequent festival bans:** Although some religious commemorations, such as the Dalai Lama’s birthday, had been previously banned, since 2012 local authorities have restricted a wider range of observances. In May 2014, a travel ban was issued for those attempting to visit Mount Kailash, a principal pilgrimage site for Tibetan Buddhists. The following month, a local regulation in Driru County severely restricted Tibetan Buddhists’ ability to celebrate the Great Prayer Festival, one of their most important religious ceremonies.⁴³ Some nonreligious events—like a June 2015 horse race in Gansu Province—have also

been canceled due to indirect expressions of reverence for the Dalai Lama.⁴⁴ Even when festivals are permitted, they are frequently accompanied by a heavy paramilitary presence, disturbing the serene atmosphere that believers prefer and creating conditions in which even minor altercations could rapidly escalate into fatal clashes.⁴⁵

3. Intensified reprisals for lay religious practice: While CCP members across China are required to be atheists, all government employees, students, and teachers in Tibetan areas are barred or actively discouraged from participating in routine elements of Tibetan Buddhist practice that are generally permitted for others, such as making offerings at temples or maintaining a private shrine at home.⁴⁶ In an apparent bid to enforce this ban during 2015, authorities in the TAR moved to punish disciplinary violations among both CCP cadres and civil servants. The effort partly targeted “those who act like they don’t believe in religion but covertly do,” according to a media interview with then TAR party secretary Chen Quanguo.⁴⁷ Separately, in early 2015, officials in Qinghai Province’s Malho (Huangnan) Tibetan Autonomous Prefecture circulated a document outlining various activities that would draw harsh penalties because they were construed as support for Tibetan independence; the list included ordinary religious activities like reciting prayers and burning incense.⁴⁸

4. Doctrinal manipulation: One Hu-era initiative that has gained momentum under Xi aims to alter Tibetan Buddhist doctrine so that it better conforms to “socialism with Chinese characteristics” and acceptance of CCP rule.⁴⁹ In his 2016 book *Buddha Party*, professor John Powers describes this program in detail. Among other elements, it has included hosting Tibetology conferences since 2012 to identify favorable elements of Tibetan Buddhist doctrine and producing annual pamphlets with titles such as “Outline for the Work of Interpreting Tibetan Buddhist Doctrines” (published in 2011). The pamphlets are reportedly required reading in monasteries and have become a central focus of patriotic reeducation sessions.

In a parallel development, a new government-supported Tibetan Buddhist Institute opened in Lhasa in October 2011, and its first graduating class completed training in 2013; a partner nunnery is under construction.⁵⁰ One scholar linked such efforts to the 2016 demolitions at Larung Gar after years of relative tolerance of the Buddhist academy.⁵¹ In recent years, monastic leaders there have played a central role in promoting an ethical Buddhist Reform Movement that has gained tens of thousands of Tibetan followers and may be viewed by authorities as competition for their own attempts to transform Tibetan Buddhist beliefs.⁵²

A number of factors may account for the leadership’s continued pursuit of a hard-line approach that has clearly stoked resentment and achieved little success in curbing the Dalai Lama’s influence.

First, the CCP’s underlying anxieties about religion generally and Tibetan Buddhism in particular remain unchanged. As scholar Ben Hillman notes in a recently published book, “Organized Tibetan Buddhism is widely perceived as the greatest potential threat to Communist Party rule in Tibetan areas.”⁵³

Second, these policies reflect a core Marxist assumption that religious belief—and with it

religiously rooted ethnic identity—will fade in the face of further economic development. Chinese leaders remain confident in their ability to achieve this long-term goal with the tools at their disposal, despite occasional setbacks in the form of unrest.⁵⁴

Third, individual leaders have played a role. TAR party secretary Chen Quanguo assumed his post in August 2011 and remained in his position until August 2016. He almost immediately began implementing projects to monitor the populace and inculcate CCP doctrine among monastics and lay believers alike. For that portion of Tibet, the regional leadership change seems to have had more of an impact on day-to-day government actions than the broader transition that occurred in Beijing over a year later.

Fourth, despite the purge of Ling Jinghua, the UFWD remains a powerful entity within the CCP and key driver of tactics of control and co-optation in Tibet, such as patriotic reeducation. It is currently overseen by Politburo Standing Committee member Yu Zhengsheng, who also chairs the committee's Tibet Leading Small Group.

Lastly, structural incentives related to official promotions and centralized sources of funding for Tibetan areas encourage local officials to focus on short-term economic growth and suppressing unrest, rather than community needs or developing a cooperative relationship with monastics.

Meanwhile, the billions of yuan being channeled to local government for “maintaining stability” have fueled the growth of a security apparatus that has an institutional interest in continuing repressive campaigns.⁵⁵

Key methods of political control

The Chinese government imposes a wide array of controls on Tibetan monastics and lay believers. They have become increasingly intrusive, encroaching on areas of life that had previously been left unmolested. Travel restrictions and an extensive apparatus of surveillance—via security forces, informants, closed-circuit television, internet and mobile phone monitoring, and even drones⁵⁶—have created a stifling and intimidating environment for many Tibetans' religious practice. Ubiquitous propaganda posters and slogans in public places and monasteries remind clerics and laypeople of official regulations on religious management, demands to prioritize loyalty to the state, and penalties for violating rules like carrying prayer beads or other religious symbols into government buildings or schools.⁵⁷

Taken together, such measures, along with the other major controls enumerated below, appear to serve several CCP goals with regard to managing Tibetan Buddhism:

- Weakening the bond between monasteries and the surrounding community
- Severing residents' bond with the Dalai Lama and other exiled religious leaders
- Promoting the influence of politically loyal religious leaders and doctrinal interpretations, most notably the government-appointed Panchen Lama
- Cultivating a Tibetan socioeconomic elite with a weaker religious identity
- Limiting the size of the monastic community and the quality of monastic education
- Discouraging protests motivated by spiritual beliefs or loyalty to the Dalai Lama

Travel restrictions and an extensive apparatus of surveillance have created a stifling and intimidating environment for Tibetan religious practice.

- 1. Controlling religious leadership, including reincarnated lamas:** The government and affiliated organizations such as the Buddhist Association of China go to great lengths to dictate the appointment of religious leaders and use them to relay the government's positions to their followers. In the case of Tibetan Buddhism, however, this task is uniquely complex—and even absurd—because of the important role that reincarnation plays in the selection of top religious figures (the Dalai Lama or Panchen Lama) and senior monks (such as abbots of major monasteries). The avowedly atheist CCP, which rejects a belief in reincarnation, insists on managing the selection process and approving its outcome based on its own criteria of political loyalty.

In 2007, the State Administration for Religious Affairs (SARA) issued a document called “Measures on the Management of the Reincarnation of Living Buddhas,” asserting that state approval was required for reincarnations.⁵⁸ In January 2016, authorities launched a new online database of officially approved reincarnated lamas (tulkus), which notably excluded the Dalai Lama. In recent years, monastic leaders who have attempted to provide guidance regarding their future incarnation or consult the Dalai Lama have been detained, expelled, and barred from future communication with the monks at their monasteries.⁵⁹

- 2. Extensive control over monasteries and nunneries:** A long list of government regulations affect life in monasteries, including quotas on the number of monastics permitted, rules requiring official approval for religious activities within the monastery and in the surrounding community, and demands for detailed accounting of monastery finances and monthly reports on the progress of patriotic reeducation.⁶⁰

Extensive surveillance, via video cameras or the physical presence of police agents inside the monastery, intimidates monks into compliance and provides avenues for identifying gaps in implementation. Punishments for noncompliance range from expulsion and excommunication to imprisonment and the total closure of religious sites. An escalation in the form of permanent stationing of government officials in monasteries began in August 2011 and was formalized through regulations published in January 2012.⁶¹ Previously, official work teams would reside in monasteries only temporarily, although such visits could last several months; the routine management committees were led by politically reliable monks and nuns. According to government statistics published in August 2015, there were over 7,000 officials working in 1,787 monasteries in the TAR, an average of nearly four per site.⁶²

There were over 7,000 officials reportedly working in 1,787 monasteries in the TAR in 2015.

- 3. Expanded ‘patriotic reeducation’ campaigns:** Ideological education campaigns have been conducted sporadically since the 1990s, but they have become more frequent and lengthy since 2008. They have increasingly been extended beyond monasteries to Tibet’s general population, forcing students, civil servants, farmers, and merchants to participate in discussions, singing sessions, and propaganda film screenings.

Beginning in 2011, over 21,000 cadres were reportedly sent to villages across the TAR. In addition to political monitoring and other tasks, they reportedly carried out “patriotic reeducation” sessions at religious sites and among lay believers.⁶³ The program typically requires denunciation of the Dalai Lama, recognition of the government-selected Panchen

Lama, and pledges of allegiance to CCP political authority. The expansion of the campaigns to a greater number of monasteries outside the TAR and to nonmonastics represented a change from the past and reportedly generated resentment in many Tibetan communities.

Although the Dalai Lama has given permission for believers in Tibet to denounce him if forced, since it is a matter of self-preservation, many devotees remain uncomfortable doing so.⁶⁴ Those who have complied speak of suffering psychological devastation and long-term disruption to their monastic studies as a result.⁶⁵

- 4. Restricting travel within and outside Tibet:** Over the past decade, it has become increasingly difficult for Tibetans to leave the country, either to seek asylum or on temporary visits to India or elsewhere. The flow of refugees to Nepal shrank dramatically from over 2,000 in 2007 to about 100 in 2014. A 2015 Human Rights Watch report found that Tibetans were often denied passports or interrogated upon return from travel to India.⁶⁶ TAR party secretary Chen Quanguo took pride in the effectiveness of the restrictions, announcing in a media interview, "In 2015, not one person from the Tibet Autonomous Region has gone to the 14th Dalai Lama's prayer sessions [in India]."⁶⁷

Within Tibetan areas, monks and nuns are increasingly constrained in their ability to travel outside their counties. Recent visitors have also reported an informal ban, in place since 2012, on any Tibetan outside the TAR visiting that region, including for religious pilgrimage.⁶⁸ Scholars note that the increased travel restrictions and particularly the inability to flee the country have exacerbated feelings of desperation among Tibetans, contributing to the extreme act of self-immolation.⁶⁹

Security forces reportedly opened fire on 1,000 people who had gathered to mourn a prominent lama's death in custody.

- 5. Tightening information controls:** Localized blackouts on internet and mobile phone communication, especially in locales where a self-immolation has occurred, began growing more frequent in early 2012 and continued in 2016.⁷⁰ A 2016 Human Rights Watch report analyzing 479 cases of politically motivated detentions of Tibetans from 2013 to 2015 identified 71 individuals arrested for distributing images or information.⁷¹ Nearly a third of those cases involved information related to self-immolations, and defendants received up to 13 years in prison.⁷² Monks and activists in exile who previously maintained close contact with counterparts inside Tibet have reported that by early 2016, it had become much more difficult and dangerous to obtain information, so that in some cases they ceased contacting individuals inside China.⁷³

- 6. Using violence, sometimes with fatal outcomes:** Security forces in Tibetan areas frequently use violent means to suppress and punish perceived political dissent, including nonviolent acts of religious faith. Since 2012, Tibetans have been detained or sentenced to long prison terms for possessing or sharing an image of the Dalai Lama, calling for his return to Tibet, or producing and disseminating other banned information about religion or religious repression.⁷⁴ Former detainees consistently relay accounts of torture, such as beatings, electric baton shocks, and restraint in uncomfortable positions for long periods of time.⁷⁵ Such abuse, along with various forms of medical neglect, contribute to the reported deaths in custody of several Tibetan prisoners of conscience each year, including religious leaders.⁷⁶

In addition to abuses that take place inside police stations, extralegal detention centers, and prisons, security forces have been known to open fire on unarmed civilians, in some cases during religious celebrations. The officers involved rarely receive punishment. In one high-profile case in July 2015, prominent lama Tenzin Delek Rinpoche died in prison,⁷⁷ and security forces reportedly opened fire to disperse a group of 1,000 people who had gathered to mourn his death; at least 15 people were taken to the hospital with gunshot wounds.⁷⁸

Economic incentives: Carrots, sticks, and souvenirs

With a rising middle class, more convenient transportation links, and growing interest in Tibetan Buddhism among Han Chinese, the number of domestic tourists joining foreigners in Tibet has increased over the past decade. Not surprisingly, local officials across the plateau have sought to capitalize on this source of revenue. As restrictions increase in the TAR, including periodic tourist bans, Tibetan prefectures in surrounding provinces have gained popularity.

In Yunnan Province's Diqing Prefecture, local officials have forged meaningful relations with Tibetan Buddhist leaders and provided funding for refurbishing prominent monasteries. Both sides benefited from a tourism boom after Diqing's main city formally changed its name to Shangri-la, the fictional earthly paradise. The revenue has reportedly enabled the monastery to sponsor young monks' studies at other Buddhist institutes. Lay believers also saw benefits from the tourism-based economic development, as it supplied private-sector jobs that are not constrained by religious restrictions for government employees. According to scholar Ben Hillman, the fruitful cooperation was possible in part because Diqing had already adopted "one of Tibetan China's most liberal approaches to Tibetan Buddhism."⁷⁹

Tourism at other Tibetan Buddhist sites has reportedly had a more adverse effect on religious freedom. For example, monks at Labrang Monastery complain that an increase in visits by Chinese tourists has disrupted daily religious activities.⁸⁰ Within the TAR, one foreign observer raised concerns that areas inside and around a monastery that were previously populated by Tibetan pilgrims have been replaced with parking lots or souvenir booths for Chinese tourists.⁸¹

Separately, the Chinese authorities have used a variety of "carrots and sticks" to motivate Tibetans to comply with government directives or report on their compatriots. Officials have offered monetary rewards of up to 200,000 yuan (\$31,500) for information on monks connected to a self-immolation or other acts of dissent. Noncompliant monasteries may see their government funding redirected to more politically loyal sites, to secular providers of social services, or to new infrastructure projects.⁸²

In recent years, local governments have threatened to withdraw state aid from families or villages that do not comply with religious regulations or restrictions.⁸³ And some families or villages have been barred from participating in the caterpillar fungus harvest—a lucrative source of income for many Tibetans that is available for only several weeks each year—for engaging in acts of political or religious dissent.⁸⁴

Officials have offered monetary rewards of up to 200,000 yuan for information on monks connected to acts of dissent.

Exhibit 15. New York Times, Chinese Justice System Relies on Torture, U.N. Panel Says."

ASIA PACIFIC

Chinese Justice System Relies on Torture, U.N. Panel Says

By NICK CUMMING-BRUCE DEC. 9, 2015

GENEVA — Torture remains deeply entrenched in China’s criminal justice system, United Nations experts said Wednesday, calling for an end to the widespread use of secret detention in “black prisons” and to the punishment of lawyers for representing clients.

The United Nations Committee Against Torture delivered its recommendations on Wednesday in a hard-hitting review of China’s claims at a hearing in Geneva last month that it had made progress in combating the practice and promoting the rule of law.

The panel of 10 independent experts welcomed changes undertaken by China since its last appearance in 2008, including amendments to its criminal procedure law that prohibited the use of confessions obtained through torture and required audio or video recordings of interrogations in major cases. It also noted China’s abolition of re-education through labor and changes to a law covering the treatment of refugees.

Yet, “there is a long way to go to reform the criminal justice system in China and somehow the problems are entrenched both in legislation and in practice,” George Tugushi, one of the panel’s two main investigators on China, told journalists in Geneva.

A spokeswoman for the Chinese Ministry of Foreign Affairs, speaking before

the release of the report, said the panel should acknowledge the government's achievements in protecting citizens' rights.

"China is fully advancing governance according to the law and has made massive efforts in every aspect, including in fighting torture," Hua Chunying, the spokeswoman, said at a regular news briefing. "The progress is there for all to see. We hope that the committee can objectively and fairly view and deal with the issues at hand."

The ministry had no comment after the report was released.

The panel expressed regret that China had not put in place recommendations dating from 2009 for providing legal safeguards against torture, concluding that it "is still deeply entrenched in the criminal justice system, which overly relies on confessions as the basis for convictions."

Moreover, the panel expressed concern over amendments to the criminal procedure law that now permit holding people under "residential surveillance" for up to six months for undefined crimes of endangering state security.

In successive reviews, the committee had expressed concerns about the practice of holding people in unofficial and secret "black prisons," where they were particularly vulnerable to abuse. The amendment allowing so-called residential surveillance was in fact legitimizing secret detention, said Jens Modvig, the second of the panel's investigators on China.

The committee said it was "deeply concerned about the unprecedented detention and interrogation" of a reported 200 lawyers since July, including 25 who are reportedly still held under residential surveillance in an unknown location, and four others were simply unaccounted for.

The crackdown "follows a series of other reported escalating abuses on lawyers for carrying out their professional responsibilities, particularly on cases involving government accountability and issues such as torture, defense of human rights activists and religious practitioners," the panel said.

It went on to bluntly rebut China's assertion that accusations of cruel treatment of Tibetans and other minorities were groundless. It had credible reports from numerous sources that documented in detail cases of torture, deaths

in custody, arbitrary detention and disappearances of Tibetans. The panel said it also remained concerned over the continued threats and intimidation aimed at human rights defenders, lawyers, political dissidents and members of religious or ethnic minorities.

On this and many other issues relating to torture and deaths in custody, including those of Cao Shunli in 2014, and a Tibetan Buddhist leader, Tenzin Delek Ripoche this year, the panel pointed out that China had failed to produce information that it requested.

Such stonewalling is nothing new, human rights groups report. “China now engages in trying to limit what the committee can examine and what it addresses,” Felice Gaer, the committee’s vice chairwoman, said in an interview. “They really take the view that procedure is substance and they prioritize cooperation, not compliance.”

Mr. Tugushi said he hoped that the report would “push forward towards positive change” in China. “We remain optimistic in that respect,” he said.

But international pressure is unlikely to shift the Chinese government’s position, Zhang Xuezhong, an outspoken lawyer based in Shanghai, said in a telephone interview, adding, “It seems they’re taking a harder line against external pressure.”

External criticism gives heart to domestic opponents of China’s tightening restrictions on citizens rights, said Mr. Zhang, who was sidelined from his lecturing job at the East China University of Political Science and Law after repeatedly criticizing the government’s tightening grip on expression and political life, but “the impact on the Chinese government should not be overestimated.”

Still, the committee continued to push the Chinese government to limit the often lengthy period for which detainees are held in police custody and to ensure prisoners access to lawyers. It also called on China to provide details of the number of cases of torture and ill treatment and the measures taken to hold those responsible to account.

In particular, the committee urged China to declassify information relating to torture that is withheld under the state secrets law.

“We have clearly seen the Chinese government try to manipulate these reviews to make them less critical, and it’s extraordinarily important that the committee rejected those efforts,” said Sophie Richardson, the China director at Human Rights Watch. “You couldn’t get a more thoroughgoing critique of the scope of torture in China than by reading that document. It’s remarkable.”

Chris Buckley contributed reporting from Beijing.

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Exhibit 16. Minghui, "Torture Widely Used on Falun Gong Practitioners in Dongling Prison."

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Torture Widely Used on Falun Gong Practitioners in Dongling Prison

September 05, 2017 | By a Minghui Correspondent in Liaoning Province, China



(Minghui.org) Dongling Prison, located at No. 88 Dongling Rd, Hunnan District (formerly called Dongling District), Shenyang City, Liaoning Province, is one of the places used to detain and persecute male Falun Gong practitioners in Liaoning Province.

In order to achieve its 100 percent success rate at "transforming" Falun Gong practitioners so they will renounce their belief, a variety of methods of torture are used to destroy practitioners, both physically and mentally.

What follows are descriptions of just a small fraction of how the practitioners are tortured in Dongling Prison.

Typical Persecution

1. Mr. Bai Yufu – Force Feeding, Crushing Feet, Aggravating Wounds With a Toothbrush

Mr. Bai Yufu, 42, is a Falun Gong practitioner from Tieling City, Liaoning Province. He started a hunger strike on April 25, 2009, to protest the maltreatment to which he was being subjected. As punishment, he was taken to the prison hospital and force-fed three days later. His hands and feet were handcuffed to the bed, then a mixture of corn mush mixed with sleeping pills was poured into his stomach through a nasogastric tube.

Four inmates took turns watching him to prevent him from sleeping. They beat him even if he blinked his eyes.



Persecution Re-enactment: Tied up and force-

fed

Seven days later, another group of four inmates replaced the first four to monitor him. Chen Mingqiang, head of the Prison Administration Section, and Cai Guangze, head of the Prison Investigation Section, told the second group, “You can do whatever you want to prevent him from sleeping. You may earn a reduction in your sentence if you do the job well.” The inmates were then given toothpicks to use on Mr. Bai Yufu if needed to keep his eyes open.

Mr. Bai Yufu's toes were crushed on May 4, 2009, which caused the nails of his big toes and second toes to fall off. On May 6, Chen Mingqiang instigated the inmates to dig at Mr. Bai Yufu's wounds with a metal plate and toothbrush. On May 8, Mr. Bai passed out from this torture. After he woke up, he was made to sit on a small bench from 5:00 a.m. to 9:00 p.m. He was then forced to consume the just-boiled corn congee [gruel made from corn] and then take a big cup of cold water every hour. He was tortured in this way until May 28, 2009.

2. Mr. Xu Dawei – Tortured to the Point of Mental Breakdown, Died 13 Days After Release

Mr. Xu Dawei is a Falun Gong practitioner from Qingyuan County, Fushun City, Liaoning Province. He was arrested in January 2001 by officers from Shengli Police Station, Heping District, Shenyang City, and was later sentenced to an eight-year prison term. During the eight years, Mr. Xu was transferred to different prisons, including Dabeì Prison, No. 1 Lingyuan Prison, No. 2 Fushun Prison, and Dongling Prison.

He was subjected to various forms of torture in prison, especially during the two years in Dongling Prison. This included being handcuffed and shackled for long periods, being hung by his arms, force-fed, beaten with a rubber pipe, given electric shocks, etc.

When Mr. Xu was released on February 3, 2009, he had suffered a mental collapse from all the abuse. His face was dull, his eyes moved slowly, and his body was covered with wounds. He was severely underweight and unable to recognize his family.

When he arrived home, he hid in a corner and looked very fearful. His family tried to calm him down and told him, “Do not fear. You are home now.”

He was sometimes confused, and sometimes alert and acting normally. He said to his family, “Dongling Prison was very evil. They injected some medication to bring on a mental illness. They forced me to take other medicines. I was handcuffed in a corner and beaten until I passed out. I was often put into solitary confinement and kept in a small, dark room.”

Mr. Xu Dawei died at the age of 36 on February 16, 2009, only 13 days after arriving home.



Mr. Xu Dawei after his release from the prison.

3. Mr. Kang Tiewei – Broken Leg and Tooth Loss From Beatings, Forced to Drink Water Containing Cigarette Butts and Flies

Mr. Kang Tiewei is a Falun Gong practitioner in Benxi City, Liaoning Province. He was arrested at home in the early morning of April 13, 2007. He was sentenced to six and a half years in prison by the Huxi District Court of Benxi City in July 2008. He was taken to the No. 4 Ward at Dongling Prison. In June 2011, he was beaten during a brainwashing session, which resulted in a broken leg and loss of some teeth. He was also forced to swallow water mixed with cigarette butts and torn flies.



Persecution Re-enactment: Beating

4. Mr. Lang Qingsheng – Forced to Squat For Two Days and Two Nights, Deprived of Sleep, Beaten Unconscious

Mr. Lang Qingsheng, 62, is a Falun Gong practitioner in Donggang City, Liaoning Province. He was secretly sentenced to a six-year prison term by the Donggang City Court on December 25, 2007, and transferred to Dongling Prison on June 12, 2008.

Guard Tian Kuncheng locked Mr. Lang in a small room on July 6, 2011, and instructed several inmates to watch him. They forced him to squat in one place for two consecutive days and nights and didn't allow him to sleep. He was beaten whenever he closed his eyes.

He started losing consciousness two days later. His legs became swollen and his blood pressure rose to 220 mm Hg.

5. Mr. Jiao Lin – Brutally Beat, Subjected to “Big Hanging” Torture, Cuffed Day and Night

Mr. Jiao Lin is a Falun Gong practitioner in Fengcheng City, who used to work for Fengcheng Supercharger Factory. He was sentenced to a three-year prison term by the Fengcheng City Court on May 30, 2011, and then sent to Dongling Prison. In the No. 2 Prison Ward he was beaten in his cell several times by four or five inmates, and had to be taken to the hospital for emergency treatment.

The head guards of the No. 2 Ward, Li Ronghua, Li Runbin, and Yan Zhengyuan, had him handcuffed to a fixed spot, so he was unable to move for 24 hours, which resulted in swelling of his whole body from lack of circulation.

When Mr. Jiao Lin's family visited him on November 17, 2011, his hands were handcuffed, and he was considerably underweight. His hands were also badly swollen, and he had difficulty walking.

The visit was closely monitored, and was interrupted if the guard heard anything he deemed improper in the conversation. From Mr. Jiao Lin's condition, his family judged that he had been subjected to a torture called “big hanging,” where one's four limbs are tied up and then stretched.



Persecution Re-enactment: “Big Hanging”

6. Mr. Tong Haibo – Severely Beaten, Pubic Hairs Extracted, Forced to Drink Urine

Mr. Tong Haibo is a Falun Gong practitioner in Chaoyang City. He was sentenced to a three-year prison term by the Heping District Court of Shenyang City on October 27, 2014.

He was taken to Donglin Prison on April 27, 2015. During the first month in the prison, Ju Chuanzai, former head of the No. 8 Ward, instigated inmates to torture Mr. Tong Haibo, including depriving him of sleep, pulling out his pubic hair, pouring urine in his mouth, and beating him.

7. Mr. Li Lun – Private Parts Stabbed with Toothpicks, Electrically Shocked, Forced to Drink Urine, and Placed in Solitary Confinement

Mr. Li Lun is a Falun Gong practitioner in Dengta City, Liaoning Province. He was arrested on January 20, 2016, and later sentenced to four years in jail. He was detained in the No. 8 Ward of Dongling Prison.

The guards instigated inmates to torture him so he couldn't sleep for several days. They beat his head with the soles of their shoes, stuck toothpicks into his private parts, and poured urine into his mouth. He was also

subjected to electric shocks and placed in solitary confinement.



Persecution Re-enactment: Electric Shock

8. Mr. Wang Pengyi – Face Deformed From Beating

Mr. Wang Pengyi, a Falun Gong practitioner in Fushun City, Liaoning Province, was taken to Dongling Prison in April 2016. Guards Sun Peng and Chen Fei started brainwashing sessions with him on May 19. They publicly berated him and wouldn't let him sleep. Sun repeatedly struck Mr. Pengyi's head and face with the sole of his shoe for an entire afternoon. Mr. Wang stumbled afterward, and he appeared to be in a trance. His face was deformed, and his head was so swollen it affected his ability to see.

He was subjected to another severe beating a few days later. Guard Chen Fei started beating him at around 8:30 p.m. on May 22 and didn't stop until 3:00 a.m.



Persecution Re-enactment: Beating the face with shoe sole.

9. Mr. Zheng Shoujun – Murdered After Two Weeks in Prison

Mr. Zheng Shoujun, a Falun Gong practitioner in Liaozhong District, Shenyang City, was arrested in February 2006 and taken to Liaozhong Detention Center. He was brutally beaten by Li Wei, head of Liaozhong Domestic and Security Division, which resulted in severe head injuries. He started a hunger strike to protest the mistreatment and was force-fed as a consequence. He was later sentenced to a four-year prison term.



Mr. Zheng Shoujun

Mr. Zheng was secretly sent to Dongling Prison on August 6, 2008. His family received a call from prison authorities, asking them to visit Mr. Zheng in the prison hospital. When they arrived, however, all they saw was his lifeless body. His head was swollen and misshapen by injuries. His face was covered with bruises, and his abdomen was swollen. He was wearing only his underwear. Family members noticed that his hands were tightly balled as if in a struggle. Less than two weeks after entering the prison, Mr. Zheng had been murdered at the age of 44.

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Exhibit 17. Radio Free Asia, "Around 120,000 Uyghurs Detained for Political Re-Education in Xinjiang's Kashgar Prefecture."



Around 120,000 Uyghurs Detained For Political Re-Education in Xinjiang's Kashgar Prefecture

2018-01-22



Police officers on duty in the vicinity of a center believed to be used for re-education in Xinjiang's Korla city, Nov. 2, 2017.

AP Photo

Around 120,000 ethnic Uyghurs are currently being held in political re-education camps in Kashgar (in Chinese, Kashi) prefecture of northwest China's Xinjiang region alone, according to a security official with knowledge of the detention system.

Since April 2017, Uyghurs accused of harboring “extremist” and “politically incorrect” views have been jailed or detained in re-education camps throughout Xinjiang, where members of the ethnic group have long complained of pervasive discrimination, religious repression, and cultural suppression under Chinese rule.

Prior reporting by RFA's Uyghur Service found that as arrests in Xinjiang increased around the sensitive 19th Communist Party Congress in Beijing in October, the region's re-education camps have been inundated by detainees, who are forced to endure cramped and squalid conditions in the facilities.

The security chief of Kashgar city's Chasa township recently told RFA on condition of anonymity that “approximately 120,000” Uyghurs are being held throughout the prefecture, based on information he has received from other area officials.

“I have great relationships with the heads of all the government departments and we are in regular contact, informing each other on the current situation,” he said, adding that he is also close with the prefecture's chief of security.

Tens of thousands of people are detained within Kashgar city alone, the Chasa township security officer said, citing statistics from the city's subdistricts.

“Around 2,000 [are detained] from the four neighborhoods of Kashgar city, as well as an additional 30,000 in total from the city’s 16 villages,” he said.

Among Kashgar city’s four neighborhoods, the largest number of detainees—more than 500 people—are from Yawagh, while among its 16 villages, the largest number are from Yengi-osteng, he added, without providing specific details.

Kashgar city is home to four re-education camps, the security chief said, the largest of which was established in the city’s No. 5 Middle School in May 2017.

“It’s located in the Shinka neighbourhood and is newly built,” he said.

“The plan was initially to build the new school in that area and transfer the current middle school students there. That is why it was named No. 5 Middle School.”

Around 80 people are living in the school’s main hall, the security chief said, while 20-25 people sleep in each of its classrooms.

Overcrowded and squalid

Sources say that authorities often convert government buildings and schools into makeshift re-education camps to deal with overcrowding, and routinely shift detainees between locations—that include prisons—without informing their family members.

In Bayin’gholin Mongol (Bayinguoleng Menggu) Autonomous Prefecture’s Korla city—where sources told RFA recently that as many as 1,000 people have been admitted to the city’s detention facilities over the course of a few days—a local government employee named Erkin Bawdun recently said that area re-education camps “are completely full.”

Bawdun said that a friend who spent time as an inmate at a local re-education camp told him he had seen officials from the center tell the police to “stop bringing people ... as it is already too full.”

He described cells that had previously held eight people now accommodating 14 inmates, who “were not allowed pillows” and “had to lay on their sides because there was not enough room to lay flat,” let alone space to turn over or stretch their legs.

Other acquaintances told Bawdun that they had seen “detainees walking barefoot,” and that inmates were “not allowed clothes with buttons or metal zippers,” belts, shoelaces, or “even underwear” in some cases, despite average low temperatures of around 15 degrees Fahrenheit (-10 degrees Celsius) at night in December.

Since Xinjiang party chief Chen Quanguo was appointed to his post in August 2016, he has initiated unprecedented repressive measures against the Uyghur people and ideological purges against so-called “two-faced” Uyghur officials—a term applied by the government to Uyghurs who do not willingly follow directives and exhibit signs of “disloyalty.”

China regularly conducts “strike hard” campaigns in Xinjiang, including police raids on Uyghur households, restrictions on Islamic practices, and curbs on the culture and language of the Uyghur people, including videos and other material.

While China blames some Uyghurs for “terrorist” attacks, experts outside China say Beijing has exaggerated

the threat from the Uyghurs and that repressive domestic policies are responsible for an upsurge in violence there that has left hundreds dead since 2009.

Reported by Shohret Hoshur for RFA's Uyghur Service. Translated by RFA's Uyghur Service. Written in English by Joshua Lipes.

Exhibit 18. Human Rights Watch, "China: Free Xinjiang 'Political Education' Detainees."

September 10, 2017 9:00PM EDT

Available In 简体中文 English Bahasa Indonesia

China: Free Xinjiang 'Political Education' Detainees

Muslim Minorities Held for Months in Unlawful Facilities



Chinese soldiers participate in an anti-terror drill in Hami, Xinjiang Uighur Autonomous Region, China, July 8, 2017. © 2017 Reuters

(New York) – The **Chinese** government should immediately free people held in unlawful “political education” centers in Xinjiang and shut them down, Human Rights Watch said today. Since about April 2017, the authorities have forcibly detained thousands of Uyghurs and other Turkic Muslim minorities at these centers, where they are subjected to propaganda promoting Chinese identity.

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politically unreliable,” said **Sophie Richardson**, China director at Human Rights Watch. “The government has provided no credible reasons for holding these people and should free them immediately.”

Human Rights Watch interviewed three relatives of detainees held in political education facilities around Kashgar City and Bortala Prefecture in 2017. They said the detentions began in the spring and lasted for several months. They said that people sent to the centers were not presented with a warrant, evidence of a crime, or any other documentation. They did not know which local authorities were responsible for detaining their family members or in some cases, even where they were held.

The family members said that men, women, and children were all being held. In one case, a family of four, including two children, were taken to a political education facility in western Xinjiang in April for traveling abroad for business and for the Hajj, an Islamic pilgrimage to Mecca. While one parent and one child were released after three months, the other two are believed to be still in custody.

State media in Xinjiang, including the *Xinjiang Daily*, **have reported on these facilities**. People interviewed and state media generally refer to them as “counter extremism training centers” (去极端化培训班) and “education and transformation training centers” (教育转化培训中心). The facilities are converted from schools or other official buildings, though some are specifically **built for the purpose**. Media reports have noted that party cadres “**eat, live and labor**” alongside those “who need to be transformed,” and that life and hours there are “**just like a boarding high school...** except the content of learning is different.”

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abroad. Others may have been targeted for participating in unauthorized religious activities, such as wearing headscarves or other Muslim attire, or merely for having relatives who had been previously arrested by the government. State media reports also said that people who “**are easily influenced by religious extremism**” as well as “**key personnel**” – a term that refers to people perceived as threats by authorities – have also been detained in **these facilities**.

The family members also said that detainees are required to learn the Chinese language, and recite Chinese and Xinjiang laws and policies. They are compelled to watch pro-government propaganda videos, and to renounce their ethnic and religious identities, reciting slogans such as “religion is harmful,” and “learning Chinese is part of patriotism.”

It is not clear how many people are held in these facilities at any one time. An April 5 *Xinjiang Daily* article **reported that over 2,000 people** had been “trained” in a Hotan facility, though it does not give a time frame. This report features a Uyghur traditional medicine seller named Ali Husen, who was “sent” to this center by the township authorities. Though Husen was “initially very reluctant” to learn, he increasingly became “shocked by his ignorance.” After two months of education, Husen was asked to “clearly articulate his stance (发声亮剑)” to a crowd of 5,000 and told them “how extremism had harmed him.”

Media reports say that ethnic **Kazakhs** and **Kyrgyz** have also been detained for having traveled abroad or having “spoken about Kazakhstan a lot.” Other reasons for their detentions are not known.

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religious gathering called the **Kalachakra Initiation** in India in December 2012, during the leadership of Communist Party secretary Chen Quanguo.

The Xinjiang political education detention centers are contrary to China's constitution and violate international human rights law, Human Rights Watch said. Article 37 of China's Constitution states that all arrests must be approved by either the procuratorate, the state prosecution, or the courts, yet neither agency appears to be involved with these detentions.

International human rights law, including the International Covenant on Civil and Political Rights, which China has signed but not ratified, prohibits arbitrary detention. Detention is arbitrary when it is not possible to invoke a legal basis justifying the deprivation of liberty, or when the detaining authority fails to observe basic due process rights, such as to be informed of the reasons for arrest, to contest the detention before a judge, and to have access to lawyers and family members. While some Chinese laws – including the Counterterrorism Law, the Xinjiang Implementing Measures of that law, or the Xinjiang Counterextremism Regulations – envision authorities “educating” people about extremism, none of those laws allow authorities to deprive people of their liberty.

“Unjustly detaining and forcibly indoctrinating people will only increase resentment toward the government, not engender loyalty,” Richardson said. “China should instead allow greater freedoms so people in Xinjiang can express their criticisms and ethnic and religious identities peacefully and without fear.”

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minorities. The Chinese government has imposed pervasive discrimination, repression, and restrictions on fundamental human rights, including freedom of religion. Opposition to central and local government policies has been expressed in peaceful protests, but also through bombings and other acts of violence.

The Chinese government has long conflated violent and nonviolent forms of political advocacy in Xinjiang. Authorities treat expressions of Uyghur identity, including language, culture, and religion, as well as aspirations for independence, as one of the “three [evil] forces” (三股势力), that is, “separatism, terrorism, and extremism.”

The Xinjiang authorities say many Uyghurs have “**problematic ideas**,” including Uyghur nationalism, extreme religious dogmas, and pan-Islamic and pan-Turkic identities. These are to be addressed by **targeting their thoughts**. Authorities **say that these ideas**, which they believe spread from Central Asia and the Middle East to Xinjiang, are incompatible with the Chinese government’s views about a united Chinese national identity.

Since Party Secretary **Chen Quanguo moved from Tibet** to lead Xinjiang in August 2016, the Xinjiang regional government has enacted policies that restrict foreign ties. It has **recalled passports** from Xinjiang residents since October 2016, which restricts foreign travel for these residents and gives police wide power to scrutinize residents’ proposed visits abroad. It has ordered Uyghur students studying abroad, **including in Egypt**, to return to Xinjiang, and made Egyptian authorities round up students who failed to return in July 2017.

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Exhibit 19. Chinese Human Rights Defenders, Re-education camps make a comeback in China's far-west."



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Re-education camps make a comeback in China's far-west

November 22, 2017

Originally published by [UCA News](#) on October 24, 2017

In the Xinjiang Uyghur Autonomous Region, so called political re-education camps have been proliferating in the lead up to the 19th Communist Party Congress.

The Chinese government's aim is to streamline ideology in an area it perceives to be troubled by Islamic terrorism, and perhaps even erase the western region's connections with Islam.

But human rights experts have said details of what happens in these camps during re-education, where ethnic Muslim minorities are detained and exposed to communist propaganda, are murky at best.

Chinese authorities are succeeding at keeping a tight cap on the spread of information in the region and international rights monitors are concerned about what re-education entails.

According to a recent Human Rights Watch (HRW) report, one person who spoke to the group said his family members in Xinjiang had been hospitalized while under political re-education. "But it is unclear what had happened there as there is very little information," Maya Wang, Senior Researcher, Asia Division at HRW, told ucanews.com.

"It is fair to say that the Chinese government has heightened the repression and discrimination against a particular ethnic group to an extent that seems quite unprecedented," Wang said.

Meanwhile, [Radio Free Asia \(RFA\)](#) has reported that officers in Xinjiang's Hotan, largely populated by Uyghurs, have confirmed authorities gave them a target of sending nearly half the area's residents to re-education camps. RFA also reported that re-education camps throughout Xinjiang have been registered as "career development centers" to circumvent legal problems and hold 3,600 detainees.

"As the 19th Party Congress is approaching, it [the camps] may be related to the authorities' stepping up efforts to exert further control in the region. If true, it's extremely appalling to see how open the practice of re-education through labor still is, as re-education through labor was abolished," Patrick Poon, Researcher at Amnesty International, told ucanews.com.

Poon could not confirm RFA's reports because "it's getting more and more difficult to get information about what's happening in Xinjiang Uyghur Autonomous Region, [but] such treatment against Uyghurs in the region is highly possible."

Xinjiang's political re-education camps are the brainchild of 61-year-old Party Secretary Chen Quanguo, who has been tipped for promotion to the Politburo at the Party Congress. Chen was transferred from Tibet to take the reins of power in Xinjiang in August 2016. During Chen's time in Tibet, he became well known for his repressive style of rule.

According to Frances Eve, researcher at Chinese Human Rights Defenders, the ramped up suppression in Xinjiang will likely continue past the Party Congress's because it appears Chen was brought to Xinjiang to replicate the heavy-handed tactics he used in Tibet.

"Using this sledgehammer approach to counter-terrorism and ethnic-minority policy making is extremely misguided. It violates the civil and political rights of ethnic Uyghurs and does nothing to address the serious economic and social gaps between Han Chinese [the national majority] and Uyghurs," Eve told ucanews.com.

The lack of a response from the international community is somewhat surprising in the face of mounting evidence of the re-education camps.

"The U.N. can request the Chinese government allow its independent special experts or the High Commissioner on Human Rights to visit the region, and governments should put more pressure on China to allow journalists and other groups into the region to independently report on the situation," Eve said.

According to HRW's report on the re-education camps, those detained were often targeted for traveling abroad or having families that live abroad. Other reasons for detentions are not known. Those interviewed said their family members were forced to learn the Chinese language and law, and watch propaganda films.

Xinjiang is home to some 10 million Uyghurs and other ethnic Muslim minorities.

According to an article published in a Xinjiang-based state [newspaper](#) in April, more than 2,000 had been "trained" in a Hotan facility.

Recently, ethnic Kyrgyz and Kazakhs have also been targeted for re-education — a move seemingly sparked by a highly anticipated boxing match with famous Kazakh fighter Kanat Islam, who earlier renounced his Chinese citizenship for Kazakhstan.

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The government's measures to suppress ethnic Muslim minorities in Xinjiang are growing increasingly draconian. Since Chen took over last year, a new raft of [restrictive](#) and [discriminatory measures](#) has come into force for those living in the region — far extending the political education camps — including required tracking devices on cars, installing mandatory apps to monitor mobile phones, and harsh travel restrictions.

Chinese authorities continue to justify these security crackdowns with allegations of hostile foreign influence on the region. However, the government's claims seem to lack any apparent evidence — especially with the tight control over information in the region.



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Exhibit 20. Cherif Bassiouni, Excerpts from "Crimes against Humanity: Historical Evolution and Contemporary Application."

Crimes Against Humanity

HISTORICAL EVOLUTION AND CONTEMPORARY
APPLICATION

M. Cherif Bassiouni

DePaul University, College of Law



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6 Specific Contents

The life of the law has not been logic; it has been experience.

– JUSTICE OLIVER WENDELL HOLMES, *THE COMMON LAW* 1 (1881).

§1. Introduction

As discussed in [Chapter 5](#), ICL is not as rigorous as some national legal systems with respect to the specificity required in the definition of international crimes. Nonetheless, there is a minimum standard of specificity that must be met in order to satisfy the principles of legality. This standard must be sufficient to provide notice of the prohibited conduct to the population whose conduct is expected to conform to the requirements of the law. This specificity is also needed to determine the elements of a specific crime that need to be proven by the prosecution, as well as the general elements of individual criminal responsibility and exoneration according to which an individual who is accused of a given international crime is to be prosecuted.

The various formulations of CAH described in [Chapter 4](#) reveal that the Charter's Article 6(c) matrix has influenced all subsequent formulations, even the Rome Statute's formulation of Article 7, though it departs somewhat from that earlier model. However, it should be noted that all formulations subsequent to Article 6(c) of the Charter are somewhat different, particularly the ICTR's Article 3. Therefore, an analysis of the contents of Article 6(c) of the Charter is relevant, in some respects, to all other subsequent formulations. With the exception of the Rome Statute's Article 7, which is supplemented by the Elements of Crimes,¹ and which is quoted below, all other formulations require interpretation on the basis of their respective statutes. The jurisprudence of the IMT, IMTFFE, and the CCL 10 Proceedings on the specific contents of CAH failed to produce a consistent legal method underlying these decisions. The same is true with respect to the jurisprudence of the ICTY and ICTR, which has served as a foundational source for the subsequent mixed-model tribunals in Sierra Leone, Cambodia, and East Timor. Thus, a proposed methodology based on "general principles of law" is useful for assessing past experiences and also to guide the ICC in the future.

Because almost identical language was used in Article 5(c) of the Tokyo Statute and Article II(c) of CCL 10 as that of the London Charter's Article 6(c), the analysis that follows will focus on that earlier formulation. The principal difference in Article 5(c) of the Tokyo Charter is the elimination of persecution on "religious" bases. The principal

¹ International Criminal Court, *Elements of Crimes*, U.N. Doc. PCNICC/2000/1/Add.2 (2000).

difference in Article II(c) of CCL 10 is the elimination of the war-connecting element, which is referred to in the London Charter's Articles 6(c) and the Tokyo Statute's Article 5(c) as "in connection with any crime within the jurisdiction of the Tribunal." The analysis of the specific contents of Article 6(c) of the London Charter applies to Article 5(c) of the Tokyo Statute and II(c) of CCL 10. All of the contents of Article 6(c) of the London Charter are also found in the subsequent formulations discussed in Chapter 4.²

Substantial similarities exist between the specific crimes contained in the various CAH formulations and their counterparts in the national criminal laws of the world's major legal systems. But it is also well established that national legal systems differ, *inter alia*, as to their conceptual approaches to criminal responsibility, their elements, and their conditions of exoneration, as discussed in Chapters 7 and 8.

Some of the specific acts constituting CAH under Article 6(c) of the London Charter, which are also found in subsequent formulations, can be identified by analogy to war crimes under the conventional and customary law of armed conflicts, or by analogy to national crimes, provided that they rise to the level of "general principles of law." Interpretation by analogy, though presenting problems of legality, is reflected in the Roman law maxim *ejusdem generis*. But it is important to bear in mind that "general principles of law" are not capable of creating international crimes unless they rise to the level of *jus cogens*. To hold otherwise would violate the principles of legality.³ Nevertheless, "general principles" is a source of international law established under the provisions of Article 38 of the Statute of the International Court of Justice,⁴ the 1948 Universal Declaration of Human Rights,⁵ the 1966 International Covenant on Civil and Political Rights,⁶ the 1949 Geneva Conventions,⁷ the 1977 Protocols, and the Rome Statute's Article 21.⁸ These "general principles" remain subject to the requirements of the principles of legality,⁹ which are also part of "general principles of law." The function of "general principles" in interpreting the specific contents of CAH derives from the method employed to arrive at a given conclusion.

The jurisprudence of the IMT, IMTFE, and the CCL 10 Proceedings reveals very little about the methodology employed to arrive at the conclusion that any one of the specific acts described in the applicable instrument was interpreted in conformity with one of the sources of international law, particularly "general principles." At the IMT, Article 6(c) linked crimes against peace and war crimes to CAH, which involved a newly defined

² See *infra* chs. 3, §3, and 4, §2.

³ *Id.*

⁴ Article 38 of the Statute of the International Court of Justice.

⁵ Universal Declaration of Human Rights, G.A. Res. 217(III), UN GAOR, 3d Sess., UN Doc. A/810 (1948).

⁶ International Covenant on Civil and Political Rights, 19 December 1966, 999 U.N.T.S. 171, 6 I.L.M. 368.

⁷ Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (Geneva Convention I), 75 U.N.T.S. 31, 6 U.S.T. 3114; Convention for the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea (Geneva Convention II), 75 U.N.T.S. 85, 6 U.S.T. 3217; Convention Relative to the Treatment of Prisoners of War (Geneva Convention III), 75 U.N.T.S. 135, 6 U.S.T. 3316; Convention Relative to the Protection of Civilian Persons in Time of War (Geneva Convention IV), August 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287.

⁸ Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, opened for signature Dec. 12, 1977, 1124 U.N.T.S. 609, 16 I.L.M. 1442; Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, opened for signature Dec. 12, 1977, 1124 U.N.T.S. 609, 16 I.L.M. 1442.

⁹ See *infra* ch. 5, §1.

crime with questionable status under the principles of legality, as discussed in [Chapter 5](#). For purposes of the IMT judgment, it was obvious that CAH could only be linked to war crimes. Thus, the judges probably confronted the difficulty of narrating a judgment that specifically separated war crimes from CAH, and that proved to be such an arduous task that all of the judgments against every defendant but two, von Schirach (deportation) and Streicher (incitement to murder and extermination constituting persecution on political and racial grounds), convicted them on the basis of both war crimes and CAH.

However, at the time of the London Charter, it was necessary to link the specific crimes listed in Article 6(c) to a source of law. Then, the most appropriate source was “general principles of law,” because it was listed as a source of international law in Article 38 of the Statute of the PCIJ and subsequently in Article 38 of the Statute of the ICJ. It is also listed in Article 22 of the Rome Statute. The problem, which existed at the time of the Charter, was the selection of a method of identification of the contents of the Charter that would satisfy the principles of legality. Obviously, with respect to the *ad hoc* tribunals and the mixed-model tribunals, where the law is well settled, this is less of a concern because the law is statutorily established. But these judges still have to establish the legal elements of each specific crime within the definition of CAH. The problem is that the only way they can do this is to look at “general principles of law” in order to derive the common elements of the crimes in all of the world’s legal systems. As discussed herein, this requires a methodology, which in turn requires consistent and clear application. Thus far, the judges at the ICTY, ICTR, and the mixed-model tribunals have failed in both respects.

In order not to disrupt the flow of what follows, namely a review of the various definitions of the specific crimes that constitute CAH as set forth in the statutes and jurisprudence of the IMT, IMTFE, CCL 10 Proceedings, the *ad hoc* and mixed-model tribunals, and the ICC, the discussion of the methodology used to identify a “general principle of law” is placed at the end of the chapter.

§2. Identifying the Specific Crimes Contained in the Four Primary Formulations of Crimes Against Humanity: Article 6(c) of the London Charter, Article 5 of the ICTY Statute, Article 3 of the ICTR Statute, and Article 7 of the ICC Statute

The four primary formulations of CAH are Article 6(c) of the London Charter,¹⁰ Article 5 of the ICTY Statute,¹¹ Article 3 of the ICTR Statute,¹² and Article 7 of the Rome Statute.¹³ The analysis that follows traces the evolution of CAH through three “phases”: (1) the “Nuremberg phase” (Article 6(c) of the London Charter); (2) the “Security Council phase” (Article 5 of the ICTY Statute and Article 3 of the ICTR Statute); and (3) the “universally negotiated phase” (Article 7 of the Rome Statute).

With respect to the Nuremberg phase, the specific crimes of Article 6(c) of the London Charter are analyzed in light of two separate issues of legality. The first issue centers on

¹⁰ Charter of the International Military Tribunal at Nuremberg, Aug. 8, 1945, 59 Stat. 1544, 82 U.N.T.S. 279 [hereinafter London Charter].

¹¹ Statute of the International Tribunal for the Former Yugoslavia, May 25, 1993, S.C. Res. 827, U.N. SCOR, 48th Sess., 3217th mtg., at 1–2, U.N. Doc. S/RES/827 (1993), 32 I.L.M. 1159 [hereinafter ICTY Statute].

¹² Statute of the International Criminal Tribunal for Rwanda, November 8, 1994, S.C. Res. 955, U.N. SCOR, 49th Sess., 3453rd mtg., U.N. Doc. S/RES/955 (1994), 33 I.L.M. 1598 (1994) [hereinafter ICTR Statute].

¹³ Rome Statute of the International Criminal Court, U.N. Doc. A/Conf. 183/9 [hereinafter ICC Statute].

the principle of legality prohibiting *ex post facto* applications of the criminal law. Here, the analysis focuses on whether or not the specific crimes in Article 6(c) existed in national and international law at the time of the Charter in order to obviate concerns that this category of crimes was *ex post facto*. The second issue centers on the principle of legality requiring that prohibitions be defined with specificity. Here, the analysis focuses on whether or not the specific crimes in Article 6(c) were sufficiently defined so as to put potential perpetrators on notice as to precisely what conduct was prohibited as CAH.

The specific definitions of Article 5 of the ICTY and Article 3 of the ICTR Statutes of the Security Council phase are discussed contextually with Article 6(c) of the London Charter because of the similarity of their contents, except for where they differ from Article 6(c), in which case these specific crimes are discussed separately. However, Articles 5 and 3 of the ICTY and the ICTR Statutes do not raise the same problems of *ex post facto* applications as Article 6(c) of the Charter, because the prior existence of Article 6(c) and other developments between 1945 and 1993 and 1994 established the *jus cogens* nature of CAH.

With respect to the universally negotiated phase, the *ex post facto* issue does not arise under the Rome Statute because of its status as a treaty, for which Article 24 provides prohibitions and jurisdiction. The specific crimes in Article 7 that are the same as those contained in Article 6(c) are examined contextually with these crimes, but are examined separately where they differ from the three prior formulations of the Nuremberg phase and the Security Council phase. The specific contents of the four normative formulations of CAH follow.

Article 6(c) of the London Charter defines the specific contents of CAH as follows:

murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian populations, before or during the war; or persecutions on political, racial or religious grounds [. . .].¹⁴

The specific contents within the definition of CAH in Article 5 of the ICTY Statute are

- (a) murder;
- (b) extermination;
- (c) enslavement;
- (d) deportation;
- (e) imprisonment;
- (f) torture;
- (g) rape;
- (h) persecutions on political, racial and religious grounds;
- (i) other inhumane acts.”¹⁵

The specific contents within the definition of CAH provided by Article 3 of the ICTR Statute are

- (a) murder;
- (b) extermination;
- (c) enslavement;
- (d) deportation;

¹⁴ London Charter art. 6(c), *supra* note 10.

¹⁵ ICTY Statute art. 5, *supra* note 11.

- (e) imprisonment;
- (f) torture;
- (g) rape;
- (h) persecutions on political, racial and religious grounds;
- (i) other inhumane acts.”¹⁶

The ICTY and ICTR formulations vary from Article 6(c) because they add “imprisonment,” “torture,” and “rape.” But it should be noted that all three specific crimes are subsumed in the term “other inhumane acts” contained in Article 6(c) of the London Charter. Both Article 5 of the ICTY and Article 3 of the ICTR are identical and also contain “other inhumane acts.”

The specific contents within the definition of CAH in Article 7 of the Rome Statute, Paragraph 1, are

- (a) murder;
- (b) extermination;
- (c) enslavement;
- (d) deportation or forcible transfer of population;
- (e) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) torture;
- (g) rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) enforced disappearance of persons;
- (j) the crime of *apartheid*;
- (k) other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.”¹⁷

Article 7 of the Rome Statute is identical to the other formulations cited but it adds (d) forcible transfer; (e) imprisonment; (g) rape and sexual violence; (h) persecution; and each of (i), (j), and (k) are new additions to prior formulations. To a large extent the additions of Article 7 are enlargements of prior formulations, but they also add new specific contents as evidenced from the text quoted below. But unlike the three prior formulations, Paragraphs 2 and 3 of Article 7 contain some definitions of the specific contents:

2. For the purpose of paragraph 1:

- (a) “Extermination” includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;

¹⁶ ICTR Statute art. 3, *supra* note 12.

¹⁷ ICC Statute art. 7, *supra* note 13.

- (b) “Enslavement” means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
 - (c) “Deportation or forcible transfer of population” means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;
 - (d) “Torture” means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused, except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;
 - (e) “Forced pregnancy” means the unlawful confinement, of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;
 - (f) “Persecution” means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;
 - (g) “The crime of apartheid” means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;
 - (h) “Enforced disappearance of persons” means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.
3. For the purpose of this Statute, it is understood that the term “gender” refers to the two sexes, male and female, within the context of society. The term “gender” does not indicate any meaning different from the above.¹⁸

Article 7 of the Rome Statute is amplified by the Elements of Crimes, which states,

ARTICLE 7 *Crimes Against Humanity*

1. For the purpose of this Statute, “crimes against humanity” means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

Elements

Introduction to Article 7: 1. Because Article 7 pertains to international criminal law, its provisions, consistent with Article 22, must be strictly construed, taking into account that crimes against humanity as defined in Article 7 are among the most serious crimes

¹⁸ *Id.*

of concern to the international community as a whole, warrant and entail individual criminal responsibility, and require conduct which is impermissible under generally applicable international law, as recognized by the principal legal systems of the world.

2. The last two elements for each crime against humanity describe the context in which the conduct must take place. These elements clarify the requisite participation in and knowledge of a widespread or systematic attack against a civilian population. However, the last element should not be interpreted as requiring proof that the perpetrator had knowledge of all characteristics of the attack or the precise details of the plan or policy of the State or organization. In the case of an emerging widespread or systematic attack against a civilian population, the intent clause of the last element indicates that this mental element is satisfied if the perpetrator intended to further such an attack.
3. “Attack directed against a civilian population” in these context elements is understood to mean a course of conduct involving the multiple commission of acts referred to in Article 7, paragraph 1, of the Statute against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack. The acts need not constitute a military attack. It is understood that “policy to commit such attack” requires that the State or organization actively promote or encourage such an attack against a civilian population [footnote 6: A policy which has a civilian population as the object of the attack would be implemented by State or organizational action. Such a policy may, in exceptional circumstances, be implemented by a deliberate failure to take action, which is consciously aimed at encouraging such attack. The existence of such a policy cannot be inferred solely from the absence of governmental or organizational action.]¹⁹

§2.1. *Murder and Extermination*

The conventional and customary regulation of armed conflicts prohibits murder of civilian populations in time of war by a foreign occupier. Extermination is murder on a large scale. While the 1899 and 1907 Hague Conventions, which embody customary law, protect the “lives” of civilian populations,²⁰ they do not provide specific definitions as to the crime or crimes of taking the life of a civilian under occupation. The Fourth Geneva Convention and Protocol I also fail to define murder and the meaning of protection of life. Therefore, one must first resort to customary practices of states in time of war to ascertain the types of life-taking that would constitute a violation of the provision protecting the “lives” of the civilian population, and thereafter to “general principles of law.”

The customary practice of states, evidenced in international and national military prosecutions, reveals that murder is intentional killing without lawful justification. Lawful justification refers to those legal justifications, excuses, and defenses known to the world’s major criminal justice systems, such as self-defense, coercion, necessity, and reasonable mistake of law or fact. But state practice also shows that under certain circumstances,

¹⁹ *Id.*

²⁰ Convention Respecting the Laws and Customs of War on Land art. 42, Oct. 18, 1907, 36 Stat. 2277, T.S. No. 539, 3 MARTENS NOUVEAU RECUEIL (ser.3) 461, *reprinted in* 2 AM. J. INT’L L. 90 (1908)(Supp.), 1 FRIEDMAN 308, 1 BEVANS 631, 632 [hereinafter 1907 Hague Convention].

the doctrines of military necessity and obedience to superior orders are exonerating or mitigating factors.²¹

The protection of life is a “general principle of law” because it is specifically enunciated in a variety of international instruments and in national legal instruments. It includes a prohibition against unjustified killing. Indeed, all the world’s major criminal justice systems have crimes such as murder and manslaughter, no matter how they are defined or graded in the various national legal systems. But the fact that every legal system in the world criminalizes murder does not make murder an international crime. Thus, it is necessary to show the nexus between murder, as understood in the world’s major criminal justice systems, and the international crime of murder and extermination under Article 6(c) of the Charter. Such a nexus can be established by the war-connecting element that the Charter required²² or by the fact that the conduct was part of state policy.²³ The same nexus or international element is required for all other Article 6(c) crimes.

The customary practice of states, evidenced by international and national military prosecutions, reveals that murder is not intended to mean only specific intentional killings without lawful justification. Instead, state practice views murder in its *largo senso* meaning as including the creation of life-endangering conditions likely to result in death according to reasonable human experience. This standard was used in war-related cases involving mistreatment of prisoners of war and civilians.

The label, definition, and elements of homicide differ among national criminal justice systems. This difference raises a problem with respect to defining murder as an Article 6(c) crime by analogy to the definition of murder in the world’s major criminal justice systems. Combining the practice of states in national military prosecutions and the *in extenso* definition of murder in major systems, one can conclude that murder as intended under Article 6(c) of the Charter includes a closely related form of unintentional but foreseeable death that the common law labels manslaughter. But that does not mean that all forms of unintentional killings can be included in the extended meaning of “murder” under Article 6(c). Otherwise, under certain conditions, a traffic accident resulting in death could become an international crime.

The extension of murder to include unintentional killing is particularly relevant to “extermination.” The plain language and ordinary meaning of the word “extermination” implies both intentional and unintentional killing. The reason for the latter is that mass killing of a group of people involves planning and implementation by a number of persons who, though knowing and wanting the intended result, may not necessarily know their victims. Furthermore, such persons may not necessarily perform the *actus reus* that produced the deaths, nor have specific intent toward a particular victim. All of these are necessary elements of murder or its counterpart in the world’s major criminal justice systems. Thus, the individual responsibility of each actor (whether direct, indirect, or vicarious) for a given killing cannot be predicated on the element of specific knowledge of the identity of the victim or personal knowledge of the specific act that was the direct cause of death of a given victim. Therefore, it is necessary in that type of group killing to extend the definitions of “murder” – and particularly that of “extermination” – to include other forms of intentional and unintentional killing.

²¹ See *infra* ch. 8, §1.

²² See *supra* ch. 3, §7.

²³ See *supra* ch. 1.

Notwithstanding the technical differences in the definitions of various forms of intentional and unintentional killing in the world's major criminal justice systems, the widespread common understanding of the meaning of murder includes life-endangering conditions likely to result in death according to the known or foreseeable expectations of a reasonable person in the same circumstances. Admittedly, this definition includes what the common law considers to be voluntary and involuntary manslaughter, and what the Romanist-Civilist-Germanic systems consider homicide with *dolus* and homicide with *culpa*. However, the latter systems allow consideration of motive, while the former does not. But in this case, motive, or an extensive interpretation of intent to include the ultimate purpose, is particularly relevant because a link has to be established with the prerequisite legal elements.²⁴ A state policy must be linked to the intent (or motive) of the perpetrator of "murder" and "extermination" as CAH.

Since the promulgation of the Charter, other sources of specificity for certain types of "murder" and "extermination" as a CAH are found in several international instruments.

Common articles to the four 1949 Geneva Conventions state, "[g]rave breaches [. . .] shall be those involving any of the following acts, if committed against persons or property protected by the Convention: *wilful killing* [. . .]."²⁵

The Genocide Convention provides in Article II:

[I]n the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such:

- (a) [k]illing members of the group;
- (b) [c]ausing serious bodily or mental harm to members of the group;
- (c) [d]eliberately inflicting on the group, conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) [i]mposing measures intended to prevent births within the group;
- (e) [f]orcibly transferring children of the group to another group.²⁶

The application of this broad definition of condition causing or leading to death is, however, limited, as it excludes (a) situations where the required intent does not exist, and (b) other groups not specifically identified for protection (e.g., social or political groups). But this definition expands the meaning of "murder" and "extermination" as species of international crimes. The ICJ affirmed the importance of the prohibition and its nonderogability in its Advisory Opinion in *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*.²⁷

As Raphaël Lemkin said nearly a half century ago, the word "genocide" is:

[I]ntended to signify a coordinated plan of different actions aiming at the destruction of essential foundations of life of national groups [. . .]. The objectives of such a plan would be the disintegration of the political and social institutions of culture, language, national feelings, religion, and the economical existence of national groups, and the

²⁴ *Id.*

²⁵ 1949 Geneva Conventions, *supra* note 7; Geneva I, art. 50; Geneva II, art. 51; Geneva III, art. 130; and Geneva IV, art. 147 (emphasis added).

²⁶ Convention on the Prevention and Punishment of the Crime of Genocide art. II, Dec. 9, 1948, 78 U.N.T.S. 277 [hereinafter Genocide Convention].

²⁷ Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion 1951 I.C.J. 15 (May 28); *see also* 45 AM. J. INT'L L. 13 (Supp. 1951).

destruction of personal security, liberty, health, dignity, and even lives of the individuals belonging to such groups.²⁸

A number of post-World War II international human rights instruments assert a right to life,²⁹ and they explicitly or implicitly prohibit the unlawful taking of life. However, the generality of such rights does not allow their *ipso jure* conversion to criminal violations. As “general principles of law,” these instruments stand for the protection of life, the same interest that is protected by the criminalization of “murder” and “extermination” as CAH.

“Murder” and “extermination” are included in Article 5 of the ICTY Statute, Article 3 of the ICTR Statute, and Article 7 of the Rome Statute. The ICTY and ICTR have stated that the elements of “murder” reflect the elements of the war crime of unlawful killing, while extermination has been defined as mass scale killing, to be determined in light of the totality of the circumstances as opposed to a numerical minimum.

Article 5 of the ICTY states that “[t]he International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population: (a) *murder*; (b) *extermination* [. . .].”³⁰

Article 3 of the ICTR states that “[t]he International Tribunal for Rwanda shall have the power to prosecute persons responsible for the following crimes when committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial, or religious grounds: (a) *murder*; (b) *extermination* [. . .].”³¹

Thus, the above two formulations found in the ICTY and ICTR Statutes replicate in exact fashion what is provided in London Charter Article 6(c) with respect to “murder” and “extermination.” In other words, the two formulations above simply provide that “murder” and “extermination” are specific crimes contained within the meaning of CAH, but they fail to provide the needed specificity, namely, they fail to define what “murder” and “extermination” mean. As a result, after these formulations, the same questions remained with respect to the meaning and scope of “murder” and “extermination” as existed at the time of the Charter and in subsequent years. The two formulations above failed to address all the issues that arise concerning “intentional killings without lawful justification.” For instance, they neglected to specifically state that intentional killings included those situations in which the perpetrator knew or should have known that death would be the result of a given conduct. Further, they neglected to state what “lawful justifications” excused otherwise impermissible “intentional killings.” Again, as stated above, although the answers to these questions can be derived from the inductive method analyzing “general principles of law,” it nonetheless remains that legal instruments with specifically defined contents beneficially serve the endeavor of ICL. The ICTY and ICTR

²⁸ RAPHAËL LEMKIN, *AXIS RULE IN OCCUPIED EUROPE* 79 (1944); Matthew Lippman, *Genocide*, in *INTERNATIONAL CRIMINAL LAW: SOURCES, SUBJECTS, AND CONTENTS* 403 (M. Cherif Bassiouni ed., 3d rev. ed. 2008); Matthew Lippman, *The Drafting of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide*, 3 B. U. INT'L L. J. 1 (1985); LEO KUPER, *GENOCIDE* (1981).

²⁹ See, e.g., Universal Declaration of Human Rights, *supra* note 5; International Covenant on Civil and Political Rights, *supra* note 6; Convention for the Protection of Human Rights and Fundamental Freedoms art. 2(1), Nov. 4, 1950, 213 U.N.T.S. 221, 224 [hereinafter European Convention on Human Rights]; American Convention on Human Rights art. 4: Nov. 22, 1969, 1144 U.N.T.S. 123, 145; African Charter on Human and Peoples' Rights, O.A.U. Doc. CAB/LEG/67/3 rev. 5 (entered into force Oct. 21, 1986).

³⁰ ICTY Statute art. 5, *supra* note 11 (emphasis added).

³¹ ICTR Statute art. 3, *supra* note 12 (emphasis added).

Statutes did not specifically define “murder” and “extermination” and thus they added nothing to Article 6(c) of the Charter with respect to these two specifically enumerated crimes.

The ICTY and ICTR have consistently defined the crime of murder as requiring that the death of the victim result from an act or omission of the accused committed with the intent to kill, or with the intent to cause serious bodily harm, which the perpetrator should reasonably have known might lead to death.³²

Both the ICTY and ICTR have held that the crime of “extermination” is the act of killing on a large scale.³³ The *actus reus* of extermination consists of any act, omission, or combination thereof which contributes directly or indirectly to the killing of a large number of individuals.³⁴ The *mens rea* of “extermination” is that the accused committed the act or omission with the intent to kill persons on a large-scale or with knowledge that the deaths of a large number of people were a probable consequence of the act or omission.³⁵

³² For the ICTY, *see generally* Prosecutor v. Mucić et al., Case No IT-96-21-T, Judgment, ¶ 439 (Nov. 16, 1998) [hereinafter *Čelebići* Trial Judgment]; Prosecutor v. Blaškić, Case No IT-95-14-T, Judgment, ¶¶ 153, 181, 217 [hereinafter *Blaškić* Trial Judgment]; Prosecutor v. Krstić, Case No IT-98-33-T, Judgment, ¶ 485 (Aug. 2, 2001) [hereinafter *Krstić* Trial Judgment]; Prosecutor v. Martić, Case No IT-95-11-T, Judgment, ¶¶ 58–60 (Jun. 12, 2007) [hereinafter *Martić* Trial Judgment]; Prosecutor v. Blagojević & Jokić, Case No IT-02-60-T, Judgment, ¶ 556 (Jan. 17, 2005); Prosecutor v. Šainović et al., Case No IT-05-87-T, Judgment, ¶¶ 137–139 (Feb. 26, 2009) [hereinafter *Šainović et al.* Trial Judgment]; Prosecutor v. Lukić & Lukić, Case No IT-98-32/1-T, Judgment, ¶ 903 (Jul. 20, 2009) [hereinafter *Lukić & Lukić* Trial Judgment].

For the ICTR, *see generally* Prosecutor v. Akayesu, Case No ICTR-96-4-T, Judgment, ¶ 589 (Sept. 2, 1998) [hereinafter *Akayesu* Trial Judgment]; Prosecutor v. Bagosora et al., Case No ICTR-98-41-T (Dec. 18, 2008) [hereinafter *Bagosora et al.* Trial Judgment], *citing* Prosecutor v. Bagosora et al., ICTR-98-41-T, Decision on Motion for Judgment of Acquittal (TC), ¶ 25 (Feb. 2, 2005); Prosecutor v. Karera, ICTR-01-74-T, Judgment (Dec. 7, 2007); Prosecutor v. Renzaho, Case No ICTR-97-31-T, Judgment, ¶ 786 (Jul. 14, 2009).

Some ICTR Trial Chambers have held that murder requires an element of premeditation and not intent alone. *See, e.g.,* Prosecutor v. Bagilishema, Case No ICTR-95-1A, ¶ 86 (Jun. 7, 2001); Prosecutor v. Ntagerura et al., ICTR-96-10A, Judgment, ¶ 700 (Feb. 24, 2004); Prosecutor v. Semanza, Case No ICTR-97-20-T, Judgment, ¶ 339 (May 15, 2002).

³³ *See Martić* Trial Judgment, *supra* note 32, at ¶ 62; Stakić v. Prosecutor, IT-97-24, Appeals Judgment, ¶ 259 (Mar. 22, 2006); *see also Akayesu* Trial Judgment, *supra* note 32, ¶ 591 (holding that “[e]xtermination differs from murder in that it requires an element of mass destruction which is not required for murder”); Seromba v. Prosecutor, Case No ICTR-2001-66-I-A, Judgment, ¶ 189 (Mar. 12, 2008) [hereinafter *Seromba* Appeals Judgment]; Ntakirutimana v. Prosecutor, Case No ICTR-96-10 and ICTR-96-17-T, Judgment, ¶ 812 (Feb. 21, 2003); Prosecutor v. Ntakirutimana, Case No ICTR-96-10-A and ICTR-96-17-A, Judgment, ¶ 516 (Dec. 13, 2004); *Bagosora et al.* Trial Judgment, *supra* note 88, at ¶ 2191.

³⁴ *See Seromba* Appeals Judgment, *supra* note 33, ¶ 189, *citing* Prosecutor v. Brđanin, IT-99-36-T, Judgment, ¶ 389 (Sept. 4, 2004). *See also Bagosora et al.* Trial Judgment, *supra* note 32, at ¶ 2191; Ndindabahizi v. Prosecutor, ICTR-01-71-I-A, Judgment, ¶ 516 (Jan. 16, 2007); Prosecutor v. Vasiljević, IT-98-32-T, ¶ 229 (Nov. 29, 2002); *Martić* Trial Judgment, *supra* note 32, ¶ 63; *Lukić & Lukić* Trial Judgment, *supra* note 32, ¶ 938.

³⁵ *See Stakić* Appeals Judgment, *supra* note 33, at ¶¶ 259, 260 (providing that “[t]he mens rea of extermination clearly requires the intention to kill on a large scale or to systematically subject a large number of people to conditions of living that would lead to their deaths. This intent is a clear reflection of the actus reus of the crime”); Ntakirutimana Appeals Judgment, *supra* note 33, ¶ 522; *see also Bagosora et al.* Trial Judgment, *supra* note 32, ¶ 2191 (stating that “[t]he mens rea of extermination requires that the accused intended to kill persons on a massive scale or to subject a large number of people to conditions of living that would lead to their deaths in a widespread or systematic manner”); Brđanin Trial Judgment, *supra* note 34, ¶ 395 (stating that “[t]he Prosecution is thus required to prove beyond reasonable doubt that the accused had the intention to kill persons on a massive scale or create the conditions of life that led to the deaths of a large number of people”), *aff’d* Brđanin v. Prosecutor, IT-99-36-A, Judgment, ¶ 476 (Apr. 3, 2007).

The ICTY Trial Chamber in the *Krstić* case, wherein the Chamber determined that extermination was committed at the United Nations “safe haven” of Srebrenica after finding that approximately 7,000 to 8,000 Bosnian Muslim men and boys were systematically murdered during the Bosnian Serb takeover of the city,³⁶ stated that for the crime of extermination to be established, in addition to the general requirements for a CAH, “there must be evidence that a particular population was targeted and that its members were killed or otherwise subjected to conditions of life calculated to bring about the destruction of a numerically significant part of the population.”³⁷ In the *Brđanin* case, the Appeals Chamber acknowledged that five incidents of mass killing, each of which resulted in the deaths of between sixty-eight and 300 victims, were of such a scale as to meet the required threshold for the purposes of extermination.³⁸

In the *Lukić & Lukić* case, a majority of the Trial Chamber found Milan Lukić guilty of two counts of extermination as a CAH for having killed fifty-nine persons in Pionirska and at least sixty persons in Bikavac, respectively. One factor, in the view of the majority, was the population density of the particular area: “while there may be a higher threshold for a finding of extermination in a densely-populated area, it would not be inappropriate to find extermination in a less densely-populated area on the basis of a lower threshold, that is, fewer victims.”³⁹ In her dissenting opinion, Judge van den Wyngaert distinguished her view of the standard of gravity of “massiveness” for the crime of extermination from the view of the majority as follows:

In my opinion, the massive scale reflects the unique gravity of the crime of extermination. This gravity must be preserved by retaining a high standard for the requirement of massiveness. To lower the threshold by which we measure massiveness necessarily lowers the threshold by which exterminations are defined, to the detriment of the standards of gravity the Appeals Chamber has set for the crime of murder and for the crime of extermination.

I recognise that the Appeals Chamber has not set a numerical minimum for the crime and has rejected the submission that the threshold must be at least thousands of deaths. Notably, the Appeals Chamber has held that an extermination can be found when the required scale of killings arises in a single incident of mass killing or in the aggregation of a series of killing incidents. However, in my opinion, the sheer scale of killings continues to be the most relevant factor in determining whether a mass killing incident has reached the “required threshold of massiveness” for the crime of extermination. The circumstances may be a factor in a determination of massiveness, but it cannot replace this requirement.

³⁶ *Krstić* Trial Judgment, *supra* note 33, ¶¶ 79, 84, 426, 505. For more on the Srebrenica massacre see DAVID ROHDE, *ENDGAME: THE BETRAYAL AND FALL OF SREBRENICA* (1998); Alwen Schroder, *Dealing with Genocide: A Dutch Peacekeeper Remembers Srebrenica*, SPIEGEL INT’L, July 12, 2005, available at <http://www.spiegel.de/international/o.1518,druck-364902,00.html> (last visited Dec. 17, 2010).

³⁷ *Krstić* Trial Judgment, *supra* note 33, ¶ 503.

³⁸ See the *Stakić* and *Krajišnik* cases, wherein the Trial Chamber also held that several specific incidents of mass killings individually fulfilled the requisite level of massiveness. *Stakić* Trial Judgment, *supra* note 89, ¶¶ 653–54; *Prosecutor v. Krajišnik*, Case No IT-00-39-T, Judgment, ¶ 720 (Sept. 27, 2006). Neither finding was brought up on appeal. The Appeals Chamber in *Stakić* relied on the entire series of incidents (in which 1,500 were killed) when it upheld *Stakić*’s conviction of extermination. *Stakić* Appeals Judgment, *supra* note 33, ¶¶ 90, 229, 242; see also *Martić* Trial Judgment, *supra* note 32, ¶ 404; *Brđanin* Trial Judgment, *supra* note 34, ¶ 391; *Brđanin* Appeal Judgment, *supra* note 34, ¶¶ 471–72.

³⁹ *Lukić & Lukić* Trial Judgment, *supra* note 32, ¶ 938.

In making its findings of extermination, the majority of this Trial Chamber also relied on the population density of the particular area from which the victims came. In determining the correct threshold for a finding of extermination, the majority found that there may be a higher threshold with regard to the number of persons killed in a very densely populated area and that it would not be inappropriate to find extermination in a less densely populated area on a lower threshold. In my opinion, this introduces a new and highly subjective element into the crime of extermination. An analysis of population density is dependent upon how one defines the relevant reference area. Including this element into the crime grants the Prosecution enormous discretion to determine the relevant reference area by the way in which it formulates the indictment, or requires the Chamber to assess the subjective boundaries of the community in question. I cannot concur with the inclusion of such relativity and uncertainty in the law of extermination.

This reflects the Appeals Chamber's conception of the crime, the only material element of which is that killing must be on a large scale. An area's population density should not bear on the absolute massiveness of a killing event that occurs in that area. To suggest otherwise may lead to the legally untenable result in which the killing of twenty people in a small village is found to constitute extermination, but the killing of thousands of people in a large city does not. Further, the killing incidents involving victims who did not all come from the same area would require an assessment of the population density of a number of reference areas. Depending on the respective population density of each area, this may lead to the odd result that a killing incident may be qualified as extermination only in relation to some of the victims.

[...]

The multiple killings at Pionirska street and at Bikavac were brutal and cruel. The fact that I do not believe they reach the threshold of extermination does not reflect my belief that they are not extremely grave offences. Rather, my decision reflects the very high level of gravity that has been ascribed to the crime of murder. Indeed, I am concerned that if we find that mass killings of increasingly low scale to be extermination, then this inadvertently may suggest that the charge of murder is not significant enough to convey the seriousness of the crimes. Murder charges, particularly given the weight judges may give to the circumstances of the killing in sentencing, are appropriate for individual and multiple killings. To hold extermination to a lower standard because a multiple killing is considered to be particularly vicious would, I fear, have the unintended result of trivialising both the crime of murder and the crime of extermination.⁴⁰

The ICTR has distinguished extermination from murder because it is directed against a population rather than against individuals; thus, responsibility for a single or limited number of killings cannot form the material element of extermination.⁴¹ However, there is no numerical minimum of victims that must have been killed, and an assessment of

⁴⁰ *Lukić & Lukić Trial Judgment*, *supra* note 32, ¶¶ 1115–1120 (dissenting opinion of J. van den Wyngaert).

⁴¹ See *Semanza Trial Judgment*, *supra* note 32, at ¶ 340; *Ntagerura et al. Trial Judgment*, *supra* note 33, ¶ 701. Some scholars have criticized the proposition that an act of extermination must destroy a numerically significant part of the population. See, e.g., Guénaél Mettraux, *Crimes against Humanity in the Jurisprudence of*, 43 HARV. INT'L L.J. 237, 285 (2002) (arguing that there is no requirement under customary international law that in committing extermination one must bring about the destruction of a specified proportion of the targeted population).

whether this element is met is made on a case-by-case basis, taking account of all relevant factors.⁴²

The Rome Statute in Article 7 states, “[a] ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (a) *murder*; (b) *extermination* [. . .].”⁴³ The Rome Statute further provides in Article 7 that “[e]xtermination includes the intentional infliction of conditions of life, *inter alia* the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population [. . .].”⁴⁴ Thus, this formulation adds specificity to “extermination.” It states that “extermination” does not merely occur when a perpetrator executes the material act of, for instance, firing a rifle or wielding a knife which directly results in the killing of another, but “extermination” also occurs when a perpetrator creates “conditions of life” amenable to mass killing. However, this specificity does not address the issue of imputed intent as the result of foreseeability, or imputed intent as the result of what should have been foreseeable. Nor does this specificity address the issue of “lawful justifications” for such “conditions of life.” With respect to “murder” there is no added specificity. Thus, the questions that were raised above concerning the ICTY and ICTR Statute still remain.

Murder as a CAH within the meaning of article 7(1)(a) of the Rome Statute is not defined in the Statute, and the Elements of Crimes offer only limited guidance as to the *actus reus*, providing that “the perpetrator killed one or more persons.”⁴⁵ The ICC has recognized the following: for the act of murder to be committed the victim has to be dead and the death must result from the act of murder;⁴⁶ the act itself may be committed by action or omission;⁴⁷ the death of the victim can be inferred from the facts of the case;⁴⁸ and the Prosecutor must prove the causal link between the act of murder and the death of the victim.⁴⁹ Because no *mens rea* is specified in article 7(1)(a) of the Rome Statute, the ICC has applied article 30 of the Statute to require proof of “intent and knowledge.”⁵⁰

Murder is listed as a count in the arrest warrants for Germain Katanga (a.k.a. “Simba”) and Mathieu Ngudjolo Chui (*Situation in D.R. Congo*); Jean-Pierre Bemba Gombo (*Situation in Central African Republic*); Joseph Kony, Vincent Otti, Okot Odhiambo,

⁴² See *Stakić Appeals Judgment*, *supra* note 33, ¶ 260; *Krstić*, *supra* note 32, at ¶ 501; *Blagojević and Jokić*, *supra* note 32, ¶ 573; *Brđanin Appeals Judgment*, *supra* note 34, at ¶¶ 471–72. The relevant factors include “the time and place of the killings, the selection of the victims, and the manner in which they were targeted.” *Krajišnik Trial Judgment*, ¶ 716 (Sept. 27, 2006); see also *Ntakirutimana Appeals Judgment*, *supra* note 33, ¶ 516; *Prosecutor v. Nahimana et al.*, Case No ICTR-01-74, Trial Judgment, ¶ 1061 (Dec. 3, 2003).

⁴³ ICC Statute art. 7, *supra* note 13 (emphasis added).

⁴⁴ *Id.*

⁴⁵ The Elements of Crimes clarify in fn 7 to article 7(1)(a) of the Rome Statute that the term “killed” is interchangeable with the term “caused death.”

⁴⁶ See *Prosecutor v. Katanga & Chui*, Case No ICC-01/04-01/07, Decision on the confirmation of charges, ¶ 421 (Sept. 30, 2008) [hereinafter *Katanga & Chui Decision Confirming Charges*]; *Prosecutor v. Bemba Gombo*, Case No ICC-01/05-01/08-15, Decision on the confirmation of charges, ¶ 132 (Jun. 15, 2009) [hereinafter *Bemba Gombo Decision Confirming Charges*].

⁴⁷ See *Katanga & Chui Decision Confirming Charges*, *supra* note 46, ¶ 287; *Bemba Gombo Decision Confirming Charges*, *supra* note 46, ¶ 132.

⁴⁸ *Bemba Gombo Decision Confirming Charges*, *supra* note 46, ¶ 132.

⁴⁹ *Id.*; see also *Prosecutor v. Krnojelac*, Case No IT-97-25, Judgment, ¶ 329 (Mar. 15, 2002).

⁵⁰ See *Katanga & Chui Decision Confirming Charges*, *supra* note 46, at ¶ 423; *Bemba Gombo Decision Confirming Charges*, *supra* note 46, ¶ 183.

and Dominic Ongwen (*Situation in Uganda*); Ahmad Harun and Ali Kushayb,⁵¹ while both murder and extermination are included as counts in the arrest warrant for President Al-Bashir (*Situation in Darfur, Sudan*).⁵²

Elements of Murder

1. The perpetrator killed one or more persons [footnote 7: The term “killed” is interchangeable with the term “caused death”. This footnote applies to all elements which use either of these concepts].
2. The conduct was committed as part of a widespread or systematic attack directed against a civilian population. [See Introduction to Art. 7]
3. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population. [See Introduction to Art. 7]

Elements of Extermination

1. The perpetrator killed one or more persons, including by inflicting conditions of life calculated to bring about the destruction of part of a population [footnote 8: The conduct could be committed by different methods of killing, either directly or indirectly. Footnote 9: The infliction of such conditions could include the deprivation of access to food and medicine].
2. The conduct constituted, or took place as part of, a mass killing of members of a civilian population [footnote 10: The term “as part of” would include the initial conduct in a mass killing].
3. The conduct was committed as part of a widespread or systematic attack directed against a civilian population [See Introduction to Art. 7].
4. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population. [See Introduction to Art. 7]

The crime of “murder” exists in all of the world’s criminal law systems with little variance as to the material element and some variation as to the mental element. Thus, murder does not present particular legality problems, and states without CAH legislation could use their domestic criminal laws. A review of the prosecutions for the CAH of murder reveals seldom problems with the identification of elements of the crime or the evidence required to prove the crime.

“Extermination” is presumably large-scale killing, which includes “murder” and the death of persons arising out of conditions constituting the proximate cause of death of such victims, which is a form of criminal homicide akin to “murder” in every legal system of the world.

⁵¹ Prosecutor v. Ahmed Muhammad Harun (“Ahmad Harun”) and Ali Muhammad Ali Abd-Al-Rahman (“Ali Kushayb”), Case No ICC-02/05-01/07, Warrant of arrest issued for Ahmad Harun (Apr. 27, 2007) [hereinafter *Ahmad Harun Arrest Warrant*]. Prosecutor v. Ahmad Muhammad Harun (“Ahmad Harun”) and Ali Muhammad Ali Abd-Al-Rahman (“Ali Kushayb”), Case No. ICC-02/05-01/07-3, Warrant of Arrest for Ali Kushayb (Apr. 27, 2007) [hereinafter *Ali Kushayb Arrest Warrant*].

⁵² Prosecutor v. Omar Hassan Al Bashir, Case No 02/05-01/09, Warrant of arrest for Omar Hassan Ahmad Al Bashir (Mar. 4, 2009) [hereinafter *Al Bashir Arrest Warrant*].

CAH Statistics (as of November 2010)

ICTY: 97 indicted / 21 convicted (murder); 31 indicted / 7 convicted (extermination)

ICTR: 49 indicted / 19 convicted (murder); 72 indicted; 27 convicted (extermination)

Special Court for Sierra Leone (SCSL): 13 indicted / 5 convicted (murder); 9 indicted / 6 convicted (extermination)

Special Panels for Serious Crimes in East Timor (SPSC ET): approx. 267 indicted / 33 convicted (murder); 51 indicted (extermination)

Extraordinary Chambers in the Courts of Cambodia (ECCC): 5 indicted (murder); 5 indicted (extermination)

War Crimes Court of Bosnia and Herzegovina (WCC BiH): approx. 66 indicted / 27 convicted (murder); 7 indicted (extermination)

ICC: 11 indicted (murder); 1 indicted (extermination)

§2.2. *Enslavement*

The international criminalization of certain types of “murder” and “extermination” in particular contexts began almost one century ago with the 1899 and 1907 Hague Conventions. However, the legal prohibition of slavery and slave-related practices started earlier. In 1815, the Congress of Vienna Declaration stated that slavery is “repugnant” to the values of the civilized international community. Since then, a succession of international instruments prohibited these practices and several criminalized some of its manifestations. Also, between 1820 and 1945, a number of countries criminalized slavery, slave trade, and slave-related practices.⁵³ Thus, slavery was clearly a violation of “general principles of law” under the national law source of “general principles of law” and under its international law source before the London Charter. Since then, as discussed below, international legal instruments have expanded the scope of the criminal violation, and all national laws prohibit it explicitly or implicitly. Thus, the prohibition is universal, but some of its specific contents, i.e., certain manifestations of slave-related practices, are not yet well established or well defined.

The Geneva Conventions deem slavery, slave-related practices, and slave labor a war crime, as does the customary regulation of international armed conflicts when the practice is performed by the armed forces or occupying forces of one country against the civilian population or armed forces of another country in time of war. However, pre-World War I use of forced labor in time of war was not uncommon and was narrowly permitted by the 1899 and 1907 Hague Conventions.⁵⁴ But after World War I, it was prohibited for prisoners of war under the 1929 Geneva Convention, and it was prohibited

⁵³ See *infra* note 66 for the various representative countries of the world’s major legal systems.

⁵⁴ Both the Hague Convention of 1899 and the 1907 Convention, respecting the laws and customs of war, incorporated protections for both civilians and belligerents from enslavement and forced labor into the international regulation of armed conflict. Similar to that of the 1899 Convention, the preamble to the 1907 Convention asserts that: “[T]he inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of public conscience.” Also, Article 52 of the 1907 Convention, *supra* note 20 provides:

Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country,

Exhibit 21. U.S. Department of State Reports

U.S. Department of State

Diplomacy in Action

China (includes Tibet, Hong Kong, and Macau)

Country Reports on Human Rights Practices

Bureau of Democracy, Human Rights, and Labor

2003

February 25, 2004

(Note: Also see the section for **Tibet** (<http://www.state.gov/j/drl/rls/hrrpt/2003/27768.htm#Tibet>), the report for **Hong Kong** (<http://www.state.gov/j/drl/rls/hrrpt/2003/27768.htm#HongKong>), and the report for **Macau** (<http://www.state.gov/j/drl/rls/hrrpt/2003/27768.htm#Macau>).)

The People's Republic of China (PRC) is an authoritarian state in which, as directed by the Constitution, the Chinese Communist Party (CCP or Party) is the paramount source of power. Party members hold almost all top government, police, and military positions. Ultimate authority rests with the 24-member political bureau (Politburo) of the CCP and its 9-member standing committee. Leaders made a top priority of maintaining stability and social order and were committed to perpetuating the rule of the CCP and its hierarchy. Citizens lacked both the freedom peacefully to express opposition to the Party-led political system and the right to change their national leaders or form of government. Socialism continued to provide the theoretical underpinning of national politics, but Marxist economic planning has given way to pragmatism, and economic decentralization increased the authority of local officials. The Party's authority rested primarily on the Government's ability to maintain social stability; appeals to nationalism and patriotism; Party control of personnel, media, and the security apparatus; and continued improvement in the living standards of most of the country's 1.3 billion citizens. The Constitution provides for an independent judiciary; however, in practice, the Government and the CCP, at both the central and local levels, frequently interfered in the judicial process and directed verdicts in many high-profile cases.

The security apparatus is made up of the Ministries of State Security and Public Security, the People's Armed Police, the People's Liberation Army (PLA), and the state judicial, procuratorial, and penal systems. Civilian authorities generally maintained effective control of the security forces. Security policy and personnel were responsible for numerous human rights abuses.

The country's transition from a centrally planned to a market-based economy continued. Although state-owned industry remained dominant in key sectors, the Government has set up a commission to help reform major state-owned enterprises (SOEs), privatized many small and medium SOEs, and allowed private entrepreneurs increasing scope for economic activity. Rising urban living standards; greater independence for entrepreneurs; the reform of the public sector, including government efforts to improve and accelerate sales of state assets and to improve management of remaining government monopolies; and expansion of the non-state sector increased workers' employment options and significantly reduced state control over citizens' daily lives.

The country faced many economic challenges, including reform of SOEs and the banking system, growing unemployment and underemployment, the need to construct an effective social safety net, and growing regional economic disparities. In recent years, between 100 and 150 million persons voluntarily left rural areas to search for better jobs and living conditions in the cities, where they were often denied access to government-provided economic and social benefits, including education and health care. During the year, the Government issued regulations that relaxed controls over such migration and expanded the rights of migrants to basic social services. In the industrial sector, continued downsizing of SOEs contributed to rising urban unemployment that was widely believed to be much higher than the officially estimated 4 percent, with many sources estimating the actual figure to be as high as 20 percent. Income gaps between coastal and interior regions, and between urban and rural areas, continued to widen. The Government reported that urban per capita income in 2002 was \$933 and grew by 12 percent over the previous year, while rural per capita income was \$300 and grew by 5 percent. Official estimates of the number

of citizens living in absolute poverty showed little change from the previous year, with the Government estimating that 30 million persons lived in poverty and the World Bank, using different criteria, estimating the number to be 100 to 150 million persons.

The Government's human rights record remained poor, and the Government continued to commit numerous and serious abuses. Although legal reforms continued, there was backsliding on key human rights issues during the year, including arrests of individuals discussing sensitive subjects on the Internet, health activists, labor protesters, defense lawyers, journalists, house church members, and others seeking to take advantage of the space created by reforms. Citizens did not have the right peacefully to change their government, and many who openly expressed dissenting political views were harassed, detained, or imprisoned. Authorities were quick to suppress religious, political, and social groups that they perceived as threatening to government authority or national stability.

Abuses included instances of extrajudicial killings, torture and mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process. Tibetan Lobsang Dondrub was executed in January, a day after his appeal was denied, despite promises made to diplomatic observers that the Supreme People's Court (SPC) would review his case. In April, the Government officially concluded a nationwide "strike hard" campaign against crime, which was implemented with particular force in Xinjiang and included expedited trials and public executions. However, short-term campaigns against specific types of crime were launched in some areas during the year, and, in Xinjiang, particularly harsh treatment of suspected Uighur separatists reportedly continued after the official end of the nationwide strike hard campaign in April. Amnesty International (AI) reported that China executed more persons than any other country.

The judiciary was not independent, and the lack of due process remained a serious problem. Government pressure made it difficult for Chinese lawyers to represent criminal defendants. A number of attorneys were detained for representing their clients actively. During the year, Beijing defense lawyer Zhang Jianzhong and Shanghai housing advocate Zheng Enchong both were sentenced to multi-year prison terms in connection with their defense of controversial clients. The authorities routinely violated legal protections in the cases of political dissidents and religious figures. They generally attached higher priority to suppressing political opposition and maintaining public order than to enforcing legal norms or protecting individual rights.

Throughout the year, the Government prosecuted individuals for subversion and leaking state secrets as a means to harass and intimidate. In July, lawyer Zhao Changqing was sentenced to 5 years' imprisonment on charges of subversion for his alleged role in drafting an open letter to the November 2002 16th Party Congress urging democratization. At least five others who signed the letter were also prosecuted on such charges. In October, former attorney Zheng Enchong was sentenced to 3 years in prison for "disclosing state secrets" as an alleged result of his providing information about labor and housing protests to a foreign human rights organization. The same month, house church member Liu Fenggang was detained on state secrets charges, allegedly for providing information to overseas nongovernmental organizations (NGOs) about his investigation into the destruction of house churches in Zhejiang Province. Others detained, prosecuted, or sentenced on state secrets charges included political dissident Yang Jianli and a number of Internet writers.

Over 250,000 persons were serving sentences, not subject to judicial review, in "reeducation-through-labor" camps. In April, inmate Zhang Bin was beaten to death in a reeducation-through-labor camp, prompting public debate on reeducation through labor and calls to abolish the system.

The number of individuals serving sentences for the now-repealed crime of counterrevolution was estimated at 500-600; many of these persons were imprisoned for the nonviolent expression of their political views. Credible sources estimated that as many as 2,000 persons remained in prison at year's end for their activities during the June 1989 Tiananmen demonstrations.

The authorities released political activist Fang Jue in January. Many others, including China Democracy Party co-founders Wang Youcai and Qin Yongmin; Internet activists Xu Wei, Yang Zili, and Huang Qi; Uighur businesswoman Rebiya Kadeer; journalist Jiang Weiping; labor activists Yao Fuxin, Xiao Yunliang, and Liu Jingsheng; Catholic Bishop Su Zhimin; house church leaders Zhang Yinan, Liu Fenggang and Xu Yonghai; Tibetan nun Phuntsog Nyidrol; Uighur historian Tohti Tunyaz; and political dissident Yang Jianli remained imprisoned or under other forms of detention.

The Government used the international war on terror as a justification for cracking down harshly on suspected Uighur separatists expressing peaceful political dissent and on independent Muslim religious leaders. The human rights situation in the Tibet Autonomous Region (TAR) and in some ethnically Tibetan regions outside the TAR also remained poor (see Tibet Addendum).

The Government maintained tight restrictions on freedom of speech and of the press. The Government regulated the establishment and management of publications, controlled the broadcast media, at times censored foreign television broadcasts, and at times jammed radio signals from abroad. During the year, publications were closed and otherwise disciplined for publishing material deemed objectionable by the Government, and journalists, authors, academics, and researchers were harassed, detained, and arrested by the authorities. In May, Sichuan website manager Huang Qi and students belonging to the New Youth Study Group received long prison sentences for their Internet essays encouraging democracy. Others detained or convicted for their Internet activity included Tao Haidong, Luo Yongzhong, Du Daobin, Yan Jun, Li Zhi, and Jiang Lijun. In November, Beijing Normal University Student Liu Di and two others were released on bail after a year of pretrial detention in connection with their Internet postings. Internet use continued to grow in the country, even as the Government continued and intensified efforts to monitor and control use of the Internet and other wireless technology including cellular phones, pagers, and instant messaging devices. During the year, the Government blocked many websites, increased regulations on Internet cafes, and pressured Internet companies to pledge to censor objectionable content. NGOs reported that 39 journalists were imprisoned at year's end and that 48 persons had been imprisoned by the Government for their Internet writing during China's brief history of Internet use.

Initially, news about the outbreak of Severe Acute Respiratory Syndrome (SARS) was strictly censored, and some journals were closed because they disclosed information about SARS. In April, the Government publicly acknowledged that the SARS epidemic was more serious than previously admitted. Those accused of interfering with SARS prevention were detained. Hundreds of Falun Gong practitioners were detained on such accusations. Information about the spread of HIV/AIDS also continued to be tightly controlled in some provinces. In June, hundreds of police violently suppressed protests by persons infected with HIV/AIDS in Xiongqiao village, Henan Province. Henan health official Ma Shiwen was detained during the year on charges of disclosing state secrets after providing information about the extent of the HIV epidemic in Henan Province to website publishers.

The Government severely restricted freedom of assembly and association and infringed on individuals' rights to privacy.

While the number of religious believers in the country continued to grow, government respect for religious freedom remained poor. Members of unregistered Protestant and Catholic congregations; Muslim Uighurs; Tibetan Buddhists, particularly those residing within the TAR (see Tibet Addendum); and members of folk religions experienced ongoing and, in some cases, increased official interference, harassment, and repression. Protestant activists Zhang Yinan, Xu Yonghai, Liu Fenggang, and Zhang Shengqi were among those detained or sentenced. However, religious groups in some areas noted a greater freedom to worship than in the past. The Government continued to enforce regulations requiring all places of religious activity to register with the Government or to come under the supervision of official, "patriotic" religious organizations. In some areas, religious services were broken up and church leaders and adherents were harassed, detained, or beaten. At year's end, scores of religious adherents remained in prison because of their religious activities. No visible progress was made in improving relations between the Government and the Vatican, although both sides claimed to be ready to resume negotiations aimed at establishing diplomatic relations. The Government continued its crackdown against the Falun Gong spiritual movement, and thousands of practitioners remained incarcerated in prisons, extrajudicial reeducation-through-labor camps, and psychiatric facilities. Several hundred Falun Gong adherents reportedly have died in detention due to torture, abuse, and neglect since the crackdown on Falun Gong began in 1999.

Freedom of movement continued to be restricted. The Government denied the U.N. High Commissioner for Refugees (UNHCR) permission to operate along its border with North Korea and deported several thousand North Koreans, many of whom faced persecution upon their return. Abuse and detention of North Koreans in the country was also reported. However, the Government continued to relax its residence-based registration requirements and eliminated requirements for work unit approval of certain personal decisions, such as getting married.

The Government did not permit independent domestic nongovernmental organizations (NGOs) to monitor human rights conditions. In September, the U.N. Special Rapporteur on the Right to Education visited Beijing. Although the Government extended "unconditional" invitations to the U.N. Special Rapporteur for Torture, the U.N. Special Rapporteur for Religious Intolerance, the U.N. Working Group on Arbitrary Detention, and the U.S. Commission on International Religious Freedom (USCIRF), expected visits did not occur by year's end. Conditions imposed by the Government caused negotiations with the U.N. Special Rapporteur for Torture to break down and caused USCIRF twice to postpone a planned trip.

Violence against women (including imposition of a birth limitation policy coercive in nature that resulted in instances of forced abortion and forced sterilization), prostitution, and discrimination against women, persons with disabilities, and minorities continued to be problems.

Labor demonstrations, particularly those protesting nonpayment of back wages, continued but were not as large or widespread as those in 2002. In May, Yao Fuxin and Xiao Yunliang, leaders of the largest demonstrations in 2002, were sentenced to prison terms on charges of subversion. Workplace safety remained a serious problem, particularly in the mining industry. The Government continued to deny internationally recognized worker rights, and forced labor in prison facilities remained a serious problem. Trafficking in persons also remained a serious problem.

However, significant legal reforms continued during the year. In June, the Government abolished the administrative detention system of "custody and repatriation" for migrants. Reforms also expanded legal aid and introduced restrictions on extended unlawful detention. In October, the Third Party Plenum formally approved a constitutional amendment that will, if approved at the March 2004 session of the National People's Congress, put the protection of individual rights into China's constitution for the first time. At year's end, it remained unclear how these reforms would be implemented and what effect they would have.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

Arbitrary or Unlawful Deprivation of Life

During the year, politically motivated and other arbitrary and unlawful killings occurred. The official press reported extrajudicial killings, but no nationwide statistics were available. Deaths in custody due to police use of torture to coerce confessions from criminal suspects continued to occur. Beating deaths during administrative detention also occurred and sparked public calls for reform (see Sections 1.c. and 1.d.).

Several hundred Falun Gong adherents reportedly have died in detention due to torture, abuse, and neglect since the crackdown on Falun Gong began in 1999. For example, Falun Gong groups alleged that more than 50 persons died in custody in June through August, many from torture in detention camps.

Trials involving capital offenses sometimes took place under circumstances where the lack of due process or a meaningful appeal bordered on extrajudicial killing. NGOs reported over 1,000 executions during the year, including dozens on June 26 to mark international anti-drug day. AI reported that China executed more persons than any other country. In 2002, officials reportedly carried out over 4,000 executions after summary trials as part of a nationwide "strike hard" campaign against crime. The actual number of persons executed likely was far higher than the number of reported cases. The Government regarded the number of death sentences it carried out as a state secret but stated that the number of executions decreased during the year. Some foreign academics estimated that as many as 10,000 to 20,000 persons were executed each year.

b. Disappearance

In some areas, police targeted dissidents without family members for detention or incarceration in psychiatric facilities. With no family to notify, this practice in effect constituted disappearance.

The Government has used incommunicado detention. For example, in December 2002, the Government acknowledged that it was holding dissident Wang Bingzhang, who along with two other individuals disappeared in Vietnam on June 26, 2002. After several months of incommunicado detention, the other detainees, Zhang Qi and Yue Wu, were released but, in January, Wang was convicted on charges of espionage and terrorism and sentenced to life in prison. In February, his appeal was denied. In July, the U.N. High Commissioner for Human Rights found that Wang's disappearance, arrest, and imprisonment violated international standards, and he asked the Guangdong Provincial High Court in September to reconsider his case. Wang also objected to being forced to attend political study sessions and went on a hunger strike in prison as a protest. At year's end, the court had taken no action.

As of year's end, the Government had not provided a comprehensive, credible accounting of all those missing or detained in connection with the suppression of the 1989 Tiananmen demonstrations.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture; however, police and other elements of the security apparatus employed torture and degrading treatment in dealing with some detainees and prisoners. The Prison Law forbids prison guards from extorting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. While senior officials acknowledged that torture and coerced confessions were chronic problems, they did not take sufficient measures to end these practices. Former detainees reported credibly that officials used electric shocks, prolonged periods of solitary confinement, incommunicado detention, beatings, shackles, and other forms of abuse. Recommendations from the May 2000 report of the U.N. Committee Against Torture still had not been fully implemented by year's end. These recommendations included incorporating a definition of torture into domestic law, abolishing all forms of administrative detention (including reeducation through labor), promptly investigating all allegations of torture, and providing training courses on international human rights standards for police.

During the year, police use of torture to coerce confessions from criminal suspects continued to be a problem. The 2002 death in custody of Zeng Lingyun of Chongqing Municipality remained unresolved. On July 26, 2002, public security personnel detained Zeng on theft charges. On July 28, his family was informed that he had died. Local officials initially told Zeng's family that he had been shot by police, and the family noticed extensive bruises and a bullet wound on the body.

Since the crackdown on Falun Gong began in 1999, there reportedly have been several hundred deaths in custody of Falun Gong adherents, due to torture, abuse, and neglect (see Section 2.c.).

The Government made some efforts to address the problem of torture during the year. Some provincial governments issued regulations stipulating that judges and police using torture to extract confessions from suspects would face dismissal. The Government announced that evidence obtained through coerced confessions would be excluded from trial in certain administrative cases (which include acts akin to certain criminal misdemeanors as well as behavior punishable through administrative detention, such as disruption to social order). Police officers who tortured suspects faced dismissal and criminal prosecution in some cases. For example, two police in Dandong, Liaoning Province, were sentenced to 1 and 2 years in jail in December, after torturing two suspects to death in 2001.

During the year, there were reports of persons, particularly Falun Gong adherents, sentenced to psychiatric hospitals for expressing their political or religious beliefs (see Section 1.d.).

Conditions in penal institutions for both political prisoners and common criminals generally were harsh and frequently degrading. Prisoners and detainees often were kept in overcrowded conditions with poor sanitation, and their food often was inadequate and of poor quality. Many detainees relied on supplemental food and medicines provided by relatives, but some prominent dissidents reportedly were not allowed to receive supplemental food or medicine from relatives. According to released political prisoners, in many provinces it was standard practice for political prisoners to be segregated from each other and placed with common criminals. Released prisoners reported that common criminals have beaten political prisoners at the instigation of guards. Some prominent political prisoners received better than standard treatment.

The 1994 Prison Law was designed, in part, to improve treatment of detainees and increase respect for their legal rights; however, many provisions of this law have not been effectively implemented. Some prisoners were able to use administrative procedures provided for in this law to complain about prison conditions. The Government also has created some "model" facilities, where inmates generally received better treatment than those held in other facilities. Chinese prison management relied on the labor of prisoners both as an element of punishment and to fund prison operations (see Section 6.c.). During the year, the Government established a pilot program in some locations to separate prison enterprises from prison reform and punishment functions.

Adequate, timely medical care for prisoners continued to be a serious problem, despite official assurances that prisoners have the right to prompt medical treatment if they become ill. Political prisoners continued to have difficulties in obtaining medical treatment, despite repeated appeals on their behalf by their families and the international community. Those with health concerns included China Democracy Party (CDP) co-founders Qin Yongmin and Wang Youcai; Internet essayist Luo Yongzhang; democracy activists Hua Di and He Depu; labor activists Xiao Yunliang, Yao Fuxin, Hu Shigen, Liu Jingsheng, and Zhang Shanguang; Tibetan nun Phuntsog Nyidrol; religious prisoners Liu Fenggang and Bishop Su Zhimin; dissident Wang Bingzhang; and Uighur businesswoman Rebiya Kadeer. During the year, anti-corruption campaigner An Jun, Internet dissident Xu Wei, and dissident Wang Bingzhang allegedly went on hunger strikes in prison.

Conditions in administrative detention facilities, such as reeducation-through-labor camps, were similar to those in prisons. Two highly publicized deaths in administrative detention prompted calls for an overhaul of the system. In March, a university graduate, Sun Zhigang from Henan Province, was beaten to death in a Guangzhou city custody and repatriation center after being detained by police as a suspected illegal migrant. Sun did not have a Guangzhou residency document, and police reportedly locked him in a custody and repatriation facility because his accent revealed he was from a different province. In the facility, inmates beat him to death, and some facility employees allegedly knew of and encouraged the beating. Subsequently, criminal charges were filed against 18 persons. One staff member of the facility was executed, and several prisoners who allegedly inflicted the beating received stiff jail terms or suspended death sentences. Police involved were given mostly administrative punishments. Sun's death led to unprecedented public calls for abolition of the custody and repatriation system of administrative detention for illegal migrants, including petitions by legal scholars and National People's Congress (NPC) members. On June 22, the State Council abolished the system and called for the conversion of administrative detention centers into humanitarian relief centers to support migrants, vagrants, and the homeless. At year's end, the impact of these reforms remained uncertain.

In April, inmate Zhang Bin was tortured and beaten to death at the Huludao City Correctional Camp, a reeducation-through-labor facility in Liaoning Province, where he had reportedly been sentenced to 18 months as punishment for theft. For 30 days, 9 inmates and the inmate labor boss reportedly beat Zhang, stripped him naked, abused him with plastic pipes and hammers, applied hot peppers and salt to his wounds, and doused him in cold water. After Zhang died in an ambulance on the way to a hospital on April 16, 2 workers at the camp were indicted on criminal charges of abuse of authority. In December, inmates charged in the beating were sentenced to long prison terms, and the leader of the gang who beat Zhang was given the death penalty. Zhang's death also prompted calls for reform of reeducation through labor, including a petition by six Guangzhou-based members of the Chinese People's Political Consultative Conference, but no such reforms had been made as of year's end.

In the wake of the Sun and Zhang deaths in custody, public security officials admitted that these beating deaths were not isolated incidents. Sexual and physical abuse and extortion were reported in some detention centers. Forced labor in prisons and reeducation-through-labor camps was also common. At the Xinhua Reeducation-Through-Labor Camp in Sichuan Province, inmates were forced to work up to 16 hours per day breaking rocks or making bricks, according to credible reports.

The Government generally did not permit independent monitoring of prisons or reeducation-through-labor camps, and prisoners remained inaccessible to international human rights organizations. Although the Government agreed to invite the U.N. Special Rapporteur for Torture, this visit stalled in part because of the Government's refusal to allow him to visit prisons without advance notice (see Section 4). By year's end, the Government had not announced any progress in talks with the International Committee of the Red Cross (ICRC) on an agreement for ICRC access to prisons, although there was some discussion of ICRC opening an office in Beijing. Semi-monthly working-level meetings intended to renew cooperation on the

U.S.-China Prison Labor Memorandum of Understanding continued during the year (see Section 6.c). A scheduled visit by U.S. officials to discuss prison labor was postponed due to SARS.

d. Arbitrary Arrest, Detention, or Exile

Arbitrary arrest and detention remained serious problems. The law permits authorities, in some circumstances, to detain persons without arresting or charging them, and persons may be sentenced administratively to up to 3 years in reeducation-through-labor camps and other similar facilities without a trial. Because the Government tightly controlled information, it was impossible to determine accurately the total number of persons subjected to new or continued arbitrary arrest or detention. Official government statistics indicated that there were 230,000 persons in reeducation-through-labor camps, while NGOs claimed some 310,000 persons were in reeducation through labor during the year. According to a 2001 article by the official news agency, 300 reeducation-through-labor facilities have held more than 3.5 million prisoners since 1957. In addition, it was estimated that approximately 2 million persons per year were detained in a form of administrative detention known as custody and repatriation until that system was abolished in June after the beating death of Sun Zhigang (see Section 1.c.). The Government also confined some Falun Gong adherents, labor activists, and others to psychiatric hospitals. Approximately 500-600 individuals continued to serve sentences for the now-repealed crime of counterrevolution. Many of these persons were imprisoned for the nonviolent expression of their political views (see Section 1.e.).

The Ministry of Public Security (MPS) coordinates the country's law enforcement, which is administratively organized into local, county, provincial, and specialized police agencies. Recent efforts have been made to strengthen historically weak regulation and management of law enforcement agencies; however, judicial oversight is limited and checks and balances are absent. Many police and law enforcement units in the country remained poorly trained and lacked basic investigation skills. Corruption at the local level was widespread. Police officers reportedly coerced victims, took individuals into custody without due cause, arbitrarily collected fees from individuals charged with crimes, and mentally and physically abused victims and perpetrators. State media reported that the Government fired over 44,700 police officers for corruption and abuse of authority or dereliction of duty during the year.

Extended, unlawful detention by security officials remained a serious problem. The Supreme People's Procuratorate reported that, from 1998 through 2002, there were 308,182 persons detained for periods longer than permitted by law. At a National People's Congress committee hearing, the Government acknowledged that the problem of extended detention "has not been fundamentally resolved" and varied by location.

Unlawful extended detention disproportionately affected political dissidents. Dissident Yang Jianli was held without charges for over a year before his August 4 trial. At year's end, he remained in jail without a conviction or legal justification for his extended detention. In June, the U.N. Working Group on Arbitrary Detention found that China's pretrial detention of Yang Jianli violated the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights. The release on bail of Internet writer Liu Di after a year of pretrial detention, as well as the convictions of democracy activist Jiang Lijun after a year of pretrial detention and of attorney Zhang Jianzhong after more than 19 months of pre- and post-trial detention, were results of public concern over the issue of unlawful extended detention and a resulting government campaign to address the problem.

This campaign, addressing both pre- and post-trial detention, began in July when the SPC, and later the MPS and Supreme People's Procuratorate, directed courts and police to resolve cases and provide statistics about unlawful extended detention. The MPS stated that police responsible for unlawful extended detention would be prosecuted, and some police were prosecuted and jailed on such charges during the year. At year's end, the SPC announced that Chinese courts had reviewed all cases of unlawful extended detention by police and the courts. According to state media, courts reviewed and solved 4,100 cases of unlawful extended detention, releasing 7,658 detainees; only 91 cases remained unresolved and required further examination.

According to the 1997 Criminal Procedure Law, police can unilaterally detain a person for up to 37 days before releasing him or formally placing him under arrest. After a suspect is arrested, the law allows police and prosecutors to detain him for months before trial while a case is being "further investigated." The law stipulates that authorities must notify a detainee's family or work unit of his detention within 24 hours. However, in practice, failure to provide timely notification remained a serious

problem, particularly in sensitive political cases. Under a sweeping exception, officials were not required to provide notification if doing so would "hinder the investigation" of a case. In some cases, police treated those with no immediate family more severely. Police continued to hold individuals without granting access to family members or lawyers, and trials continued to be conducted in secret. Detained criminal suspects, defendants, their legal representatives, and close relatives were entitled to apply for bail, but, in practice, few suspects were released pending trial.

The Criminal Procedure Law does not address the reeducation-through-labor system, which allows non-judicial panels of police and local authorities, called Labor Reeducation Committees, to sentence persons to up to 3 years in prison-like facilities. The committees could also extend an inmate's sentence for an additional year. Defendants were legally entitled to challenge reeducation-through-labor sentences under the Administrative Litigation Law. They could appeal for a reduction in, or suspension of, their sentences; however, appeals rarely were successful. Many other persons were detained in similar forms of administrative detention, known as "custody and education" (for example, for prostitutes and their clients) and "custody and training" (for minors who committed crimes). Persons could be detained for long periods under these provisions, particularly if they could not afford to pay fines or fees.

According to foreign researchers, the country had 20 "ankang" institutions (high-security psychiatric hospitals for the criminally insane) directly administered by the MPS. Some dissidents and other targeted individuals were housed with mentally ill patients in these institutions. The regulations for committing a person into an ankang psychiatric facility were not clear. Credible reports indicated that a number of political and trade union activists, "underground" religious believers, persons who repeatedly petitioned the Government for redress of grievances, members of the banned China Democratic Party, and hundreds of Falun Gong adherents were incarcerated in such facilities during the year. These included Wang Miaogen, Wang Chanhao, Pan Zhiming, and Li Da, who were reportedly held in an ankang facility run by the Shanghai Public Security Bureau. According to NGO reports, more than 30 persons were committed during 2002 to the Harbin Psychiatric Hospital against their will after petitioning authorities for redress of various personal grievances. New regulations issued during the year by some jurisdictions to control police abuses required that all verifications of mental illness must be conducted in hospitals appointed by provincial governments, but it was unknown what impact, if any, the regulations would have in practice. A motion before the World Psychiatric Association to expel China from the organization for using psychiatric facilities to incarcerate political prisoners remained under consideration during the year.

Arrests on charges of revealing state secrets, subversion, and common crimes were used during the year by authorities to suppress political dissent and social advocacy. For example, Shanghai housing advocate Zheng Enchong was arrested on June 6 after he represented hundreds of residents forced from their homes as a result of an urban redevelopment scheme. Henan health official Ma Shiwen was reportedly detained for revealing state secrets after allegedly providing information to NGOs about the HIV infection of thousands of villagers through blood collection procedures. Police sometimes harassed and detained relatives of dissidents (see Section 2.a.). Journalists also were detained or threatened during the year, often when their reporting met with the Government's or local authorities' disapproval (see Section 2.a.). Dozens of citizens writing on the Internet or engaging in on-line chatrooms about political topics were detained during the year (see Section 2.a.). Persons critical of official corruption or malfeasance also frequently were threatened, detained, or imprisoned. In December, Sichuan local official Li Zhi was sentenced to 8 years in prison for "subverting state power" after writing on the Internet to expose official corruption. In January 2002, Jiang Weiping, who had written a series of articles exposing official corruption, was sentenced to 8 years in prison for "subverting state power."

Local authorities used the Government's campaign against cults to detain and arrest large numbers of religious practitioners and members of spiritual groups (see Section 2.c.).

The campaign that began in 1998 against the China Democracy Party (CDP), an opposition party, continued during the year. Dozens of CDP leaders, activists, and members have been arrested, detained, or confined as a result of this campaign. Since December 1998, at least 38 core leaders of the CDP have been given severe punishments on subversion charges. Xu Wenli, Wang Youcai, and Qin Yongmin were sentenced in 1998 to prison terms of 13, 12, and 11 years respectively. While Xu Wenli was released on medical parole to the United States in December 2002, Wang and Qin remained in prison. In March, Shanghai CDP leader Han Lifa was detained reportedly for "soliciting prostitutes," a charge used in the past to discredit dissidents. He was sentenced to 3 years' reeducation through labor. Immediately before and after the 16th Party Congress in

November 2002, authorities rounded up a number of the 192 activists, many of whom were members of the CDP, in 17 provinces who had signed an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre. Among those detained or sentenced to prison terms on subversion charges during the year in connection with the open letter were lawyer Zhao Changqing, He Depu, Sang Jiancheng, Ouyang Yi, Dai Xuezhong, and Jiang Lijun.

A nation-wide anti-crime "strike hard" campaign began in April 2001 and continued early in the year before officially ending in April. It was characterized by large-scale sentencing rallies and parades of condemned prisoners through the streets of major cities, followed by public executions. The campaign was implemented with special force in Xinjiang, and particularly harsh treatment of suspected Uighur separatists reportedly continued there after the official end of the campaign in April. According to official reports, 12,976 persons in Beijing alone were sentenced to death or prison for longer than 2 years during the 2-year campaign. Officials announced regional results of the campaign during the summer, but no nationwide statistics were available. Diplomatic officials were barred from a Beijing museum display showing results of the campaign. Short-term campaigns against specific types of crime were launched in some areas during the year.

The strike hard campaign in Xinjiang specifically targeted the "three evils" of extremism, splittism, and terrorism as the major threats to Xinjiang's social stability. Because the Government authorities in Xinjiang regularly grouped together those involved in "ethnic separatism, illegal religious activities, and violent terrorism," it was often unclear whether particular raids, detentions, or judicial punishments targeted those peacefully seeking their goals or those engaged in violence. Many observers raised concerns that the Government's war on terror was a justification for cracking down harshly on suspected Uighur separatists expressing peaceful political dissent and on independent Muslim religious leaders (see Section 5).

Chinese law neither provides for a citizen's right to repatriate nor otherwise addresses exile. The Government continued to refuse reentry to numerous citizens who it considered to be dissidents, Falun Gong activists, or troublemakers. Although some dissidents living abroad have been allowed to return, dissidents released on medical parole and allowed to leave the country were effectively exiled.

The Government's refusal to permit some former reeducation-through-labor camp inmates to return to their homes constituted a form of internal exile.

e. Denial of Fair Public Trial

The Constitution states that the courts shall, in accordance with the law, exercise judicial power independently, without interference from administrative organs, social organizations, and individuals. However, in practice, the judiciary received policy guidance from both the Government and the Party, whose leaders used a variety of means to direct courts on verdicts and sentences, particularly in politically sensitive cases. At both the central and local levels, the Government frequently interfered in the judicial system and dictated court decisions. Trial judges decide individual cases under the direction of the trial committee in each court. In addition, the Communist Party's Law and Politics Committee, which includes representatives of the police, security, procuratorate, and courts, has authority to review and influence court operations; the Committee, in some cases, altered decisions. People's Congresses also had authority to alter court decisions, but this happened rarely. Corruption and conflicts of interest also affected judicial decision-making. Judges were appointed by the people's congresses at the corresponding level of the judicial structure and received their court finances and salaries from those government bodies, which sometimes resulted in local politicians exerting undue influence over the judges they appointed and financed.

The Supreme People's Court (SPC) is the highest court, followed in descending order by the higher, intermediate, and basic people's courts. These courts handle criminal, civil, and administrative cases, including appeals from decisions by police and security officials to use reeducation through labor and other forms of administrative detention. There were special courts for handling military, maritime, and railway transport cases.

Corruption and inefficiency were serious problems in the judiciary as in other areas (see Section 3). Safeguards against corruption were vague and poorly enforced.

In recent years, the Government has taken steps to correct systemic weaknesses in the judicial system and to make the system more transparent and accountable to public scrutiny. State media reported that, from January 2002 through October 2003, prosecutors filed 7,402 cases against judicial officials nationwide, involving 8,442 officials. Of these cases, 80 percent involved suspected malfeasance and rights violations, while 20 percent involved corruption and bribery. In 1999, the SPC issued regulations requiring all trials to be open to the public, with certain exceptions, including cases involving state secrets, privacy, and minors. The legal exception for cases involving state secrets was used to keep politically sensitive proceedings closed to the public and even to family members in some cases. Under the regulations, "foreigners with valid identification" are to be allowed the same access to trials as citizens. As in past years, foreign diplomats and journalists sought permission to attend a number of trials only to have court officials reclassify them as "state secrets" cases, thus closing them to the public. Since 1998, some trials have been broadcast, and court proceedings have become a regular television feature. A few courts published their verdicts on the Internet.

Lawsuits against the Government continued to increase as a growing number of persons used the court system to seek legal recourse against government malfeasance. Administrative lawsuits rose, with more than 100,000 such cases filed in 2001, according to government statistics. Losses by plaintiffs dropped from 35.9 percent in 1992 to 28.6 percent in 2001. In 2002, the SPC established guidelines giving litigants the right to access government files to facilitate lawsuits against government bodies. Decisions of any kind in favor of dissidents remained rare.

Court officials continued efforts to enable the poor to afford litigation by exempting, reducing, or postponing court fees. On September 1, new national regulations went into effect expanding the category of cases eligible for legal aid services and permitting those eligible to obtain legal aid as early as the initial interrogation in criminal cases. Those seeking to obtain compensation from government officials became eligible for legal aid services. From 2000 to 2002, the courts waived over \$387 million (RMB 3.2 billion) in litigation costs.

According to the SPC's March report to the NPC, from 1998 through 2002, 2.83 million criminal cases were tried, and 3.22 million offenders were sentenced, up 16 and 18 percent, respectively, from the previous 5-year period. In 2001, the country's courts handled 5,927,660 cases, 730,000 of which were criminal cases, a 33 percent increase over the previous year, as well as more than 100,000 appeals of administrative decisions. Some 819,000 criminal defendants were sentenced to jail terms of 5 years or more, life imprisonment, or death, during the 5-year period, accounting for approximately 25 percent of the total.

Police and prosecutorial officials often ignored the due process provisions of the law and of the Constitution. For example, police and prosecutors subjected many prisoners to torture and severe psychological pressure to confess, and coerced confessions frequently were introduced as evidence. The Criminal Procedure Law forbids the use of torture to obtain confessions, but does not expressly bar the introduction of coerced confessions as evidence. In August, new public security regulations were announced banning the use of torture to obtain confessions and prohibiting the use of coerced confessions in certain administrative cases. However, the new regulations offer no mechanism for a defendant in an administrative case to ensure that his coerced confession is disregarded. Some provinces passed further regulations noting that police who coerced defendants into confessing could be fired. Nonetheless, defendants who failed to show the "correct attitude" by confessing their crimes often received harsher sentences.

During the year, the conviction rate in criminal cases remained at approximately 90 percent, and trials generally were little more than sentencing hearings. In practice, criminal defendants often were not assigned an attorney until a case was brought to court. The best that a defense attorney generally could do in such circumstances was to get a sentence mitigated. In many politically sensitive trials, which rarely lasted more than several hours, the courts handed down guilty verdicts immediately following proceedings. There was an appeals process, but no statistics were available on the results of appeals. In practice, appeals rarely resulted in reversed verdicts.

The lack of due process was particularly egregious in death penalty cases. There were 65 capital offenses, including financial crimes such as counterfeiting currency, embezzlement, and corruption, as well as some other property crimes. A higher court nominally reviewed all death sentences, but the time between arrest and execution was often days and sometimes less, and reviews consistently resulted in the confirmation of sentences. Minors and pregnant women were expressly exempt from the death sentence. Tibetan Lobsang Dondrub was convicted of involvement in bombings in Sichuan Province without due

Exhibit 21a. U.S. Department of State Reports — 2015 Human Rights Report: China (includes Tibet, Hong Kong, and Macau) - Tibet

U.S. Department of State

Diplomacy in Action

2015 Human Rights Report: China (includes Tibet, Hong Kong, and Macau) - Tibet

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2015 Country Reports on Human Rights Practices (<http://www.state.gov/j/drl/rls/hrrpt/2015/index.htm>)

Report

April 13, 2016

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EXECUTIVE SUMMARY

The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures (TAPs) and counties in other provinces to be a part of the People's Republic of China (PRC). The Chinese Communist Party's (CCP's) Central Committee oversees Tibet policies. As in other predominantly minority areas of the PRC, ethnic Han CCP members held almost all top party, government, police, and military positions in the TAR and other Tibetan areas. Ultimate authority rests with the 25-member Central Committee Political Bureau (Politburo) of the CCP and its seven-member Standing Committee in Beijing. Civilian authorities generally maintained effective control over the security forces.

The government's respect for, and protection of, human rights in the TAR and other Tibetan areas remained poor. Under the professed objectives of controlling border areas, maintaining social stability, and combating separatism, the government engaged in the severe repression of Tibet's unique religious, cultural, and linguistic heritage by, among other means, strictly curtailing the civil rights of China's Tibetan population, including the freedoms of speech, religion, association, assembly, and movement. The government routinely vilified the Dalai Lama and blamed the "Dalai [Lama] Clique" and "other outside forces" for instigating instability.

Other serious human rights abuses included extrajudicial detentions, disappearances, and torture. There was a perception among many Tibetans that authorities systemically targeted them for political repression, economic marginalization, and cultural assimilation, as well as educational and employment discrimination. The presence of the People's Armed Police (PAP) and other security forces remained at high levels in many communities on the Tibetan Plateau, particularly in the TAR. Repression was severe throughout the year but increased in the periods before and during politically and religiously sensitive anniversaries and events. Authorities detained individuals in Tibetan areas after they reportedly protested against government or business actions, or expressed their support for the Dalai Lama.

The government strictly controlled information about, and access to, the TAR and some Tibetan areas outside the TAR, making it difficult to determine fully the scope of human rights problems. The Chinese government severely restricted travel by foreign journalists to Tibetan areas. Additionally, the Chinese government harassed or detained Tibetans who spoke to foreign reporters, attempted to provide information to persons abroad, or communicated information regarding protests or other

expressions of discontent through cell phones, e-mail, or the internet. With the exception of a few highly controlled trips, the Chinese government also denied multiple requests by foreign diplomats for permission to visit the TAR. Because of these restrictions, many of the incidents and cases mentioned in this report could not be verified independently.

Disciplinary procedures were opaque, and there was no publicly available information to indicate that security personnel or other authorities were punished for behavior defined under Chinese laws and regulations as abuses of power and authority.

Tibetan Self-Immolations

Seven Tibetans reportedly self-immolated during the year, including laypersons and Tibetan Buddhist clergy, fewer than the 11 self-immolations reported in 2014 and significantly fewer than the 83 self-immolations reported in 2012. Non-Chinese media reports stated the declining number of reported self-immolations was due to tightened security by authorities and the collective punishment of self-immolators' associates.

Self-immolators reportedly viewed their acts as protests against the government's political and religious oppression. The Chinese government implemented policies that punished friends, relatives, and associates of self-immolators. The Supreme People's Court, the Supreme People's Procuratorate, and the Ministry of Public Security's joint 2012 "Opinion on Handling Cases of Self-Immolation in Tibetan Areas According to Law" criminalizes various activities associated with self-immolation, including "organizing, plotting, inciting, compelling, luring, instigating, or helping others to commit self-immolation," each of which may be prosecuted as "intentional homicide."

According to the opinion, the motive of self-immolators was "generally to split the country," and the act constituted criminal behavior, since it posed a threat to public safety and public order. The opinion stated that "ringleaders" would be targeted for "major punishment." In addition Chinese government officials in some Tibetan areas withheld public benefits from the family members of self-immolators and ordered friends and monastic personnel to refrain from participating in religious burial rites or mourning activities for self-immolators.

According to an August 2014 report by the International Campaign for Tibet (ICT), since 2012 at least 11 Tibetans were sentenced to prison terms or death on charges of "intentional homicide" for allegedly "aiding" or "inciting" others to self-immolate. The report also listed 98 Tibetans punished since 2010 due to alleged association with a self-immolation.

Arbitrary or Unlawful Deprivation of Life

There were reports that the government or its agents committed arbitrary or unlawful killings. There were no reports that officials investigated or punished those responsible for such killings. In November 2014, CCP officials detained Bachen Gyewa (Ngawang Monlam), head of Buzhung village in Driru (Biru) county in the TAR. Shortly thereafter, public security officials allegedly beat him to death. Bachen Gyewa was a former monk at Pekar Monastery where protests against government restrictions on religion had occurred in recent years.

Tibetan exiles and other observers believed Chinese authorities released Tibetan political prisoners in poor health to avoid deaths in custody. Lobsang Yeshe, a former village leader, died in a Lhasa hospital after enduring torture, mistreatment, and negligence at the hands of prison authorities, according to a July report by the Tibetan Center for Human Rights and Democracy. Authorities detained Lobsang Yeshe in 2014 after he protested against mining operations near his hometown.

Disappearance

Authorities in Tibetan areas continued to detain Tibetans arbitrarily for indefinite periods. In October police detained Lobsang Jamyang, a 15-year-old monk at Ngaba's Kirti monastery in Sichuan Province, for staging a protest and calling for the return of the Dalai Lama, according to Radio Free Asia (RFA). His whereabouts remained unknown.

In March, state security agents detained Druklo (pen name: Shokjang), a Tibetan writer, in Tongren (Rebkong) county in Qinghai province. At the end of the year Druklo's whereabouts remained unknown, and authorities had provided no information to his family.

The whereabouts of the Panchen Lama, Gedhun Choekyi Nyima, Tibetan Buddhism's second-most prominent figure after the Dalai Lama, remained unknown. In September a Chinese government official publicly claimed that Gedhun Choekyi Nyima was "living a normal life, growing up healthily and does not wish to be disturbed."

Torture and Other Cruel and Degrading Treatment

Police and prison authorities employed torture and degrading treatment in dealing with some detainees and prisoners. There were reports during the year that Chinese officials severely beat, even to the point of death, some Tibetans who were incarcerated or otherwise in custody. In December 2014 prison authorities released Tenzin Choedrag (Tenchoe), an environmental NGO worker, into his family's care and he died two days later. He was vomiting blood and suffered brain damage reportedly sustained from torture.

In February the ICT released a report that documented the torture and mistreatment of Tibetan prisoners while in custody by Chinese authorities. The report detailed 14 deaths from torture between 2009 and 2014.

Prison and Detention Center Conditions

The number of prisoners in the TAR and Tibetan areas was unknown. There were reports of recently released prisoners permanently disabled or in extremely poor health because of the harsh treatment they endured in prison. Former prisoners reported being isolated in small cells for months at a time and deprived of sleep, sunlight, and adequate food. According to sources, prisoners rarely received medical care except in cases of serious illness. There were cases of detained and imprisoned persons being denied visitors. As elsewhere in the PRC, authorities did not permit independent monitoring of prisons.

Arbitrary Arrest or Detention

Arbitrary arrest and detention was a problem in Tibetan areas. With a detention warrant, police may legally detain persons for up to 37 days without formally arresting or charging them. Police must notify the relatives or employer of a detained person within 24 hours of the detention. Following the 37-day period, police must either formally arrest or release the detainee. Police frequently violated these requirements. It was unclear how many Tibetan detainees authorities held under forms of detention not subject to judicial review.

In March authorities in the TAR's Suo (Sog) County detained Lobsang Dawa, a local monk. Authorities did not give any reason for his detention, according to an RFA report.

Denial of Fair Public Trial

Legal safeguards for detained or imprisoned Tibetans were inadequate in both design and implementation. Prisoners in China have the right to request a meeting with a government-appointed attorney, but many Tibetan defendants, particularly political defendants, did not have access to legal representation.

Trial Procedures

In cases that authorities claimed involved "endangering state security" or "separatism," trials often were cursory and closed. In its annual work report, the TAR High People's Court stated it firmly fought against separatism and protected social stability by, among other things, sentencing those who instigated protests. According to an August report in the government-controlled *Tibet Daily*, only 15 percent of the cadres (government and party officials) working for courts in the TAR had passed the National Legal Qualification Exam with a C grade certificate or higher. The report concluded that judges in the TAR were "strong politically, but weak professionally." Security forces routinely subjected detainees and prisoners to "political re-education" sessions.

Political Prisoners and Detainees

An unknown number of Tibetans were detained, arrested, and sentenced because of their political or religious activity. Authorities held many prisoners in extrajudicial detention centers and never allowed them to appear in public court.

Based on information available from the political prisoner database of the U.S. Congressional Executive Commission on China (CECC), as of September 1, 646 Tibetan political prisoners were detained or imprisoned, most of them in Tibetan areas. Observers believed the actual number of Tibetan political prisoners and detainees to be much higher, but the lack of access to prisoners and prisons, as well as the dearth of reliable official statistics, made a precise determination difficult. An unknown number of persons continued to be held in detention centers, rather than prisons. Of the 646 Tibetan political prisoners tracked by the CECC, 635 were detained on or after March 10, 2008, and 11 were detained prior to March 2008. Of the 635 Tibetan political prisoners who were detained on or after March 10, 2008, 258 were believed or presumed to be detained or imprisoned in Sichuan Province, 208 in the TAR, 96 in Qinghai Province, 71 in Gansu Province, and one each in the Beijing Municipality and the Xinjiang Uighur Autonomous Region. There were 164 persons serving known sentences, which ranged from 18 months to life imprisonment. The average sentence length was eight years and six months. Of the 164 persons serving known sentences, 70 were monks, nuns, or Tibetan Buddhist teachers.

Sentencing information was available for eight of the 11 Tibetan political prisoners detained prior to March 10, 2008, and believed imprisoned as of September 1. Their sentences ranged from nine years to life imprisonment. The average fixed-term sentence was 11 years and nine months.

Prominent Tibetan monk Tenzin Delek Rinpoche died in prison in the summer of 2015 while serving a life sentence for allegedly setting off explosions and inciting separation of the state, according to CNN. According to media reports, he was denied access to adequate medical care. Authorities denied requests from his family to return the body so traditional Tibetan Buddhist funeral rites could be conducted. Authorities allowed relatives and religious leaders to witness the cremation of his body but later forced family members to return his ashes, according to a Radio Free Asia (RFA) report.

Arbitrary Interference with Privacy, Family, Home, or Correspondence

In November, TAR Party Secretary Chen Quanguo said the CCP should punish Communist Party members that follow the Dalai Lama, secretly harbor religious beliefs, make pilgrimages to India, and send their children to study with Tibetans in exile. Authorities continued to monitor private correspondence and to search some private homes and businesses for photographs of the Dalai Lama and other politically forbidden items. Police examined the cell phones of TAR residents to search for “reactionary music” from India and photographs of the Dalai Lama. Authorities also questioned and detained some individuals that disseminated writings and photos over the internet.

According to an October report from *Phayul*, a news website maintained by Tibetan exiles, Samdrub Gyatso, a Tibetan political prisoner released earlier in May was arrested again for alleged possession of materials containing texts regarding the Dalai Lama's return to Tibet.

Freedom of Speech and Press

Freedom of Speech and Expression: Tibetans who spoke to foreign reporters, attempted to provide information to persons outside the country, or communicated information regarding protests or other expressions of discontent through cell phones, e-mail, or the internet were subject to harassment or detention. During the year authorities in the TAR and many other Tibetan areas sought to strengthen control over electronic media further and to punish individuals for the “creating and spreading of rumors.” For example, according to an official media report, police in the TAR's Mozhu Gongka (Maldro Gongkar) County arrested four persons in August on charges of electronically spreading rumors accusing the China Railway No.2 Construction Bureau, a government-owned enterprise, of polluting rivers and grasslands. In November, a court sentenced 18-year-old Gendun Phuntsok and 19-year-old Lobsang Kalsang, two Tibetan monks from Kirti Monastery in Ngaba Prefecture in Sichuan province (Kham), to four years and three-and-a-half-years in prison respectively. The teenage monks were arrested in March for carrying out two solo protests in the main street of the Ngaba town calling for the return of the Dalai Lama and freedom for Tibetans.

Press and Media Freedoms: The government severely restricted travel by foreign journalists. Foreign journalists may visit the TAR only after obtaining a special travel permit from the government, and permission was rarely granted. Reporting from “Tibet proper remains off-limits to foreign journalists,” according to an annual report by the Foreign Correspondents Club of China. According to the same report, many foreign journalists were told also that reporting in Tibetan areas outside the TAR was “restricted or prohibited.”

Authorities tightly controlled journalists who worked for the domestic press, and could hire and fire them on the basis of political reliability. For example, in March the TAR Bureau for Press, Radio, and Television released a job announcement seeking a number of media employees. One of the listed job requirements was to “be united with the regional Party Committee in political ideology and fighting against separatism.”

Violence and Harassment: In June the International Campaign for Tibet released a report that documented the cases of 11 Tibetan writers and intellectuals and 10 Tibetan singers who have faced imprisonment and repression. Authorities detained the Tibetan writer Lomik in April on unknown charges after he wrote and spoke about political repression and social problems on the Tibetan Plateau.

Censorship or Content Restrictions: Domestic journalists did not report on repression in Tibetan areas. Authorities promptly censored the postings of bloggers who did so, and the authors sometimes faced punishment. In August authorities shut down a website called *Choemei*, which shared news, music, and literature in the Tibetan language. According to an RFA report, authorities ordered the owner of the website to register the website with the Department of Communications.

The government continued to jam radio broadcasts of Voice of America and RFA’s Tibetan- and Chinese-language services in some Tibetan areas, as well as the Voice of Tibet, an independent radio station based in Norway. According to a June RFA report, authorities in Qinghai Province confiscated or destroyed “illegal” satellite dishes.

National Security: In July China enacted a new National Security Law that includes provisions regarding the management of ethnic minorities and religion. China frequently blamed “hostile foreign forces” for creating instability in Tibetan areas and cited the need to protect “national security” and “fight against separatism” as justifications for its policies, including censorship policies, in Tibetan areas.

The central government’s emphasis on security and stability in Tibetan areas was reflected in the policy decisions made in the Sixth Tibet Work Forum in August, as reported by official media. A statement following a July 30 Politburo meeting held that “China must uphold the Party’s guidelines for governing Tibet, focusing on safeguarding national unification and ethnic unity [and that] China must unwaveringly struggle against splittism.”

Internet Freedom

Authorities curtailed cell phone and internet service in the TAR and other Tibetan areas, sometimes for weeks or even months at a time, during times of unrest and politically sensitive periods, such as the March anniversaries of the 1959 and 2008 protests, “Serf Emancipation Day,” and around the Dalai Lama’s birthday in July. Authorities closely monitored the internet throughout Tibetan areas. Reports of authorities searching cell phones they suspected of containing suspicious content were widespread. Many individuals in the TAR and other Tibetan areas reported receiving official warnings after using their cell phones to exchange what the government deemed to be sensitive information.

Throughout the year authorities blocked users in China from accessing foreign-based, Tibet-related websites critical of official policy in Tibetan areas. Well organized computer hacking attacks originating from China harassed Tibet activists and organizations outside China.

Academic Freedom and Cultural Events

Authorities in many Tibetan areas required professors and students at institutions of higher education to attend regular political education sessions, particularly during politically sensitive months, in an effort to prevent “separatist” political and religious activities on campus. Authorities frequently encouraged Tibetan academics to participate in government propaganda efforts,

such as making public speeches supporting government policies. Academics who refused to cooperate with such efforts faced diminished prospects for promotion. Academics in the PRC who publicly criticized CCP policies on Tibetan affairs faced official reprisal. The government controlled curricula, texts, and other course materials, as well as the publication of historically or politically sensitive academic books. Authorities frequently denied Tibetan academics permission to travel overseas for conferences, and academic or cultural exchanges. Authorities in Tibetan areas regularly banned the sale and distribution of music they deemed to have sensitive political content.

In August senior officials of the TAR Academy of Social Science encouraged scholars to maintain “a correct political and academic direction” and held a conference to “improve” scholars’ “political ideology” and “fight against separatists.”

Policies promoting planned urban economic growth, rapid infrastructure development, the influx of non-Tibetans to traditionally Tibetan areas, expansion of the tourism industry, forced resettlement of nomads and farmers, and the weakening of both Tibetan-language education in public schools and religious education in monasteries continued to disrupt traditional living patterns and customs.

Tibetan and Mandarin Chinese are official languages in the TAR, and both languages appeared on some, but not all, public and commercial signs. Inside official buildings and businesses, including banks, post offices, and hospitals, signage in Tibetan was frequently lacking, and in many instances forms and documents were available only in Mandarin, which is widely spoken, is used for most official communications, and is the predominant language of instruction in public schools in many Tibetan areas. Private printing businesses in Chengdu needed special government approval to print in the Tibetan language.

In January officials in Yushu TAP in Qinghai Province shut down a workshop that a Buddhist monastery had held for local children for 24 years consecutively. Tibetan language was among the subjects of the workshop. In November 2014, students at the Tibetan Language Middle School in Ruo-ergai (Dzoege) county in Sichuan Province reportedly protested against a proposed change from Tibetan to Mandarin Chinese as the language of instruction.

China’s Regional Ethnic Autonomy Law states that “schools (classes and grades) and other institutions of education where most of the students come from minority nationalities shall, whenever possible, use textbooks in their own languages and use their languages as the media of instruction.” Despite guarantees of cultural and linguistic rights, many primary, middle, and high school students had limited access to Tibetan-language instruction and textbooks.

China’s most prestigious universities provided no instruction in Tibetan or other ethnic minority languages, although classes teaching the Tibetan language were available at a small number of universities. “Nationalities” universities, established to serve ethnic minority students and ethnic Han students interested in ethnic minority subjects, offered Tibetan-language instruction only in courses focused on the study of the Tibetan language or culture. Mandarin was used in courses for jobs that required technical skills and qualifications.

Freedom of Assembly and Association

Even in areas officially designated as “autonomous,” Tibetans generally lacked the right to organize and play a meaningful role in the protection of their cultural heritage and unique natural environment. Tibetans often faced intimidation and arrest if they protested against policies or practices they found objectionable. A February RFA report stated that authorities in Qinghai Province’s Tongren (Rebkong) County circulated a list of unlawful activities. The list included “illegal associations formed in the name of the Tibetan language, the environment, and education.” In February police in Sichuan Province’s capital city of Chengdu quickly arrested a group of Tibetans peacefully protesting a government land seizure in Sichuan’s Ruo’ergai (Zoige) County outside a meeting of the Provincial People’s Congress.

Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/ (<http://www.state.gov/religiousfreedomreport/>).

Freedom of Movement

Chinese law provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government severely restricted travel and freedom of movement of Tibetans, however, particularly Tibetan Buddhist monks and nuns.

In-country Movement: Freedom of movement for all Tibetans, but particularly for monks and nuns, remained severely restricted throughout the TAR, as well as in other Tibetan areas. The PAP and local Public Security Bureaus set up roadblocks and checkpoints on major roads, in cities, and on the outskirts of cities and monasteries, particularly around sensitive dates. Tibetans traveling in monastic attire were subject to extra scrutiny by police at roadside checkpoints and at airports.

Authorities sometimes banned Tibetans, particularly monks and nuns, from going outside the TAR and from traveling to the TAR without first obtaining special permission from multiple government offices. Many Tibetans reported encountering difficulties in obtaining the required permissions. This not only made it difficult for Tibetans to make pilgrimages to sacred religious sites in the TAR, but also obstructed land-based travel to India through Nepal. Tibetans from outside the TAR who traveled to Lhasa also reported that authorities there required them to surrender their national identification card, stay in designated hotels, and notify authorities of their plans on a daily basis. These requirements were not applied to Han Chinese visitors to the TAR.

Even outside the TAR, many Tibetan monks and nuns reported it remained difficult to travel beyond their home monasteries, with officials frequently denying permission for visiting monks to stay at a monastery for religious education. Implementation of this restriction was especially rigorous in the TAR.

Foreign Travel: Many Tibetans continued to report difficulties in obtaining new, or renewing existing, passports. A July report by Human Rights Watch found that Tibetans and other minorities must provide far more extensive documentation than other Chinese citizens when applying for a Chinese passport. For Tibetans the passport application process can take years and frequently ends in rejection. Some Tibetans reported they were able to obtain passports only after paying substantial bribes or promising not to travel to India. Tibetans continued to encounter substantial difficulties and obstacles in traveling to India for religious, educational, and other purposes. Contacts also reported instances of local authorities revoking the passports of individuals who had traveled to India.

Tight border controls sharply limited the number of persons crossing the border into Nepal and India. In 2015, 89 Tibetan refugees transited Nepal through the Tibetan Reception Center, run by the Office of the UN High Commissioner for Refugees in Kathmandu, on route to permanent settlement in India. This compared to 80 in 2014, down from 171 in 2013 and 242 in 2012.

The government restricted the movement of Tibetans in the period before and during sensitive anniversaries and events and increased controls over border areas at these times. For example, in May, RFA reported that the Chengdu Municipal Tourism Office forbade travel agents to sell package overseas tours to Tibetans between May 20 and July 15, the period around the Dalai Lama's July 6 birthday.

The government regulated travel by foreigners to the TAR, a restriction not applied to any other provincial-level entity in the PRC. In accordance with a 1989 regulation, foreign visitors must obtain an official confirmation letter issued by the TAR government before entering the TAR. Most tourists obtained such letters by booking tours through officially registered travel agencies. In the TAR, a government-designated tour guide must accompany foreign tourists at all times. It was rare for foreigners to obtain permission to enter the TAR by road.

In what has become an annual practice, authorities banned many foreign tourists from the TAR in the period before and during the March anniversary of the 1959 Tibetan uprising. Foreign tourists sometimes also faced restrictions traveling to Tibetan areas outside the TAR, although the government never issued publicly available formal prohibitions on such travel. The decline in the number of foreign tourists to the TAR was more than offset by an increase in domestic ethnic Han visitors to the TAR. Unlike foreign tourists, ethnic Han tourists do not need special permits to visit the TAR.

Officials continued to tightly restrict the access of foreign diplomats and journalists to the TAR. Foreign officials were able to travel to the TAR only with the permission of the TAR Foreign Affairs Office, and even then only on closely chaperoned trips arranged by that office. With the exception of a few highly controlled trips, authorities repeatedly denied requests for international journalists to visit the TAR and other Tibetan areas (see section on Freedom of Speech and Press).

Freedom to Participate in the Political Process

According to the law, Tibetans and other Chinese citizens have the right to vote in some local elections. In practice the Chinese government severely restricts its citizens' ability to participate in any meaningful elections. For example, in January, the RFA reported that security forces in Kyangchu Village in Qinghai Province detained nearly 70 Tibetans who had protested against local officials' insistence that villagers vote for the local government's preferred candidate in a village election.

Corruption and Lack of Transparency in Government

The law provides criminal penalties for corrupt acts by officials, but the government did not implement the law effectively in Tibetan areas, and officials often engaged in corrupt practices with impunity. There were numerous reports of government corruption in Tibetan areas during the year. In June authorities detained Le Dake, deputy head of the TAR People's Congress Standing Committee and former head of the TAR State Security Bureau, for a "serious violation of discipline and law," a common euphemism for corruption.

Discrimination and Societal Abuses

Women

Rape and Domestic Violence: There was no confirmed information on the incidence of rape or domestic violence.

Reproductive Rights: Family planning policies permitted Tibetans and members of some other minority groups to have more children than ethnic Han. Some Tibetans who worked for the government reported pressure from their work units to have only one child.

Prostitution in Tibetan areas was not uncommon. Nongovernmental organizations (NGOs) and health experts expressed serious concern about the growing prevalence of HIV/AIDS in the TAR and other Tibetan areas.

Discrimination: There were no formal restrictions on women's participation in the political system, and women held many lower-level government positions. They were, however, underrepresented at the provincial and prefectural levels of government. According to an official website, in 2012 female cadres (government and party officials) in the TAR accounted for more than 41 percent of the TAR's total cadres.

Children

Many rural Tibetan areas have implemented China's nationwide "centralized education" policy, which has resulted in the closure of many village schools and the transfer of students, including elementary school students, to boarding schools in towns and cities. Reports indicated many of the boarding schools did not adequately care for and supervise their young students. This policy also resulted in diminished acquisition of the Tibetan language and culture by removing Tibetan children from their homes and communities where the Tibetan language is used.

Trafficking in Persons

See the Department of State's annual *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt (<http://www.state.gov/j/tip/rls/tiprpt/>).

Ethnic Minorities

Although the 2010 TAR census figures showed that Tibetans made up 90.5 percent of the TAR's permanently registered population, official figures did not include a large number of long-, medium-, and short-term ethnic Han residents, such as cadres, skilled and unskilled laborers, military and paramilitary troops, and their respective dependents. Tibetans continued to make up nearly 98 percent of those registered as permanent residents in rural areas, according to official census figures.

Migrants to the TAR and other parts of the Tibetan Plateau were overwhelmingly concentrated in urban areas. Government policies to subsidize economic development often benefited ethnic Han more than Tibetans. In many predominantly Tibetan cities across the Tibetan Plateau, ethnic Han or Hui migrants owned and managed many of the small businesses, restaurants, and retail shops.

Observers continued to express concern that development projects and other central government policies disproportionately benefited non-Tibetans and resulted in a considerable influx of ethnic Han and Hui persons into the TAR and other Tibetan areas. Many major infrastructure projects across the Tibetan Plateau were engineered and implemented by large state-owned enterprises based in other provinces, and they were managed and staffed by professionals and low-wage temporary migrant workers from other provinces rather than by local residents.

Economic and social exclusion was a major source of discontent among a varied cross section of Tibetans. Some Tibetans continued to report discrimination in employment. Some Tibetans reported it was more difficult for Tibetans than ethnic Han to obtain permits and loans to open businesses. Restrictions on both local NGOs that received foreign funding and international NGOs that provided assistance to Tibetan communities increased during the year, resulting in a decrease of beneficial NGO programs in the TAR and other Tibetan areas.

The government continued its campaign to resettle Tibetan nomads into urban areas and newly created communities in rural areas across the TAR and other Tibetan areas. Despite a January 2014 Xinhua report that claimed the TAR's eight-year nomad resettlement program was completed officially at the end of 2013, there were new reports of compulsory resettlement. Improving housing conditions, health care, and education for Tibet's poorest were among the stated goals of resettlement, although there was a pattern of settling herders near townships and roads and away from monasteries, which were the traditional providers of community and social services. A requirement that herders bear a substantial part of the resettlement cost often forced resettled families into debt.

Although a September media report noted that Tibetans and other minority ethnic groups made up 70 percent of government employees in the TAR, the top CCP position of TAR party secretary continued to be held by an ethnic Han, and the corresponding positions in the vast majority of all TAR counties were also held by ethnic Han. Also within the TAR, ethnic Han continued to hold a disproportionate number of the top security, military, financial, economic, legal, judicial, and educational positions. Ethnic Han were party secretaries in seven of the nine TAPs, which are located in Gansu, Qinghai, Sichuan, and Yunnan provinces. Two TAPs in Qinghai Province had Tibetan party secretaries, and one TAP in Yunnan Province had an ethnic Naxi party secretary. Authorities often prohibited Tibetans holding government and CCP positions from openly worshipping at monasteries or otherwise publicly practicing their religion.

Government propaganda against alleged Tibetan "pro-independence forces" contributed to Chinese societal discrimination against ordinary Tibetans. Many Tibetan monks and nuns chose to wear nonreligious garb to avoid harassment when traveling outside their monasteries and throughout China. Some Tibetans reported that taxi drivers throughout China refused to stop for them and hotels refused to give them rooms.

Societal Violence

Feuds among Tibetans and the resulting violence, in some cases including killings, was a serious problem.

READ A SECTION: [CHINA \(https://www.state.gov/j/drl/rls/hrrpt/2015/eap/252755.htm\)](https://www.state.gov/j/drl/rls/hrrpt/2015/eap/252755.htm) | TIBET (ABOVE) | [HONG KONG \(https://www.state.gov/j/drl/rls/hrrpt/2015/eap/252759.htm\)](https://www.state.gov/j/drl/rls/hrrpt/2015/eap/252759.htm) | [MACAU \(https://www.state.gov/j/drl/rls/hrrpt/2015/eap/252761.htm\)](https://www.state.gov/j/drl/rls/hrrpt/2015/eap/252761.htm)

The Office of Website Management, Bureau of Public Affairs, manages this site as a portal for information from the U.S. State Department.

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Note: documents in Portable Document Format (PDF) require Adobe Acrobat Reader 5.0 or higher to view, [download Adobe Acrobat Reader \(http://get.adobe.com/reader/\)](http://get.adobe.com/reader/).

Exhibit 21b. U.S. Department of State Reports — 2009 Country Reports on Human Rights Practices:
China (includes Tibet, Hong Kong, and Macau)

U.S. Department of State

Diplomacy in Action

China (includes Tibet, Hong Kong, and Macau)

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices (<http://www.state.gov/j/drl/rls/hrrpt/2009/index.htm>)

Report

March 11, 2010

This is the basic text view. **SWITCH NOW** ([/j/drl/rls/hrrpt/humanrightsreport/index.htm?dlid=135989&year=2009](http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dlid=135989&year=2009)) to the new, more interactive format.

(The section for **Tibet** (<http://www.state.gov/j/drl/rls/hrrpt/2009/eap/135989.htm#tibet>), the report for **Hong Kong** (http://www.state.gov/j/drl/rls/hrrpt/2009/eap/135989.htm#hong_kong), and the report for **Macau** (<http://www.state.gov/j/drl/rls/hrrpt/2009/eap/135989.htm#macau>) are appended below.)

The People's Republic of China (PRC), with a population of approximately 1.3 billion, is an authoritarian state in which the Chinese Communist Party (CCP) constitutionally is the paramount source of power. Party members hold almost all top government, police, and military positions. Ultimate authority rests with the 25-member political bureau (Politburo) of the CCP and its nine-member standing committee. Hu Jintao holds the three most powerful positions as CCP general secretary, president, and chairman of the Central Military Commission. Civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained poor and worsened in some areas. During the year the government increased the severe cultural and religious repression of ethnic minorities in the Xinjiang Uighur Autonomous Region (XUAR). Tibetan areas remained under tight government controls. The detention and harassment of human rights activists increased, and public interest lawyers and law firms that took on cases deemed sensitive by the government faced harassment, disbarment and closure. The government limited freedom of speech and controlled the Internet and Internet access. Abuses peaked around high-profile events, such as the 20th anniversary of the Tiananmen Square uprising, the 50th anniversary of the Tibetan uprising, and the 60th anniversary of the founding of the People's Republic of China.

As in previous years, citizens did not have the right to change their government. Other serious human rights abuses included extrajudicial killings, executions without due process, torture and coerced confessions of prisoners, and the use of forced labor, including prison labor. The government continued to monitor, harass, detain, arrest, and imprison journalists, writers, dissidents, activists, petitioners, and defense lawyers and their families, many of whom sought to exercise their rights under the law. A lack of due process and restrictions on lawyers, particularly human rights and public interest lawyers, had serious consequences for defendants who were imprisoned or executed following proceedings that fell short of international standards. The party and state exercised strict political control of courts and judges, conducted closed trials, and continued the use of administrative detention. Prolonged illegal detentions at unofficial holding facilities, known as black jails, were widespread.

Individuals and groups, especially those deemed politically sensitive by the government, continued to face tight restrictions on their freedom to assemble, practice religion, and travel. The government failed to protect refugees and asylum-seekers adequately, and the detention and forced repatriation of North Koreans continued. The government increased pressure on other countries to repatriate citizens back to China, including citizens who were being processed by UNHCR as political refugees. Nongovernmental organizations (NGOs), both local and international, continued to face intense scrutiny and restrictions. The government failed to address serious social conditions that affected human rights, including endemic corruption, trafficking in persons, and

discrimination against women, minorities, and persons with disabilities. The government continued its coercive birth limitation policy, in some cases resulting in forced abortion or forced sterilization. Workers cannot choose an independent union to represent them in the workplace, and the law does not protect workers' right to strike.

In April the government unveiled its first National Human Rights Action Plan. The 54-page document outlined human rights goals to be achieved over the next two years and addressed issues such as prisoners' rights and the role of religion in society. However, the plan has not yet been implemented.

On July 5, riots broke out in Urumqi, the provincial capital of Xinjiang, after police used force to break up a demonstration reportedly composed mostly of Uighur university students who protested the killing of Uighur migrant workers by Han co-workers in Guangdong Province. Violence erupted leaving approximately 200 people dead and 1,700 injured. According to official sources, most of the dead were Han Chinese. On July 7 and September 4, groups of Han Chinese engaged in retaliatory violence, resulting in more deaths. At year's end Urumqi remained under a heavy police presence and most Internet and international phone communication remained cut off.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

During the year security forces reportedly committed arbitrary or unlawful killings. No official statistics on deaths in custody were available.

In January Lin Guoqiang died suddenly while in custody at the Fuqing Detention Center in Fujian Province. His family claimed that his body was swollen and covered with bruises. At year's end there was no official investigation into the case.

On February 8, Li Qiaoming was reportedly beaten to death in a detention center in Jinning County, Yunnan Province. Prison officials initially claimed he died after accidentally running into a wall during a game of "hide and seek." However, Li's father, who viewed the corpse, reported Li's head was swollen and his body covered with purple abrasions. Following Li's death, public security officials launched a campaign to eliminate "unnatural deaths" in prisons. An investigation determined three inmates were responsible for the death. The inmates, along with two prison guards, were sentenced to prison.

In March Li Wenyan died while in custody in Jiujiang, Jiangxi Province. The Xinhua official press quoted a senior prison official as stating that Li died while having a "nightmare." Official press reports also stated that an autopsy performed by the Jiangxi Provincial Public Security Department in May showed that Li died of various diseases, including an ulcer, an abscess, and heart disease, none of which were discovered until after his death. The same press report stated that an injury on the body was caused by electric shock administered during resuscitation attempts.

Also in March Radio Free Asia (RFA) reported that a Tibetan monk, Phuntsok Rabten, was beaten to death by police in Sichuan Province after urging Tibetans to boycott farming to protest a massive security clampdown.

In April the *Supreme* People's Procuratorate (SPP) disclosed that at least 15 prisoners died in "unnatural deaths" under unusual circumstances during the year. According to a Chinese press report, seven of the prisoners died of beatings, three were classified as suicides, two were described as accidents, and three remained under investigation.

According to official media reports, 197 persons died and 1,700 were injured during the July 5 rioting in Urumqi. A second wave of riots, on a smaller scale, occurred on July 7. On September 25, charges were brought against 21 of the more than 200 persons facing prosecution in connection with the riots. On November 9, eight Uighurs and one Han were executed without due process for

<https://www.state.gov/j/drl/rls/hrrpt/2009/eap/135989.htm>

crimes committed during July riots. At year's end 22 persons had been sentenced to death; five others reportedly received suspended death sentences. Of these, one was reported to be ethnically Han Chinese and the rest were Uighurs.

According to RFA reports, police detained Uighur Shohret Tursun in Urumqi during the July 5 riots. In September police returned his disfigured body to family members and ordered them to bury him; the family refused to do so without an explanation of his death from the police. On September 20, the police surrounded the family home and forced the family to bury the body without an autopsy.

During the reporting period no new information became available regarding the deaths of Falun Gong practitioner Yu Zhou, who was arrested in Beijing in January 2008 and died in February 2008; Tibetan protester Paltsal Kyab, detained in April 2008 in Sichuan Province and who died in police custody in May 2008; or a motorcyclist surnamed Ouyang, who died in July 2008 and was allegedly killed by security guards in Guangdong Province.

During the year no new information was available regarding a 2007 incident in which 18 persons were killed and 17 were arrested during a raid at a location in the XUAR that officials called a terrorist training camp.

Defendants in criminal proceedings were executed following convictions that sometimes took place under circumstances involving severe lack of due process and inadequate channels for appeal.

b. Disappearance

On February 4, authorities detained human rights lawyer Gao Zhisheng, who had represented Chinese Christians and Falun Gong practitioners. At year's end his whereabouts remained unconfirmed, although according to NGO reports, in August he reportedly was seen in his hometown under heavy police escort. Before his arrest Gao published a letter detailing his torture during a previous period of detention.

On March 30, underground Catholic bishop Julius Jia Zhiguo of Zhengding, Hebei Province, was arrested; at year's end his whereabouts were unknown. The whereabouts of underground Catholic priests Zhang Li and Zhang Jianlin, from near Zhangjiakou city in Hebei Province, whom authorities detained in May 2008, and Wu Qinjing, the bishop of Zhouzhi, Shaanxi Province, who was detained in 2007, also remained unknown.

In an October report, the NGO Human Rights Watch documented the disappearances of hundreds of Uighur men and boys following the July protests in Urumqi.

At year's end the government had not provided a comprehensive, credible accounting of all those killed, missing, or detained in connection with the violent suppression of the 1989 Tiananmen demonstrations. In October the Dui Hua Foundation estimated that approximately 20 individuals continued to serve sentences for offenses committed during the demonstration.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits the physical abuse of detainees and forbids prison guards from extracting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. However, during the year there were reports that officials used electric shocks, beatings, shackles, and other forms of abuse.

According to a November Human Rights Watch report, on March 6, An Weifeng was released on bail from Bancheng prison in Chengde City, Henan Province, for medical treatment. His father claimed that An Weifeng's body was swollen and scarred as a result of beatings and the administration of electric shocks.

In 2007, 30 farmers from Chengdu, Sichuan Province, who traveled to Beijing seeking resolution of a land dispute were abducted and taken to a military base, where they were tortured, threatened, and starved. One of them allegedly attempted suicide, "because (the guards) didn't allow me to sleep or eat in order to force me to write self-criticisms." According to the same report, a 15-year-old girl who traveled to Beijing to get help for her disabled father was kidnapped and taken back to Gansu Province, where she was beaten and held incommunicado for nearly two months. There were no new developments in this case during the year.

In November 2008 the UN Committee Against Torture (UNCAT) stated its deep concern about the routine and widespread use of torture and mistreatment of suspects in police custody, especially to extract confessions or information used in criminal proceedings. However, UNCAT acknowledged government efforts to address the practice of torture and related problems in the criminal justice system. Many alleged acts of torture occurred in pretrial criminal detention centers or Reeducation Through Labor (RTL) centers. Sexual and physical abuse and extortion occurred in some detention centers.

According to China News Weekly, the country had 22 "ankang" institutions (high-security psychiatric hospitals for the criminally insane) directly administered by the Ministry of Public Security (MPS). Political activists, underground religious believers, persons who repeatedly petitioned the government, members of the banned Chinese Democracy Party (CDP), and Falun Gong adherents were among those housed with mentally ill patients in these institutions. The regulations for committing a person to an ankang facility were not clear, and detainees had no mechanism for objecting to public security officials' determinations of mental illness. Patients in these hospitals reportedly were given medicine against their will and forcibly subjected to electric shock treatment. Activists sentenced to administrative detention also reported they were strapped to beds or other devices for days at a time, beaten, forcibly injected or fed medications, and denied food and use of toilet facilities.

Prison and Detention Center Conditions

Conditions in penal institutions for both political prisoners and common criminals generally were harsh and often degrading. Prisoners and detainees often were kept in overcrowded conditions with poor sanitation. Inadequate prison capacity remained a problem in some areas. Food often was inadequate and of poor quality, and many detainees relied on supplemental food and medicines provided by relatives; some prominent dissidents were not allowed to receive such goods.

On March 2, an inmate at the Danzhou First Detention Center in Hainan was beaten to death by inmates while guards looked on.

Forced labor remained a serious problem in penal institutions. Many prisoners and detainees in penal and RTL facilities were required to work, often with no remuneration. Information about prisons, including associated labor camps and factories, was considered a state secret and was tightly controlled.

In August Vice Minister of Health Huang Jiefu stated that inmates were not a proper source for organ transplants, that prisoners must give written consent for their organs to be taken, and that their rights were protected. In a 2007 interview, Ministry of Health spokesman Mao Qunan stated that most transplanted organs were from executed prisoners.

Adequate, timely medical care for prisoners remained a serious problem, despite official assurances that prisoners have the right to prompt medical treatment. Prison officials often denied privileges, including the ability to purchase outside food, make telephone calls, and receive family visits to those who refused to acknowledge guilt.

Conditions in administrative detention facilities, such as RTL camps, were similar to those in prisons. Beating deaths occurred in administrative detention and RTL facilities. According to NGO reports, conditions in these facilities were similar to those in prisons, with detainees reporting beatings, sexual assaults, lack of proper food, and no access to medical care.

The law requires juveniles to be held separately from adults, unless facilities are insufficient. In practice children sometimes were held with adult prisoners and required to work. Political prisoners were segregated from each other and placed with common criminals, who sometimes beat political prisoners at the instigation of guards. Newly arrived prisoners or those who refused to

acknowledge committing crimes were particularly vulnerable to beatings.

The government generally did not permit independent monitoring of prisons or RTL camps, and prisoners remained inaccessible to local and international human rights organizations, media groups, and the International Committee of the Red Cross (ICRC).

d. Arbitrary Arrest or Detention

Arbitrary arrest and detention remained serious problems. The law permits police and security authorities to detain persons without arresting or charging them. Because the government tightly controlled information, it was impossible to determine accurately the total number of persons subjected to arbitrary arrest or detention.

Role of the Police and Security Apparatus

The security apparatus is made up of the Ministries of State Security and Public Security, the People's Armed Police, the People's Liberation Army (PLA), and the state judicial, procuratorial, and penal systems. The Ministries of State Security and Public Security and the People's Armed Police were responsible for internal security. SPP and Supreme People's Court (SPC) officials admitted that courts and prosecutors often deferred to the security ministries on policy matters and individual cases. The SPP was responsible for the investigation of corruption and duty crimes (crimes committed by public officials or state functionaries, including corruption, crimes of dereliction of duty, and crimes involving violations of a citizen's personal rights). The PLA was responsible for external security but also had some domestic security responsibilities.

The MPS coordinates the country's law enforcement, which is administratively organized into local, county, provincial, and specialized police agencies. Some efforts were made to strengthen historically weak regulation and management of law enforcement agencies; however, judicial oversight was limited, and checks and balances were absent. Corruption at the local level was widespread. Security officials, including "urban management" officials, reportedly took individuals into custody without just cause, arbitrarily collected fees from individuals charged with crimes, and mentally and physically abused victims and perpetrators.

The SPP acknowledged continuing widespread abuse in law enforcement. Domestic news media reported the convictions of public security officials who had beaten to death suspects or prisoners in their custody. On August 12, Deng Hongfei, a police officer in Nanchang, Jiangxi Province, was sentenced to 12 years in prison, and fellow officer Xia Xiangdong was sentenced to one year in prison for beating to death suspect Wang Jianguo during an interrogation in 2006.

Arrest Procedures and Treatment While in Detention

Public security organs do not require court-approved warrants to detain suspects under their administrative detention powers. After detention the procuracy can approve formal arrest without court approval. According to the law, in routine criminal cases police can unilaterally detain persons for up to 37 days before releasing them or formally placing them under arrest. After a suspect is arrested, the law allows police and prosecutors to detain a person for up to seven months while public security organs further investigate the case. Another 45 days of detention are allowed where public security organs refer a case to the procuratorate to decide whether to file charges. If charges are filed, authorities can detain a suspect for an additional 45 days between filing and trial. In practice the police sometimes detained persons beyond the time limits stipulated by law. In some cases investigating security agents or prosecutors sought repeated extensions, resulting in pretrial detention of a year or longer. The criminal procedure law allows detainees access to lawyers before formal charges are filed, although police often limited such access.

The criminal procedure law requires a court to provide a lawyer to a defendant who has not already retained a lawyer; who is blind, deaf, mute, a minor; or who may be sentenced to death. This law applies whether or not the defendant is indigent. Courts may also provide lawyers to other criminal defendants who cannot afford them, although courts often did not appoint counsel in such circumstances.

Detained criminal suspects, defendants, their legal representatives, and close relatives are entitled to apply for bail; however, in practice few suspects were released on bail pending trial.

The government used incommunicado detention. The law requires notification of family members within 24 hours of detention, but individuals often were held without notification for significantly longer periods, especially in politically sensitive cases. Under a sweeping exception, officials were not required to provide notification if doing so would "hinder the investigation" of a case. In some cases police treated those with no immediate family more severely.

There were numerous reports of citizens who were detained with no or severely delayed notice. On July 27, Noor-UI-Islam Sherbaz, a Uighur minor, was detained and accused of participating in the July 5 riot. In contravention of law on the detention of juveniles, Sherbaz's parents had no contact with him after his arrest and were not allowed to be present during police interrogations.

Authorities advised a number of activists in Shanghai and Beijing to remain at home in the days prior to and during U.S. President Obama's November visit to China. Some activists in provinces outside these two cities were told not to travel outside their province.

Citizens who traveled to Beijing to petition the central government for redress of a grievance were frequently subjected to arbitrary detention, often by police from the petitioner's hometown. Some provincial governments operated detention centers in Beijing or in other localities to hold such petitioners without official procedures or right to appeal. The law protects the right to petition the government for resolution of grievances.

In August a guard raped a 20-year-old petitioner at a detention facility operated at a Beijing hotel by officials from Tonbai County in Henan Province. In November the guard pled guilty to raping the woman and in December was convicted and sentenced to eight years in prison. Petitioners frequently were forcibly returned to their hometowns after stays in detention facilities lasting several days to several weeks. According to an *International Herald Tribune* report, Huang Lihong, a woman from Guizhou Province, was held in a Beijing detention facility for nearly a year.

The law permits nonjudicial panels, called labor reeducation panels, to sentence persons without trial to three years in RTL camps or other administrative detention programs. The labor reeducation committee is authorized to extend a sentence up to one year. Defendants could challenge RTL sentences under the administrative litigation law and appeal for a reduction in, or suspension of, their sentences. However, appeals rarely succeeded. Many other persons were detained in similar forms of administrative detention, known as "custody and education" (for women engaged in prostitution and those soliciting prostitution) and "custody and training" (for minors who committed crimes). Administrative detention was used to intimidate political activists and prevent public demonstrations.

On February 1, Zhu Lijin was arrested for distributing Falun Gong pamphlets. She was sentenced to 15 months in RTL without a trial. Authorities used special reeducation centers to prolong detention of Falun Gong practitioners who had completed terms in RTL.

Authorities arrested persons on allegations of revealing state secrets, subversion, and other crimes as a means to suppress political dissent and social advocacy. Citizens also were also detained under broad and ambiguous state secrets laws for, among other actions, disclosing information on criminal trials, meetings, and government activity.

Human rights activists, journalists, unregistered religious figures, and former political prisoners and their family members were among those targeted for arbitrary detention or arrest.

The government continued to use house arrest as a nonjudicial punishment and control measure against dissidents, former political prisoners, family members of political prisoners, petitioners, underground religious figures, and others it deemed politically sensitive. Numerous dissidents, activists, and petitioners were placed under house arrest during the October 1 National Day holiday period. House arrest encompassed varying degrees of stringency but sometimes included complete isolation in one's home or another location under lock and guard. In some cases house arrest involved constant monitoring, but persons under house arrest were occasionally permitted to leave the home to work or run errands. Sometimes such persons were required to ride in the vehicles of their police monitors when venturing outside. When outside the home, subjects of house arrest were usually, but not always, under surveillance. In some instances security officials assumed invasive positions within the family home rather than monitor from the outside.

On May 31, police at Guiyang Airport apprehended human rights activist Chen Xi as he was attempting to fly to Beijing to commemorate the Tiananmen uprising. He was detained for nine hours without explanation and then sent home, where he remained under house arrest. Chen was again detained on December 7, presumably to prevent him from attending the Guizhou Human Rights Symposium, which he helped organize. In February Shanghai activist Dai Xuezhong was prohibited from leaving his home for approximately one week by local police to prevent a planned meeting with fellow activist Deng Yongliang. In August authorities placed writer **Zhao Hun**, who blogs under the name of **Mo Zhixu**, under house arrest for several days.

At year's end Yuan Weijing, wife of imprisoned family-planning activist lawyer Chen Guangcheng, remained under virtual house arrest. According to Reporters Without Borders, when journalism professor Wang Keqin and a student tried to visit Yuan in March in Linyi County, Shandong Province, both were physically and verbally assaulted by five or six plainclothes individuals, who Wang reportedly claimed were hired by the local government to prevent visitors to Chen's family.

Police continued the practice of placing under surveillance, harassing, and detaining citizens around politically sensitive events, including the plenary sessions of the National People's Congress (NPC) and the Chinese People's Political Consultative Conference (CPPCC), the 60th anniversary of the founding of the PRC and the 20th anniversary of the Tiananmen Square student uprising. In early June authorities in Hangzhou placed several dissidents, including Charter 08 signatories Wen Kejian and Zou Wei and CDP activist Zhu Yufu, under house arrest for several days. Published in December 2008, Charter 08 calls for free elections and greater freedom of speech. Coauthored by Liu Xiaobo, who was later imprisoned, the document, originally signed by more than 300 Chinese activists and intellectuals, received more than 7,000 signatories online. Many dissidents in Beijing reported that police prevented them from leaving their houses on June 4, the anniversary of the Tiananmen Square Massacre. Authorities in the XUAR used house arrest and other forms of arbitrary detention against those accused of subscribing to the "three evils" of religious extremism, "splittism," and terrorism. Raids, detentions, arrests, and judicial punishments indiscriminately affected not only those suspected of supporting terrorism but also those who peacefully sought to pursue political goals or worship.

e. Denial of Fair Public Trial

The law states that the courts shall exercise judicial power independently, without interference from administrative organs, social organizations, and individuals. However, in practice the judiciary was not independent. It received policy guidance from both the government and the CCP, whose leaders used a variety of means to direct courts on verdicts and sentences, particularly in politically sensitive cases. At both the central and local levels, the government and CCP frequently interfered in the judicial system and dictated court decisions. Trial judges decided individual cases under the direction of the adjudication committee in each court. In addition, the CCP's law and politics committee, which includes representatives of the police, security services, procuratorate, and courts, had the authority to review and influence court operations at all levels of the judiciary. People's congresses also had authority to alter court decisions, but this happened rarely.

Corruption often influenced judicial decision making, and safeguards against corruption were vague and poorly enforced. Local governments appointed judges at the corresponding level of the judicial structure. Judges received their court finances and salaries from these government bodies and could be replaced by them. Local authorities often exerted undue influence over the judges they appointed and financed. Several high-profile corruption cases involved procuracy officials.

Courts lacked the independence and authority to rule on the constitutionality of laws. The law permits organizations or individuals to question laws and regulations they believe contradict the constitution, but a constitutional challenge first requires consultation with the body drafting the questioned regulation and can be appealed only to the NPC. Accordingly, lawyers had little or no opportunity to use the constitution in litigation.

The SPC is followed in descending order by the higher, intermediate, and basic people's courts. These courts handle criminal, civil, and administrative cases, including appeals of decisions by police and security officials to use RTL and other forms of administrative detention. There were special courts for handling military, maritime, and railway transport cases.

The CCP used a form of discipline known as "shuang gui" for violations of party discipline, but there were reports of its use against nonparty members. Shuang gui is similar to house arrest, can be authorized without judicial involvement or oversight, and requires the CCP member under investigation to submit to questioning at a designated place and time. According to regulations of the Central Discipline Inspection Commission governing shuang gui, corporal punishment is banned, the member's dignity must be respected, and he or she is regarded as a comrade unless violations are proved. Absent any legal oversight, it is unclear how these regulations were enforced in practice.

On August 12, authorities in Chengdu closed the trial of Tan Zuoren, charged with defaming the CCP, from the public (see Political Prisoners section). Tan attempted to collect the names of students who died in the May 2008 Sichuan earthquake. Police blocked persons who tried to attend the proceedings at the courthouse. When contemporary artist and civil society activist Ai Weiwei traveled to Chengdu to participate in the trial and testify on Tan's behalf, security forces beat him and prevented him from leaving his hotel room until the trial had adjourned.

On November 6, 70-year-old Lin Dagang was sentenced to two years in prison for illegally possessing state secrets. According to an NGO report, his wife and son were not allowed to attend his two-hour trial.

On December 25, Liu Xiaobo, a well-known dissident and coauthor of Charter 08, which called for increased political freedoms and human rights in China, was found guilty of the crime of inciting subversion of state power and sentenced to 11 years in prison and two years' deprivation of political rights, in a trial that was believed to contain serious due process violations. At year's end Liu's case was on appeal.

Trial Procedures

Trials took place before a judge, who often was accompanied by "people's assessors," laypersons hired by the court to assist in decision making. According to law, people's assessors had authority similar to judges, but in practice they often deferred to judges and did not exercise an independent jury-like function.

There was no presumption of innocence, and the criminal justice system was biased toward a presumption of guilt, especially in high-profile or politically sensitive cases. The combined conviction rate for first- and second-instance criminal trials was more than 99 percent in 2008; 1,008,677 defendants were tried, and 1,373 were found not guilty. In many politically sensitive trials, which rarely lasted more than several hours, the courts handed down guilty verdicts immediately following proceedings. Courts often punished defendants who refused to acknowledge guilt with harsher sentences than those who confessed. There was an appeals process, but appeals rarely resulted in reversed verdicts. Appeals processes failed to provide sufficient avenues for review, and there were inadequate remedies for violations of defendants' rights.

SPC regulations require all trials to be open to the public, with certain exceptions, such as cases involving state secrets, privacy, and minors. Authorities used the legal exception for cases involving state secrets to keep politically sensitive proceedings closed to the public and sometimes even to family members, and to withhold access to defense counsel. Under the regulations, foreigners with valid identification are allowed the same access to trials as citizens, but in practice foreigners were permitted to attend court proceedings by invitation only. As in past years, foreign diplomats and journalists sought permission to attend a number of trials

only to have court officials reclassify them as "state secret" cases, fill all available seats with security officials, or otherwise close them to the public. For example, foreign diplomats requested but were denied permission to attend human rights advocate Huang Qi's February trial on charges of illegally possessing state secrets. Huang's trial was adjourned without a verdict. Some trials were broadcast, and court proceedings were a regular television feature. A few courts published their verdicts on the Internet.

The law gives most suspects the right to seek legal counsel shortly after their initial detention and interrogation, although police frequently interfered with this right. Individuals who face administrative detention do not have the right to seek legal counsel. Human rights lawyers reported that they were denied the ability to defend certain clients or threatened with punishment if they did.

Both criminal and administrative cases remained eligible for legal aid, although 70 percent or more of criminal defendants went to trial without a lawyer. According to the Ministry of Justice, the number of legal-aid cases reached 546,859 in 2008. The country had 12,778 full-time legal aid personnel, although the number of legal-aid personnel remained inadequate to meet demand. Nonattorney legal advisors provided the only legal-aid options in many areas.

Lawyers often refused to represent defendants in politically sensitive cases, and defendants frequently found it difficult to find an attorney. The government took steps to discourage lawyers from taking sensitive cases. For example, following the July unrest in the XUAR, the Beijing Municipal Judicial Bureau posted a note on its Web site urging justice bureaus, the Beijing Municipal Lawyers Association, and law firms in Beijing to "exercise caution" in representing cases related to the riots. Similar measures were taken with respect to Tibetan defendants. In some cases Beijing-based rights lawyers were told they could not represent jailed Tibetans. Local governments in the XUAR and Tibetan areas imposed arbitrary rules that defendants could be represented only by locally registered attorneys.

When defendants were able to retain counsel in politically sensitive cases, government officials sometimes prevented effective representation of counsel. Officials deployed a wide range of tactics to obstruct the work of lawyers representing sensitive clients, including unlawful detentions, disbarment, intimidation, refusal to allow a case to be tried before a court, and physical abuse. For example, in April Beijing lawyer Cheng Hai was attacked and beaten while on his way to meet with a Falun Gong client in Chengdu. According to Cheng, those responsible for the attack were officials from the Jinyang General Management Office, Wuhou District, Chengdu. In May police officers in Chongqing arrested and beat lawyers Zhang Kai and Li Chunfu when they interviewed the family of a Falun Gong practitioner who allegedly died in police custody.

During its yearly professional evaluation procedures for Beijing attorneys, the Beijing Lawyers Association did not renew the professional licenses of a number of human rights lawyers, effectively barring them from practicing law, including Li Heping, Cheng Hai, Jiang Tianyong, Li Xiongbing, Li Chunfu, Wang Yajun, Tang Jitian, Yang Huimin, Xie Yanyi, Li Dunyong, Wen Haibo, Liu Wei, Zhang Lihui, Peng Jian, Li Jinglin, Lan Zhixue, Zhang Kai, and Liu Xiaoyuan. Two lawyers who practiced outside of Beijing, Wei Liangyue and Yang Zaixin, reported that authorities warned them that their licenses were in jeopardy. Shanghai lawyers Zheng Enchong and Guo Guoting lost their licenses in 2008 in a similar decision and, as a result, were barred from practicing law.

According to the law, defense attorneys can be held responsible if their client commits perjury, and prosecutors and judges have wide discretion to decide what constitutes perjury. In some sensitive cases, lawyers had no pretrial access to their clients, and defendants and lawyers were not allowed to speak during trials. In practice criminal defendants often were not assigned an attorney until a case was brought to court. Even in nonsensitive criminal trials, only one in seven defendants reportedly had legal representation.

The mechanism that allows defendants to confront their accusers was inadequate; the percentage of witnesses who came to court in criminal cases was less than 10 percent and as low as 1 percent in some courts. According to one expert, only 1 to 5 percent of trials involved witnesses. In most criminal trials, prosecutors read witness statements, which neither the defendants nor their lawyers had an opportunity to question. Approximately 95 percent of witnesses in criminal cases did not appear in court to testify, sometimes due to hardship or fear of reprisals. Although the criminal procedure law states that pretrial witness statements cannot serve as the sole basis for conviction, officials relied heavily on such statements to support their cases. Defense attorneys had no

authority to compel witnesses to testify or to mandate discovery, although they could apply for access to government-held evidence relevant to their case. In practice pretrial access to information was minimal, and the defense often lacked adequate opportunity to prepare for trial.

Police and prosecutorial officials often ignored the due process provisions of the law, which led to particularly egregious consequences in death penalty cases. By law there are at least 68 capital offenses, including nonviolent financial crimes such as counterfeiting currency, embezzlement, and corruption.

In 2007 the SPC reassumed jurisdiction to conduct final review of death penalty cases handed down for immediate execution (but not death sentences handed down with a two-year reprieve). In most cases the SPC does not have authority to issue a new decision or declare a defendant innocent if it discovers errors in the original judgment; it can only approve or disapprove lower-court decisions. SPC spokesman Ni Shouming stated that since reassuming the death penalty review power in 2007, the SPC had rejected 15 percent of the cases it reviewed due to unclear facts, insufficient evidence, inappropriateness of the death sentence in some cases, and inadequate trial procedures. The SPC remanded these cases to lower courts for further proceedings, although it did not provide underlying statistics or figures. Because official statistics remained a state secret, it was not possible to evaluate independently the implementation and effects of the procedures.

Following the SPC's resumption of death penalty review power, executions were not to be carried out on the date of conviction, but only after final review by the SPC was completed. The government continued to apply the death penalty in a range of cases, including cases of economic crimes. In April a Beijing court upheld the death sentence of Yang Yanming, who was convicted of embezzlement. Yang was executed on December 8. On August 7, Li Peiying, former chairman of the Beijing Capital International Airport, was executed for bribery. On December 29, British citizen Akmal Shaikh was executed for drug-trafficking crimes.

The foreign-based Dui Hua Foundation estimated that approximately 5,000 persons were executed during the year.

Political Prisoners and Detainees

Government officials continued to deny holding any political prisoners, asserting that authorities detained persons not for their political or religious views but because they violated the law; however, the authorities continued to confine citizens for reasons related to politics and religion. Tens of thousands of political prisoners remained incarcerated, some in prisons and others in RTL camps or administrative detention. The government did not grant international humanitarian organizations access to political prisoners.

Foreign NGOs estimated that several hundred persons remained in prison for the crime of "counterrevolution," repealed in 1997, and thousands of others were serving sentences under the state security law, which authorities stated covers crimes similar to counterrevolution. Foreign governments urged the government to review the cases of those charged before 1997 with counterrevolution and to release those who had been jailed for nonviolent offenses under provisions of the criminal law, which were eliminated when the law was revised. At year's end no systematic review had occurred. The government maintained that prisoners serving sentences for counterrevolution and endangering state security were eligible on an equal basis for sentence reduction and parole, but political prisoners benefited from early release at lower rates than those enjoyed by other prisoners. Dozens of persons were believed to remain in prison in connection with their involvement in the 1989 Tiananmen prodemocracy movement. International organizations estimated that at least 10 and as many as 200 Tiananmen activists remained in prison. The exact number was unknown because official statistics have never been made public.

On March 4, labor activist and lawyer Yuan Xianchen was found guilty of "inciting subversion of state power" and sentenced to four years in prison and five years' deprivation of political rights. Yuan was detained in May 2008 after publishing an article in *Beijing Spring*, a New York-based human rights journal. He was formally arrested in June 2008.