COUNTRY OF ORIGIN INFORMATION REPORT

CHINA

15 NOVEMBER 2010

UK Border Agency
COUNTRY OF ORIGIN INFORMATION SERVICE

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Preface

i This Country of Origin Information (COI) Report has been produced by the COI Service, United Kingdom Border Agency (UKBA), for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the Report includes information available up to 1 November 2010. The 'Latest News' section contains further brief information on events and reports accessed from 2 to 15 November 2010. The Report was issued on 15 November 2010.

ii The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any UKBA opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.

iii The Report aims to provide a compilation of extracts from the source material identified, focusing on the main issues raised in asylum and human rights applications. In some sections where the topics covered arise infrequently in asylum/human rights claims only web links are provided. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

iv The structure and format of the COI Report reflects the way it is used by UKBA decision makers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.

v The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated. Similarly, the absence of information does not necessarily mean that, for example, a particular event or action did not occur.

vi As noted above, the Report is a compilation of extracts produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents though COIS will bring the discrepancies together and aim to provide a range of sources, where available, to ensure that a balanced picture is presented. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties, etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are

simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

vii The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.

viii This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the COI Service upon request.

ix COI Reports are published regularly on the top 30 asylum intake countries. Reports on countries outside the top 30 countries may also be published if there is a particular operational need. UKBA officials also have constant access to an information request service for specific enquiries.

x In producing this COI Report, COI Service has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to UKBA as below.

Country of Origin Information Service
UK Border Agency
St Anne House
20-26 Wellesley Road
Croydon, CR0 9XB
United Kingdom
Email: cois@homeoffice.gsi.gov.uk
Website: http://www.homeoffice.gov.uk/rds/country_reports.html

INDEPENDENT ADVISORY GROUP ON COUNTRY INFORMATION

xi The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Chief Inspector of the UK Border Agency to make recommendations to him about the content of the UKBA's COI material. The IAGCI welcomes feedback on UKBA's COI Reports and other country of origin information material. Information about the IAGCI's work can be found on the Chief Inspector's website at http://www.ociukba.homeoffice.gov.uk

xii In the course of its work, the IAGCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. A list of the COI Reports and other documents which have been reviewed by the IAGCI or the Advisory Panel on Country Information (the independent organisation which monitored UKBA's COI

material from September 2003 to October 2008) is available at http://www.ociukba.homeoffice.gov.uk/

xiii Please note: it is not the function of the IAGCI to endorse any UKBA material or procedures. Some of the material examined by the Group relates to countries designated or proposed for designation to the Non-Suspensive Appeals (NSA) list. In such cases, the Group's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself. The IAGCI can be contacted at:

Independent Advisory Group on Country Information
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Website: http://www.ociukba.homeoffice.gov.uk/

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Latest News

The Latest News provides a non-exhaustive selection of significant events since 2 November 2010. Further information may also be available from the list of useful sources below.

USEFUL SOURCES FOR FURTHER INFORMATION

A list of sources with weblinks is provided below, which may be useful if additional up to date information is required to supplement that provided in this report. The full list of sources used in this report can be found in Annex K - References to source material.

Amnesty International (news/reports)
http://www.amnesty.org/

BBC News (news/reports)
http://news.bbc.co.uk/1/hi/world/asia-pacific/default.stm

Canadian Immigration and Refugee Board (reports)
http://www.irb-cisr.gc.ca/Eng/Pages/index.aspx

European Country of Origin Information Network (news/reports)
http://www.ecoi.net/

Human Rights Watch (news/reports)
http://www.hrw.org/asia/china

US State Department (*2010 Report on International Religious Freedom*, due in November 2010)
http://www.state.gov/g/drl/rls/irf/index.htm

US State Department (*2010 Country Reports on Human Rights Practices*, due in February/March 2011)
http://www.state.gov/g/drl/rls/hrrpt/index.htm

UNHCR Refworld (news/reports)
http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&skip=0&coi=CHN&x=12&y=9

EVENTS IN CHINA FROM 2 TO 15 NOVEMBER 2010

5 November — China warned that there would be "consequences" if governments show support for jailed Nobel peace laureate Liu Xiaobo at the award ceremony. Vice-Foreign Minister Cui Tiankai said the prize was highly politicised and "a challenge to China's judicial system".
BBC News, China warns states not to support Nobel dissident, 5 November 2010
http://www.bbc.co.uk/news/world-asia-pacific-11701725
Date accessed 11 November 2010

9 November A Chinese lawyer, who represents jailed Nobel Peace Prize winner Liu Xiaobo, told the BBC he intends to file a lawsuit against the Chinese authorities for preventing him from leaving China.
BBC News, Nobel winner Liu Xiaobo's lawyer 'to sue China', 9 November 2010
http://www.bbc.co.uk/news/world-asia-pacific-11716358
Date accessed 11 November 2010

(See also section 14: Opposition groups and political activists)

10 November David Cameron called for closer trading ties between Europe and China, but said the UK still had "deeply-held concerns" over human rights. Growing economic freedom should go "in step" with political reform to ensure prosperity, he told Beijing students.
BBC News, David Cameron urges China to embrace democracy, 10 November 2010
http://www.bbc.co.uk/news/business-11723838
Date accessed 11 November 2010

(See also section 7: Human Rights Introduction)

12 November A Chinese court ruled against a man who claimed to have been denied a teaching job because he is HIV positive. He said that he had passed the academic tests and interviews for the job but was rejected after a health screening. State media said it was China's first such discrimination case.
BBC News, Chinese court rejects HIV discrimination case, 12 November 2010
http://www.bbc.co.uk/news/world-asia-pacific-11741608
Date accessed 15 November 2010

(See also section 30: Medical issues Discrimination against HIV/AIDS sufferers)

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REPORTS ON CHINA PUBLISHED OR ACCESSED BETWEEN 2 AND 15 NOVEMBER 2010

The Telegraph
China and human rights: the biggest issues, 10 November 2010
http://www.telegraph.co.uk/news/worldnews/asia/china/8120117/China-and-human-rights-the-biggest-issues.html
Date accessed 11 November 2010

(See also section 7: Human Rights Introduction)

Reuters
Born in HK but torn between two systems, 11 November 2010
http://world.edu/content/born-hk-torn-systems/
Date accessed 12 November 2010

(See also section 28: Family planning ('one child policy'), Evasion)

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Background information

1. GEOGRAPHY

1.01 In its *Country Profile* for China, accessed on 29 September 2010, Europa World noted:

"The People's Republic of China covers a vast area of eastern Asia, with Mongolia and Russia to the north, Tajikistan, Kyrgyzstan and Kazakhstan to the north-west, Afghanistan and Pakistan to the west, and India, Nepal, Bhutan, Myanmar (formerly Burma), Laos and Viet Nam to the south. The country borders the Democratic People's Republic of Korea (North Korea) in the north-east, and has a long coastline on the Pacific Ocean… The traditional religions and philosophies of life are Confucianism, Buddhism and Daoism. There are also Muslim and Christian minorities… The capital is Beijing (Peking)." **[1a] (Location, Climate, Language, Religion, Flag, Capital) [18a]**

1.02 As recorded by the same source, "China is a unitary state. Directly under the Central Government there are 22 provinces, five autonomous regions, including Xizang (Tibet), and four municipalities (Beijing, Chongqing, Shanghai and Tianjin). The highest organ of state power is the National People's Congress (NPC)." **[1a] (Constitution and Government)**

1.03 In its *2009 Country Profile* for China, dated 19 December 2008, the Economist Intelligence Unit (EIU) stated:

"The autonomous regions are autonomous in name only. The term, however, recognises the pre-revolutionary predominance of non-Han ethnic groups in Guangxi (the Zhuang ethnic group), Tibet, Xinjiang (the Uighurs, who are Turkic speaking Muslims), Inner Mongolia (the Mongols) and Ningxia (the Hui, Chinese-speaking Muslims). China also has two Special Administrative Regions (SARs), namely Hong Kong and Macau. These are autonomous from the rest of China, having separate governments, legal systems and quasi-constitutions (known as Basic Laws). The central government is, however, responsible for the foreign affairs and defence of both SARs." **[4a] (Political forces and institutions)**

1.04 As noted by the CIA *World Factbook*, dated 29 September 2010, "China considers Taiwan its 23rd province". **[30a]**

(See also sections 37 and 38: Taiwan, Hong Kong and Macao)

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MAP

Map courtesy of CIA *World Factbook*
https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html

(See also Annex K: References to source material – maps)

LANGUAGES

1.05 As reported by the US State Department, in its *Background Note* for China dated 5 August 2010:

> "There are seven major Chinese dialects and many subdialects. Mandarin (or Putonghua), the predominant dialect, is spoken by over 70% of the population. It is taught in all schools and is the medium of government. About two-thirds of the Han ethnic group are native speakers of Mandarin; the rest, concentrated in southwest and southeast China, speak one of the six other major Chinese dialects. Non-Chinese languages spoken widely by ethnic minorities include Mongolian, Tibetan, Uyghur and other Turkic languages (in Xinjiang), and Korean (in the northeast)." **[2g]**

(See also map showing Chinese linguistic groups) **[18h]**

POPULATION

1.06 The CIA *World Factbook*, dated 29 September 2010, estimated China's population at 1,338 million in July 2010. **[30a]** In an eGram dated 30 July 2009, the Foreign & Commonwealth Office (FCO) noted:

> "China's population is 1.3 billion, made up of 56 ethnic groups, dominated by the Han (92%). China's population is unlikely to be overtaken by India's before 2030. China feeds 22% of the world's population with 7% of the world's arable land (only 14% of China's land is suitable for farming), with a small surplus for export. 45.7% were urban dwellers in 2008, an increase from 17.4% in 1978. There are 118 cities in China with over one million people. China expects 15 million people to migrate from the countryside to urban areas each year for the

next 20 years. At least 200 million migrant workers are already in the cities working in low skill jobs. In 2005 11% of the population were over 60 (UK 14%). By 2050 this is projected to rise to 31% (UK 32%)." **[31j]**

(See also section 22: Ethnic groups)

(See also section 28: Family planning ('one child policy'))

(See also section 31: Freedom of movement Internal migrants)

Naming conventions

1.07 As noted by the FCO in (undated) information supplied to the Country of Origin Information (COI) Service:

"Chinese generally write their names starting with their surname and then their given name. All Chinese surnames (except the extremely rare name 'Ouyang') are written with one character – i.e. Wang, Li, Zhang. Given names can be one or more commonly two syllables. Examples of current leaders' names include Hu Jintao, Wen Jiabao, Li Changchun and Zeng Qinghong. When written in Chinese characters there are no gaps between the surname and the given name. Names almost always have no more than three characters." **[31h]**

Tibetan names

1.08 The FCO also noted:

"Tibetan names are generally easy to distinguish from Chinese, even when they are written in Chinese characters. Tibetans use a distinctive set of names not used by Han Chinese… Tibetan names are generally longer. They generally include two components, each usually of two syllables, but Tibetans do not use family names. Members of the same family can therefore have completely different names. Examples of individual names include: Kesang Dekyi, Dawar Tsering and Tanzen Lhundup. For administrative purposes (including on passports) Chinese characters are used to write the names, using characters with similar pronunciations to translate the names phonetically. When using Chinese characters there is usually no gap between the two components, but names written this way usually have four characters. Some Tibetan names contain components reflecting the religious status of the individual. The most common of these is Rinpoche. This is added to a monk's name as an honorific title. It is common for monks and nuns to change their name when they enter a monastery or for them to have both a lay name and a name they use in the monastery." **[31h]**

(See also Annex J: Guide to Tibetan names)

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2. ECONOMY

2.01 The CIA *World Factbook*, dated 29 September 2010, noted:

> "China's economy during the past 30 years has changed from a centrally planned system that was largely closed to international trade to a more market-oriented economy that has a rapidly growing private sector and is a major player in the global economy. Reforms started in the late 1970s with the phasing out of collectivized agriculture, and expanded to include the gradual liberalization of prices, fiscal decentralization, increased autonomy for state enterprises, the foundation of a diversified banking system, the development of stock markets, the rapid growth of the non-state sector, and the opening to foreign trade and investment… After keeping its currency tightly linked to the US dollar for years, China in July 2005 revalued its currency by 2.1% against the US dollar and moved to an exchange rate system that references a basket of currencies. Cumulative appreciation of the renminbi against the US dollar since the end of the dollar peg was more than 20% by late 2008, but the exchange rate has remained virtually pegged since the onset of the global financial crisis. The restructuring of the economy and resulting efficiency gains have contributed to a more than tenfold increase in GDP since 1978. Measured on a purchasing power parity (PPP) basis that adjusts for price differences, China in 2009 stood as the second-largest economy in the world after the US, although in per capita terms the country is still lower middle-income." **[30a]**

2.02 The same source stated further, "In 2009, the global economic downturn reduced foreign demand for Chinese exports for the first time in many years. The government vowed to continue reforming the economy and emphasized the need to increase domestic consumption in order to make China less dependent on foreign exports for GDP growth in the future." **[30a]** On 28 January 2009 the BBC reported, "The global financial crisis has had 'a rather big impact' on China's economy, the country's Premier Wen Jiabao said in a major World Economic Forum speech… In China, he said, there was rising unemployment in rural areas and 'downward pressure on economic growth'… China's economy grew by 9% in 2008, but only by 6.8% in the final quarter of the year, as overseas demand for China's exports shrank." **[9x]**

POVERTY

2.03 In its *Country Profile* for China, dated 27 January 2009, the Foreign & Commonwealth Office (FCO) noted:

> "President Hu's first term was spent consolidating his position and proceeding with economic reform. But he recognised the potential for instability caused by the previous strong focus on promoting high growth as the overriding policy priority. Examples of the imbalances this has caused in society include: wide income imbalances between rich, eastern coastal cities, and poorer inland cities; income differences between urban and rural dwellers – the average urban resident of Beijing earns around RMB 2000 a month (around £130), but 135 million people in China still live below the international poverty line of US$ 1 a day, and up to 500 million on US$ 2 a day…" **[31a]**

2.04 On 21 October 2008 *The Telegraph* reported:

"The disparities in wealth are commonly assumed to be caused by development in the countryside simply having failed to 'catch up' with that in China's fast industrialising cities. But some analysts are challenging this, saying that figures show that after developing fast in the 1980s the countryside was actually made to suffer through higher taxes and less development in the 1990s to fund showpiece developments in cities like Shanghai and Beijing." **[25a]**

2.05 In an article dated 28 October 2008, the BBC stated:

"The latest report from China's statistics bureau suggests that it is no longer a low income country. It has progressed to become a lower middle income country, according to definitions provided by the World Bank, the bureau said. The latest report celebrates China's economic success in the past 30 years. The country's GDP of more than $3tn now makes up 6% of the world economy. But it stresses that poverty remains one of the biggest challenges… China's growing middle class can now afford a house, a car, luxurious goods and foreign holidays, acquisitions many in the West take for granted. More Chinese families are sending their children to study abroad. But there are still more than 135 million Chinese who live on less than one US dollar a day. That is more than twice the total population of the UK. The staggering income gap between rich and poor, and between the prosperous coastal areas and the western regions, still poses a threat to the country's social stability." **[9k]**

2.06 On 16 November 2008 the BBC stated:

"A UN report on China says the lives of its people have been vastly improved over the last three decades. Poverty has fallen, adult literacy has climbed and Chinese people are now living longer than ever, it says. But despite rapid economic progress, new problems have emerged, such as the gap between rich and poor… Between 1978 and 2007, rural poverty fell from 30.7% to just 1.6%, according to the UN. But new problems have emerged, with not everyone benefiting equally from rapid economic expansion. Rural areas lag behind urban areas, the east coast is richer that the western hinterland and there is a large wealth gap between different social groups." **[9n]**

(See also section 27: Children Health issues)

(See also section 30: Medical issues)

CURRENCY

2.07 As recorded by xe.com, the Chinese Yuan Renminbi (CNY) is the currency of China and the exchange rate on 21 October 2010 was £1=CNY10.47. **[61a]**

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3. HISTORY

(From the US Library of Congress *Country Profile* for China dated August 2006. **[11a]**)

1949-1976: THE MAO ZEDONG ERA

3.01 "The communist takeover of the mainland in 1949 set the scene for building a new society built on a Marxist-Leninist model replete with class struggle and proletarian politics fashioned and directed by the CCP [Chinese Communist Party]. The People's Republic of China was barely established (October 1, 1949) when it perceived a threat from the United States, which was at war in North Korea, and elected to support its neighbor, the new communist state, the Democratic People's Republic of Korea. The Chinese People's Volunteer Army invaded the Korean Peninsula in October 1950 and, along with its North Korean ally, enjoyed initial military success and then a two-year stalemate, which culminated in an armistice signed on July 27, 1953. Meanwhile, China seized control of Tibet. It also had embarked on a political rectification movement against 'enemies of the state' and promoting 'class struggle' under the aegis of agrarian reform as part of the 'transition to socialism'." **[11a]**

3.02 "Periods of consolidation and economic development facilitated by President Liu Shaoqi (1898–1969) and Premier Zhou were severely altered by disastrous anti-intellectual (such as the Hundred Flowers Campaign, 1957), economic (the Great Leap Forward, 1958–59), and political (the Great Proletarian Cultural Revolution, 1966–76) experiments directed by Mao and his supporters. During this time, China had broken with the Soviet Union by 1959, fought a border war with India in 1962, and skirmished with Soviet troops in 1969. In 1969 Mao anointed Lin Biao (1908–71), a radical People's Liberation Army marshal, as his heir apparent, but by 1971 Lin was dead, the result of an airplane crash in Mongolia following an alleged coup attempt against his mentor. Less radical leaders such as Zhou and Vice Premier Deng Xiaoping (1904–97), who had been politically rehabilitated after his disgrace early in the Cultural Revolution, asserted some control… The 1976 death of Mao ended the extremist influence in the party, and, under the leadership of Deng Xiaoping and his supporters, China began a period of pragmatic economic reforms and opening itself to the outside world." **[11a]**

1978-1989: CHINA UNDER DENG XIAOPING

3.03 "Reform-era activities began in earnest in 1978 and eventually made China one of the largest world economies and trading partners as well as an emerging regional military power. The Four Modernizations (agriculture, industry, science and technology, and national defense) became the preeminent agenda within the party, state, and society. The well-being of China's people increased substantially, especially along coastal areas and in urban areas involved in manufacturing for the world market. Yet, politics, the so-called 'fifth modernization,' occurred at too slow a pace for the emerging generation. China's incipient democracy movement was subdued in 1978–79 at the very time that China's economic reforms were being launched. As Deng consolidated his control of China, the call for political reform came to the fore again in the mid-1980s, and pro-reform leaders were placed in positions of authority: Zhao Ziyang (1919–2005) was appointed premier, and Hu Yaobang (1915–89) CCP general secretary. Deng himself, satisfied with being the

'power behind the throne,' never held a top position. The democracy movement, however, was violently suppressed by the military in the 1989 Tiananmen incident." **[11a]**

(See also section 14: Tiananmen Square activists)

1990-2000: POST-TIANANMEN SQUARE

3.04 "In the years after Tiananmen, conservative reformers led by Deng protégé Jiang Zemin (later to become president of China, chairman of both the state Central Military Commission and party Central Military Commission, and general secretary of the CCP) endured and eventually overcame world criticism. When Deng went into retirement, the rising generation of technocrats ruled China and oversaw its modernization. Political progress gradually occurred. Term limits were placed on political and governmental positions at all levels, succession became orderly and contested elections began to take place at the local level. Tens of thousands of Chinese students went overseas to study; many returned to participate in the building of modern China, some to become millionaires in the new 'socialist economy with Chinese characteristics'." **[11a]**

2000 ONWARDS: A NEW GENERATION OF LEADERS

3.05 "As the twenty-first century began, a new generation of leaders emerged and gradually replaced the old. Position by position, Jiang Zemin gradually gave up his leadership role and by 2004 had moved into a position of elder statesman, still with obvious influence exerted through his protégés who were embedded at all levels of the government. The 'politics in command' of the Maoist past were subliminally present when technocrat Hu Jintao emerged – by 2004 – as the preeminent leader (president of China, chairman of both the state Central Military Commission and party Central Military Commission, and general secretary of the CCP) with grudging acceptance by Jiang and his supporters." **[11a]**

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4. RECENT DEVELOPMENTS

4.01 In its *Annual Report 2010*, published on 10 October 2010, the US Congressional-Executive Commission on China (CECC) noted:

"The findings of this Annual Report make clear that human rights conditions in China over the last year have deteriorated… The Chinese government appears to be engaged in an increasingly harsh crackdown on lawyers and human rights defenders. The tightening of control over criminal lawyers, human rights lawyers, and the legal profession more generally has led some of China's leading legal experts to state that the rule of law is in 'full retreat' in China… The Internet appears to have given rise to a new category of political prisoners in China. Many citizens who criticize the government on blogs and comment boards face no severe repercussions - at most their comments may be deleted. But individuals who have a track record of human rights advocacy, political activism, grassroots organizing, or opposition to the Communist Party,

and some from areas of the country the government deems to be politically sensitive (e.g., Tibetan areas and Xinjiang), have been targeted systematically. Among the most common charges against these citizens are the crimes of 'subverting state power' or 'splittism,' which carry a sentence of up to life imprisonment, and inciting subversion or 'splittism,' which carry a sentence of up to 15 years… In the past year, government officials moved more aggressively to diminish or end the public influence of Tibetan civic and intellectual leaders, writers, and artists. Officials imprisoned such Tibetans in past years, but the frequency of using courts and the misapplication of criminal charges to remove such figures from society has increased... In the year since the government suppression of a demonstration by Uyghurs and multi-ethnic riots in Xinjiang starting July 5, 2009, human rights conditions in this far western region of China have worsened, and cases of political imprisonment remain of critical concern. At the same time that authorities have punished people for violent crimes committed in July 2009, they also have continued to conflate the right to demonstrate peacefully or to express criticism over government policy with criminal activity… The Communist Party's determination to rein in independent sources of influence remained evident across Chinese society during this reporting year." **[28a] (p1-5)**

(See also section 14: Political affiliation; Opposition groups and political activists)

(See also section 15: Freedom of speech and media)

(See also section 16: Human rights institutions, organisations and activists)

(See also section 20: Muslims Uighurs)

(See also section 23: Tibet)

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5. CONSTITUTION

5.01 Europa World, in its *Country Profile* for China, accessed on 29 September 2010, recorded, "The current Constitution, adopted by the NPC [National People's Congress] in December 1982 and subsequently amended, was China's fourth since 1949." **[1a] (Constitution and Government)** Article 1 states that, "The People's Republic of China is a socialist state under the people's democratic dictatorship led by the working class and based on the alliance of workers and peasants. The socialist system is the basic system of the People's Republic of China. Sabotage of the socialist system by any organization or individual is prohibited." **[5a]**

5.02 Articles 1 to 32 set out the general principles of the Constitution and Articles 33 to 56 lay down a citizen's fundamental rights and duties. **[5a]** As reported by the US State Department, in its *Background Note* for China dated 5 August 2010, "The Chinese constitution and laws provide for fundamental human rights, including due process, but these are often ignored in practice." **[2g]**

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6. POLITICAL SYSTEM

6.01 In its *Country Profile* for China, dated 27 January 2009, the FCO noted, "China has all the structures a modern democratic state would expect to have, with in theory a separation of powers between the different functions of state similar to most western democracies. But all structures are subordinate to the leadership of the CCP [Chinese Communist Party]." **[31a]** In its report, *Freedom in the World 2010*, published on 1 June 2010, Freedom House stated:

"China is not an electoral democracy. The CCP has a monopoly on political power and its nine-member Politburo Standing Committee makes most important political decisions and sets government policy. Party members hold almost all top posts in government, the military, and the internal security services, as well as in many economic entities and social organizations. The 3,000-member National People's Congress (NPC), which is elected for five-year terms by subnational congresses, formally elects the state president for up to two five-year terms, and confirms the premier after he is nominated by the president. However, the NPC is a largely symbolic body, meeting for just two weeks a year and serving primarily to approve proposed legislation, though members sometimes question bills before passing them. The country's only competitive elections are for village committees and urban residency councils, which hold limited authority and are generally subordinate to the local CCP committees. The nomination of candidates remains tightly controlled, and many of these elections have been marred by fraud, violence, corruption, and attacks on independent candidates. Plans to expand polls to higher levels of governance, such as townships, have stalled." **[26a]**

6.02 The CIA *World Factbook*, dated 29 September 2010, stated that "no substantial political opposition groups exist". **[30a]** As reported by *Asia Times* on 22 July 2006, "… in China, the masses always look to a strong central government to protect them from abuse of power at the local level." **[64h] (p4)**

(See also section 14: Opposition groups and political activists)

CHINESE COMMUNIST PARTY (CCP)

6.03 The CCP has 70.8 million members. (US Library of Congress, August 2006) **[11a]** The Chinese Communist Youth League has 68.5 million members. (Europa) **[1a] (Chinese Communist Youth League)** Article 9 of the Party's Constitution states, "Party members are free to withdraw from the Party. When a Party member asks to withdraw, the Party branch concerned shall, after discussion by its general membership meeting, remove his name from the Party rolls, make the removal public and report it to the next higher Party organization for the record." **[5t] (Chapter 1)**

6.04 As recorded by the US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, in its opening section on China:

"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." **[2e]**

(See also section 17: Breaches of party discipline)

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Human Rights

7. INTRODUCTION

7.01 As noted by the US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, in its opening section on China:

"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." **[2e]**

7.02 In its *2010 Report* on China (events of 2009), published on 28 May 2010, Amnesty International stated:

"The authorities continued to tighten restrictions on freedom of expression, assembly and association due partly to sensitivities surrounding a series of landmark anniversaries, including the 60th anniversary of the People's Republic on 1 October. Human rights defenders were detained, prosecuted, held under house arrest and subjected to enforced disappearance. Pervasive internet and media controls remained. 'Strike hard' campaigns resulted in sweeping arrests in the Xinjiang Uighur Autonomous Region (XUAR), particularly following violence and unrest in July. Independent human rights monitoring was prevented in Tibetan-populated regions. The authorities continued to strictly control the parameters of religious practice, with Catholic and Protestant groups practising outside official bounds being harassed, detained and sometimes imprisoned. The severe and systematic 10-year campaign against the Falun Gong continued." **[6b]**

7.03 In its *World Report 2010*, covering events in 2009 and published on 20 January 2010, Human Rights Watch stated:

"In 2009 the Chinese government continued to impose restrictions put in place for the 2008 Olympics, fearing unrest around a series of 'sensitive' anniversaries including the 20th anniversary of the Tiananmen massacre and the 60th anniversary of the founding of the People's Republic of China. Officials obstructed civil society organizations, including groups and individuals working with victims of the May 2008 Sichuan earthquake, broadened controls on Uighurs and Tibetans, and tightened restrictions on lawyers and human rights defenders.

"The Chinese Communist Party continues its monopoly on political power and, despite legal system reforms, requires judicial institutions to toe the party line. Citizens face significant limits on freedom of expression, association, and religion; government surveillance and censoring of internet communications is far reaching. While China's international profile and economic clout continue to grow, it is also drawing increasing international scrutiny for a foreign policy that fails to prioritize civil and political rights." **[7i]**

7.04 In its *Annual Report on Human Rights 2009*, published in March 2010, the Foreign & Commonwealth Office (FCO) stated:

"China's human rights record remained a serious cause for concern in 2009. China has made good progress on economic and social rights in the last 30 years, bringing more people out of poverty than any country in history. But progress has been far slower on civil and political rights with a marked deterioration in some areas. In February, the Universal Periodic Review (UPR) process provided a valuable opportunity for international engagement on China's human rights record. UN Member States made a number of recommendations. Regrettably, China accepted none with any timeline attached and rejected many without giving reasons…

"Three issues were of particular concern in 2009: the increasing harassment of defence lawyers; the treatment of detainees in relation to ethnic unrest in Tibet 2008 and in Xinjiang in 2009; and the detention of human rights defenders and political dissidents… Other issues of particular concern include: the scope of the death penalty and lack of transparency in its use; torture; the lack of an independent judiciary; obstacles to fair trials; arbitrary

detention, including Re-education Through Labour; unsatisfactory prison conditions and ill-treatment of prisoners; failure to protect human rights defenders; harassment of religious practitioners and Falun Gong adherents; restrictive policies in Xinjiang and Tibet; and limitations on freedom of expression and association.

"Positive trends in 2009 included indications of increased government accountability in some areas. Citizens have better, though still restricted, access to official information. They are starting to take the government to court, and there are more examples of officials being held accountable for culpable negligence. However, cases of administrative detentions of petitioners indicate that full accountability remains some way off." **[31i] (p94-95)**

7.05 According to an article by the Associated Press, dated 12 February 2009:

"China claimed victory… after a U.N. panel examined its human rights record and found it to be on track, despite complaints over abuses including Beijing's use of labor camps and widespread allegations of police torture. Commenting on a U.N. human rights report published Wednesday, [Chinese] Foreign Ministry spokeswoman Jiang Yu said most countries had endorsed China's rights record – and those that did not were simply politicizing the process… Her comments came a day after China – in its first examination before the U.N. Human Rights Council – refused virtually every suggestion made by countries including Britain, Mexico and Germany. Rejected proposals – which were not mentioned in the report – included those to end torture and the sentencing of people to labor camps without trial, to abolish the death penalty, to guarantee freedom of religion and to respect ethnic minorities. China said it did support proposals – mostly from developing countries – to improve social and economic rights such as creating jobs in rural areas and doing more to integrate people with disabilities. The newly established Human Rights Council had replaced an earlier body, the U.N. Human Rights Commission, in a procedure designed to open every country to scrutiny. Rights groups, however, expressed disappointment over the result, saying China had succeeded in avoiding confronting troubling issues. Chinese Human Rights Defenders, a network of activists within China and overseas, said in a statement e-mailed to news organizations that it was 'distressed by China's dismissive attitude toward critical comments by some U.N. member states and the general unwillingness of most member states to confront the human rights records of the Chinese government'." **[44b]**

7.06 On 13 April 2009 *The Telegraph* reported:

"China released its first 'action plan' on human rights on Monday [13 April], but made clear that its citizens' right to earn a living, educate their children and see a doctor would come before Western ideas of freedom of speech, assembly and a fair trial… Launching its lengthy 'Human Rights Action Plan of China (2009-2010)', China's ruling Communist Party said it would 'give priority' to people's rights to participate fully in China's rapidly developing economy. While claiming to 'cherish' the role played by international human rights conventions, and promising to hold constructive dialogue, China said it would adopt only those suggestions that were 'rational and feasible...in the light of China's actual conditions'… Human Rights activists continue to criticise China for the widespread use of detention without trial, heavy use of the death penalty and what the UN Committee against Torture described in November

as the 'systemic' use of torture by police… Human rights groups said the report, while falling far short of what was required to bring China up to international standards, represented a small positive development in the attitude of China's government to such issues… The New York-based Human Rights Watch said that the document could go some way to giving ordinary Chinese a better understanding of their rights, but added that too many of the major issues had simply been ignored." **[25c]**

(See also Latest News: Events in China from 2 to 15 November 2010 and Reports on China published or accessed between 2 and 15 November 2010)

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8. SECURITY FORCES

8.01 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, recorded:

"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… The PLA was responsible for external security but also had some domestic security responsibilities. The MPS (Ministry of Public Security) 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." **[2e] (Section 1d)**

8.02 In its report, *Freedom in the World 2010*, published on 1 June 2010, Freedom House stated:

"Security forces work closely with the CCP [Chinese Communist Party] leadership at all levels, and special departments under the Ministry of Public Security are dedicated to maintaining the party's monopoly on political power. Hired thugs and urban management officers also engage in intimidation and abuse of petitioners, protesters, and whistleblowers. During 2009, the CCP significantly expanded its network of extralegal 'stability maintenance' offices, including at the neighborhood level and in some enterprises. As part of their mandate, these agencies are tasked with suppressing the peaceful exercise of basic civil liberties." **[26a]**

ARMED FORCES

8.03 Europa World, accessed on 29 September 2010, noted:

"All armed services are grouped in the People's Liberation Army (PLA). As assessed at November 2009, according to Western estimates the regular forces totalled 2,285,000, of whom approximately 800,000 were conscripts: the army numbered 1,600,000, the navy 255,000 (including a naval air force of 26,000), and the air force 300,000. Reserves numbered some 510,000, and the People's Armed Police comprised an estimated 660,000." **[1a] (Defence)**

POLICE

8.04 In a report dated 26 January 2004, the Canadian Immigration and Refugee Board (IRB) stated that China's police comprised:

- "Public Security Police – the main police force in China (86%), accountable to the Ministry of Public Security (MPS);
- State Security Police – safeguard state security, prevent foreign espionage, sabotage and conspiracies, under the leadership of the Ministry of State Security;
- Prison Police – guard prisons and labour camps, accountable to the Ministry of Justice;
- Judicial Police – maintain security at courts and escort suspects to and from court. Also administer the death penalty, not directly attached to any Ministry;
- Armed Police – patrol border, guard VIPs, foreign embassies and important government buildings, accountable to MPS and Central Military Committee;
- Patrol Police – community police whose main job is to deter crime and safeguard major events, accountable to the MPS." **[3a]**

8.05 In its *Country Profile* for China, dated August 2006, the US Library of Congress observed:

"The Ministry of Public Security oversees all domestic police activity in China, including the People's Armed Police Force. The ministry is responsible for police operations and prisons and has dedicated departments for internal political, economic, and communications security. Its lowest organizational units are public security stations, which maintain close day-to-day contact with the public. The People's Armed Police Force, which sustains an estimated total strength of 1.5 million personnel, is organized into 45 divisions: internal security police, border defense personnel, guards for government buildings and embassies, and police communications specialists." **[11a]**

(See also section 14: Opposition groups and political activists)

8.06 On 2 July 2009 the Canadian IRB advised:

"In 17 June 2009 correspondence with the Research Directorate, a counselor at the Embassy of the People's Republic of China in Ottawa provided the following information on Public Security Bureau (PSB) information sharing:

1. The national computer network of policing is called the Golden Shield Project.
2. The aim of the project is to improve policing. Non-policing information and information from other departments, such as family planning information, is not stored in the project. There are strict regulations on how to use the data in the project.
3. The Project has eight databases:(1). Population information, mainly the information on the citizen ID; (2). Criminal record information; (3). Criminal fugitive information; (4). Information on stolen and robbed cars; (5). Information on passports and exit and entry; (6). Information on registered cars and drivers; (7). Information on police officers; (8). Information on key fire-prevention units.
4. Now all police departments at county level and above (namely police departments at provincial, city and county levels) and most police stations and other grass-roots units (namely police under the county level) can connect to the system. Some small police stations and grass-roots units in remote areas can not connect to the system.
5. The system used by PSB in Beijing is the same national system. It is part of the national system.
6. Chinese police are in charge of exit and entry administration. Just like CBSA [Canada Border Services Agency], in all ports of entry including international airports there are police units in charge of examination and they can connect to the system…

The Embassy Counselor stated that the Golden Shield is not used to track an individual who is not a criminal suspect according to Chinese criminal law… According to a 13 April 2006 article from the New York-based *Epoch Times*, an official from the Ministry of Public Security indicated that the objective of the Golden Shield project is to 'facilitate the transmission and sharing of data among police so as to enhance the capability of the police to solve cases.' The article also describes the Golden Shield as a 'digital system for information management within the Public Security Ministry,' with 640,000 network computers that are 'grouped into 23 operating systems,' which contain population, crime, vehicle registration and border control information… A researcher… stated the following in correspondence with the Research Directorate: 'China's Public Security Departments absolutely do have nationwide computer information sharing networks, and have been working hard to develop and expand those for at least a decade'… the Laogai Research Foundation describes China's Golden Shield project in the following way: 'This project includes monitoring and censoring the Internet, including individuals' emails. It also includes monitoring phone conversations with advanced speech recognition technology, and monitoring citizens' movement through a vast network of surveillance cameras, equipped with face recognition technology… The ultimate goal is for police to use 'Smartcard' technology to scan an individual's state-issued identity card and gain instant access to all of the information the government has collected on this individual'… According to the *Epoch Times* article, an official from the Ministry of Public Security stated that 'the Golden Shield is an internal network within public security services that is totally separate from the Internet that ordinary citizens use'... Several additional sources indicate that the Golden Shield project includes monitoring civilian Internet use… Amnesty International (AI) broadly describes the Golden Shield as a project that aims 'to develop an online database with an all-encompassing surveillance network which would allow the authorities immediate access to records on every citizen in China'… Legal Affairs magazine similarly notes that the Golden Shield project is

designed to create 'instantaneous access to a database that contains the work records, financial data, and law-enforcement histories of almost every adult Chinese citizen'… Both Legal Affairs and AI indicate that 'Policenet' is part of the Golden Shield project and operates in all but one province… Through this system, local branches are connected to each other, as well as to PSB citizen records..." **[3ae]**

(See also section 15: Freedom of speech and media)

(See also section 34: Exit/entry procedures)

Private security firms

8.07 As noted by Michael Dutton, writing in *Crime, Punishment and Policing in China* (2005):

"Chinese private security companies differ from those in the West, however, in that they are all wholly owned subsidiaries of the local branches of the Ministry of Public Security, and it is their bureaus that directly own and operate these businesses. Not only do the public security forces have a monopoly over this industry, but they also have complete control over staffing. Hence the police force has allocated all senior staffing positions within these companies to formerly high-ranking officials within either the provincial Public Security Bureau or from the Ministry of Public Security itself. It is estimated that these companies now cover about one-third of all police work in the cities, and it is from guarding banks, restaurants, and other such establishments that they derive most of their profits." **[50b] (p215-216)**

Torture

8.08 The USSD Report 2009 recorded, "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 [2009] there were reports that officials used electric shocks, beatings, shackles, and other forms of abuse." **[2e] (Section 1c)**

8.09 A BBC News article of 20 November 2006 quoted a Deputy Procurator General as saying that at least 30 wrong verdicts a year were handed down due to the continuing use of torture. **[9ad]** In a report on his mission of November–December 2005, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (Manfred Nowak) stated that two-thirds of alleged torture victims were Falun Gong practitioners and almost half of alleged perpetrators were police and other public security officials. **[32b] (p13)** The report also stated:

"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. 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. Over the past five years, the Special Rapporteur has received 52 responses from the Government of China relating to a total of 90 cases." **[32b] (p12-13)**

(See also section 21: Falun Gong)

8.10 Commenting on the circumstances of his visit, the Special Rapporteur added:

"The Special Rapporteur feels compelled to point out that some Government authorities, particularly the Ministries of State Security and Public Security, attempted at various times throughout the visit to obstruct or restrict his attempts at fact-finding. The Special Rapporteur and his team were frequently under surveillance by intelligence personnel, both in their Beijing hotel as well as in its vicinity. Furthermore, during the visit a number of alleged victims and family members were intimidated by security personnel, placed under police surveillance, instructed not to meet the Special Rapporteur, or were physically prevented from meeting with him." **[32b] (p6)**

8.11 The same report also stated:

"The Deputy Procurator-General informed the Special Rapporteur that only 33 law enforcement officials had been prosecuted for torture throughout the country during the first nine months of 2005… According to the 2005 SPP's report to the NPC presented on 9 March 2005 (covering the year 2004), 1595 civil servants had been investigated for suspected criminal activity in cases involving 'illegal detention, coercion of confessions, using violence to obtain evidence, abuse of detainees, sabotaging elections, and serious dereliction of duty resulting in serious loss of life or property.' The report goes on to note that this is a 13.3 percent increase over the previous year's totals and that the SPP personally investigated 82 of the most serious cases. No information is provided, however, on the number of convictions. When compared with other national statistics, the figures for 2005 as well as the earlier statistics are certainly the tip of the iceberg in a country the size of China." **[32b] (p38)**

8.12 A follow-up report, dated 17 February 2009, stated:

"…the Special Rapporteur notes several positive regulatory changes in recent years that relate to criminalizing acts aimed at coercing confessions. He regrets, however, that the definition of torture and the criminalization of torture in Chinese law still do not satisfy the requirements of articles 1 and 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)… The Special Rapporteur notes with interest the Government's on-going efforts to combat torture practices, including through the provision of nationwide training of the police and the introduction of audio and video recording devices in interrogation rooms. However, he also notes reports on shortcomings in the implementation of these new measures as well as on cases of intimidation of defence lawyers. He regrets that the state secrets system continues to be the primary obstacle to independent investigations of torture allegations, thereby also hindering the prosecution of perpetrators. Moreover, the secrecy surrounding actions taken with respect to torture makes it difficult to assess the results of new measures." **[32c] (p4)**

8.13 Amnesty International observed in its *2010 Report* on China (events of 2009), published on 28 May 2010, "Torture continued to be commonplace in places of detention, sometimes leading to death. Torture methods used on detainees included beatings, often with an electric prod, hanging by the limbs, force feeding, injecting unknown drugs and sleep deprivation." **[6b]**

8.14 In its concluding observations, dated 12 December 2008, the UN Committee Against Torture stated:

"Notwithstanding the State party's efforts to address the practice of torture and related problems in the criminal justice system, the Committee remains deeply concerned about the continued allegations, corroborated by numerous Chinese legal sources, of routine and widespread use of torture and ill-treatment of suspects in police custody, especially to extract confessions or information to be used in criminal proceedings… Furthermore, while the Committee appreciates that the Supreme Court has issued several decisions to prevent the use of confessions obtained under torture as evidence before the courts, Chinese Criminal procedure law still does not contain an explicit prohibition of such practice, as required by article 15 of the Convention [against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment]… The Committee is greatly concerned by the allegations of targeted torture, ill-treatment, and disappearances directed against national, ethnic, religious minorities and other vulnerable groups in China, among them Tibetans, Uighurs, and Falun Gong practitioners. In addition, the return of border-crossers and refugees from the Democratic People's Republic of Korea is also an area of concern for the Committee with regard to vulnerable groups… The Committee is deeply concerned that allegations of torture and/or ill-treatment committed by law enforcement personnel are seldom investigated and prosecuted. The Committee notes with great concern that some instances of torture involving acts which are considered as 'relatively minor offences' can lead to only disciplinary or administrative punishment." **[32a]**

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Extrajudicial killings

8.15 The USSD Report 2009 stated, "During the year [2009] security forces reportedly committed arbitrary or unlawful killings. No official statistics on deaths in custody were available." **[2e] (Section 1a)**

(See also section 13: Death penalty)

Protection of witnesses/organised crime

8.16 Article 49 of the Criminal Procedure Law and Articles 306 to 308 of the Criminal Law provide for the protection of witnesses. **[5h] [5i]** However, as noted by the Canadian IRB on 26 January 2004, these provisions are rarely applied in practice. **[3a]** On 22 December 2008 the BBC reported:

"China plans to launch a special campaign to combat mafia-style gangs, according to a state newspaper. As well as tackling drug trafficking and prostitution, crimes caused by rising unemployment will be targeted, the China Daily newspaper reports. The paper says police will also focus on rooting out

corrupt government officials who shelter gangsters. Analysts say China's economic downturn may lead to higher crime rates as thousands of people face unemployment… Organised crime is on the rise in China, and courts across the country saw a 160% annual increase in gang-related crime in 2007. 'Gang-related crimes have become a threat to our social stability and the economy,' one un-named official from the Public Security Bureau told the China Daily. 'Murder, rape, robbery, kidnapping, assault... they dare do anything,' the official said. He said the construction, transport and mining sectors were all areas that attracted gang crime, but warned that other industries were also increasingly being affected." **[9w]**

8.17 According to a report by *Asia Times* dated 21 October 2005, "Triad-like groups may be strong and have solid connections with some officials and police officers, but their reach does not go beyond their own province, and often their own city." **[64g]** On 5 May 2006 the Canadian IRB recorded, "According to a 2005 article in *The Economist*, the ability of Chinese authorities to control 'village-level thuggery' is 'clearly limited' (13 Oct. 2005). However, several sources consulted by the Research Directorate report various efforts being made by the Chinese government to tackle organized crime." **[3k]**

8.18 On 19 August 2009 *The Guardian* reported:

"According to official figures released last month by an agency working under the Communist Party's Central Committee, police have eliminated 1,221 gangs since 2006 and arrested more than 87,300 suspects… Organised crime is growing in China, thanks to factors including economic liberalisation, increasing migration, growing inequality and official corruption. People trafficking, drug smuggling, illegal gambling and extortion are all lucrative. 'Gang-related crimes have become a threat to social stability and the economy,' a Public Security Bureau official told China Daily last year. 'Murder, rape, robbery, kidnapping, assault... they dare do anything.' But private intelligence firm Stratfor said that, unlike in Russia and Italy, organised crime was 'extremely localised'. When groups began to outgrow their local area, the government cracked down with harsh penalties." **[41o]**

8.19 On 3 November 2009 *The Guardian* reported:

"Last month the Chongqing courts sentenced six gangsters to death for murder, machete attacks and price fixing. Senior police and officials and powerful businesspeople were among the 1,500 people detained in the huge crackdown. But the case has underlined the extent to which crime is entrenched in modern China and corrupt officials have co-operated with criminals. 'The facts prove that after the last round of crackdowns [in Chongqing in 2000], triad-related activities are still going strong, and there are still police protecting them,' Chen Zhonglin, dean of the law school at Chongqing University, told Caijing… Pledges to tackle gangs are nothing new. But Chongqing's crackdown has netted an array of suspects, including 14 high-ranking officials plus influential business people and police officers… Professor Ming Xia of the City University of New York, who studies China's criminal underworld, told Associated Press that an internal police ministry report estimated up to three million people were involved in organised crime in 2004. He said the true figure might be higher, adding that local governments had 'essentially lost control' over such activity. The problem is partly of their

own making, he said: corrupt officials not only shelter and benefit from crime, but use hired thugs to enforce decisions." **[41p]**

AVENUES OF COMPLAINT

8.20 In its *Annual Report 2010*, published on 10 October 2010, the US Congressional-Executive Commission on China (CECC) noted:

"Chinese citizens, particularly disadvantaged groups—such as ethnic minorities, religious adherents, and laid-off workers—however, continue to face substantial obstacles in seeking remedies for violations of their legal rights by government entities and officials. During this reporting year, international media and domestic news sources widely reported on a range of systemic obstacles to justice, from the official targeting of human rights advocates to the unlawful detention of petitioners.

"The National People's Congress Standing Committee issued laws and regulations—including a revision to the State Compensation Law and a new Mediation Law—which, if faithfully and effectively enforced, may improve access to justice for Chinese citizens in the future. However, the Chinese government's policy of targeting Chinese human rights defenders and lawyers that handle 'sensitive' case work continued unabated, jeopardizing the potential of these reforms to produce positive results. Systemic abuses within China's xinfang (letters and visits), or petitioning, system continue to reflect official unwillingness to protect the legal rights of Chinese citizens." **[28a] (p190)**

8.21 The same source stated further:

"The xinfang (letters and visits), or petitioning, system exists to provide a channel, outside court challenges, for citizens to appeal government, court, and Party decisions and present their grievances. China's Constitution and the 2005 National Regulations on Letters and Visits provide that Chinese citizens have the right to petition without retribution. Because of 'institutional weaknesses of the Chinese judiciary and government limitations on citizen political participation,' citizen petitions are a 'popular channel' for wronged Chinese citizens seeking accountability. Xinfang offices are found throughout the Chinese bureaucracy, including offices of the Communist Party, police, government, procuratorates, courts, and people's congresses. Citizen petitions cover a range of issues, from 'minor business disputes' to the most egregious alleged abuses and accusations of 'murder, torture, and rape inflicted at the hands of government and police officials.' Despite legal rights to petition and prohibitions against retribution, citizens may face official reprisals, harassment, violence, or detention in reeducation through labor centers, psychiatric hospitals (ankang), and extralegal 'black jails' (hei jianyu)." **[28a] (p196-197)**

8.22 The USSD Report 2009 noted:

"The ability of an individual to petition the government is protected by law; however, persons petitioning the government continued to face restrictions on their rights to assemble and raise grievances. Most petitions addressed grievances about land, housing, entitlements, the environment, or corruption. Most petitioners sought to present their complaints at national and provincial 'letters and visits' offices. In September [2009] three dozen parents reportedly

gathered in Beijing to draw attention to their belief that unsafe vaccines sickened their children. Local officials forcibly returned them to their hometowns.

"Although regulations banned retaliation against petitioners, reports of retaliation continued. This was partly due to incentives provided to local officials by the central government to prevent petitioners in their regions from raising complaints to higher levels. Incentives included provincial cadre evaluations based in part on the number of petitions from their provinces. This initiative aimed to encourage local and provincial officials to resolve legitimate complaints but also resulted in local officials sending security personnel to Beijing and forcibly returning the petitioners to their home provinces. Such detentions occurred before and after the enactment of the new regulations and often went unrecorded. In August [2009] the General Office of the State Council issued new guidelines for handling petitioners. According to the new rules, officials are to be sent from Beijing to the provinces to resolve petition issues locally, thereby reducing the number of petitioners entering Beijing. Other new rules include a mandated 60-day response time for petitions and a regulation instituting a single appeal in each case." **[2e] (Section 2b)**

8.23 On 8 March 2009 *The New York Times* reported:

"According to the state media, 10 million petitions have been filed in the last five years on complaints as diverse as illegal land seizures and unpaid wages. The numbers would be far higher but for the black houses, also called black jails, the newest weapon local officials use to prevent these aggrieved citizens from embarrassing them in front of central government superiors. Officially, these jails do not exist. In China's authoritarian state, senior officials tally petitions to get a rough sense of social order around the country. A successfully filed petition – however illusory the prospect of justice – is considered a black mark on the bureaucratic record of the local officials accused of wrongdoing. So the game, sometimes deadly, is to prevent a filing. The cat-and-mouse contest has created a sizable underground economy that enriches the interceptors, the police and those who run the city's ad hoc detention centers. Human rights activists and petitioners say plainclothes security officers and hired thugs grab the aggrieved off the streets and hide them in a growing constellation of unmarked detention centers. There, the activists say, the aggrieved will be insulted, roughed up and then escorted back to their home provinces. Some are held for weeks and months without charge, activists say, and in a few cases, the beatings are fatal. The police in Beijing have done little to prevent such abuses. They are regularly accused of turning a blind eye or even helping local thugs round up petitioners. That raises suspicions that the central government is not especially upset about efforts to undermine the integrity of the petition system… Rights advocates say that black houses have sprouted in recent years partly because top leaders have put more pressure on local leaders to reduce the number of petitioners reaching Beijing." **[21b]**

8.24 On 26 November 2009 *The Telegraph* reported:

"Until now, the Communist Party has strenuously denied running black jails, despite a growing number of testimonies and evidence from former inmates. However, a report in Liaowang (Outlook), a magazine which is written for elite government officials and published by the official Xinhua news agency, laid

the system bare. The victims of the jails are usually ordinary Chinese who have travelled to Beijing to lodge a complaint, or petition, with the central government that their local officials have ignored. Every day, hundreds of petitioners arrive in Beijing from across China, only to be hunted down by plain-clothes policemen or even private security firms sent by their home province to 'retrieve' them. Since local governments are judged on the number of grievances that arrive in Beijing, officials are often determined not to let the petitioners file their claims. The Liaowang report said that the number of people employed by local governments to abduct citizens 'can reach over 10,000'. 'In Beijing, a monstruous [sic] business network has emerged to feed, house, transport, man-hunt, detain and retrieve petitioners,' said the magazine. It added that there are at least 73 black jails in the capital, often in unused homes or psychiatric wards. Private security firms demand fees of 100 yuan (£9) to 200 yuan per person they abduct. Liaowang said the system 'seriously damaged the government's image'." **[25e]**

8.25 In November 2009 Human Rights Watch published a report on China's "black jails", in which it stated:

"Inside China's black jails, detainees are denied access to legal counsel and in most cases contact with family and friends. Detainees are kept under constant surveillance, and subject to often arbitrary physical and psychological abuse including beatings, sexual violence, threats, and intimidation. In some black jail facilities, guards deprive detainees of food and sleep as mechanisms to punish, control, or elicit information from detainees. Black jail conditions are uniformly harsh. Detainees endure crowded sleeping quarters, unsanitary conditions, poor quality food in insufficient quantities, and violent reprisals for complaints about such conditions. The guards at black jails routinely deny detainees access to needed medical care, even in cases of injuries from beatings… Former black jail detainees report that guards often steal detainees' personal belongings, including petitioning documents, demand payment for food or lodging at the black jail facilities, and demand large lump sum payments as high as 15,000 yuan (US$2,205) as a condition of release." **[7b] (p4)**

8.26 In a report dated 1 April 2008, Amnesty International stated:

"Recent reports indicate that petitioners who had travelled to Beijing from various parts of China have been among those targeted in the 'clean up' of the city in the run-up to the Olympics… After they have been forcibly returned home, activists and petitioners risk further abuse, including being sentenced to terms of RTL [re-education through labour] to punish them for their activities and prevent them from returning to Beijing." **[6p]**

8.27 On 19 August 2009 the BBC reported:

"The Chinese government has issued a new regulation to stop petitioners from travelling to the capital, Beijing. Legal officials from Beijing will now visit people with complaints in the provinces in order to hear their cases. Petitions can also be filed online and a response or solution is to be given within 60 days… The move is part of a drive to maintain social harmony and stability ahead of the 60th anniversary of the People's Republic of China [on 1 October 2009]." **[9ag]**

8.28 As recorded by the Canadian IRB on 26 March 2004:

"No specific information on whether a Chinese citizen would have recourse against personal vendettas by law enforcement officials from outside his or her home province could be found among the sources consulted by the Research Directorate. However, in a statement made in the Hong Kong-based International Anti-Corruption Newsletter, Wang Jianming, Deputy Director-General of the Anti-Corruption Bureau of China's Supreme People's Procuratorate stated that [a]nti-corruption units are now established at all 4 levels of procuratorates throughout the country. For the Supreme People's Procuratorate, an anti-corruption general office is established. And anti-corruption offices are set up under the provincial people's procuratorates, municipal people's procuratorates and county people's procuratorates. At present, there are about 40,000 cadres and procurators from various procuratorates throughout the country taking part in the fight against corruption (2003)." **[3x]**

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9. MILITARY SERVICE

9.01 Europa World, accessed on 29 September 2010, noted, "Military service is usually by selective conscription, and is for two years in all services." **[1a] (Defence)**

9.02 As recorded by the Government White Paper, *China's National Defense in 2004* (Chapter V):

"The Military Service Law of the PRC stipulates that male citizens who reach the age of 18 by December 31 each year are eligible for enlistment for active service. Those who are not enlisted that year remain eligible for enlistment until the age of 22. Female citizens may also be enlisted, if necessary. Male citizens reaching the age of 18 before December 31 should register for military service before September 30 of the same year." **[5v]**

9.03 On 17 November 2005 the BBC reported that members of the Xinjiang Production and Construction Corps or Bingtuan undertake 40 days' military training each year. The Bingtuan operates in Xinjiang and comprises 2.5 million Han settlers. **[9t]**

(See also section 27: Children Child soldiers)

POSTPONEMENT AND EXEMPTION

9.04 As stated in the Government White Paper, *China's National Defense in 2004* (Chapter V), "If a citizen qualified for enlistment is the only supporter of his or her family or is a student in a full-time school, his or her enlistment may be postponed." **[5v]** Article 3 of the Military Service Law of the People's Republic of China states, "Exemptions from military service shall be granted to persons unfit for it owing to serious physical defects or serious deformities. Persons deprived of political rights by law may not perform military service." **[5m]**

9.05 War Resisters' International (WRI), in its China report (1998), noted, "The right to conscientious objection is not legally recognized and there are no provisions for substitute service." **[37a]** The penalties for draft evasion are not specified in the Military Service Law.

DESERTION

9.06 The Military Service Law does not specifically address the issue of desertion. Instead it refers to Article 6 of the Interim Regulations of the People's Republic of China on Punishment of Servicemen Who Commit Crimes Contrary to Their Duties, effective from 1 January 1982. **[5m]** This states, "Any person who deserts from the armed forces in violation of the military service law, if the circumstances are serious, shall be sentenced to imprisonment of not more than three years or criminal detention. Any person who commits the crime in the preceding paragraph during wartime shall be sentenced to imprisonment of not less than three years and not more than seven years." **[5s]**

9.07 Article 2 of the same regulations stated:

"Any act of a serviceman on active duty of the Chinese People's Liberation Army that contravenes his duties and endangers the state's military interests and is punishable with criminal penalties by law constitutes a crime in contravention of a serviceman's duties. However, if the circumstances are clearly minor and the harm is not great, the act shall not be considered a crime and shall be dealt with in accordance with military discipline." **[5s]**

9.08 The Interim Regulations (1982) and the Criminal Law (1997) stipulate that soldiers who endanger national security through desertion or who flee the battlefield may be sentenced to death. However, both make a distinction between crimes committed in peacetime and those committed in wartime. **[5s] [5i]**

9.09 Article 451 of the Criminal Law states, "The word 'wartime' as used in this Law means the time when the State declares the state of war, the armed forces receive tasks of operations or when the enemy launches a surprise attack. The time when the armed forces execute martial-law tasks or cope with emergencies of violence shall be regarded as wartime." **[5i]**

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10. JUDICIARY

ORGANISATION

10.01 As noted by Europa World, accessed on 29 September 2010, the Supreme People's Court (SPC) is the highest judicial organ of the state. Below the SPC there are Local People's Courts (higher, intermediate and basic) and Special People's Courts, which include military and maritime courts and railway transport courts. The general principles of the legal system are set out in Articles 123 to 135 of the Constitution. **[1a] (Judicial System) [5a] (Text of the Constitution)**

INDEPENDENCE

10.02 In its *World Report 2010*, covering events in 2009 and published on 20 January 2010, Human Rights Watch stated:

"There has been slow progress in rights awareness and judicial professionalization in China, but the government continues to dominate the legal system. The new president of the People's Supreme Court (SPC), Wang Shengjun, continued the 2008 'Three Supremes' campaign, which emphasizes the centrality of the Communist Party to judicial work. Judicial personnel are asked to subordinate the demands of the law to maintenance of social stability and elimination of challenges to the party." **[7i]**

10.03 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, recorded:

"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." **[2e] (Section 1e)**

(See also section 17: Corruption)

FAIR TRIAL

10.04 In its *Annual Report 2010*, published on 10 October 2010, the US Congressional-Executive Commission on China (CECC) commented, "Chinese lawyers and criminal defendants continue to face numerous obstacles in defending the right to a fair trial. Closed trials, political influence, and a lack of transparency in judicial decisionmaking remain commonplace within the justice system." **[28a] (p91)** The USSD Report 2009 recorded:

"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." **[2e] (Section 1e)**

10.05 The same report noted:

"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…

"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… Police and prosecutorial officials often ignored the due process provisions of the law, which led to particularly egregious consequences in death penalty cases." **[2e] (Section 1e)**

(See also section 13: Death penalty)

RESTRICTIONS ON LAWYERS

10.06 The CECC Report 2010 stated:

"Most Chinese defendants confront the criminal process without the assistance of an attorney. According to a survey reported on Qianlong Web, lawyers participated in criminal defense in approximately 30 percent of criminal cases nationally, and in Beijing, the rate of legal representation was less than 10 percent… Chinese criminal lawyers continue to confront obstacles in handling cases, most notably in managing the 'three difficulties' (san nan) of criminal defense—gaining access to detained clients, reviewing the prosecutors' case files, and collecting evidence." **[28a] (p90)**

10.07 The USSD Report 2009 stated:

"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… 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… 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…

"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." **[2e] (Section 1e)**

10.08 In a report dated April 2008, Human Rights Watch noted:

"Chinese lawyers continue to face huge obstacles in defending citizens whose rights have been violated and ordinary criminal suspects. This report shows that lawyers often face violence, intimidation, threats, surveillance, harassment, arbitrary detention, prosecution, and suspension or disbarment from practicing law for pursuing their profession. This is particularly true in politically sensitive cases. Lawyers are often unable to seek redress for these threats and attacks as law enforcement authorities refuse to investigate abuses, creating a climate of lack of accountability for actions against members of the legal profession." **[7h]**

10.09 In its *World Report 2010*, covering events in 2009 and published on 20 January 2010, Human Rights Watch stated:

"In late May, Beijing judicial authorities, without giving any reason, refused to renew the professional licenses of about a dozen of China's most prominent civil rights lawyers, leaving them unable to practice law. Control over the yearly renewal of professional licenses remains one of the main obstacles to the independence of China's legal profession, but Beijing officials had until then been seen as relatively tolerant in granting renewals. One particular law firm, Yitong, was apparently targeted; some of its partners had challenged the government-controlled Beijing Lawyers Association over its mode of election and were subsequently suspended for six months in June." **[7i]**

CRIMINAL PROCEDURE LAW (1997)

10.10 According to the USSD Report 2004, published on 28 February 2005:

"The Criminal Procedure Law falls short of international standards in many respects. For example, it has insufficient safeguards against the use of evidence gathered through illegal means, such as torture, and it does not

prevent extended pre- and post-trial detention. Appeals processes failed to provide sufficient avenue for review, and there were inadequate remedies for violations of defendants' rights. Furthermore, under the law, there is no right to remain silent, no protection against double jeopardy, and no law governing the type of evidence that may be introduced. The mechanism that allows defendants to confront their accusers was inadequate; according to one expert, only 1 to 5 percent of trials involved witnesses. Accordingly, most criminal 'trials' consisted of the procurator reading statements of witnesses whom neither the defendant nor his lawyer ever had an opportunity to question. Defense attorneys have no authority to compel witnesses to testify. Anecdotal evidence indicated that implementation of the Criminal Procedure Law remained uneven and far from complete, particularly in politically sensitive cases." **[2j] (Section 1a) [5h] (Text of the Criminal Procedure Law)**

STATE SECURITY LAW (1993)

10.11 Article 4 of the State Security Law of the People's Republic of China provides that the following acts are considered as endangering state security and shall be prosecuted according to the law:

1 "... plotting to subvert the government, dismember the State or overthrow the socialist system;

2 joining an espionage organization or accepting a mission assigned by an espionage organization or by its agent;

3 stealing, secretly gathering, buying, or unlawfully providing State secrets;

4 instigating, luring or bribing a State functionary to turn traitor; or

5 committing any other act of sabotage endangering State security." **[5g] (p2)**

10.12 Articles 102 to 113 of the Criminal Law cover the crime of endangering national security. Penalties range from three to ten years' imprisonment, as well as criminal detention, public surveillance or deprivation of political rights. If the crime is particularly serious the person may be sentenced to death (see Article 113). **[5i] (p18-20)**

DOUBLE JEOPARDY

10.13 Articles 8 to 12 of the Criminal Law cover the circumstances in which an individual who commits crimes outside the PRC can be retried upon return to China.

Article 8
"This law may be applicable to foreigners, who outside PRC territory, commit crimes against the PRC state or against its citizens, provided that this law stipulates a minimum sentence of not less than a three-year fixed term of imprisonment for such crimes; but an exception is to be made if a crime is not punishable according [to] the law of the place where it was committed.

Article 9

"This law is applicable to the crimes specified in international treaties to which the PRC is a signatory state or with which it is a member and the PRC exercises criminal jurisdiction over such crimes within its treaty obligations.

Article 10
"Any person who commits a crime outside PRC territory and according to this law bear criminal responsibility may still be dealt with according to this law even if he has been tried in a foreign country; however, a person who has already received criminal punishment in a foreign country may be exempted from punishment or given a mitigated punishment.

Article 11
"The problem of criminal responsibility of foreigners who enjoy diplomatic privileges and immunity is to be resolved through diplomatic channels.

Article 12
"If an act committed after the founding of the PRC and before the implementation of this law was not deemed a crime under the laws at that time, the laws at that time are to be applicable. If the act was deemed a crime under the laws at that time, and if under the provisions of Chapter IV, Section 8 of the general provisions of this law it should be prosecuted, criminal responsibility is to be investigated according to the laws at that time. However, if this law does not deem it a crime or imposes a lesser punishment, this law is to be applicable.

"The effective judgments that were made according to the laws at that time before the implementation of this law will continue to be in force." **[5i] (p3)**

10.14 In a letter dated 15 July 2005, the FCO stated:

"The circumstances under which an individual would be punished in China for a crime committed in a foreign country for which he had already been punished in that country are unstipulated. The Chinese authorities are most likely to take this action if the crime had received a lot of publicity in China, if the victims were well-connected in China, if there were a political angle to the original crime or if the crimes were of a particular type that the authorities wanted to make an example of. Our Embassy in Beijing is unaware of such instances. The specific inclusion in the Criminal Law of 'exemptions' from second punishment in China for crimes committed abroad suggests that the authorities would not take further action against ordinary criminal offences." **[31g]**

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11. ARREST AND DETENTION – LEGAL RIGHTS

11.01 Article 42 of the Criminal Law states, "The term of criminal detention is not less than a month and not more than six months." **[5i] (p8)** Article 58 of the Criminal Procedure Law states, "The maximum period for release upon bail pending trial is by the people's court procuratorate and public security organ may not exceed 12 months, and the maximum period for residential surveillance may not exceed six months." **[5h] (Chapter VI)**

11.02 In its *Annual Report 2010*, published on 10 October 2010, the US Congressional-Executive Commission on China (CECC) stated:

"Arbitrary detention in China takes many forms and continues to be used widely by Chinese authorities to quell local petitioners, government critics, and rights advocates. Arbitrary detention includes various forms of extralegal detention, such as 'black jails' (hei jianyu); 'soft detention' (ruanjin), a form of unlawful home confinement; reeducation through labor, an administrative detention of up to four years for minor crimes; and forcible detention in psychiatric hospitals for nonmedical reasons." **[28a] (p92)**

11.03 In its concluding observations, dated 12 December 2008, the UN Committee Against Torture stated:

"…the Committee notes with concern the lack of legal safeguards for detainees, including:
(a) Failure to bring detainees promptly before a judge, thus keeping them in prolonged police detention without charge for up to 37 days or in some cases for longer periods;
(b) Absence of systematic registration of all detainees and failure to keep records of all periods of pretrial detention;
(c) Restricted access to lawyers and independent doctors and failure to notify detainees of their rights at the time of detention, including their rights to contact family members;
(d) Continued reliance on confessions as a common form of evidence for prosecution, thus creating conditions that may facilitate the use of torture and ill-treatment of suspects...;
(e) The lack of an effective independent monitoring mechanism on the situation of detainees." **[32a]**

11.04 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, recorded:

"Arbitrary arrest and detention remained serious problems. The law permits police and security authorities to detain persons without arresting or charging them… 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." **[2e] (Section 1d)**

11.05 The same source stated:

"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." **[2e] (Section 1d)**

11.06 The USSD Report 2009 also recorded:

"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." **[2e] (Section 1d)**

11.07 Amnesty International noted on 12 May 2006 that the Public Order Administration Punishment Law (POAPL), effective from 1 March 2006, is designed to provide greater legal protection for people deprived of their liberty. However, Amnesty International "…remains concerned that the POAPL fails to meet international fair trial standards." **[6o] (p1)** The same source also stated:

"Amnesty International has long-standing concerns that many offences in Chinese legislation are either defined vaguely or worded in such a way as to allow for the detention of individuals for the peaceful exercise of their fundamental human rights, including freedom of expression, assembly and association… Many of the public order offences detailed in the POAPL are not clearly defined, potentially giving the police free rein to detain individuals in violation of their rights to freedom of expression, assembly and association. Such 'offences' include: 'spreading rumours' (Article 25), 'provoking quarrels' (Article 26) and 'instigating or plotting illegal gatherings, marches or demonstrations' (Article 55). Such provisions have regularly been used in the past to arbitrarily detain numerous individuals for the peaceful exercise of basic human rights, including petitioners and human rights defenders." **[6o] (p3)**

(See also section 12: Administrative detention/labour camps)

ARREST WARRANTS

11.08 Article 123 of the Criminal Procedure Law states:

"If a criminal suspect who should be arrested is a fugitive, a public security organ may issue a wanted order and take effective measures to pursue him for arrest and bring him to justice. Public security organs at any level may directly issue wanted orders within the areas under their jurisdiction; they shall request a higher-level organ with the proper authority to issue such orders for areas beyond their jurisdiction." **[5h] (Section 8)**

11.09 On the basis of a number of sources, the Canadian IRB reported on 1 June 2004:

"…it is very common in China for the police authorities to leave a summons or subpoena with family members (or possibly close friends, though that is probably less common), instructing them to pass it along to the person named on the summons. The person accepting the summons would be expected to sign an acknowledgement of receipt. This is not actually the proper procedure, but it happens all the time, especially in cases when the person on the summons is not easily locatable. ... [S]ome police officers themselves are not well versed in the proper procedures, and probably think that this is a perfectly acceptable practice (while others may simply be too idle to chase the person down, and rely on the public's sense of intimidation to do their work for them) (23 Apr. 2004)." **[3r]**

WANTED POSTERS

11.10 On 16 November 2005 the official *China Daily* newspaper reported that police in Henan had begun issuing US-style playing cards featuring the details of people wanted by the police. **[14c]**

11.11 In reply to a series of questions submitted by the Country of Origin Information (COI) Service, the Overseas Liaison Officer of the Serious Organised Crime Agency (SOCA), based at the British Embassy in Beijing, advised the following on 10 April 2006:

"1) Do the Ministry of Public Security (MPS) use wanted posters?
A) Yes, as do the Provincial Police Forces (Public Security Bureau – PSB).

2) If so how widespread is their use?
A) Quite widespread. They 'post' them on official websites, in newspapers, public places (airports, railway/bus stations, public buildings etc.) They also circulate them internally within MPS and other PSBs. However in one way because of the size of the population they do not include 'all wanted suspects,' but tend to select the more imprtant [sic] 'wanted people.'

3) In your opinion how easy are these documents to forge?
A) In fairness, as with all official documentation within China, I am of the opinion that any document can be forged quite easily.

4) In your opinion could a "genuine" document be obtained from a corrupt police officer?
(A) Yes

5) Does the format vary between provinces or is it standard?
A) Most of the Provinces follow a nation standardised version [sic] of a wanted poster, which generally includes a photograph [when available], personal details of the suspect and brief details of the offence and who/where to contact." **[31k]**

11.12 As reported by the Canadian IRB on 26 March 2004:

"When the [PSB] of one province wants to make an arrest in another province, the [PSB] must prepare the necessary 'Ju Liu Zheng' ('Detention Warrant') or 'Dibu Zheng' ('Arrest Warrant' before making arrests in other provinces or districts. The arresting [PSB] officer of the initiating province will then be escorted and supported by [PSB] officers of the executing province (Section 314 of 'Police Procedures') (19 Mar. 2004)." **[3x] (Based on information provided by a professor of criminal justice and president of the Asian Association of Police Studies)**

RESISTING ARREST/HITTING AN OFFICIAL

11.13 Article 277 of the Criminal Law covers the penalty for hitting an official. It states, "Whoever uses violence or threat to obstruct state personnel from discharging their duties is to be sentenced to not more than three years of fixed-term imprisonment, criminal detention, or control; or a sentence of a fine." **[5i] (p58)**

11.14 On 8 October 2005 the official *People's Daily* newspaper reported that assaults on policemen are increasingly common in China. Statistics from the Ministry of Public Security showed that in the first half of 2005, 23 policemen were killed and 1,803 were injured while performing their duties. **[12p]**

PUNISHMENT OF MINOR OFFENCES

11.15 As recorded by Xinzhou Zhang in a dissertation entitled, 'A Restorative Justice Audit of the Chinese Criminal Justice System', published in the October 2005 edition of *Restorative Justice*:

"It appears to be taken for granted internationally that Chinese criminal justice is punitive and retributive. It is true that few offenders avoid criminal penalties, but not all deviances in China are criminal offenses. Wrongdoing is divided into two main categories: infringement of law (wei fa) and crime (fan zui). Criminal law deals with the most serious offenders. Those who are not serious offenders are subject to the Security Administration Punishment Regulations (SAPR) or re-education through labor (RTL). Punishments under the SARP are: warning, a fine up to 200 RMB and detention for 15 days. Servitude for the RTL is generally from one to three years, with a maximum of four years under special circumstances. SARP and RTL punishments are administrative orders decided by the police without trial. The RTL is controversial because it can be even more severe than some criminal sentences although it is considered an administrative sanction." **[78a] (p20)**

(See also section 12: Administrative detention/labour camps)

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12. PRISON CONDITIONS

(For statistical information on prisoners in China, see: http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_country.php?country=91)

12.01 In a report dated 10 January 2008, the Laogai Research Foundation stated:

> "A recent report by Xinhua, a state-controlled mouthpiece of the Communist regime in China, touts a recent campaign by the Ministry of Justice to reform prison administration nationwide. The key components of the program are the improvement of prison facilities and the expansion of a 'community correction' system, whereby non-violent offenders of minor crimes may be aided in their transition back into local communities. While improved facilities and increased efforts to repatriate offenders are certainly welcome changes, these reforms do not even acknowledge let alone address the most blatant and important instances of human rights abuses which are inherent to the laogai system, namely thought reform and forced labor. Thought reform, or 'reeducation', continues to be used in prisons as a tool to stifle elements that are considered hostile to the Communist regime. Although the political study sessions common during Mao Zedong's reign no longer exist, other means are used to suppress political dissent and free religious practice, including forced confessions of crimes and renouncements of political and religious beliefs and special reeducation classes that may rely on peer pressure, humiliation, torture, and abuse by other prisoners. Efforts to essentially brainwash prisoners violate their basic rights much in the same way that they are violated outside of Chinese prisons… More so than thought reform, forced labor remains an integral tenet of prison administration in China. Prisoners are forced to perform tedious and exhausting labor for very long hours every day that is often dangerous or poses great risk to their health. They receive little or no compensation, inadequate food, and are not provided with proper safety equipment." **[35b]**

12.02 The Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, published on 10 March 2006, stated:

> "The Special Rapporteur visited a total of 10 detention facilities… In general, the Special Rapporteur found that although the specific conditions of the facilities varied, in terms of basic conditions, such as food, medicine and hygiene, they were generally satisfactory. However, the Special Rapporteur noticed a palpable level of fear when talking to detainees. He also was struck by the strict level of discipline exerted on detainees in different facilities. Time and again, he entered cells and found all detainees sitting cross legged on a mattress or in similar forced positions reading the CL [criminal law] or prison rules. According to information provided by detainees, such forced re-education, in particular in pretrial detention centres, goes on for most of the day… Even when serving long prison sentences, persons convicted of political offences usually have no right to work and very little time for recreation. They are not allowed to practise their religion (e.g. Buddhism in Tibet, Islam in Xinjiang)." **[32b] (p19)**

12.03 In its concluding observations, dated 12 December 2008, the UN Committee Against Torture stated:

"While the Committee takes note of the information from the State party on conditions of detention in prisons, it remains concerned about reports of abuses in custody, including the high number of deaths, possibly related to torture or ill-treatment, and about the lack of investigation into these abuses and deaths in custody. While the Committee notes that the Special Rapporteur on the question of torture has found the availability of medical care in the detention facilities he visited to be generally satisfactory, it also notes with concern new information provided about inter alia the lack of treatment for drug users and people living with HIV/AIDS and regrets the lack of statistical data on the health of detainees." **[32a]**

12.04 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, recorded:

"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… 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… 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… 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... 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." **[2e] (Sections 1c and 1e)**

12.05 The same source reported, "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)." The report also stated that "Sexual and physical abuse and extortion occurred in some detention centers." **[2e] (Section 1c)**

12.06 On 2 April 2009 the BBC reported that China had launched a three-month campaign to "eliminate unnatural deaths" of prison inmates, stating that "The campaign comes after the deaths of at least five prisoners in police custody in recent months. The UN's Committee Against Torture recently said there was evidence that ill-treatment of Chinese prisoners was both routine and widespread. With this new campaign, China seems to be acknowledging that

its inmates are not always treated as they should be." **[9y]** On 13 April 2009 *The Telegraph* reported:

"China released its first 'action plan' on human rights on Monday [13 April]… Despite the emphasis on economic and social rights, the report did promise to do more to prevent prisoner abuses, following a wave public outcry over several recent 'accidents' in Chinese jails, including one prisoner who died 'playing hide and seek'. In an apparent nod to that public concern, the plan calls for a physical barrier between detainees and interrogators and mandatory physical examinations for detainees before and after they are questioned." **[25c]**

PSYCHIATRIC CUSTODY (ANKANG SYSTEM)

12.07 As recorded by Human Rights Watch in its report entitled, *China: Political Prisoner Exposes Brutality in Police-Run Mental Hospital, Eyewitness Testimonies from Notorious Ankang Asylum*, published on 1 November 2005:

"Wang Wanxing [detained in June 1992] is the first known released inmate of China's notorious Ankang system, out of an estimated 3,000 or more political detainees held in police-run psychiatric custody since the early 1980s, to have left China and be in a position to speak out about his experiences. However, according to Wang, the last thing one of the Beijing Ankang officials said to him before he boarded his flight to Germany was, 'If you ever speak out about your experiences at our hospital, we'll come and bring you back here again.' … Wang told Human Rights Watch about the general conditions of his confinement at the Beijing Ankang asylum, and about how he and the other inmates were treated there… According to Wang, the extent of patient-on-patient violence in this ward was terrifying. He frequently had to force himself to stay awake all night to avoid sudden and unprovoked inmate attacks." **[7d] (p1)**

12.08 This report continued, "Since his initial detention in June 1992, Chinese authorities have consistently maintained that Wang suffered from either 'paranoid psychosis' or 'political monomania' – the later condition is not found in any internationally recognized list of psychiatric illnesses." **[7d] (p2)** The same report also noted:

"All staff at the Beijing Ankang, including medical and nursing personnel, are full-time officers in the Public Security Bureau, and all inmates are persons who have been detained for criminal offenses committed while allegedly under the influence of severe psychiatric illness. There are currently around 25 Ankang institutes for the criminally insane in China; the government's eventual plan is to build one Ankang for every city with a population of one million or higher. There are more than 70 cities of this size around the country… Only a handful of foreigner observers have ever been allowed inside these high-security psychiatric facilities. In 1987, for example, a WHO-led delegation briefly visited the Tianjin Ankang. But the great majority of such facilities are strictly off-limits to outsiders of any kind, including Chinese. The Public Security Bureau acts as sole judge and jury over who is compulsorily admitted to Ankang custody, and inmates have no right of appeal or even of periodic medical review of their cases. According to Chinese authorities, the average length of stay in Ankang custody is five years. Many inmates are held for 20

years or more. According to Wang Wanxing, several of his fellow inmates at the Beijing Ankang had been there for 30 or 40 years." **[7d] (p3-4)**

12.09 As reported by Human Rights Watch on 17 March 2006, psychiatric experts examined Wang on 3 and 4 January 2006 and concluded there were no medical grounds for his incarceration. **[7e]** The USSD Report 2009 recorded:

"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." **[2e] (Section 1c)**

12.10 In a report dated 8 December 2008, *The Guardian* stated:

"Local officials in China appear to be increasingly using forcible psychiatric treatment to silence critics, a leading expert said today amid claims that at least 18 complainants were held in a mental hospital in Shandong province against their will. Authorities in Xintai district committed people who had pursued grievances ranging from police brutality to property disputes, according to the Beijing News, well known for its investigative journalism. Some were force-fed drugs. 'Until the early 90s, the practice of police forcibly sending people to mental asylums without justification was mainly carried out against political dissidents,' said Robin Munro, author of China's Psychiatric Inquisition: Dissent, Psychiatry and the Law in Post-1949 China. 'Since then we have seen a very different trend – fewer are of that variety, and more and more, they are petitioners or whistleblowers exposing corruption, or simply persistent complainants. 'It's a covert way to silence people ... There is no accountability or oversight. The person disappears, effectively; and with them, whatever evidence they have compiled against officials.' Once a police or civilian psychiatrist has certified someone as mentally ill, the patient loses all legal rights and can be held indefinitely. Munro said that while it was impossible to tell how widespread the practice was, the authorities seemed to be using it more frequently." **[41i]**

ADMINISTRATIVE DETENTION/LABOUR CAMPS

Re-education Through Labour (RTL)

12.11 In its *Annual Report 2010*, published on 10 October 2010, the US Congressional-Executive Commission on China (CECC) noted:

"Public security officers continue to use the reeducation through labor (RTL) system to silence critics and to circumvent the criminal procedure process. RTL is an administrative measure that allows Chinese law enforcement

officials to order Chinese citizens, without legal proceedings or due process, to serve a period of administrative detention of up to three years, with the possibility of up to one-year extension. While Chinese sources maintain that the RTL system has been established 'to maintain public order, to prevent and reduce crime, and to provide compulsory educational reform to minor offenders,' RTL is used frequently to punish, among others, dissidents, drug addicts, petitioners, Falun Gong adherents, and religious practitioners who belong to religious groups not approved by the government. During this reporting year, the Commission observed numerous accounts of RTL orders violating the legal rights of Chinese citizens, specifically their rights to a fair trial and to be protected from arbitrary detention." **[28a] (p93)**

12.12 On 5 February 2009 AsiaNews reported:

"…every year, hundreds of thousands of Chinese are confined to forced labor camps, without any charges, trial, or appeal, making China the world leader in arbitrary detentions. The 'reeducation through work [labour] (laodong jiaoyang)' system allows the police to sentence a person to up to 4 years of detention for 'minor crimes.' These include drug use and prostitution, but also presenting petitions, defending human rights, being a member of an illegal religious community, like the underground Christian communities, Muslim communities, the Falun Gong. 'Reeducation through work' is parallel to the system of the 'laogai,' reform through work. The only difference is that one must be formally sentenced to the laogai. 'Reeducation' is, instead, an 'administrative' matter, handled by the police force. The situation in the laogai and the laojiao is similar in every way. From the testimonies… a picture emerges of daily suffering for the detainees: torture; beatings on the part of policemen or kapos (other detainees instructed by the guards); up to 20 hours of work per day; withholding of their miserable salaries; dangerous working conditions, because of the use of toxic substances; insufficient food; complete lack of sanitation; medical care only in cases of emergency; prohibition of visits from family members… The Laogai Foundation, which publishes reliable statistics each year, says that in June of 2008 there were 319 camps for the laojiao, with a population of between 500,000 and 2 million. Of these, about 10% are political prisoners." **[58g]**

12.13 In a report dated 8 October 2007, Amnesty International stated:

"Administrative detention covers forms of detention which in China are imposed by the police without charge, trial or judicial review, as forms of punishment. Such practices in China include: Re-education Through Labour, the most common form of administrative detention in China, imposed for periods up to four years for a wide variety of minor offences not considered serious enough to be punished under the Criminal Law… In May 2006, the Beijing city authorities announced their intention to extend the use of Re-education Through Labour as a way to control what they considered to be offending behaviour and to 'clean up' the city's image ahead of the Olympics… Hundreds of thousands of people are believed to be held in Re-education Through Labour facilities across China, many in harsh conditions. These include petty criminals, critics of the government or followers of banned beliefs. Those assigned to Re-education Through Labour are forced to work for long hours as part of their 're-education' in a manner similar to compulsory labour in prisons. Detainees are at high risk of torture or ill-treatment,

particularly if they refuse to recant their 'offending behaviour' or attempt to appeal against their sentence." **[6i]**

12.14 The Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, published on 10 March 2006, stated:

"Re-education through Labour (RTL) is one type of administrative detention. There is no law underpinning the system of RTL; rather, the regulatory framework is comprised of a patchwork of administrative regulations contrary to the 2000 Legislation Law, which states that only the National People's Congress, and in some cases its Standing Committee, can pass legislation on matters relating to the deprivation of liberty of Chinese citizens. According to article 10 of the 1982 Regulations, six categories of petty offenders are identified as not deserving criminal sanctions: counter-revolutionaries or elements who oppose the Communist Party or socialism; those who commit minor offences relating to group crimes of murder, robbery, rape or arson; those who commit minor offences such as hooliganism, prostitution, theft, or fraud; those who gather together to fight, disturb social order, or instigate turmoil; those who have a job but repeatedly refuse to work, and disrupt labour discipline, complain endlessly, as well as disrupt the production order, work order, school and research institute order and people's normal life; and those who instigate others to commit crimes. Terms for RTL are fixed at between one and three years with the possibility of an extension of one year. Decisions on RTL are supposed to be taken by an Administrative Committee comprised of officials from the bureaux of civil affairs, public security and labour. In practice, however, public security officials dominate the decision-making process." **[32b] (p11)**

12.15 As noted by the USSD Report 2009:

"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 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… Under the 'staying at prison employment' system applicable to recidivists incarcerated in RTL camps, authorities denied certain persons permission to return to their homes after serving their sentences. Some released or paroled prisoners returned home, but they were not permitted freedom of movement." **[2e] (Sections 1c, 1d and 2d)**

Other forms of administrative detention

12.16 In its report dated 8 October 2007, Amnesty International referred to two other forms of administrative detention:

"• Enforced Drug Rehabilitation, used to punish alleged drug addicts with terms of up to three to six months, often in harsh conditions. Beijing police

have declared an intention to extend this to one year in an attempt to force drug addicts to give up their addictions before the Olympics.

"• Custody and Education, used to punish alleged prostitutes and their clients with sentences of between six months and two years." **[6i]**

12.17 The USSD Report 2009 also observed:

'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." **[2e] (Section 1d)**

12.18 In his book *Wild Grass* (2004), Ian Johnson wrote that Falun Gong practitioners were sometimes held in makeshift prisons run by neighbourhood committees. These can be a single room in the committees' offices and therefore not as secure as regular detention facilities. **[50f] (p196, 218-219)**

(See also section 21: Falun Gong)

12.19 Article 8 of the Law on Administrative Penalty states:

"Types of administrative penalty shall include:

1 disciplinary warning;
2 fine;
3 confiscation of illegal gains or confiscation of unlawful property or things of value;
4 ordering for suspension of production or business;
5 temporary suspension or rescission of permit or temporary suspension or rescission of license;
6 administrative detention; and
7 others as prescribed by laws and administrative rules and regulations." **[5p] (p2)**

12.20 Article 9 states, "Different types of administrative penalty may be created by law. Administrative penalty involving restriction of freedom of person shall only be created by law." **[5p] (p2)**

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13. DEATH PENALTY

13.01 Article 48 of the Criminal Law states:

"The death penalty is only to be applied to criminal elements who commit the most heinous crimes. In the case of a criminal element who should be

sentenced to death, if immediate execution is not essential, a two-year suspension of execution may be announced at the same time the sentence of death is imposed. Except for judgments made by the Supreme People's Court according to law, all sentences of death shall be submitted to the Supreme People's Court for approval. Sentences of death with suspension of execution may be decided or approved by a high people's court." **[5i] (p8)**

13.02 According to Roger Hood, writing in the Summer 2005 edition of the journal *China Review*:

"The 1997 criminal law changed the article regarding the application of the death penalty from 'only use for the most vicious criminal elements', to 'only use for the most serious criminal elements', but no definition of 'most serious' was given… The 1997 law lists 68 different capital crimes, as follows: 7 crimes of endangering national security, 14 crimes of endangering public security, 16 crimes of undermining the socialist market economy, 5 crimes of infringing upon the persons and the democratic rights of citizens, 2 crimes of encroaching on property, 8 crimes of disrupting the order of social administration, 2 crimes of endangering national defence interests, 2 crimes of corruption and bribery, and 12 crimes of violation of duty by military personnel… But since the promulgation of the 1979 criminal law separate legislations added regulations for many other crimes to warrant the death penalty, the new criminal law actually somewhat reduced the number of crimes attracting the death penalty by imposing restrictions on the application of the death penalty for theft and intentional injury." **[77a]**

SUSPENDED DEATH SENTENCES

13.03 Roger Hood reported in the Summer 2005 edition of the journal *China Review*:

"Suspended death penalty is unique to China, and its application is far from ideal. Originally, suspended death penalty was supposed to be applied if immediate execution was not deemed necessary. However, for certain crimes, courts can only apply it if there are legal grounds for leniency. During 'strike hard' campaigns, cases are judged on the principle of 'the facts being basically clear and the evidence basically sufficient', so if there are doubts in a case as to the facts or the evidence, a suspended death penalty is often given to avoid a miscarriage of justice. But this procedure runs counter to the principle of presumption of innocence." **[77a]**

NUMBER OF EXECUTIONS

13.04 In its *2010 Report* on China (events of 2009), published on 28 May 2010, Amnesty International noted, "Statistics on death sentences and executions remained classified as state secrets and, while executions numbered in the thousands, the government did not release actual figures." **[6b]** In its *World Report 2010*, covering events in 2009 and published on 20 January 2010, Human Rights Watch stated, "China continues to lead the world in the number of executions of prisoners, which different estimates put at between 3,000 and 10,000 annually, despite an official policy of reducing the number." **[7i]**

13.05 On 24 March 2009 *The Guardian* reported, "The number of executions worldwide increased significantly last year, with China responsible for almost

three-quarters of them… There were a total of 2,390 executions worldwide in 2008, of which 1,718 or 72% took place in China." **[41m]**

JUDICIAL OVERSIGHT

13.06 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, recorded:

"Police and prosecutorial officials often ignored the due process provisions of the law, which led to particularly egregious consequences in death penalty cases… In 2007 the SPC [Supreme People's Court] 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… The foreign-based Dui Hua Foundation estimated that approximately 5,000 persons were executed during the year [2009]." **[2e] (Section 1e)**

13.07 In a report dated 30 April 2007, Amnesty International noted:

"Some commentators have drawn attention to limitations in the review process, namely that it is aimed more at ensuring that procedures have been followed correctly, rather than determining the facts of the case. One Beijing-based source reported to Amnesty International that the procedure seems to focus largely on ensuring that the death penalty is applied in a consistent, uniform manner across provinces, rather than effectively addressing potential miscarriages of justice in individual cases." **[6h]**

(See also section 10: Fair Trial)

PEOPLE EXEMPTED FROM THE DEATH PENALTY

13.08 Article 49 of the Criminal Law states, "The death penalty is not to be applied to persons who have not reached the age of eighteen at the time the crime is committed or to women who are pregnant at the time of adjudication." **[5i] (p9)**

(See also section 26: Women)

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14. POLITICAL AFFILIATION

FREEDOM OF POLITICAL EXPRESSION

14.01 As noted by the US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, "…the CCP [Chinese Communist Party] retained a monopoly on political power, and the government forbade the creation of new political parties… activists attempting to support unofficial parties have been arrested, detained, or confined." **[2e] (Section 3)**

14.02 The report also stated:

"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… Many political prisoners remained in prison or under other forms of detention at year's end… Political prisoners obtained parole and sentence reduction much less frequently than ordinary prisoners…

"Criminal punishments continued to include 'deprivation of political rights' for a fixed period after release from prison, during which time the individual is denied rights of free speech and association. Former prisoners sometimes found their status in society, ability to find employment, freedom to travel, and access to residence permits and social services severely restricted. Former political prisoners and their families frequently were subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment, and some encountered difficulty obtaining or keeping employment, education, and housing…

"Some citizens were under heavy surveillance and routinely had their telephone calls monitored or telephone service disrupted, particularly in the XUAR and Tibetan areas. The authorities frequently warned dissidents and activists, underground religious figures, former political prisoners, and others whom the government considered to be troublemakers not to meet with foreign journalists or diplomats, especially before sensitive anniversaries, at the time of important government or party meetings, and during the visits of high-level foreign officials." **[2e] (Sections 1e and 1f)**

14.03 The report noted further, "Security personnel also harassed and detained the family members of political prisoners, including following them to meetings with foreign reporters and diplomats and urging them to remain silent about the cases of their relatives. Family members of activists, dissidents, Falun Gong practitioners, journalists, unregistered religious figures, and former political prisoners were targeted for arbitrary arrest, detention, and harassment." **[2e] (Section 1f)** The same source stated:

"The government also frequently monitored gatherings of intellectuals, scholars, and dissidents where political or sensitive issues were discussed. Those who aired views that disagreed with the government's position on controversial topics or disseminated such views to domestic and overseas audiences risked punishment ranging from disciplinary action at government work units to police interrogation and detention. In December 2008, to commemorate human rights day, a group of 303 intellectuals and activists released a petition entitled Charter 08, calling for human rights and democracy. Within one month more than 7,300 persons signed the petition, of whom police questioned at least 100. Many Charter 08 signers reported experiencing harassment during the year, especially around the time of sensitive anniversaries, trials, or official visits." **[2e] (Section 2a)**

14.04 On 12 January 2009 the BBC reported:

"Chinese lawyers, dissidents and academics who signed a document calling for political reform are being harassed by the authorities. Signatories to the Charter 08 document have been detained, questioned by the police and put under pressure at work. The charter calls for a radical overhaul of China's political system by introducing elections, a new constitution and an independent judiciary… Charter 08 was published last month on the 60th anniversary of the promulgation of the Universal Declaration of Human Rights… But even before the document was published, the police started visiting some of the 300 or so original signatories. Writer and dissident Liu Xiaobo… is believed to be the only signatory being held by the police, but others have experienced other kinds of harassment… The document that appears to be causing so much concern among senior Chinese leaders is one of the most important published in several years… Charter 08 says the Chinese government's approach to modernisation has been 'disastrous'. It 'deprives humans of their rights, corrodes human nature, and destroys human dignity,' the document says. It calls for a political system that guarantees human rights, freedom of expression and protection for private property… President Hu made it clear in a speech to mark the 30th anniversary of the country's reforms that China would not adopt Western-style democracy. Willy Lam, of the Chinese University of Hong Kong, said China's leaders are nervous about calls for political change. This nervousness has increased with the country's economic problems, which could create a restless population receptive to calls for political change." **[9r]**

(See also section 10: State Security Law)

(See also section 12: Administrative detention/labour camps)

14.05 On 19 June 2005 Rupert Wingfield-Hayes, the BBC's Beijing correspondent, writing for the Association for Asian Research (AFAR), reported:

"Chinese who dare to criticise or challenge the government face it [harassment and arbitrary detention] every day. One prominent dissident I know has had a team of police watching her for 10 years. Wherever she goes, whatever she does, they are always there in the background. But it is not just dissidents. The system of control goes deeper. The Chinese state holds a personal dossier on every single one of its citizens – it's called a Dang An. You can never see it – you don't know what it contains – but it can control your destiny. A black mark against you – a bad school report, a disagreement with

your boss, a visit to a psychiatrist – all can travel with you for the rest of your life… Until that changes, the fancy coffee shops and skyscrapers of Beijing will remain a veneer for a police state that relies on coercion and fear to maintain control." **[51a]**

14.06 On 2 November 2009 the BBC reported:

"A few days before the start of this year's Melbourne International Film Festival its executive director received an 'audacious' telephone call. An official from China's consulate in the city called him to 'urge' the festival to withdraw a film about the Chinese activist Rebiya Kadeer. Beijing then tried to persuade the organisers of the Frankfurt Book Fair not to allow two Chinese writers to attend an event. China says it does not interfere in the internal affairs of other countries. But some see these acts as an attempt by China to use abroad the tough censorship measures it constantly employs at home… The [Melbourne] festival organisation was subjected to an intense campaign of threats, intimidation and disruption, although it is not clear who - if anyone - orchestrated the campaign. The festival e-mail address received insulting messages, there were waves of annoying phone calls and the fax machine was jammed with callers. Some notes to the organisers contained messages threatening Mr Moore's [the executive director's] family. Internet hackers managed to break into the festival's online booking site, making it appear that session tickets had been sold out. Hackers also managed to post a Chinese flag on the main website and Chinese film-makers withdrew their movies from the festival… The Chinese government was just as direct with the organisers of the Frankfurt Book Fair, an annual event that bills itself as a 'worldwide marketplace for ideas'… China was the guest of honour at this October's fair… But Chinese officials were angry when they found out writers Dai Qing and Bei Ling had been invited to a symposium connected to the fair… China asked the organisers to ban the writers, a request they initially agreed to carry out. The two Chinese writers were then allowed to speak at the symposium, but when they stood up to make a speech some of the Chinese delegation left the room. 'We did not come to be instructed about democracy,' a former Chinese ambassador told the event organisers. China often asks foreign governments and organisations not to do something that it perceives to be against its interests. It recently complained to Japan when Tokyo allowed Ms Kadeer to enter the country. But it says this does not contravene its policy of non-interference." **[9ai]**

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FREEDOM OF ASSOCIATION AND ASSEMBLY

14.07 The USSD Report 2009 recorded:

"The law provides for freedom of peaceful assembly; however, the government severely restricted this right in practice. The law stipulates that such activities may not challenge 'party leadership' or infringe upon the 'interests of the state.' Protests against the political system or national leaders were prohibited. Authorities denied permits and quickly suppressed demonstrations involving expression of dissenting political views… All concerts, sports events, exercise classes, or other meetings of more than 200

persons require approval from public security authorities. Although peaceful protests are legal, in practice police rarely granted approval…

"The law provides for freedom of association, but the government restricted this right in practice. CCP policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the government. In practice these regulations prevented the formation of truly autonomous political, human rights, religious, spiritual, labor, and other organizations that might challenge government authority. The government maintained tight controls over civil society organizations. Legal and surveillance efforts aimed at controlling them increased." **[2e] (Section 2b)**

14.08 Article 27 of the Law on Assemblies, Processions and Demonstrations (adopted on 31 October 1989) states:

"The people's police shall stop an assembly, a procession or a demonstration that is being held, if it involves one of the following circumstances:

1 failure to make an application in accordance with the provisions of this Law or to obtain permission for the application;
2 failure to act in accordance with the purposes, manners, posters, slogans, starting and finishing time, places and routes permitted by the competent authorities; or
3 the emergence, in the course of the activity, of a situation which endangers public security or seriously undermines public order." **[5b] (p5)**

14.09 Article 30 of the Regulations for the Implementation of the Law of Assembly, Procession and Demonstration of the People's Republic of China (promulgated on 1 June 1992) states, "When foreigners want to participate in an assembly, procession or demonstration held by Chinese citizens, the responsible individual of the assembly, procession or demonstration shall clearly state this in the application. Without the expressed approval of the competent public security organs, they will not be allowed to participate." **[5c] (p7)**

Civil disturbances

14.10 In its *World Report 2010*, covering events in 2009 and published on 20 January 2010, Human Rights Watch stated:

"Reflecting growing concern over the rising number of public protests across of the country- 100,000 in 2008, up from 8,000 in 1994, according to official estimates-the SPC [People's Supreme Court] announced a program in September 2009 to train judges. This program aims to teach judges how to handle cases related to rising protests and so-called 'mass cases,' claiming that 'hostile forces are gaining strength both at home and abroad' and menacing 'national security and social stability.'" **[7i]**

14.11 In its report, *Freedom in the World 2010*, published on 1 June 2010, Freedom House stated:

"…workers, farmers, and others held tens of thousands of protests during the year, reflecting growing public anger over wrongdoing by officials, especially land confiscation, corruption, and fatal police beatings. Security agencies and

hired thugs often use excessive force to put down demonstrations; in several instances during 2009, this drove protesters to violently attack symbols of authority, such as police cars and government buildings. In June, riot police used batons to disperse an estimated 10,000 residents of Shishou in Hubei province, who had mustered after police refused to investigate the mysterious death of a 24-year-old hotel chef. At least eight people were subsequently sentenced to jail terms, including relatives of the deceased. In some cases, officials tolerate demonstrations as an outlet for pent-up frustration, or agree to protesters' demands." **[26a]**

14.12 The same report stated:

"Despite a growing body of property rights legislation, protection remains weak in practice, and all land is formally owned by the state. Tens of thousands of forced evictions and illegal land confiscations occurred in 2009, generally to provide land for private development, state-led infrastructure projects, or upcoming international events such as the World Expo in Shanghai. Residents who resist eviction, seek legal redress, or organize protests face violence at the hands of local police or hired thugs. In May 2009, over 1,000 villagers in Hunan reportedly clashed with police after a local man was beaten to death by security guards for a company that had begun building on confiscated land. Reforms to rural land use announced at the end of 2008 were put on hold in 2009, ostensibly due to the economic downturn." **[26a]**

14.13 On 19 September 2008 *The Guardian* reported, "Official figures report that there were 90,000 protests last year [2007]. Some recent demonstrations have shown the scale and volatility that such outbreaks can assume… The protests are single-issue affairs, and do not represent organised opposition to communist rule. Still, for a regime that puts great store in stability, such grassroots sentiment cannot be ignored, particularly when it is prompted by anger against local officials or when it spills over into attacks on government and party offices." **[41a]** On 7 July 2009 the BBC reported:

"…despite efforts by the authorities to suppress dissent in China, demonstrations are not that unusual. Every day there are thousands of small protests across this country. Most go unreported, either because they happen in remote areas, or because they are ended quickly by local officials or the police. For the authorities there is always the fear that they could turn into something more serious… For three decades in China people have witnessed rapid change as the economy has been opened up. Many have become much richer. Others feel left behind. Corruption is a major problem. The strains are apparently so intense that small incidents can escalate quickly. It is not that rare for a street brawl or an altercation over an arrest to turn into what the authorities call a 'mass incident' that engulfs a whole neighbourhood." **[9aa]**

14.14 In a report dated 14 March 2007, Human Rights Watch stated:

"…attacks on freedom of expression and assembly come during an explosion of social unrest in recent years. Problems such as corruption, illegal-land seizures, forced evictions, the forced relocation of entire communities in the name of economic development and modernization, unchecked pollution, and the collapse of the welfare state have become burning social issues. According to official Chinese government statistics, an average of 200 protests take place every day – quadruple the number a decade ago." **[7l]**

14.15 The USSD Report 2009 noted:

"Forced relocation because of urban development continued and in some locations increased during the year. Protests over relocation terms or compensation were common, and some protest leaders were prosecuted. In rural areas relocation for infrastructure and commercial development projects resulted in the forced relocation of millions of persons…

"Despite restrictions, there were many demonstrations, but those with political or social themes were broken up quickly, sometimes with excessive force. The number of 'mass incidents' or violent protests against local government increased during the year. As in past years, the vast majority of demonstrations concerned land disputes; housing issues; industrial, environmental, and labor matters; government corruption; taxation; and other economic and social concerns. Others were provoked by accidents or related to personal petition, administrative litigation, and other legal processes." **[2e] (Sections 1f and 2b)**

14.16 On 18 June 2009 the BBC reported:

"Government officials first started linking unemployment and social unrest at the end of last year when the economic crisis began to bite… Even the government admits that some factories closed without paying their workers what they were owed. This has led to an increase in labour disputes. China's courts heard nearly 100,000 in the first three months of 2009, according to the state-run China Daily newspaper. This figure is more than 50% up from last year. The Supreme People's Court confirmed the number of these cases had increased. There have also been protests, particularly in Guangdong province in southern China, where many of the country's exporters are based… disputes - or 'mass incidents' as the government likes to call them - continue to take place in China… But these are mostly about local issues that have not yet threatened the stability of China or its government." **[9af]**

14.17 On 4 August 2009 *Asia Times* reported:

"In China, protests are officially referred to as 'incidents.' If more than 100 people are involved, a 'mass incident' is declared. There were 80,000 such demonstrations in 2007, the last time state media published a figure for a national affliction the central government would like to see reined in. It's safe to say that every day, somewhere in China, an aggrieved crowd gathers in anger over a land seizure or industrial accident. It is only the most sensational of these protests that become 'news' - and then often only if the country's growing army of netizens spreads the word, forcing the hand of state media." **[64c]**

14.18 On 29 September 2009 AsiaNews reported:

"In the latest estimates reported by Chinese press, last year there were over 100 thousand 'mass incidents' (at least one every 4-5 minutes), or protests of hundreds or thousands of people seeking justice for the abuses, or unpaid wages, or poisoning or seizures of land. The figure is 16% higher in cases officially registered by the Ministry for Public Security in 2006 (87 thousand accidents). These 'incidents' have also led to party and police headquarters

being set on fire, gun battles between police and demonstrators, to deaths on both sides." **[58i]**

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OPPOSITION GROUPS AND POLITICAL ACTIVISTS

14.19 The CIA *World Factbook*, dated 29 September 2010, stated that "no substantial political opposition groups exist". **[30a]** As noted by Freedom House, in its report, *Freedom in the World 2010*, published on 1 June 2010:

"Opposition groups like the China Democracy Party are suppressed, and members are imprisoned. Prominent democracy advocate Liu Xiaobo was sentenced in December 2009 to 11 years in prison for his involvement in drafting and circulating Charter 08. At least 100 other signers of the prodemocracy manifesto were reportedly summoned for questioning following its publication. Several other democracy activists received long prison sentences during the year, including Xie Changfa, sentenced to 13 years for organizing a Hunan province branch of the China Democracy Party, and Guo Quan, an online writer and professor who launched the China New People's Party, sentenced to 10 years. In October, the U.S. Congressional-Executive Commission on China published a partial list of over 1,200 political prisoners, while the San Francisco-based Dui Hua Foundation estimated that 1,150 new arrests for 'endangering state security' were made in 2009. Tens of thousands of others are thought to be held in extrajudicial forms of detention for their political or religious views." **[26a]**

14.20 In an article dated 4 July 2003 and reproduced by the Dui Hua Foundation on its website, *The Washington Post* reported:

"The best sources of information about human rights violations in China are often Chinese officials themselves, speaking through officially sanctioned publications or directly to foreigners in the dozen or so official rights dialogues between China and foreign governments… Many of the names Dui Hua uncovers are connected to illegal political and religious groups. The sheer number of such groups is staggering. It is not uncommon to find, in a county gazette, the names of a half-dozen illegal political parties or religious bodies that have been operating under the noses of the local authorities for years. Most opposition groups are small and localized, but from time to time groups that have developed national networks are uncovered in official publications." **[59b]**

(See also Latest News: Events in China from 2 to 15 November 2010)

China Democracy Party (CDP)

14.21 As noted by Freedom House in its report, *Freedom in the World 2010*, published on 1 June 2010, "Opposition groups like the China Democracy Party are suppressed, and members are imprisoned." **[26a]** The USSD Report 2009 stated that "the CDP remained banned, and the government continued to monitor, detain, and imprison current and former CDP members." **[2e] (Section 2b)** The same report noted further:

"On September 15 [2009], in Hunan Province, dissident Xie Changfa, who tried to organize a national meeting of the banned China Democratic Party, was sentenced to 13 years in prison. On October 16, after spending nine months in prison, Guo Quan was sentenced to 10 years in prison and 3 years of deprivation of political rights for 'subversion of state power.' Guo, a former Nanjing University professor and founder of the China New Democracy Party, published articles criticizing the country's one-party system. One of the CDP's founders, Qin Yongmin, who was imprisoned in 1998, remained in prison, as did others connected with a 2002 open letter calling for political reform and reappraisal of the 1989 Tiananmen uprising. More than 30 current or former CDP members reportedly remained imprisoned or held in RTL camps, including Chen Shuqing, Sang Jiancheng, He Depu, Yang Tianshui, and Jiang Lijun. In January CDP member Wang Rongqing was sentenced to six years' imprisonment for 'subversion against the state' after publishing articles critical of the political system. In August CDP member Zhang Lin was released from prison." **[2e] (Section 3)**

14.22 On 8 January 2009 a report by AsiaNews indicated that the CDP remained active in China:

"The activist Wang Rongqing, 65, has been condemned to six years in prison for 'subversion against the state,' having supported and spread the 'China Democracy Party' (CDP)… According to the verdict, Wang is guilty of 'subversion against state power,' because he was the main proponent of the Chinese Democracy Party in Zhejiang, and continued to 'participate in an active way, organizing and developing it' even after the ministry of public safety had branded it an 'enemy organization.' Other crimes listed in the sentence are that, before the Olympics in Beijing, Wang organized the first national meeting of the CDP and published many articles on the web, and a book entitled 'The opposition party'… a dissident from Hangzhou who attended the trial, says that the sentence was so heavy because the government is trying to suffocate any democratic criticism after the publication of Charter 08… Currently there are nine members of the CDP in prison in Zhejiang. In 2004, Wang was arrested for two weeks, for distributing a draft law on Chinese political parties; in 2005, he was arrested for six months, for organizing the CDP in Zhejiang; in 2006, he was arrested for one month for writing articles against the repression of religious freedom in Zhejiang; in 2008, he was arrested until his sentencing yesterday…" **[58h]**

14.23 On 2 September 2009 the BBC reported:

"A Chinese dissident active in the underground China Democracy Party has been sentenced to 13 years in prison for subversion. Xie Changfa was arrested after trying to organise the party's first national congress in the city of Changsha, Hunan Province… The China Democracy Party was set up in 1998, but has never been approved. 'This is one of the most severe sentences of a dissident in several years,' said a statement from the group Human Rights in China. According to court documents, Chinese prosecutors accused Xie of plotting to overthrow China's socialist system and subvert state power… Xie previously served two years in a re-education through labour camp for inciting the spread of anti-revolutionary propaganda. The dissident has been active with the China Democracy Party for more than a decade. He helped set up a branch of the party in Hunan. Chinese prosecutors said he was dissatisfied with China's socialist system and the communist party, and wanted to bring

about a multi-party democracy. As well as the communist grouping, China has eight other political parties, although these do not seek power for themselves. They are supposed to advise the Chinese leadership, which uses their existence to claim that China is a democratic country. Founders of the China Democracy Party attempted to set up a genuinely independent party during a period when the authorities were more relaxed about political debate. But the government never allowed the party to be registered and some of its founding members were arrested, charged and imprisoned." **[9p]**

14.24 On 15 September 2010 AsiaNews reported the release of CDP leaders, Chen Shuqing and Wu Yilong:

"Chen and Wu celebrated their release at a Hangzhou restaurant with dozens of CDP members… Chen along with Wang Youcai, Wang Donghai and Lin Hui founded the CDP in June 1998. He was arrested in August 2006 and sentenced to four years for 'incitement to overthrow state power'. The CDP has tried to change China from within, presenting itself as an alternative to the Communist Party's one-party rule. It has also tried to get existing laws enforced and has promoted democratic reform and respect for rights. Members Qin Yongmin and Xu Wenli have been sentenced to 12 and 13 years respectively on subversion charges. The CDP has been banned and its leaders tried and convicted, but none of them is giving up. Instead, they continue to advocate change from within the country. Zhu said that police might 'arrest everyone' but it cannot force them to give up their beliefs. 'We need to think about what direction this society is going to develop in.' Chen confirmed that he would continue his struggle for democracy even if it meant sacrifice. In August 2006, the CDP held its first congress, in New York City, with many exiled dissidents in attendance." **[58j]**

14.25 A US-based CDP website, accessed on 12 October 2010, noted that the CDP has held protests in the US where it aims to attract Chinese Americans and build a mass movement with the eventual aim of returning to China and establishing a democratic system of government. The website suggested procedures for joining the CDP, both for those inside China and for those outside. The Party's flag is a red, yellow and blue circle on a blue and red background. The circle is red on top, yellow in the middle and blue at the bottom. It is surrounded by eight yellow stars. The background is blue at the top and red at the bottom. **[20a]** The US-based website also listed its political principles as follows:

"1. Land should be privatized, and the farmland should be returned to peasants.
2. All Chinese citizens should have the right and freedom to choose places to move to and reside in nation-wide [sic].
3. The governmental structure should be simplified to central, provincial and county levels; the central government is responsible for the national defense and diplomacies, provinces practice high autonomy, and villages and towns practice citizen autonomy as follows.
4. All Chinese citizens, including peasants, workers and all other classes, are entitled to social welfares like Medicare, unemployment compensation, pension and social security.
5. All Chinese citizens should have the equal opportunities of being educated, choosing occupations and personal careers.

6. Freedom of press, freedom of speech, freedom of forming organizations and assemblies, freedom of political beliefs and freedom of faith and practicing religions should be respected and therefore protected by laws.
7. Establish a constitutional government and democratic institutions balanced by different authorities; all levels of governments and legislatures are produced through direct elections.
8. Establish a neutral government, independent legislature and judiciary system, and nationalized military forces.
9. Practice capital's privatization, market economy and free competitions.
10. Constitution and laws have a privilege of supremacy; human rights and private properties are sacred and inviolable.
11. Rely on the democratic monitoring mechanism to supervise the government and prevent corruptions.
12. Peasants and workers should have the right to establish independent farmer associations and trade unions to secure their interests; equally, other stratums have the right to organize independent associations to secure their interests.
13. With the efforts of ending the autarchy, we also pursue a goal of win-win situation with the CCP's reformists.
14. Make China a wealthy, fair, free and democratic country governed by law and order." (Formulated on 1 January 2000 and revised on 1 January 2002.) **[20a]**

UK Branch of the China Democracy Party

14.26 An organisation calling itself the 'UK Branch of China Democracy Party' states on its website, accessed on 11 October 2010:

"The UK Branch of China Democracy Party is an independent political organisation in UK. It is not belong to any oversea political organization and only carry out works independently in according with the purposes of CDP Manifesto of foundation on 25th June 1998. Its main mission is to publicize the Party's general and specific policies; recruit new Party members; foster cadres and activists. We maintain that bring about political democracy, economical freedom, social justice, legal order, for creating modern civilization and achieve our aim by the way of peace, reason, non-violence; propel the China in 21 century forward to democracy, peace, prosperous, civilization. We offer free legal information for our members and fellow countryman." [sic] **[16a]**

(See also Annex E: Known dissident groups)

Monitoring of activists abroad

14.27 On 24 November 2009 Spiegel Online revealed that "the Chinese government has been recruiting a number of informants to spy on Munich's Uighur community. Investigators believe that the suspected group of agents is controlled from within the Munich consulate by a consul who has been observed conducting conspirative meetings with the alleged agents." The report indicated that the Chinese government monitors Uighur and other activists abroad, stating that "Several hundred Uighurs live in exile in Munich, and many of them are politically active… The Uighurs are one of the 'five poisons' the Communist government is fighting against with all the means at its disposal." **[56a]** On 9 March 2010 the BBC reported that a Uighur refugee in Sweden had been jailed "for passing on information about other Uighurs to a

Chinese agent… The court said the case was 'especially serious because the intelligence served a superpower which does not have full respect for human rights'." **[9o]**

(See also section 20: Uighurs Monitoring of activists abroad)

Tiananmen Square activists

14.28 In September 1990 Amnesty International published a detailed report on the Tiananmen Square protests and their aftermath. This report highlighted both the indiscriminate nature of the killings and thoroughness of the crackdown that preceded it. **[6a]** In a report dated 1 June 2007, Human Rights Watch stated:

"Eighteen years after Chinese government troops initiated a massacre of an estimated 2,000 unarmed citizens in and around Tiananmen Square and other Chinese cities on and after June 4, the Chinese government has wholly failed to account for those killings and bring justice to the victims. Instead, the government continues to harass the survivors, their families and those who dare to challenge the official whitewash of the events at Tiananmen Square… In the run-up to each anniversary of the June 3–4 massacres, survivors and victims' families are subjected to intrusive scrutiny by public security officials, while known dissidents are frequently put under house arrest during the same period. In Tiananmen Square itself, the normally tight security narrows to a stranglehold to prevent spontaneous protests or efforts by relatives to mourn their dead family members." **[7k]**

14.29 On the twenty-first anniversary of the Tiananmen Square massacre (4 June 2010), the US State Department released a statement in which it said:

"We join others in the international community to urge China to release all those still serving sentences for participating in peaceful protests at that time and since. We ask the Chinese government to provide the fullest possible public accounting of those killed, detained or missing, and to cease harassment of those who participated in the demonstrations and the families of the victims. We also encourage China to protect the universal human rights of all its citizens, including those who peacefully dissent." **[2c]**

14.30 On 1 June 2007 Amnesty International reported:

"While the authorities have moved away from branding the incident a 'counter-revolutionary rebellion' towards labelling it a 'political incident', they have refused to respond to long-standing calls for justice by the victims or their families… So far, the authorities have failed to carry out any independent inquiry into the events of 4 June 1989 with a view to prosecuting those responsible for human rights violations and providing compensation for the victims or their families. In May 2006 it was reported that local authorities had paid 70,000 Yuan (approx. US$8,700) to the mother of Zhou Guocong, a 15-year-old boy who was beaten to death by police in Chengdu, Sichuan province on 7 June 1989. He had been detained for joining pro-democracy protests. Significantly, however, the payment was described as 'hardship assistance' rather than 'compensation'. It is possible that other families may also have been privately 'compensated', but asked to keep it quiet. The Chinese government continues to stifle public debate over the issue, which remains

erased from magazines, newspapers, school text-books and Internet sites in China. Over the last year in particular, official policies on media control and censorship have been intensified, preventing any public analysis or discussion of 4 June 1989 or any other politically sensitive periods in China's recent history." **[6j]**

14.31 The same source stated further:

"The organization [Amnesty International] continues to call for the immediate and unconditional release of those imprisoned more recently for urging a greater public debate on the events of 4 June 1989 or for criticising official policy on the issue… Amnesty International also urges the Chinese authorities to stop the police harassment, surveillance and arbitrary detention of peaceful human rights defenders, many of whom have sought to commemorate the victims of the 1989 crackdown and call for redress." **[6j]**

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15. FREEDOM OF SPEECH AND MEDIA

RADIO, TV, INTERNET AND PRINT MEDIA

15.01 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, recorded:

"The law provides for freedom of speech and of the press, although the government generally did not respect these rights in practice. The government interpreted the CCP's 'leading role,' as mandated in the constitution, as superseding and circumscribing these rights. The government continued to control print, broadcast, and electronic media tightly and used them to propagate government views and CCP ideology. During the year the government increased censorship and manipulation of the press and the Internet during sensitive anniversaries." **[2e] (Section 2a)**

15.02 The same source stated:

"As long as the speaker did not publish views that challenged the CCP or disseminate such views to overseas audiences, the range of permissible topics for private speech continued to expand. Political topics could be discussed privately and in small groups without punishment, and criticisms of the government were common topics of daily speech. However, public speeches, academic discussions, and speeches at meetings or in public forums covered by the media remained circumscribed, as did speeches pertaining to sensitive social topics." **[2e] (Section 2a)**

15.03 Reporters Without Borders, in its Press Freedom Index 2010, ranked China 171 out of the 178 countries included in the index (one being the most free and 178 being the least free). **[63a]**

15.04 In its *Country Report* on China, published on 5 January 2010, Reporters Without Borders stated:

"The communist party has marshalled massive financial and human resources to keep control over news. Most international radio news programmes in Chinese, Tibetan and Uyghur are scrambled via hundreds of aerials positioned throughout the country. Thousands of websites are blocked and tens of thousands of cyber-police and cyber-censors constantly monitor the Web to purge it of 'immoral and subversive' content. All this while the government bolsters its propaganda output by throwing money at a multiplicity of official media, particularly the Xinhua news agency and the broadcast group CCTV… Despite strict laws and the self-censorship imposed on companies in the sector, the Internet is a freer space than the press. Bloggers and Internet users in general post news that is not printed by the media and help to shape public opinion." **[63b]**

15.05 In its report, *Freedom in the World 2010*, published on 1 June 2010, Freedom House stated:

"In 2009, China was home to the largest number of internet users globally, reaching 360 million by September 2009, according to official figures. However, the government maintains an elaborate apparatus for censoring and monitoring internet use and personal communications, including via mobile telephones. The authorities block websites they deem politically threatening and detain those who post the content. In 2009, they repeatedly blocked social-networking and microblogging sites, removed political content and shut down blogs in the name of antipornography campaigns, required users to register their real identities when posting comments on news websites, and stepped up obstruction of technologies used to circumvent censorship. In May, the government announced regulations requiring the installation of censorship and surveillance software called Green Dam Youth Escort on all computers sold in China; following protests from the international business community, human rights groups, and Chinese internet users, the authorities withdrew the directive in June, but said installation would proceed for computers in schools and internet cafes. For all the government's controls, the technology's flexibility, circumvention tools, and the large volume of online communications have allowed many users to nonetheless access censored content, expose official corruption, mobilize protests, and circulate banned political texts." **[26a]**

(See also section 8: Security forces Police)

15.06 As noted by Reporters Without Borders in an article dated 26 September 2005, online editors are banned from putting out news that:

- "violates the basic principles of the Chinese constitution;
- endangers national security, leaks national secrets, seeks to overthrow the government, endangers the unification of the country;
- destroys the country's reputation and benefits;
- arouses national feelings of hatred, racism, and endangers racial unification;
- violates national policies on religion, promotes the propaganda of sects and superstition;
- spreads rumours, endangers public order and creates social uncertainty;
- spreads information that is pornographic, violent, terrorist or linked to gambling;

- libels or harms people's reputation, violates people's legal rights;
- includes illegal information bounded by law and administrative rules.
- It is forbidden to encourage illegal gatherings, strikes, etc to create public disorder.
- It is forbidden to organise activities under illegal social associations or organisations." **[63c]**

15.07 In October 2005 Reporters Without Borders published a report entitled, *Xinhua: The World's Biggest Propaganda Agency*, which stated:

"Xinhua's goal is to maintain the CCP's news monopoly. It is, according to the official definition, 'the eyes, ears and voice of China'. It is the de facto largest centre of news gathering and distribution in the country. No news, especially on sensitive issues, should reach the media without the say-so of the all-powerful Xinhua… According to official figures, the agency employs 8,400 people (Agence France-Presse by contrast has a staff of 2,000) of whom 1,900 are journalists and editors. Its president, Tian Congming, has the rank of a minister." **[63f] (p1)**

15.08 The same report also stated:

"In the service of the communist party, the agency produces two types of news: that intended for the general public and news destined for the regime leaders… The agency's first priority is to handle news produced by the Propaganda Department, now named the Publicity Department, that comes under the CCP Central Committee… Xinhua is de facto run by the Propaganda Department. The agency gets its editorial line from this organ of the CCP and sticks to it slavishly." **[63f] (p5-7)**

JOURNALISTS

15.09 In its annual report, *Attacks on the Press 2009*, published on 16 February 2010, the Committee to Protect Journalists (CPJ) stated:

"At least 24 journalists were imprisoned for their work when CPJ conducted its annual worldwide census on December 1 [2009]. Most worked online, publishing independent news and opinion on local or overseas Web sites that did not have political sponsorships. Many lawyers representing these journalists complained of irregularities in the prosecution of their clients, including prolonged detentions without charge. More than half of the journalists were jailed on vague, antistate charges such as revealing state secrets or subverting state power." **[62a]**

15.10 In its *Country Report* on China, published on 5 January 2010, Reporters Without Borders stated, "China is the world's biggest prison for journalists, bloggers and cyber-dissidents. Most of the around one hundred prisoners have been sentenced to long jail sentences for 'subversion' or 'divulging state secrets' and are held in harsh conditions, with journalists often being put to forced labour. The local authorities, fearful of bad publicity from reports on corruption and nepotism, continue to arrest journalists." **[63b]**

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16. HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

16.01 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, recorded:

"The government sought to maintain control over civil society groups, halt the emergence of independent NGOs, hinder the activities of civil society and rights' activist groups, and prevent what it has called the 'westernization' of the country. The government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions; in addition, domestic NGOs were harassed. The government tended to be suspicious of independent organizations and increased scrutiny of NGOs with financial and other links overseas. Most large NGOs were quasigovernmental, and all official NGOs had to be sponsored by government agencies. Some grassroots NGOs registered as companies to avoid regulations requiring NGOs to have a sponsoring government agency. An informal network of activists around the country continued to serve as a credible source of information about human rights violations. The information was disseminated through organizations such as the Hong Kong-based Information Center for Human Rights and Democracy, the foreign-based Human Rights in China, and via the Internet." **[2e] (Section 5)**

16.02 As noted by Amnesty International in its *2010 Report* on China (events of 2009), published on 28 May 2010:

"Human rights defenders (HRDs), including lawyers, journalists, environmental activists, and proponents of democratic reform, were arbitrarily detained, harassed, subjected to house arrest, held in incommunicado detention, and imprisoned. Authorities tortured and ill-treated many of those in detention. Family members of HRDs, including children, continued to be targeted and were subjected to long-term house arrest and other restraints and harassment." **[6b]**

16.03 In its *World Report 2010*, covering events in 2009 and published on 20 January 2010, Human Rights Watch commented:

"China's growing number of right activists paid a high price in 2009 for their willingness to continue to push for greater civil and human rights. Police surveillance and monitoring of NGOs, critical intellectuals, dissidents, and civil rights lawyers, often coupled with threats, warnings, or periods of house arrest, continued unabated. The government took unprecedented measures against several high profile activists whose activities they had previously treated less harshly." **[7i]**

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17. CORRUPTION

17.01 In Transparency International's (TI) *Corruption Perceptions Index 2010*, released on 26 October 2010, China was placed at 78 out of 178 countries (178 being the most corrupt). China scored 3.5 out of ten, ten representing

lowest levels of corruption. The Corruption Perceptions Index (CPI) ranks countries according to perception of corruption in the public sector. The CPI is an aggregate indicator that combines different sources of information about corruption, making it possible to compare countries. The 2010 CPI draws on different assessments and business opinion surveys carried out by independent and reputable institutions. **[33a]**

17.02 As reported by the Economist Intelligence Unit (EIU) in its *2009 Country Profile* for China, dated 19 December 2008:

"Once Mr Hu's [the President's] position was cemented, he launched several anti-corruption campaigns among government officials. However, in the absence of systemic reforms to establish real checks and balances on politicians, anti-graft efforts more often appear to be at least partly connected with attempts by senior CCP officials to remove factional rivals in the ruling bureaucracy. One of Mr Hu's main antagonists fell in such a manner in mid-2006, when the Shanghai party secretary, Chen Liangyu, was arrested." **[4a] (Recent political developments)**

17.03 In its report, *Freedom in the World 2010*, published on 1 June 2010, Freedom House commented:

"Corruption remains endemic despite increased government antigraft efforts, generating growing public resentment. The problem is most acute in sectors with extensive state involvement, such as construction, land procurement, and banking. While multiple bodies track and prosecute corruption, there is no independent anticorruption agency. Tens of thousands of cases were investigated at all levels in 2009, with suspects including several assistant ministers and heads of state-run conglomerates. A crackdown on organized crime in Chongqing that began in June swept up thousands of suspects, exposing criminal infiltration of key industries as well as crime bosses' collusion with senior officers in local party committees, the police, and the judiciary. Prosecution in such cases is often selective, as informal personal networks and internal CCP power struggles influence the choice of targets. Also in 2009, censors heavily restricted reporting on a Namibian bribery probe involving a state-owned company formerly headed by President Hu Jintao's son." **[26a]**

BREACHES OF PARTY DISCIPLINE

17.04 Articles 37 to 45 of the Constitution of the Communist Party of China deal with Party discipline. Article 39 states, "There are five measures for enforcing Party discipline: warning, serious warning, removal from Party posts, probation within the Party, and expulsion from the Party." **[5t] (Chapter VII)**

17.05 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, recorded:

"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." **[2e] (Section 1e)**

GUANXI (SOCIAL CONNECTIONS)

17.06 As reported by the BBC on 1 October 2005, "If you want to understand who runs China today you have to understand the meaning of the word 'guanxi'. Literally translated, guanxi means connections. But it is much more than having the same old school tie. In Europe or America who you know might help you get a job, or get your child into a decent school. In China who you have guanxi with can mean the difference between freedom and jail, justice or discrimination, wealth or poverty." **[9s]**

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18. FREEDOM OF RELIGION

18.01 As noted by the US State Department's (USSD) *International Religious Freedom Report 2009*, published on 26 October 2009:

"The Constitution states that Chinese citizens 'enjoy freedom of religious belief.' It also bans the state, public organizations, and individuals from compelling citizens to believe in, or not to believe in, any religion. The Constitution and laws protect only 'normal religious activities' that are overseen by the five (Buddhist, Taoist, Muslim, Catholic, and Protestant) state-sanctioned 'patriotic religious associations' (PRAs). Officials have wide latitude to interpret the phrase 'normal religious activities.' By law only the PRAs may register religious groups and places of worship. The Government permits proselytism in registered places of worship and in private settings, but does not permit it in public, in unregistered places of worship, or by foreigners. The Constitution states that religious bodies and affairs are not 'subject to any foreign domination' and affirms the leading role of the officially atheist Chinese Communist Party (CCP). The Government took rhetorical steps to promote religious activity within the framework of the PRAs… officials continued to scrutinize, and in some cases harass, registered and unregistered religious and spiritual groups… The Government detained, arrested, or sentenced to prison terms many religious leaders and adherents for activities related to their religious practice… Prominent religious leaders and religious freedom activists and their family members continued to serve time in prison… In October 2008, on the eve of the third anniversary of the CHCA, Beijing authorities severely beat the two sons of Pastor Zhang Mingxuan, Zhang Jian and Zhang Chuang. Authorities also forcibly relocated Zhang and detained his wife and sister-in-law at approximately the same time." **[2a] (Introduction to China and Section II. Status of Religious Freedom, Abuses of Religious Freedom)**

18.02 This section of the report concluded by stating, "Since 1999, the [US] Secretary of State has assigned the 'Country of Particular Concern' (CPC) designation to the country under the International Religious Freedom Act (IRFA) for particularly severe violations of religious freedom." **[2a] (Introduction to China)** The same source noted, "The Government officially recognizes five

main religions: Buddhism, Taoism, Islam, Catholicism, and Protestantism." **[2a] (Section I. Religious Demography)**

(See also section 21: Banned spiritual groups)

18.03 On 7 February 2007, the official *People's Daily* reported:

"China's religious followers are three times more than the official estimate, according to the country's first major survey on religious beliefs. The poll of about 4,500 people, conducted by professors Tong Shijun and Liu Zhongyu of Shanghai-based East China Normal University from 2005 till recently, found that 31.4 percent of Chinese aged 16 and above, about 300 million, are religious. This is much more than the official figure of 100 million, which has remained largely unchanged for years, Wednesday's China Daily reported. According to the report, Buddhism, Taoism, Catholicism, Christianity [Protestantism] and Islam are the five major religions, having about 67.4 percent of China's religious believers. A striking feature is the re-vitalization of traditional Chinese religions, the report said. About 200 million people are Buddhists, Taoists or worshippers of legendary figures such as the Dragon King and God of Fortune, accounting for 66.1 percent of all believers. Followers of Christianity also increase rapidly. Official figures estimate the number rose from less than 10 million in the late 1990s to 16 million in 2005, but the survey finds 12 percent of all believers, or 40 million, are Christians." **[12ah]**

18.04 In his book *Wild Grass* (2004), Ian Johnson wrote, "Defining what is religion in China, can be a tricky business. Unlike western religions, which often try to sharply distinguish themselves from one another, Chinese belief systems happily overlap, drawing on ancestor worship, popular beliefs in spirits, the indigenous religion of Taoism and the ideas of worldwide religions like Buddhism." **[50f] (p200)** As reported by *TIME* on 24 April 2006, "Seeking personal salvation is fine, but public displays of religiosity outside the confines of state-controlled institutions are not." **[65c]**

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REGISTRATION

18.05 As noted by the USSD *International Religious Freedom Report 2009*:

"The Constitution protects 'normal religious activities.' However, citizens do not have the ability to bring legal action based on the Constitution's guarantees of religious freedom. Religious groups are vulnerable to coercive action by local officials who often regulate through classified or informal administrative orders. The Government restricted legal religious practice to government-sanctioned organizations, registered religious groups, and registered places of worship and sought to control the growth and scope of the activity of both registered and unregistered religious groups. The Government strongly opposed the profession of loyalty to religious leadership outside the country, most notably the Pope and the Dalai Lama. The treatment of religious groups varied significantly. Membership in many faiths continued to grow rapidly. The 2005 Regulations on Religious Affairs (RRA) give registered religious groups limited legal protections that unregistered groups do not enjoy (i.e., they may possess property, publish literature, train and approve clergy,

and collect donations). The five PRAs are the only national organizations that have been allowed to register as religious organizations under the Regulations on Social Organizations (RSO), administered by the Ministry of Civil Affairs. Religious groups outside the five PRAs not only have great difficulty obtaining legal status, they are also vulnerable to coercive and punitive action by Public Security Bureau (PSB) and Religious Affairs Bureau (RAB) officials who monitor their facilities, check to see that religious activities do not disrupt public order, and take measures directed against groups designated as evil religions. PRA leaders sometime serve in the Chinese People's Political Consultative Conference, an advisory forum under CCP leadership that consults with social groups outside the CCP or the NPC. The State Administration for Religious Affairs (SARA) under the State Council and the UFWD [United Front Work Department] provide policy 'guidance and supervision' on the implementation of regulations regarding religious activity, including the role of foreigners in religious activity. Employees of SARA and the UFWD are primarily Communist Party members who according to Party doctrine must be atheists… SARA has stated that according to the RSO, a religious group must affiliate with one of the five PRAs in order to register… [some] groups reported authorities denied their applications without cause or detained group members when they attempted to register." **[2a] (Section II. Status of Religious Freedom, Legal/Policy Framework)**

18.06 In its *Annual Report 2010*, published on 29 April 2010, the United States Commission on International Religious Freedom (USCIRF) noted:

"The National Regulations on Religious Affairs (NRRA), first issued in March 2005 and updated in 2007, require all religious groups and religious venues to affiliate with one of seven government-approved religious associations. The NRRA strengthens governmental management and supervision of religious affairs, offering Party officials extensive control over every aspect of religious practice and related activities. Within the bounds allowed by the Chinese legal system, the NRRA expanded some protections for registered religious communities to carry out religious activities and some charitable work. When registered, religious communities can apply for permission to possess property, provide social services, accept donations from overseas, conduct religious education and training, and host inter-provincial religious meetings. However, those protections are sometimes overridden by political considerations.

"The NRRA recognizes only 'normal religious activity' and contains vague national security provisions that forbid religious groups from disrupting national unity or solidarity. The provisions are used to justify suppression of 'unregistered' religious activity or the activity of 'cult' organizations. The NRRA sets specific criminal penalties for religious communities that are not in compliance with registration requirements. Religious leaders or adherents detained or arrested for religious activity or religious freedom advocacy face criminal charges, under provisions of the Criminal Code, most often under vague national security or public morality charges. In addition, the Chinese government continues to use administrative detention, including reeducation through labor, to detain religious believers without trial and outside the formal legal system for up to three years.

"Religious and spiritual groups that do not meet registration requirements, or that choose not to register, risk harassment, detention, arrest, and closure of

meeting and worship places… Repression of unregistered religious activity varies by region, province, politics, and ethnicity. In some localities, officials arbitrarily implement national government policy and allow some unregistered groups to carry out worship activities openly. That some unregistered religious activity is tolerated is not, in itself, evidence that the Chinese government protects the freedom of religion for all." **[70a]**

18.07 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, noted that family members of unregistered religious individuals were targeted for arbitrary arrest, detention and harassment. **[2e] (Section 1f)**

BUDDHISTS

18.08 The USSD *International Religious Freedom Report 2009* noted that it was difficult to estimate the number of Buddhists, because they did not have congregational memberships and many practiced exclusively at home. The same source added, "However, a Chinese public opinion polling firm found in 2007 that 11 to 16 percent of Chinese adults are Buddhists… The state-approved Xinhua news agency estimates there are 100 million Buddhists in China." **[2a] (Section I. Religious Demography)**

18.09 The report also stated, "Official tolerance for groups associated with Buddhism and Taoism has been greater than that for groups associated with other religions. The China Religious Culture Communication Association, in cooperation with SARA, organized the first and second World Buddhist Forums in 2006 and March 2009, respectively…" **[2a] (Section II. Status of Religious Freedom, Restrictions on Religious Freedom)** On 28 March 2009 the official Xinhua news agency reported that the Second World Buddhist Forum had opened in the eastern Chinese city of Wuxi, Jiangsu province, "with more than 1,700 Buddhist monks and scholars from about 50 countries and regions gathering to discuss how Buddhism can contribute to building a harmonious world." **[13b]**

(See also section 23: Tibetan Buddhism)

TAOISTS

18.10 The USSD *International Religious Freedom Report 2009* noted that "fewer than one percent of Chinese adults identify themselves as Taoists… There are no official statistics confirming or contradicting the number of Taoists in China." **[2a] (Section I. Religious Demography)** The report also stated, "Official tolerance for groups associated with Buddhism and Taoism has been greater than that for groups associated with other religions. The China Religious Culture Communication Association, in cooperation with SARA, organized… the International Dao DeJing (the sacred text of Taoism) Forum in 2007." **[2a] (Section II. Status of Religious Freedom, Restrictions on Religious Freedom)**

FOLK RELIGIONS

18.11 As noted by the USSD *International Religious Freedom Report 2009*, "The Government (also) labeled some folk religions as 'feudal superstitions,' and in the past there were reports that followers sometimes were subject to

harassment and repression." **[2a] (Section II. Status of Religious Freedom, Restrictions on Religious Freedom)**

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19. CHRISTIANS

19.01 An article by *The Economist*, dated 2 October 2008, cited an estimate of up to 130 million Christians in China. The article stated, "This is far larger than previous estimates. The government says there are 21m (16m Protestants, 5m Catholics). Unofficial figures, such as one given by the Centre for the Study of Global Christianity in Massachusetts, put the number at about 70m… And according to China Aid Association (CAA), a Texas-based lobby group, the director of the government body which supervises all religions in China said privately that the figure was indeed as much as 130m in early 2008." **[19a]**

19.02 The report continued:

"In the 1950s, the Catholic and main Protestant churches were turned into branches of the religious-affairs administration. House churches have an unclear status, neither banned nor fully approved of. As long as they avoid neighbourly confrontation and keep their congregations below a certain size (usually about 25), the Protestant ones are mostly tolerated, grudgingly. Catholic ones are kept under closer scrutiny, reflecting China's tense relationship with the Vatican… Most Christians say that theirs is not a political organisation and they are not seeking to challenge the party. But they also say clashes with public policy are inevitable: no Christian, one argues, should accept the one-child policy, for example. Formally, the Communist Party forbids members to hold a religious belief, and the churches say they suffer official harassment." **[19a]**

AVAILABILITY OF BIBLES

19.03 The USSD *International Religious Freedom Report 2009* stated:

"Under the RRA [Regulations on Religious Affairs], registered religious organizations may compile and print materials for their internal use. However, if they plan to distribute their materials publicly, they must follow national printing regulations, which restrict the publication and distribution of literature with religious content. The 1994 Provisions Regarding the Administration of Contracts to Print Bible Texts named the Nanjing Amity Printing Company (Amity Press) as the sole printer for domestic Bibles. A few CPA [Catholic Patriotic Association] dioceses that have their own presses reportedly print the Catholic Bible. Bibles so produced could be purchased only at TSPM [Three-Self Patriotic Movement] or CPA churches. Amity has printed more than 50 million Bibles for the Chinese readership and distributes them through a network of 70 urban distribution points and a mobile distribution network that travels to rural areas. In April 2009, 20 Australian members of the Bible Society, which works with Amity Printing Company, distributed 10,000 Bibles throughout the country. The Government authorized publishers (other than Amity Press) to publish at least 1,000 Christian titles. Even so, increasing interest in Christianity produced a corresponding increase in demand for

Bibles and other Christian literature, and members of unregistered churches reported that the supply and distribution of Bibles was inadequate in some rural locations. Individuals could not order Bibles directly from publishing houses, and distributors were sometimes wary of unfavorable attention that orders for purchases of large volumes of Bibles might attract. Under the RRA and regulations on publishing, religious texts published without authorization, including Bibles and Qur'ans, may be confiscated and unauthorized publishing houses closed. Religious adherents are subject to arrest and imprisonment for illegal publishing. Authorities often confiscated Bibles in raids on house churches. Customs officials continued to monitor the importation of Bibles and other religious materials." **[2a] (Section II. Status of Religious Freedom, Restrictions on Religious Freedom)**

19.04 An article in *The Guardian* on 2 May 2008 reported:

"China will become one of the biggest Bible producing countries in the world when a new printing press opens this month… The Amity Printing Company, a joint venture with the British Bible Society, printed its 50 millionth Bible last December and its new press, opening on May 19, will double annual production to 12m… Peter Dean, a consultant for the Bible Society in Nanjing, said…'There are differing views on how many Christians there are but everyone agrees there is a lot of growth in the church.' At least 7% of the population are estimated to be believers. Although authorities lifted the ban on Christianity 30 years ago, restrictions remain. Smuggling unauthorised Bibles can still lead to a jail sentence." **[41d]**

19.05 A report by Christian Solidarity Worldwide, dated 1 June 2008, stated:

"The Chinese Government allows the official printing of a limited number of Bibles. However, supply is insufficient to meet the needs of the house churches. China allows only one publisher, The Amity Foundation in Nanjing, to print Bibles and a limited selection of Christian materials, but production is insufficient to meet the needs of the burgeoning Christian population. The Bibles are only distributed through the official TSPM churches making it difficult for house church Christians to obtain Christian materials. It is illegal to sell Bibles at public bookstores and other public facilities. Pastors who have printed Bibles and Christian literature to fill unmet needs have been arrested and imprisoned for operating illegal business practices." **[74b]**

19.06 As noted by the Canadian Immigration and Refugee Board (IRB) on 28 November 2003, Protestant house church leaders contacted by the IRB stated that officially sanctioned Bibles differ very little from other versions available outside China and that, "The Bible text remains sound and intact." **[3w]** In its *Annual Report 2010*, published on 29 April 2010, the United States Commission on International Religious Freedom (USCIRF) noted, "Chinese officials continue to use charges of 'illegal business activity' to sentence individuals who are involved in the printing and distribution of Bibles and other religious materials..." **[70a]**

PROSELYTISING

19.07 The USSD *International Religious Freedom Report 2009* noted:

"The Government permits proselytism in registered places of worship and in private settings, but does not permit it in public, in unregistered places of worship, or by foreigners… Offenses related to membership in unregistered religious groups were often classified as crimes of disturbing the social order. Religious leaders and worshippers, however, faced criminal and administrative punishment for a wide variety of activities, including those related to the Government's refusal to allow members of unregistered groups to assemble, travel, and publish, or in connection with its ban on public proselytizing. Some members of unregistered groups were charged with conducting illegal business operations in relation to their publishing activities… On December 3, 2008, in Henan Province, officials from the Taikang County Domestic Defense Protection Squad reportedly broke into a home and arrested more than 50 house church Christians, seizing 22 copies of the textbook 'Training in Ministering the Gospel to Children' along with other information about proselytizing. Twenty Christians were sentenced to 15 days of administrative detention and a US$146 (1,000 RMB) fine. Three members each received a one-year sentence of RTL for 'illegal proselytizing' and attending an 'illegal gathering'." **[2a] (Introduction to China and Section II. Status of Religious Freedom, Abuses of Religious Freedom)**

19.08 On 28 February 2003 the Canadian IRB noted, "It is normal for Patriotic churches to display crosses, crucifixes and portraits of Jesus… It is similarly legal for Chinese citizens to possess these and display them in their homes." **[3t]** On 3 April 2009 *The Christian Post* reported that a Uighur convert to Christianity in the predominantly Muslim province of Xinjiang had been detained without trial for more than a year "for 'suspicion of inciting secession and organizing people in stealing, spying, buying and illegally providing state secrets or intelligence to overseas organizations'. However, local sources say the real reason for his detention is because of his Christian faith and his sharing the Gospel with Uyghur [Uighur] people, most of whom are Muslims." **[36a]**

(See also section 20: Muslims Uighurs; Religious freedom in Xinjiang)

CATHOLICS

19.09 The USSD *International Religious Freedom Report 2009* noted:

"The Catholic Patriotic Association (CPA) reports that 5.3 million persons worship in its churches, and it is estimated that there are an additional 12 million or more persons who worship in unregistered Catholic churches that do not affiliate with the CPA. According to official sources, the Government-sanctioned CPA has more than 70 bishops, nearly 3,000 priests and nuns, 6,000 churches and meeting places, and 12 seminaries. There are thought to be approximately 40 bishops operating 'underground,' some of whom are in prison or under house arrest. Of the 97 dioceses in the country, 40 reportedly did not have an acting bishop in 2007, and more than 30 bishops were over 80 years of age." **[2a] (Section I. Religious Demography)**

19.10 As noted by AsiaNews on 27 September 2005, "Hebei is the region with the largest number of Catholics (more than 1.5 million), where clandestine Catholics (not recognised by the government) are in strong majority." **[58b]** On 15 May 2006 *The Times* noted that the Catholic Church is also particularly strong in Fujian province where most of the faithful are loyal to Rome. **[90c]**

19.11 The USSD *International Religious Freedom Report 2009* observed:

"In some locations, local authorities reportedly forced unregistered Catholic priests and believers to renounce ordinations approved by the Holy See, join the official church, or face a variety of punishments including fines, job loss, detentions, and having their children barred from school. Ongoing harassment of unregistered bishops and priests was reported, including government surveillance and repeated short detentions. Numerous detentions of unofficial Catholic clergy were reported, in particular in Hebei Province, traditionally home to many unregistered Catholics. On March 30, 2009, underground Catholic bishop Jia Zhiguo was again detained in Hebei province. This was his 13th confrontation with police since 2004. There was no new information about unregistered Bishop Su Zhimin, who has been unaccounted for since his reported detention in 1997. On March 24, 2009, Catholic priest Ma Shengbao was arrested. At the end of the reporting period, he had not been seen again. The whereabouts of Zhouzhi Bishop Wu Qinjing remained unknown. Auxiliary Bishop of Xiwanzi diocese, Hebei Province, Yao Liang, remained in detention during the reporting period. Father Li Huisheng, whom police reportedly tortured in August 2006, remained in custody serving a seven-year term for 'inciting the masses against the Government.'" **[2a] (Section II. Status of Religious Freedom, Abuses of Religious Freedom)**

19.12 In its *Annual Report 2010*, published on 29 April 2010, the United States Commission on International Religious Freedom (USCIRF) noted:

"The officially-sanctioned Catholic Patriotic Association (CPA) does not allow its members or clergy to have official relations or communication with the Vatican or other foreign Catholic organizations. This prohibition continues to strain relations between the CPA and the unregistered Catholic Church in China… Harassment and detention of Catholics in China continued during the reporting period. In the two provinces with the largest Catholic communities, Hebei and Shaanxi, provincial governments have engaged in campaigns to suppress the activities of 'underground' Catholic congregations and coerce Catholic clergy to join the CPA…

"In the past year, Party and government officials continued to label unregistered Catholics as a threat to 'social stability' and called for increased efforts to 'transform…underground communities.' In addition to the efforts described above to Shaanxi and Hebei, according to press reports, provincial campaigns to 'negate the severe impact' of unregistered Catholics occurred in Jiangxi, Zhejiang, and Henan provinces. In 2009, at least 40 Roman Catholic bishops remain imprisoned, detained, or disappeared, including the elderly Bishop Su Zhimin, who has been in prison, in detention, under house arrest, or under strict surveillance since the 1970s." **[70a]**

19.13 In July 2008 the Cardinal Kung Foundation reported that "every one of approximately 35 underground bishops, together with many priests and faithful, are either in prison, disappeared, under house arrest or under surveillance." **[68a]** On 30 March 2009 AsiaNews reported:

"…believers and members of the underground Church are subjected to ever more repression with several bishops and priests under arrest and tighter controls on state-controlled Churches. Sources told AsiaNews that the

squeeze is on underground communities in Hebei province near Beijing (home to the highest concentration of Catholics in the country), including on people who meet just to celebrate Mass… tens of underground priests are also languishing in prison and forced labour camps. Tens of other underground bishops are being held in isolation as well. The official Church is also not free from repression, tight controls and hardships. In recent months government-approved bishops have been forced to undergo weeks, sometimes months, of political sessions that focus on the importance of the Communist Party's religious policy. Some bishops, like that of Beijing, have been forced to publicly praise the Chinese Patriotic Catholic Association (CPCA) [CPA] and criticise 'Vatican interference' in the internal affairs of China." **[58c]**

19.14 As reported by the Canadian IRB on 8 June 2004, "During a 4 June 2004 telephone interview with the Research Directorate, a representative of the Cardinal Kung Foundation stated that there are no standardized baptismal certificates within underground Catholic churches in China nor are baptismal certificates issued as a matter of course. Instead, if a baptismal certificate were requested at the time of baptism, the priest might issue an informal document that would most likely be written in Chinese." **[3o]**

Relations with the Vatican

19.15 On 30 June 2007 the BBC reported:

"Pope Benedict has addressed a message of reconciliation to millions of his faithful in China, whose loyalties are divided between Rome and Beijing… He is up against a state political ideology of atheism and half a century of sporadic persecution of Catholics… In an effort to bring order to this chaotic situation, and to improve the prospects of a return to normal diplomatic relations with Beijing which were broken off in 1951, the Pope goes out of his way in his message to praise the recent social and economic achievements of the Chinese people. He offers sincere dialogue with the civil authorities, in a spirit of friendship and peace. It remains to be seen, however, just how his message is going to be received in Beijing… As far as the Vatican is concerned, he says, there is only one Catholic Church in China." **[9l]**

19.16 A report by Aid to the Church in Need, published in 2008, referred to "increased cooperation between 'Official' and 'Underground' Church communities." **[22a]** On 30 March 2009 AsiaNews reported:

"Of late pressures have increased because almost all official bishops are secretly in communion with the Holy See and many are working with their underground counterpart, much to the annoyance of the authorities who are not pleased with the reconciliation between the underground and official Church by a 'foreign power,' i.e. the Pope. Since Benedict XVI released a Letter to Chinese Catholics in June 2007 acts of reconciliation between the two branches of the Church in China have occurred, with the effect of marginalising the CPCA [CPA], the Communist party agency that controls the Church. The wave of harassment underway is thus meant to break this new found unity." **[58c]**

19.17 The USSD *International Religious Freedom Report 2009* noted:

"The Government and the Holy See have not established diplomatic relations, and there was no Vatican representative in the country. The role of the Pope in selecting bishops, the status of underground Catholic clerics, and Vatican recognition of Taiwan remained obstacles to improved relations. A Ministry of Foreign Affairs spokesperson stated that the Government advocated improvement in relations. The CPA does not recognize the authority of the Holy See to appoint bishops; however, it allowed the Vatican's discreet input in selecting some bishops. An estimated 90 percent of official Catholic bishops have reconciled with the Vatican. Likewise, the majority of Catholic bishops appointed by the Government have received official approval from the Vatican through 'apostolic mandates.' The distinction between the official Catholic Church, which the Government controls politically, and the unregistered Catholic Church has become less clear over time. In some official Catholic churches, clerics led prayers for the Pope, and pictures of the Pope were displayed." **[2a] (Section II. Status of Religious Freedom, Restrictions on Religious Freedom)**

PROTESTANTS (INCLUDING 'HOUSE CHURCHES')

19.18 The USSD *International Religious Freedom Report 2009* stated:

"Officials from the Three-Self Patriotic Movement/China Christian Council (TSPM/CCC), the state-approved Protestant religious organization, estimated that at least 20 million citizens worship in official churches. Government officials stated there are more than 50,000 registered TSPM churches and 18 TSPM theological schools. The World Christian Database estimates there are more than 300 unofficial house church networks. The Pew Research Center estimates 50 million to 70 million Christians practice without state sanction. One Chinese scholar estimated in a public lecture at Renmin University that the number of Christians in China, including those in TSPM churches and unregistered churches, is near 90 million. By contrast, the Chinese Communist Party is estimated to have 60 million members, 10 million of whom are believed to participate regularly in religious services. Currents of Calvinism or Reformed theology gained influence among house churches and Christian intellectuals. Pentecostal Christianity was also popular among house churches." **[2a] (Section I. Religious Demography)**

19.19 An article by *The Economist*, dated 2 October 2008, stated, "Because most Protestant house churches are non-denominational (that is, not affiliated with Lutherans, Methodists and so on), they have no fixed liturgy or tradition. Their services are like Bible-study classes." **[19a]** As reported by the USSD *International Religious Freedom Report 2009*:

"The Government repressed Protestant house church networks and cross-congregational affiliations, which it perceived as presenting a potential challenge to the authority of the Government or the Party. For example, on November 28, 2008, the Ministry of Civil Affairs issued a decision abolishing the 250,000-member Chinese House Church Alliance (CHCA), which claims to have members in several provinces, stating that the CHCA was not registered and was engaging in activities in the name of a social organization without authorization… Local regulations, provincial work reports, and other government and party documents continued to exhort officials to enforce government policy regarding unregistered churches and illegal religious activities, although the extent to which officials interfered with the activities of

unregistered churches varied and depended largely on local conditions. Urban house churches in some areas limited the size of their meetings to a few dozen individuals. In nonurban areas, some house churches were able to hold meetings that hundreds of individuals attended with which local authorities did not interfere. Some unregistered religious groups had significant membership, properties, financial resources, and networks. House churches faced more risks when their memberships grew, they arranged for regular use of facilities for religious activities, or forged links with other unregistered groups or coreligionists overseas." **[2a] (Section II. Status of Religious Freedom, Restrictions on Religious Freedom)**

19.20 The report stated further:

"In some areas, government authorities pressured house churches to affiliate with one of the PRAs and to register with religious affairs authorities by organizing registration campaigns and by detaining and interrogating leaders who refused to register. In other parts of the country unregistered groups grew rapidly and the authorities did not pressure them to register. Although SARA does not officially acknowledge the existence of house churches, its website states that family and friends holding meetings at home (as distinct from formal worship services in public venues) need not register with the Government (the 'Family and Friend Worship Policy'). Police and officials of local RABs in some areas disrupted home worship meetings, claiming that participants disturbed neighbors or social order, or belonged to an 'evil religion.' Police sometimes detained for hours or days worshippers attending such services and prevented further worship activities. Police interrogated church leaders and lay persons about their worship activities at locations including meeting sites, hotel rooms, and detention centers. Non-governmental organizations (NGOs) reported that church leaders faced harsher treatment than members, including greater frequency and length of detention, formal arrest, and reeducation-through-labor or imprisonment. According to NGO and media reports, in some cases local officials also confiscated and destroyed the property of unregistered religious groups." **[2a] (Section II. Status of Religious Freedom, Restrictions on Religious Freedom)**

19.21 The USCIRF *Annual Report 2010*, published on 29 April 2010, noted:

"The Chinese government continues to control the religious activities of Protestants affiliated with the government-approved religious organizations. It encourages registered Protestant leaders to emphasize 'theological reconstruction,' a doctrine that purges any elements of Christian faith and practice that the Communist Party regards as incompatible with its goals and policies… An estimated 10 million Chinese belong to the two approved Protestant organizations. However, even registered Protestant groups and leaders are not safe from harassment, detentions, and arrest due to the arbitrary nature of Chinese law and policy regarding religion…

"The government actively harasses, detains, fines, mistreats, and imprisons members and leaders of unregistered Protestant groups, whose membership may be between 40 and 60 million… Though the total number of arrests and imprisonments declined in the past year, government efforts to suppress the growth and activities of 'house church' Protestants continue to be systematic and intense. The State Department estimates that 'thousands' of house church members were detained for short periods in the past several years.

Members of unregistered Protestant groups that the government deems 'evil cults' were the most vulnerable to detention… China Aid and other NGOs report a significant rise in incidents of harassment, property confiscation and destruction, and intimidation of Protestants since the 2008 Olympic Games in Beijing." **[70a]**

19.22 A report by Christian Solidarity Worldwide, dated 1 June 2008, stated:

"In April 2008 CAA [China Aid Association] reported that Chinese government officials had launched a strategic campaign, called the 'Anti-illegal Christian Activities Campaign', against house church members in Xinjiang. While both Han and Uyghur Christians have been targeted, the plight of the minority Uyghur Christian population is especially harsh as they face persecution on the grounds of both their unusual religious faith and the broader ethnic persecution of the Uyghur people in Xinjiang. Even the limited religious freedoms protected elsewhere in China are further restricted in Xinjiang and there have been repeated arrests and mistreatment of Christians in Xinjiang over an extended period. Of particular concern is the use of national security and separatism charges against religious believers." **[74b]**

(See also section 20: Muslims Religious freedom in Xinjiang)

19.23 As reported by the Canadian IRB on 17 August 2004:

"It appears that the Chinese government most fears religious groups not willing to submit themselves to official supervision, and that proliferate beyond official control. If a Chinese citizen became a practising Christian overseas and was willing to attend an officially sanctioned church upon his return to China, it's unlikely that he would encounter any difficulty. However, if he became an active member of an unsanctioned congregation, and especially if he contributed to the growth of the congregation through evangelizing, he would expose himself to a real risk of persecution." **[3u] (Based on Information supplied by Human Rights in China)**

ORTHODOX CHURCH

19.24 The USSD *International Religious Freedom Report 2009* noted, "The Russian Orthodox Church operates in some regions, particularly those with large populations of Russian expatriates or with close links to Russia." **[2a] (Section I. Religious Demography)** The same report stated, "In some areas, local governments have legalized certain religions and practices, including Orthodox Christianity (in Heilongjiang)…" **[2a] (Section II. Status of Religious Freedom, Legal/Policy Framework)**

19.25 On 27 April 2008 Orthodoxy in China reported, "The Autonomous Orthodox Church of China, formed in 1957, at the present moment does not have serving clerics. Approximately 13,000 citizens of China consider themselves Orthodox, mainly members of the Russian ethnic minority living in PRC, as well as Chinese. In accordance with the laws of PRC, foreign clerics are limited in the possibilities of performing services for the citizens of China on her territory." **[69a]**

19.26 On 31 August 2009 Interfax reported:

"The Russian Ecclesiastical mission had been effective in China since 1713 and was abolished for political reasons in 1954. In 1956, Russian Synod granted autonomy to the Chinese Orthodox Church and appointed Archimandrite Vasily for the Beijing Diocese. Following the latter's death in 1962, the Chinese Orthodox Church fell into decay. In 1997, the Synod of the Russian Church said that under existing circumstances, Patriarch of Moscow and All Russia Alexy II would provide for the Orthodox Church congregation in China. China's last openly officiating Orthodox clergyman, Fr. Gregory Chu, died in 2000. He was a priest in the church of Protection of the Mother of God in Harbin. Fr. Alexander Du, the last Chinese priest, though he could not officiate publicly, died in Beijing in 2003. According to different estimations, there are 9,000 to 15,000 Orthodox believers in China. Majority of them live in Beijing, Shanghai, Heilongjiang Province, Xinjiang and Inner Mongolia autonomous districts." **[55a]**

19.27 On 24 August 2010 AsiaNews reported:

"The Chinese Autonomous Orthodox Church does not exist at the national level, but there are four officially opened sites for celebrating Divine Liturgies: two of them are in country's north-west in the Xinjiang Uygur autonomous region, one in Harbin, and the last one in the city of Labdarin in the Inner Mongolia Autonomous District. These four churches belong to the Chinese Autonomous Orthodox Church. Small faith communities (about 5 thousand in total) are present not only in these regions but also elsewhere in the country. Particularly in large cities: Beijing, Shanghai, Tianjin, Guangzhou and Yunnan Province, but they have no places of worship. Following the Cultural Revolution, the Church was decimated and there are no priests present on the territory. A dozen seminarians are studying in Russia with the intention of returning to China." **[58k]**

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20. MUSLIMS

20.01 The USSD *International Religious Freedom Report 2009* noted:

"According to official figures, there are as many as 20 million Muslims. Independent estimates range as high as 50 million or more. There are more than 40,000 Islamic places of worship (more than half of which are in the XUAR) [Xinjiang Uighur Autonomous Region], more than 45,000 imams nationwide, and 10 Islamic schools. The country has 10 predominantly Muslim ethnic groups, the largest of which is the Hui, estimated to number more than 10 million… Hui Muslims slightly outnumber Uighur Muslims, who live primarily in the XUAR. According to an official 2005 report, the XUAR had 23,900 mosques and 27,000 clerics at the end of 2004, but fewer than half of the mosques were authorized to hold Friday prayer and holiday services. In Beijing, there are 200,000 Hui Muslims and 160 mosques. The Government supports the building of mosques, pays the salaries of imams, and supports halal stores and hospitals… In contrast to the close supervision of the practice of Islam in the XUAR, Muslims in Ningxia, Gansu, Qinghai, and Yunnan Provinces engaged in religious practice with little interference by the

Government." **[2a] (Section I. Religious Demography and Section II. Status of Religious Freedom, Restrictions on Religious Freedom))**

UIGHUR(S) (UYGUR, UYGHUR)

20.02 In a report dated 6 July 2009, the BBC noted:

"The Uighurs are Muslims who are predominantly based in north-western China's Xinjiang region, although there are Uighur communities in most big Chinese cities. Their language is related to Turkish and they regard themselves as culturally and ethnically closer to Central Asia than the rest of China… In the early part of the 20th Century, the Uighurs briefly declared independence, but the region was brought under the control of communist China in 1949. Xinjiang is officially described as an autonomous region, like Tibet." **[9ab]**

20.03 As noted by Europa World in its *Country Profile* for China, accessed on 29 September 2010, there are 8.39 million Uighur in China, accounting for 0.68 per cent of the population. As noted by the same source, the total population of Xinjiang Uygur Autonomous Region is 18.45 million (based on the 2000 census). **[1a] (Area and Population) [18f] (map of Xinjiang)**

20.04 On 17 November 2005 the BBC reported that Han settlers have "… overwhelmed the indigenous Uighurs, Kazakhs and Mongolians." **[9t]** As recorded by the US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010:

"The government's policy to encourage Han Chinese migration to move into minority areas significantly increased the population of Han in the XUAR [Xinjiang Uighur Autonomous Region]. In recent decades the Han-Uighur ratio in the capital of Urumqi has shifted from 20 to 80 to 80 to 20 and continued to be a deep source of Uighur resentment. Discriminatory hiring practices gave preference to Han and discouraged job prospects for ethnic minorities. According to 2005 statistics published by XUAR officials, eight million of the XUAR's 20 million official residents were Han. Hui, Kazakh, Kyrgyz, Uighur, and other ethnic minorities comprised approximately 12 million XUAR residents. Official statistics understated the Han population, because they did not count the tens of thousands of Han Chinese who were long-term 'temporary workers.' While the government continued to promote Han migration into the XUAR and fill local jobs with migrant labor, overseas human rights organizations reported that local officials under direction from higher levels of government deceived and pressured young Uighur women to participate in a government-sponsored labor transfer program. The XUAR government took measures to dilute expressions of Uighur identity, including measures to reduce education in ethnic minority languages in XUAR schools and to institute language requirements that disadvantaged ethnic minority teachers." **[2e] (Section 6)**

Human rights in Xinjiang (East Turkestan)

20.05 In April 2005 Human Rights Watch published a report entitled, *Devastating Blows: Religious Repression of Uighurs in Xinjiang*. This report stated, "Xinjiang leads the nation in executions for state security 'crimes', with over

200 people sentenced to death since 1997." **[7a] (p8)** The report also noted, "A rare documentary source obtained by Human Rights Watch, a scholarly paper from a Ministry of Justice compendium, shows that in 2001 9.2 percent of convicted Uighurs – one out of eleven – were serving prison time for alleged 'state security crimes'. This probably amounts to more than 1,000 Uighur prisoners." **[7a] (p71)**

20.06 The USSD Report 2009 noted:

"During the year authorities increased repression in the XUAR and targeted the region's ethnic Uighur population. On July 5, a Uighur demonstration was forcefully suppressed by police, and outbreaks in violence throughout the region following the crackdown drew an international spotlight on longstanding ethnic tensions in the XUAR and Uighurs' grievances toward government policies that undermined the protection of their rights. In late 2008 and during the first half of the year, officials in XUAR reiterated a pledge to crack down on the government-designated 'three forces' of religious extremism, 'splittism,' and terrorism and outlined efforts to launch a concentrated antiseparatist reeducation campaign.

"It was sometimes difficult to determine whether raids, detentions, and judicial punishments directed at individuals or organizations suspected of promoting the 'three forces' were instead actually used to target those peacefully seeking to express their political or religious views. The government continued to repress Uighurs expressing peaceful political dissent and independent Muslim religious leaders, often citing counterterrorism as the reason for taking action." **[2e] (Section 6)**

20.07 The same source recorded:

"Uighurs were sentenced to long prison terms, and in some cases executed, on charges of separatism. The government reportedly sought the repatriation of Uighurs living outside the country, where they faced the risk of persecution… Possession of publications or audiovisual materials discussing independence or other sensitive subjects was not permitted… During the year XUAR officials defended the campaign against separatism and other emergency measures taken as necessary to maintain public order and continued to use the threat of violence as justification for extreme security measures directed at the local population and visiting foreigners. In September state media reported that XUAR authorities approved the Information Promotion Bill, making it a criminal offense to discuss separatism on the Internet and prohibiting use of the Internet in any way that undermines national unity. The bill further bans inciting ethnic separatism or harming social stability. The bill requires Internet service providers and network operators to set up monitoring systems or strengthen existing ones and report transgressions of the law. Han control of the region's political and economic institutions also contributed to heightened tension. Although government policies brought economic improvements to the XUAR, Han residents received a disproportionate share of the benefits." **[2e] (Section 6)**

July 2009 violence

20.08 The USSD Report 2009, in its opening section on China, noted:

"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." **[2e]**

20.09 In a report dated 2 July 2010, Amnesty International stated, "Eyewitness testimonies obtained by Amnesty International suggest that the police and security forces committed human rights violations during and in the aftermath of the July 2009 protests. These include beatings, arbitrary arrests and shootings to disperse peaceful protesters and the unnecessary or excessive use of force, including lethal force, in the process of restoring order." **[6d]** On 29 July 2009 *The Guardian* reported:

"Rebiya Kadeer, the exiled Uighur leader, today claimed that almost 10,000 Uighurs had 'disappeared' during ethnic unrest in China's north-western region of Xinjiang earlier this month and called on the international community to launch an inquiry… The state news agency, Xinhua, said today that authorities in western China had arrested 253 more people suspected of being involved in the violence in Urumqi, in addition to the 1,434 detained earlier over suspected involvement in the 5 July riot. There are no details of the ethnicity of suspects… At least 197 people died – including 137 Han [Chinese] and 46 Uighurs – and 1,800 others were injured in the worst ethnic violence China has seen for decades. China has accused Kadeer, 62, of inciting the riots..." **[41e]**

Religious freedom in Xinjiang (East Turkestan)

20.10 In its report of April 2005, Human Rights Watch stated:

"The Uighurs have long practiced a moderate, traditional form of Sunni Islam, strongly infused with the folklore and traditions of a rural, oasis-dwelling population. Today most Uighurs still live in rural communities, although large cities have emerged in the region. Their history as commercial and cultural brokers between the different people connected by the Silk Road (through which Buddhism was introduced to China from India two millennia ago) gave rise to a markedly tolerant and open version of Muslim faith and a rich intellectual tradition of literature, science, and music. Nineteenth-century travelers to Kashgar noted that women enjoyed many freedoms, such as the right to initiate divorce and run businesses on their own. Sufism, a deeply mystical tradition of Islam revolving around the cult of particular saints and transmitted from master to disciples, has also had a long historical presence in Xinjiang. In daily life, Islam represents a source of personal and social values, and provides a vocabulary for talking about aspirations and grievances. The imam is traditionally a mediator and a moderator of village life, and performs many social functions as well as religious ones." **[7a] (p12)**

20.11 As reported by Forum 18 on 15 August 2006:

"Sufism is found mostly in southern Xinjiang (in Hotan and Kashgar). The Sufi zikr ceremony (ritual songs and dances) is banned, as are rituals at the graves of devout Muslims. Books by Sufi authors are banned and Chinese scholars assert in their research that Sufism is a distortion of Islam… Some Muslims in southern Xinjiang are sympathetic to Wahhabism, Forum 18 found, but unlike in Tajikistan and Uzbekistan they have been frightened into inactivity by the Chinese government's strict policy. As a result, unlike in Uzbekistan, in Xinjiang there are no recorded cases of criminal prosecutions against Wahhabis." **[66e] (p2)**

20.12 In its *Annual Report 2010*, published on 29 April 2010, the United States Commission on International Religious Freedom (USCIRF) noted:

"In the Xinjiang Uighur Autonomous Region (XUAR) and other areas of Xinjiang province, religious freedom conditions continue to deteriorate. The Chinese government severely and illegitimately represses peaceful religious activity, invoking security-related campaigns that exaggerate the threat of separatism and domestic terrorism… Both Muslims and Protestants in the XUAR have experienced increased harassment, arrests, and efforts to weaken religious adherence. Uighur Muslim clerics and students have been detained for various 'illegal' religious activities, 'illegal religious centers' have been closed, and police continue to confiscate large quantities of 'illegal religious publications'...

"The 2009 demonstrations and violence intensified long-standing 'security' campaigns to control religious activity and 'weaken religious consciousness' among Uighurs. The XUAR government continues to limit access to mosques, including by women, children, communist party members, and government employees. All imams in Xinjiang are required to undergo annual political training seminars to retain their licenses, and local security forces monitor imams and other religious leaders. Imams at Uighur mosques are reportedly required to meet monthly with officials from the Religious Affairs Bureau and the Public Security Bureau to receive 'advice' on the content of their sermons. Failure to report to such meetings can result in the imam's expulsion or detention…

"Officials in the XUAR prohibit teaching Islam outside the home to minors, and police have stepped up attempts to halt private religious education programs in some parts of Xinjiang province… In several localities in Xinjiang, plainclothes police are reportedly stationed outside mosques to enforce rules forbidding children and government employees from attending services. There are also reports that in some areas, individuals under the age of 30 are prohibited from attending a mosque. Throughout Xinjiang, teachers, professors, university students, and other government employees are prohibited from engaging in religious activities, such as reciting daily prayers, distributing religious materials, observing Ramadan, and wearing head coverings; they are reportedly subject to fines if they attempt to do so." **[70a]**

(See also section 19: Christians Protestants)

20.13 The USSD *International Religious Freedom Report 2009* noted subsequently that "Uighur Christians reported tightening controls on house church worship." **[2a] (Section II. Status of Religious Freedom, Abuses of Religious Freedom)** The same report stated:

"Concerns about separatism, religious extremism, and terrorism fueled repressive security measures by the Government of the XUAR, some of which restricted peaceful expressions of religious belief by Uighur Muslims… Authorities often failed to distinguish among those involved in peaceful activities in support of independence, 'illegal' religious activities, and violent terrorism. Therefore, it was often difficult to determine whether particular raids, detentions, arrests, or judicial punishments targeted those who were peacefully seeking political goals or the right to worship, or those engaged in violence. In the XUAR, the Government pledged to root out religious activities it deemed illegal, including religious education independent of the IAC [Islamic Association of China], Hajj travel independent of the IAC, and use of religious texts deemed illegal. According to websites and public announcements of local governments in the XUAR, officials began collecting signatures of citizens who agreed to resist 'illegal religious activities' and promised to hold open trials of individuals accused of 'illegal religious activities' to demonstrate its consequences to the public. The Government instructed imams to increase their efforts to gather information on worshippers and warned that they would be held responsible if their students took part in illegal religious activities. Tabligh (sharing one's faith with others) was deemed an 'outstanding problem.' Compared to other provinces and autonomous regions, the XUAR government maintained the most severe legal restrictions on a child's right to practice religion, and XUAR authorities in a few areas prohibited women, children, CCP members, and government workers from entering mosques. Tight controls on religion in the XUAR reportedly affected followers of other religions as well. NGOs reported restrictions on public expressions of faith by teachers, professors, and university students, including during Ramadan." **[2a] (Section II. Status of Religious Freedom, Restrictions on Religious Freedom)**

(See also section 26: Women)

(See also section 27: Children)

20.14 In an article dated 9 September 2008, *The Guardian* reported:

"Officials in China's turbulent north-western region of Xinjiang are tightening restrictions on Muslim practices including mass prayers during Ramadan, according to government notices. Government employees and Communist party members are banned from fasting, wearing veils or growing beards, said circulars posted on several official websites. Other measures – which appear to vary area to area – include forcing restaurants to maintain their usual opening hours instead of shifting them in light of dawn-to-dusk fasting. Religious controls are usually stricter during Ramadan but experts say this year's are noticeably stronger and believe it is the first time they have been published rather than passed on orally. A notice on the Zhaosu county website said that ideological education had to be stepped up in the face of 'violent and disruptive activities by religious extremists, separatists and terrorists'." **[41b]**

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Uighur 'terrorist' groups

20.15 In a report dated 21 October 2008, *The Guardian* stated:

"China today issued a wanted list of eight alleged terrorists, calling for their arrest and extradition for plotting attacks on the Beijing Olympics. A spokesman for the public security ministry said the men, all Chinese citizens, were members of the East Turkestan Islamic Movement, which seeks independence for the restive north-western region of Xinjiang. The region saw its worst violence for years in August [2008], with 33 people killed in a spate of attacks around and during the games. No one claimed responsibility but China blamed Uighur separatists… Few details were given of the alleged activities of the men named today. 'The eight are all key members of the ETIM, and all participated in the planning, deployment and execution of all kinds of violent terrorist activities targeting the Beijing Olympics,' said Wu Heping, a spokesman with the ministry of public security. He gave no indication of where the men might be, but called on foreign countries to arrest and extradite them to China, adding that they posed a threat to security and stability across the region as well as domestically. The list identified 37-year-old Memetiming Memeti as the head of ETIM. Another man has the alias Saifula, which was used in a videotaped message released in July, in which a group calling itself the Turkestan Islamic Party threatened anti-Olympic attacks. Terrorism analysts were sceptical about the video. The UN and US have listed ETIM as a terrorist organisation and there is some evidence of links to al-Qaida, but some analysts believe the connections are exaggerated and largely historic. They have questioned the capacity of separatists to launch attacks outside Xinjiang. Uighur activists overseas accused the government of issuing the list to provide legal cover for a government crackdown in Xijiang. Dilxat Raxit, a spokesman for the Germany-based World Uighur Congress, said China's refusal to release evidence or allow an independent investigation into the recent attacks undercut its accusations of terrorism." **[41f]**

20.16 The USSD *Country Reports on Terrorism 2009*, published on 5 August 2010, stated:

"The East Turkistan Islamic Party (ETIP), also known as the East Turkistan Islamic Movement (ETIM), was added to the UN Security Council al-Qa'ida and Taliban Sanctions Committee's Consolidated List of individuals and entities associated with al-Qa'ida or the Taliban in 2002. In April 2009, the Sanctions Committee added ETIP leader Abdul Haq to the Consolidated List. Human rights organizations have accused China of using counterterrorism as a pretext to suppress Uighurs, a predominantly Muslim ethnic group that makes up a large percentage of the population within the Xinjiang Uighur Autonomous Region of western China. After widespread rioting in urban areas of Xinjiang in July and September [2009], police moved in and arrested more than 200 people according to official estimates, at least 26 of whom have been sentenced to death. The Chinese government claimed that the riots were orchestrated from abroad and therefore terrorist attacks on China." **[2i]**

20.17 As reported by the BBC on 15 December 2003, "China has issued its first 'terrorist' wanted list, blaming four Muslim separatist groups and 11 individuals for a string of bombings and assassinations [carried out in the 1990s] and calling for international assistance to track them down." The groups identified were the Eastern Turkestan Islamic Movement (ETIM), the Eastern Turkestan Liberation Organization (ETLO), the World Uighur Youth Congress (WUYC) and the East Turkestan Information Centre (ETIC). This report also noted, "Chinese authorities have blamed ETIM for many of the 200 or more attacks

reported in Xinjiang since 1990 and have banned the group for more than a decade. Beijing accuses ETIM of having links to the Taleban in neighbouring Afghanistan and Osama bin Laden's al-Qaeda network, but has produced no supporting evidence." **[9g]**

20.18 In its *Country Profile* for China dated August 2006, the US Library of Congress stated:

"In 2003 Beijing published an 'East Turkistan Terrorist List,' which labeled organizations such as the World Uighur Youth Congress and the East Turkistan Information Center as terrorist entities. These groups openly advocate independence for 'East Turkestan,' and, although they have not been publicly linked to violent activity, the separatists have resorted to violence, bomb attacks, assassinations, and street fighting, which Beijing responds to with police and military action. During the summer of 2004, elite troops from China and Pakistan held joint antiterrorism exercises in Xinjiang that were aimed at the East Turkistan Islamic Movement, an organization listed as terrorist by China, the United States, and the United Nations (UN). This and other Uygur separatist groups reputedly were trained in Afghanistan to fight with the Taliban and al Qaeda. The East Turkistan Islamic Movement was established in 1990 and has links to the Islamic Movement of Uzbekistan, which operates throughout Central Asia." **[11a]**

Other Uighur opposition groups

20.19 In its report of April 2005, Human Rights Watch stated:

"As the borders of Xinjiang became more porous in the 1980s, a number of young Uighurs went clandestinely to Pakistan to receive the religious education they could not obtain under China's policies. Upon their return, they enjoyed great prestige due to their ventures abroad and their knowledge of Koranic theology, far beyond that typical among local imams. Small-scale, localized underground religious organizations started to emerge. A long history of tension and opposition to Chinese domination already existed. In this period it began to take on an Islamic color. There is no evidence that Salafism, the radical Islamic ideology connected to many jihadist movements around the world, has taken root to any significant extent in Xinjiang. Proponents of rebellion against Chinese rule have used the vocabulary of Islam and religious grievances against Beijing to justify their actions. These are not, however, mainstream views. Recent reports suggest that Hizb ut-Tahrir (Party of Liberation), a movement which advocates the establishment of a pan-Central Asian caliphate and whose headquarters is located in London, has recently made inroads in Southern Xinjiang, but it has so far never advocated violence. Hizb ut-Tahrir is the object of rigorous repression in Uzbekistan and other Central Asian countries. It remains illegal in China." **[7a] (p12)**

20.20 This report also noted, "While small pro-independence organizations have in the past resorted to violence, since 1998 there have been no reports of significant militant activity. This is not to suggest that there may not be individuals or groups who continue to embrace violence to further their political goals. But Chinese officials admit that in recent years separatist activity has actually decreased and is not a threat to the viability of the state." **[7a] (p8)**

Monitoring of activists abroad

20.21 On 24 November 2009 Spiegel Online reported:

> "German investigators on Tuesday morning [24 November] searched the residences of four suspected Chinese spies. According to information obtained by Spiegel Online, the suspects had been spying on Munich's Uighur community on orders from the Chinese government… Several hundred Uighurs live in exile in Munich, and many of them are politically active. Munich has one of the world's largest exile communities of Uighurs and the World Uighur Congress is based there. The government in Beijing is interested in everything the Uighurs think, talk about or plan. The Uighurs are one of the 'five poisons' the Communist government is fighting against with all the means at its disposal. The Federal Prosecutor's Office has discovered that the Chinese government has been recruiting a number of informants to spy on Munich's Uighur community. Investigators believe that the suspected group of agents is controlled from within the Munich consulate by a consul who has been observed conducting conspirative meetings with the alleged agents. The consul himself has diplomatic immunity from prosecution in Germany but prosecutors are investigating four of his alleged informers... The spying activities in Munich are closely coordinated with Beijing, with the consul reporting directly to the homeland… Two years ago, the Chinese diplomat Ji Wumin, who also lived in Munich, had to leave the country after investigators observed him meeting around a dozen times with spies who provided him with information about the Uighur community. Ji left before he could be expelled." **[56a]**

20.22 On 9 March 2010 the BBC reported:

> "China's foreign ministry has denied that the country has been spying on political refugees living in Sweden. The reaction comes after a Stockholm court jailed a Uighur refugee for 16 months for passing on information about other Uighurs to a Chinese agent… Babur Maihesuti, 62, was found guilty on Monday of collecting information about other Uighurs and passing it on to a Chinese spy posing as a diplomat and journalist. The court said the case was 'especially serious because the intelligence served a superpower which does not have full respect for human rights'. It said the verdict was based on 'strong' prosecution evidence, including wire-tapped telephone conversations and interviews with Uighur witnesses." **[9o]**

HUI (HUIHUI)

20.23 As recorded by Europa World in its *Country Profile* for China, accessed on 29 September 2010, there are 9.8 million Hui in China, accounting for 0.79 per cent of the population. The same source noted that the total population of the Ningxia Hui Autonomous Region is 5.48 million (based on the 2000 census). **[1a] (Area and Population)**

20.24 The USSD *International Religious Freedom Report 2009* noted, "The country has 10 predominantly Muslim ethnic groups, the largest of which is the Hui, estimated to number more than 10 million. The Hui are centered in Ningxia Hui Autonomous Region, but there are significant concentrations of Hui throughout the country. Hui Muslims slightly outnumber Uighur Muslims, who

live primarily in the XUAR… In Beijing, there are 200,000 Hui Muslims and 160 mosques." **[2a] (Section I. Religious Demography)**

20.25 As reported by *Asia Times* on 6 September 2006:

"In the past the Hui were among the least orthodox Muslims in the world. Many smoked and drank, few grew beards, and Hui women rarely wore veils. Increased contact with the Middle East, however, has wrought changes. Thousands of Hui students have returned from colleges in Arab countries over the past few years and they have brought with them stricter ideas of Islam. Mosques in Ningxia have now begun to receive worshippers five times a day, more Hui women have taken to wearing headscarves, and skullcaps are in wide evidence. There is a strong identification among the Hui community today with the wider problems of the Islamic world… For many non-Muslim Chinese, this identification of the Hui with communities outside of China is problematic." **[64j]**

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21. BANNED SPIRITUAL GROUPS

21.01 The USSD *International Religious Freedom Report 2009* noted:

"Beginning in the 1980s, the Government banned groups it determined to be 'evil religions'- the Guan Yin (also known as Guanyin Famin, or the Way of the Goddess of Mercy), Zhong Gong (a qigong exercise discipline), and Falun Gong. There are reports that dedicated government offices were responsible for coordinating operations against Falun Gong. The Government also considers several Protestant Christian groups to be evil religions, including the 'Shouters' (founded in the United States in 1962), Eastern Lightning, Society of Disciples (Mentu Hui), Full Scope Church, Spirit Sect, New Testament Church, Three Grades of Servants (also known as San Ba Pu Ren), Association of Disciples, Lord God Sect, Established King Church, Unification Church, Family of Love, and South China Church." **[2a] (Section II. Status of Religious Freedom, Legal/Policy Framework)**

21.02 The report continued, "According to Article 300 of the Criminal Law, religious groups engaging in activities such as 'gathering people to besiege government organizations, holding assemblies to incite members to disrupt social order or publishing false materials' could be in violation of the law against evil religions. Violations carried penalties of up to seven years in prison." **[2a] (Section II. Status of Religious Freedom, Legal/Policy Framework)**

21.03 Articles 300 and 301 of the Criminal Law set out the penalties for seeking to promote an 'evil cult'. They state:

"Article 300: Whoever forms or uses superstitious sects or secret societies or weird religious organizations or uses superstition to undermine the implementation of the laws and administrative rules and regulations of the State shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years; if the circumstances are especially

serious, he shall be sentenced to fixed-term imprisonment of not less than seven years.

"Whoever forms or uses superstitious sects or secret societies or weird religious organizations or uses superstition to cheat another person, and causes death to the person shall be punished in accordance with the provisions of the preceding paragraph.

"Whoever forms or uses superstitious sects or secret societies or weird religious organizations or uses superstition to rape a woman or swindle money or property shall be convicted and punished in accordance with the provisions of Articles 236 and Article 266 of this Law respectively.

"Article 301: Where people are gathered to engage in licentious activities, the ringleaders and the persons who repeatedly take part in such activities shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention or public surveillance.

"Whoever entices a minor to join people in licentious activities shall be given a heavier punishment in accordance with the provisions of the preceding paragraph." **[5i]**

THE SHOUTERS (HUHAN PAI) OR LOCAL CHURCH

21.04 The USSD *International Religious Freedom Report 2009* noted that the Shouters (founded in the United States in 1962) are considered by the Chinese government as being among the "evil religions", the activities of which it continued to restrict severely. **[2a] (Introduction to China and Section II. Status of Religious Freedom, Legal/Policy Framework)** The report stated further:

"On November 2, 2008, police simultaneously raided nine house churches associated with the 'Local Church' network in Hangzhou city, Zhejiang Province. Each of the nine house church meetings had approximately 25 to 30 persons present. Police handcuffed the nine leaders and took them to the local PSB office. More than 30 other church members were also arrested. College students present were required to write a confession paper and a statement guaranteeing that they would not to go to other gatherings. A day after the incident, family members were notified that the nine leaders would be detained for two weeks. Five were released after being detained eight to 15 days under administrative detention. Four of the leaders were given sentences of 12 to18 months of RTL and accused of 'preaching to students.'" **[2a] (Section II. Status of Religious Freedom, Abuses of Religious Freedom)**

21.05 As reported by Belief.net on 9 January 2002, "The Shouters have been targeted by China as an anti-government group since the early 1980s and were banned in 1995. According to a 1994 report by Human Rights Watch-Asia, the Shouters were targeted as a cult because their strong evangelical belief in the second coming of Christ challenged the idea of a future communist utopia." **[71b]** In a report dated 4 October 2003, the Local Church Information Site noted:

"The 'Local Church' of Witness Lee is a religious movement whose teachings are rooted in Biblical Christianity, but with several unique elements that have led many observers to label the group a cult. The current movement began in

the 1960s in southern California, U.S.A. with the teachings of Chinese-American preacher Witness Lee, and it has since spread through much of North America and parts of Europe and Asia. Churches affiliated with the movement can usually be identified by their name, which almost always follows the pattern 'The Church in [city name]'. Members typically claim that the movement has no official name, although the term 'The Lord's Recovery' is often used internally as a descriptive name. The term 'Local Church' is generally used by outsiders, and refers to the movement's belief that the church should be organized by city, and that individual churches should take the name of the city in which they are located. Other names sometimes used include 'Church of Recovery' (Philippines) and 'Shouters' (China)." **[72a]**

21.06 The same source continued, "Estimates of the size of the 'Local Church' hover around several hundred thousand members worldwide. However, it is difficult to produce precise numbers, largely because it is difficult to gauge the number of adherents and partial adherents to the group's teachings within mainland China itself, where the movement appears to thrive but has been driven underground by government persecution." **[72a]**

SOUTH CHINA CHURCH

21.07 The USSD *International Religious Freedom Report 2009* noted that the South China Church is considered by the government to be one of the "evil religions", the activities of which it continued to restrict severely. **[2a] (Introduction to China and Section II. Status of Religious Freedom, Legal/Policy Framework)** On 17 January 2002 Christian Solidarity Worldwide (CSW) reported that Gong Sheng Liang and his niece, Li Ying, both founding members of the South China Church, were sentenced to death following a secret trial held on 18 December 2001. "Gong was sentenced to death for 'using an evil cult to undermine law enforcement', causing bodily harm with intent, and rape... Li Ying was also given a death sentence, suspended for two years, for 'using an evil cult to undermine law enforcement' and causing bodily harm with intent." **[74a]**

21.08 As reported by the same source, "The rape charge follows a pattern which has been used against other alleged cult leaders who have been sentenced to death… The difference in Gong's case is that the South China Church is more widely regarded as a mainstream Christian group and that details of the allegations have not been given in public. The South China Church was founded in 1991 when Gong, who was imprisoned between 1983 and 1986, left the Born Again Movement. The church is estimated to have some 50,000 members." **[74a]**

21.09 A report by CSW, dated 6 June 2006, noted:

"… following an international outcry the cases were re-heard on appeal and Gong was instead sentenced to life in prison. Now in his mid-50s, Pastor Gong has been subject to horrific torture and mistreatment which has left him in danger of his life… Pastor Gong's religious activities prior to his arrest were considered illegal by the Chinese authorities because the South China Church is unregistered and therefore unofficial. Many Chinese Christians prefer to worship at unregistered churches, as the government-sanctioned official church places restrictions on teaching and other church activities." **[74d]**

21.10 In a report dated 12 December 2008, ChinaAid stated:

> "Four Christians are missing and many more have been persecuted in Hubei province during the month of November 2008 according to the South China Church house church network. ChinaAid recently received a detailed report from South China Church leaders detailing the arrests, beatings and disappearances of Christians in their house churches in Jingmen city and Xiangfan city areas… Other Christians have been beaten publically [sic] by plainclothes officials; their Bibles, personal property and money taken." **[42a]**

THREE GRADES OF SERVANTS CHURCH

21.11 The USSD *International Religious Freedom Report 2009* noted that the Three Grades of Servants Church (also known as San Ba Pu Ren) is considered by the government to be one of the "evil religions", the activities of which it continued to restrict severely. **[2a] (Introduction to China and Section II. Status of Religious Freedom, Legal/Policy Framework)** In a report dated 29 November 2006, Christian Solidarity Worldwide (CSW) stated:

> "…China has secretly carried out the execution of three religious leaders from the controversial group Three Grades of Servants. CSW has been informed that the lawyers and family of Mr Xu Shuangfu (60), Mr Li Maoxing (55) and Mr Wang Jun (36) had not received the final verdict from the appeal or been told about the executions when they were carried out… 15 leaders and members of the group have been executed in relation to the case. The three men were convicted of murdering leaders of the Eastern Lightning group and two were also convicted of defrauding members of their own group. The defence lawyers argued that there was no evidence to prove that the three men were involved in the murders. The case has been of particular concern as evidence emerged at the trial that severe torture and sexual abuse had been used against the defendants to extract confessions... The Three Grades of Servants has at least half a million members in China… many of the mainstream Chinese house churches identify Xu's group as controversial and doctrinally cultic..." **[74c]**

EASTERN LIGHTNING/LIGHTNING FROM THE EAST (DONGFANG SHANDIAN)

21.12 The USSD *International Religious Freedom Report 2009* noted that Eastern Lightning is considered by the government to be one of the "evil religions", the activities of which it continued to restrict severely. **[2a] (Introduction to China and Section II. Status of Religious Freedom, Legal/Policy Framework)** On 29 November 2006 CSW noted that Eastern Lightning is seen as "nothing more than a violent coercive criminal group" by mainstream Chinese house churches. **[74c]** As reported by *TIME* on 29 October 2001:

> "A fast-spreading sect named Lightning from the East is alarming Christian communities across China by winning large numbers of converts to its unorthodox tenets, often by abducting potential believers. Its followers, who say they number 300,000 but whom observers measure in the tens of thousands, believe that Jesus has returned as a plain-looking, 30-year-old Chinese woman who lives in hiding and has never been photographed. They credit her with composing a third testament to the Bible, writing enough hymns to fill 10 CDs and teaching that Christians who join her will ascend to heaven in the coming apocalypse… The sect – which calls itself 'the con-gregation' –

operates deep underground. A two-year police campaign against it and other so-called 'evil cults,' such as Falun Gong, has put 2,000 of its followers in jail, say its spokesmen. Yet by targeting Christian believers it is flourishing – even though its belief that the female Jesus has updated the Bible for China violates core Christian tenets. The appeal seems to be the group's claim to have improved the Christian faith by putting the end of the world into a Chinese context and offering believers a path to immediate salvation. Official Christian churches, by contrast, downplay the Final Judgment, emphasizing instead codes of behavior. That, plus the sect's insistence that China is 'disintegrating from within,' appeals to peasants, many of whom are poorly grounded in Christian principles and are angry at a government that has failed to raise their incomes or curb corruption." **[65b]**

JEHOVAH'S WITNESSES

21.13 In a report dated 8 March 2006, Forum 18 stated, "... Jehovah's Witnesses exist in China in small numbers but are not allowed any legal existence." **[66d]** On 24 February 2006 the Canadian Immigration and Refugee Board (IRB) reported:

"In 22 February 2006 correspondence to the Research Directorate, the general counsel for Watchtower Bible and Tract Society of Pennsylvania stated, without elaborating, that it would be imprudent to disclose information about the number of Jehovah's Witnesses and congregations in China, or about their geographical representation across the country. The annual report on the number of active Jehovah's Witnesses worldwide published by the official Website of the Jehovah's Witnesses does not include information on China… The general counsel further stated that his organization was not aware of any current reports of arrests or detention of Jehovah's Witnesses in China… According to the World Christian Encyclopedia, however, 'marginal churches' such as the Jehovah's Witnesses 'have had virtually no impact on China' (2001, 195). Jehovah's Witnesses first appeared in China in 1883, held their first baptism of Chinese members in 1931, and had 13 members by 1939... In 1958, however, the Jehovah's Witnesses were 'completely suppressed'… The executive secretary of the Hong Kong Christian Council, who travels regularly throughout the Chinese mainland to gauge the state of religious freedom and has published numerous articles on the subject… commented in 20 January 2006 correspondence to the Research Directorate that he was not aware of any documentation on Jehovah's Witnesses in China. While he believed that there were between 4,000 and 5,000 members of the church in Hong Kong, the executive secretary pointed out that Jehovah's Witnesses were not on the list of banned 'cults' in China… There was, likewise, no record of registration of places of worship used by Jehovah's Witnesses with Chinese authorities, a point which the general counsel for Watchtower acknowledged... However, the executive secretary stated that he knew of large quantities of Jehovah's Witnesses literature being circulated in China, which he speculated might indicate some 'clandestine' activity among Jehovah's Witnesses on the mainland." **[3af]**

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FALUN GONG

21.14 The USSD *International Religious Freedom Report 2009* noted:

> "Falun Gong is a self-described spiritual discipline that is Buddhist in nature. Falun Gong combines the meditation techniques and physical exercises of qigong (a traditional Chinese exercise discipline) with the teachings of its founder Li Hongzhi. Prior to the Government's 1999 ban on Falun Gong, it estimated that there were 70 million adherents; the Government subsequently adjusted the number of adherents to approximately 2 million. Falun Gong sources estimate that tens of millions continue to practice privately." **[2a] (Section I. Religious Demography)**

21.15 The report also stated:

> "The Government also continued to restrict severely the activities of groups it designated as 'evil religions,' including several Christian groups and Falun Gong… There are reports that dedicated government offices were responsible for coordinating operations against Falun Gong… According to Falun Gong practitioners abroad, since 1999 several hundreds of thousands of practitioners have been detained for engaging in Falun Gong practices, admitting that they adhere to the teachings of Falun Gong, or refusing to criticize the organization or its founder. The organization reported its members have been subject to excessive force, abuse, rape, detention, forcible psychiatric commitment and treatment (including involuntary medication and electric shock treatment), and torture, and that some members, including children, have died in custody. Practitioners who refused to recant their beliefs were sometimes subjected to extrajudicial 'legal education' centers after the expiration of their criminal sentences. According to former RTL camp detainees, Falun Gong practitioners make up a significant percentage of the RTL camps' population. Overseas Falun Gong organizations alleged a surge in arrests and deaths of Falun Gong practitioners carried out to prevent disturbances during the Olympic Games. They claimed that authorities arrested thousands of adherents and imprisoned hundreds, and that 100 practitioners died in 2008 as a result of persecution. Reports of abuse were difficult to confirm because the Government prevented Falun Gong members from meeting with foreign reporters and government officials… The Government frequently used harsh rhetoric against Falun Gong. In May 2009, several attorneys who had represented Falun Gong practitioners did not have their licenses renewed by the Lawyers Associations in their localities… Falun Gong reported that detained practitioners were repeatedly subjected to various methods of physical and psychological coercion in attempts to force them to deny their belief in Falun Gong." **[2a] (Introduction to China and Section II. Status of Religious Freedom, Legal/Policy Framework, Abuses of Religious Freedom, Forced Religious Conversion)**

> (See also sections 8 and 12: Torture and Administrative detention/labour camps

21.16 As noted by Amnesty International in its *2010 Report* on China (events of 2009), published on 28 May 2010, "The government campaign against the Falun Gong intensified, with sweeping detentions, unfair trials leading to long sentences, enforced disappearances and deaths in detention following torture and ill-treatment." **[6b]**

21.17 The US Commission on International Religious Freedom (USCIRF) stated in its *Annual Report 2010*, published on 29 April 2010:

"The Chinese government continues to maintain a severe campaign against adherents of the Falun Gong spiritual movement, which it considers an 'evil cult' and was banned in 1999. Over the past decade, the government has carried out an unprecedented campaign against the Falun Gong, imprisoning large numbers of practitioners and abusing them in detention. Practitioners who do not renounce their beliefs in detention are subject to torture. There are recent, credible reports of deaths in custody. The Chinese government's systematic campaign to suppress the Falun Gong and other 'evil cults' using extrajudicial means is a severe human rights problem.

"Credible first-hand accounts from Falun Gong adherents report, and official Chinese government statements confirm, long-term and arbitrary arrests, forced conversions of faith, and torture and mistreatment in detention. Though it is difficult to determine with specificity the number of Falun Gong practitioners in detention during the past year, some estimates place the number at 8,000, with most arrests having occurred prior to the 2008 Beijing Olympics…

"The UN Special Rapporteur on Torture reported that Falun Gong practitioners allegedly make up two-thirds of the alleged victims of torture presented to him in China. Numerous allegations of government-sanctioned organ harvesting from incarcerated practitioners have surfaced within the last several years as well. Independent investigation into the practices of a hospital in Sujiatun, Shenyang proved inconclusive. However, based upon a report from two prominent Canadian human rights activists, international human rights organizations and the Special Rapporteur on Torture have called for an independent investigation and for continued international attention to allegations of organ harvesting from prisoners." **[70a]**

21.18 The USSD Report 2009 noted, "In a 2007 interview, Ministry of Health spokesman Mao Qunan stated that most transplanted organs were from executed prisoners." **[2e] (Section 1c)**

21.19 In a report dated 30 April 2007, Amnesty International stated:

"Amnesty International is disturbed by ongoing reports of organs being sold for transplant in China even after the Ministry of Health introduced new regulations banning the practice from 1 July 2006… One official reportedly said that there was a surplus of organs due to an increase in executions ahead of China's National Day on 1 October 2006. On 6 April 2007, the Xinhua news agency published the text of new regulations on organ transplants, apparently aimed at reinforcing the industry-wide regulations passed last year. Due to take effect on 1 May 2007, they include a ban on trading in organs and on live organ transplants from those under the age of 18. They state that donations should be 'voluntary' and 'noncompensatory' and that 'no organization or individual may force, dupe or lure anyone to donate his organs'. However, the regulations make no specific reference to the extraction of organs from death penalty prisoners, suggesting that the practice will continue." **[6h]**

(See also section 13: Death penalty)

21.20 In its *2010 Annual Report* on Falun Gong, dated 25 April 2010, the US-based Falun Dafa Information Centre stated:

"Though it is difficult to gauge the precise figure of Falun Gong practitioners inside China at present, both editors at Falun Gong's main Chinese-language website and Western media reports during 2009 placed the number in the tens of millions, pointing to the continued popularity and even growth of Falun Gong inside China. These millions of Falun Gong practitioners in China remain at constant risk of detention, torture, and death because of their religious identity. In 2009, the lawlessness and brutality of the Party's treatment of citizens who practiced Falun Gong remained staggering. Suffocating surveillance, late night raids on practitioners' homes, beatings with electric batons, and long-term imprisonment were routine features of the Chinese authorities' relentless efforts to identify and forcibly 'transform' every single Falun Gong practitioner in China. Meanwhile, reports of deaths from torture or other abuses in custody continue to flow from China on a nearly daily basis." **[46a]**

21.21 Ian Johnson, in his book *Wild Grass* (2004), wrote that Falun Gong practitioners are sometimes held in makeshift prisons run by neighbourhood committees. These can be a single room in the committees' offices and therefore not as secure as regular detention facilities. **[50f] (p196, 218-219)**

Origins and support

21.22 As reported by *The Guardian* on 18 July 2009:

"Without any real formal leadership structure and no role of membership as such, adherents of the religion, founded by Li Hongzhi in 1992, follow so-called traditional qigong practices for both spiritual and physical development as detailed in Falun Gong's literature. Without formal rituals of worship, its central tenets are truthfulness, forbearance and compassion. Falun Gong, which emerged in large part out of ideas prevalent in some aspects of alternative Chinese medicine, came to be regarded as a threat to the Chinese state after 10,000 of its practitioners staged a silent protest at the Communist party's headquarters in April 1999 to complain about attacks on its members, a move that led to its banning two months later. Accused of being an unregistered religion, spreading superstition and defrauding people, official organisations – crucially – attempted to suggest it was a politically motivated organisation, suggesting the real motive for the crackdown: the perceived threat it posed to the Communist party by its massive appeal." **[41n]**

21.23 As documented by Maria Hsia Chang in her book *The End of Days: Falun Gong* (2004), Falun Gong/Falun Dafa was founded in 1992 by Li Hongzhi. In the early 1990s Li took advantage of a relaxation in the rules governing the regulation and formation of social groups to formulate his own distinctive brand of the ancient Chinese art of qigong (qi gong) or energy cultivation. He fused this with elements of other religions to create a quasi-religious movement, which encompassed a loose hierarchical structure (technically there are no members, only enthusiastic volunteers) and emphasised high moral standards and good health amongst its followers. Pre-ban (July 1999) followers would gather in public parks and squares to practise the five

exercises/movements (see below) which are central to the teachings of Li Hongzhi, also known to his followers as Master Li. **[50c] (p3-8, 60-94)**

21.24 The same source also noted, "Reportedly, the middle-aged and those from the middle class comprised the sect's main following, although its ranks also included students and the elderly, as well as peasants. They came from all walks of life: teachers, physicians, soldiers, CCP cadres, diplomats posted in foreign countries, and other government officials." **[50c] (p5)**

Guiding principles

21.25 As reported in *Compassion: A Journal of Falun Dafa Around the World* (Issue 5 of 2004):

"Falun Gong – which is also referred to as Falun Dafa – is an ancient advanced form of the qigong. Falun Gong consists of gentle exercises combined with a meditation component. Aside from its popularity… what is usually said to distinguish Falun Gong is its emphasis on the practice of refining one's moral character in accordance with three principles – Truthfulness, Compassion, and Tolerance. These three principles form the backbone of Falun Gong's philosophy and practitioners of the discipline aspire to live by them in their daily lives, striving to achieve, over time, a state of kindness, selflessness and inner balance." **[80] (p40)**

21.26 The source continued:

"The principles of Falun Gong are captured in the two main books written by Mr. Li Hongzhi: Falun Gong (Law Wheel Qigong) and Zhuan Falun (Turning the Law Wheel). Falun Gong [the book] is a systematic, introductory book that discusses qigong, introduces the principles of the practice, and provides illustrations and explanation of the exercises… Organized in the form of nine lectures, Zhuan Falun is the most comprehensive and essential work of Falun Gong… Both books and instructional videos are available free on the Internet. There is no membership, and no fees collected." **[80] (p40-41)**

Exercises and movements

21.27 As noted in *Healthy Body, Peaceful Heart: Falun Gong – A Path to Your Original, True Self*, a leaflet sent to the Country of Origin Information (COI) Service on 16 August 2005 by the Falun Gong Association (UK), "Falun Dafa, also known as Falun Gong, is a traditional Chinese self-cultivation practice that improves mental and physical wellness through a series of easy to learn exercises, meditation and develops one's 'Heart/Mind Nature (Xingxing)'." **[81a]**

21.28 The five exercises listed on this leaflet are as follows:

Movement Exercises

1. Buddha Showing A Thousand Hands.
2. Falun Standing Stance.
3. Penetrating the Two Cosmic Extremes.
4. Falun Heavenly Circulation.

Sitting Exercise/Meditating Exercise/Tranquil Exercise

5. Way of Strengthening Divine Powers **[81a]**

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Possibility of practising in private

21.29 As noted by the USSD Report 2009:

"Public Falun Gong activity in the country remained negligible, and practitioners based abroad reported that the government's crackdown against the group continued… Even practitioners who had not protested or made other public demonstrations of belief reportedly were forced to attend anti-Falun Gong classes or were sent directly to RTL [reeducation-through-labour] camps. These tactics reportedly resulted in large numbers of practitioners signing pledges to renounce the movement." **[2e] (Section 2c)**

21.30 As reported by the Canadian Immigration and Refugee Board (IRB) in an extended response on the situation of Falun Gong practitioners and their treatment by state authorities (2001–2005), Gail Rachlin from the Falun Dafa Information Centre (FIC) told the IRB that since 2003 many practitioners had given up because of the fear of persecution. However, according to Rachlin, "…many have subsequently resumed their involvement in Falun Gong and many others have newly joined the practice." **[3c]**

21.31 The Canadian IRB in the same response stated, "Practising Falun Gong in the privacy of one's own home may be possible, but according to Human Rights Watch, it could become 'dangerous' if officials or the police became aware of it." Citing Maria Hsia Chang writing in her book, *The End of Days*, the Canadian IRB stated that "[m]any followers still risk arrest and beatings to perform the exercises, but they do them in their homes instead of public parks." Citing Gail Rachlin, the IRB also noted that "while it is possible to practice in private, concealing one's beliefs and daily practice from relatives and neighbours is difficult." **[3c]**

21.32 In its *2010 Annual Report* on Falun Gong, dated 25 April 2010, the Falun Dafa Information Centre stated:

"Thousands of adherents were detained throughout China in 2009… Among the documented cases, most victims were arrested on the basis of their being known to the authorities as Falun Gong practitioners, even if this identity consisted of studying Falun Gong tenets and practicing its meditation exercises in the privacy of their homes. In many cases, adherents were abducted after they were found possessing Falun Gong books and related materials, either during door-to-door searches by security agents or upon being stopped on the street. Once detained, the pattern of subjecting adherents to severe torture to force them to disavow their faith—including sexual abuse, psychiatric torture, and shocks with electric batons—remained commonplace." **[46a]**

21.33 As reported by *The Guardian* on 18 July 2009:

"Five young men in plain clothes bundled the elderly couple into an unmarked car. The crime of Qiao Yongfang and his wife, Yan Dongfei, both aged 60 and

residents of Huhot City, in Inner Mongolia, was to be practitioners of the banned Falun Gong religion, which has tens of millions of followers in China.Ten years after the prohibition on Falun Gong was ordered by China's former leader Jiang Zemin, commencing a brutal crackdown on its adherents, believers such as Qiao's parents are still being pursued, despite international protests. The only change is that the persecution is now more secretive… 'They took my parents after dark. They don't want people to know. The persecution is almost underground,' said the 35-year old... 'I got a call from one of the members of my family in China. They had tried to call my parents' phone and a strange man had answered and demanded to know who was calling. They do that to find other members of Falun Gong. My uncle then went to my parents' house. The building attendant didn't want to talk but finally he said what happened. But even then the local police would not admit they had been arrested. They said they didn't know. In the end we heard it through a friend in the police who told us they had been taken to detention centre number one. We are not allowed to talk to them. When we rang the National Security Brigades they said my parents were not co-operating. They have not written a letter denouncing Falun Gong or given names of other practitioners. My extended family at first refused to believe what was going on. They said the persecution of the Falun Gong was over. But it's happening every day.'" **[41n]**

21.34 On 23 April 2009 Reuters reported, "There are occasional signs of low-key activity by practitioners in mainland China. A woman passing out Falun Gong leaflets in Japan in July [2008] said her family practises quietly at home in Shandong without trouble. Though the public campaigns have faded, the Chinese government's hostility has not changed… a man [was] detained by police this month for distributing Falun Gong pamphlets in a suburb east of Beijing." **[34c]**

Denunciation documents

21.35 In response to a series of questions submitted by the COI Service, the Falun Gong Association (UK) supplied the following information on 25 August 2006:

1) How widespread is the use of denunciation documents in Chinese prisons and labour camps?

"Practically universal. However, for administrative or other forms of detentions, which last normally up to 15 days or 30 days, the document is less widely used. The released could well be send [sic] to a brain washing 'class' later where making an renunciation statement is expected and those failing to do so could end up in a labour camp." **[81b]**

2) Once a practitioner has sign[ed] a document denouncing Falun Gong are they released immediately or are they required to assist in the "re-education" of other "unreformed" practitioners?

"This varies from case to case and the recent practice is also different to earlier ways. It is now common practice for a labour camp to hold on to the prisoner for a few more months to observe whether the 'transformation' had been solid before release, because many recant their statements made in labour camps after release. It is also well known that some who were

'transformed' and cooperated closely with the labour camps were retained for long periods rather than released by the facilities to 'transform' others." **[81b]**

3) Are practitioners given a copy of this document on their release?

"We are not aware of any case where the released is given a copy of the document on his/her release, although in an incident in Europe the regime is known to have posted such a statement to fellow practitioners of the released as a way of humiliating him and undermining trust in him. Because this particular statement was extracted by the labour camp after the practitioner was tortured with 6 electric batons, it has been an extremely emotive issue and making public the statement has so far not been possible." **[81b]**

"The denunciation or renunciation statement has no particular form or a specific set of words. In the earlier years of the persecution, the statement consists of pledges of a.) not practising Falun Gong, b.) not communicating with other Falun Gong practitioners, and c.) not appealing for Falun Gong in Beijing. In later years, apparently to make the "transformation"s [sic] more solid, words to the effect of attacking Falun Gong were required in statements in many cases." **[81b]**

4) How likely is it that a detained practitioner could be released without signing a document denouncing Falun Gong?

"Practically no one would be released from a labour camp or prison without signing a renunciation statement. However, as mentioned in my answer to Question 1, such statements are not as often used on practitioners in various forms of detention which last up to 15 days or 30 days." **[81b]**

Important dates for foreign-based practitioners

21.36 Further to this the Falun Gong Association (UK) also supplied information on dates commemorated by foreign-based practitioners:

25 April
"This is the anniversary of the protest by 10,000 practitioners outside Zhongnanhai, the communist regime headquarters in Beijing, China. This incident in 1999 is thought to have triggered the decision by the former head of the Chinese Communist Party, Jiang Zemin, to order the persecution, which started nearly three months later on 20 July 1999. The commemoration activities typically consist of protest rallies and/or parades usually in front of the Chinese embassies/consulates or other public open spaces. Public open air exhibitions about the persecution, including torture and organ harvesting, could also form a part of the events. Practitioners may also give out flyers about the atrocities and collect signatures for petitions." **[81b]**

13 May (Falun Dafa Day)
"This is the day when Falun Gong was publicly introduced in China in 1992, and also the birthday of the founder of Falun Gong [Li Hongzhi]. The [sic] is an anniversary event typically for celebrations featuring performance of the Falun Gong exercises in public open spaces together with performances of Chinese dances, songs, calligraphy, and other art forms of the traditional Chinese culture of which qigong including Falun Gong is a part. Depending on the

place and the year concerned, some efforts made [sic] also be made to raise awareness of the persecution." **[81b]**

20 July
"Anniversary of the start of the persecution of Falun Gong by the communist regime in China [in 1999] (see also the item for 25 April) This is commemorated with the aim of raising awareness of the persecution and the form of commemoration is usually the same as that for 25 April." **[81b]**

Treatment of Falun Gong practitioners' relatives

21.37 As noted by the USSD Report 2009, family members of some Falun Gong practitioners were targeted for arbitrary arrest, detention and harassment. **[2e] (Section 1f)** On 11 July 2007 the Canadian IRB recorded:

"In 8 June 2007 correspondence, a representative of the Falun Dafa Association of Canada stated that [the Chinese] authorities use ... family members as 'hostages' to force [Falun Gong] practitioners to give up the practice. If practitioners do not cooperate with the authorities, their family members are subject to punishment as well... The punishment includes harassment by the police (random visit by police to the home), arbitrary interrogation, losing [a] job, losing [the] chance of promotion, losing [a] pension/state housing, etc. The Representative further noted that there have been cases of arrests of family members of Falun Gong practitioners… The United States (US)-based Falun Gong Human Rights Working Group (FGHRWG)… similarly notes that the Chinese government 'torments' family members of Falun Gong practitioners to pressure them to renounce the practice... 'brothers and sisters are fired from their jobs, elders are stripped of their retirement benefits, and children are expelled from school'. In a submission to the Senate Foreign Affairs Committee of Australia, the Falun Dafa Association of New South Wales indicates that, besides 'common' Falun Gong practitioners, Chinese authorities have also targeted 'family, friends and workplaces of practitioners, overseas practitioners, as well as ... non-practitioners.'" **[3y]**

21.38 The same source recorded:

"The Representative of the Falun Dafa Association of Canada noted in her correspondence that there have been reports that persons who assist Falun Gong practitioners could face fines, threats and 'harassment,' even though they themselves are non-practitioners… In 31 August 2005 correspondence from the New York-based Human Rights in China (HRIC), a representative indicated that the organization has heard of cases in which non-practitioners have been detained by police after Falun Gong adherents slipped pamphlets on the movement under their door and a 'neighbour with a grudge' proceeded to alert authorities… such episodes are more common in the northeastern and central regions of China… a 'certain percentage' of Public Security Bureau (PSB) officials 'just want to make arrests and look like they're doing their jobs, especially if they're part of a 'stability bureau' entrusted with keeping a lid on troublesome elements like [Falun Gong].'" **[3y]**

21.39 On 26 June 2008 the Canadian IRB recorded:

"…many children [of Falun Gong practitioners] are left unattended and sometimes homeless following the arrest of their parents… In November 2005, the United Nations (UN) Committee on the Rights of the Child published a report in which it notes its concern 'at reports that children of families practising their religion, notably the Falun Gong, are subject to harassment, threats and other negative actions, including re-education through labour'… A 20 March 2005 report by the Global Mission to Rescue Persecuted Falun Gong Practitioners (GMR)… states that many children (of Falun Gong practitioners) have been directly targeted and tortured to death or thrown into prisons and labor camps. Hundreds of thousands of children have been forced to slander Falun Gong or, upon refusal, (have been) expelled from school… the UNA [United Nations Association] – San Diego Chapter says that children of Falun Gong practitioners 'have become direct targets of police'… 'at least five children, as young as 8 months old, have died from police mistreatment, dozens have been incarcerated, tortured, or subjected to forced labor, and hundreds have been expelled from schools'." **[3v]**

(See also section 27: Children)

Monitoring of activists abroad

21.40 The USSD *International Religious Freedom Report 2009* noted Falun Gong reports that "the [Chinese] Government harassed their members in other countries, including the United States, through threatening phone calls and physical harassment." **[2a] (Section II. Status of Religious Freedom, Abuses of Religious Freedom)**

21.41 On 23 April 2009 Reuters reported, "Even activists in the U.S. have come under pressure, said Jason Si of California, a marketer for Falun Gong's cultural tours, whose sister is serving 18 months of forced labour. 'I feel very sad about this. But I am not going to give up the practice because to me it is truth, it gives meaning to life,' Si told Reuters. 'Since they did this to my family, I have been less open in my activities. I did tone down for the sake of my family.'" **[34c]**

21.42 As reported by the *Epoch Times* (a publication sympathetic to Falun Gong) on 4 June 2005, Jiang Renzheng was a Falun Gong practitioner deported from Germany on 7 March 2005, who was sentenced to three years in a labour camp after he refused to stop practising Falun Gong following his return to China. **[40d]** This report stated:

"On March 17, just ten days after Jiang's return to China, police officers appeared at the house of Jiang's father. As they did not find Jiang, they asked his father, 'Do you see what we have with us?' The police showed him several of a very widely used torture device in China, the electric shock club. The father was terrified, and upon his son's return home, asked him to stop practicing Falun Gong. Jiang refused. The police officers kept visiting, and soon undertook the first of several severe interrogations of Jiang and the 54 year old father. The first one lasted 12 hours, from four p.m. to four a.m. The officers pressured Jiang and, among other things, demanded he write down what activities he took part in as a Falun Gong practitioner living abroad. In fact, the police officers were obviously already well informed about Jiang's activities, according to their own admission, from information supplied by the German authorities. They demanded he stop practicing Falun Gong… The

International Society for Human Rights (ISHR) stated in a press release that the secret service of China spies on Chinese living abroad…" **[40d]**

21.43 As reported by the Association for Asian Research (AFAR) on 26 December 2005, there have been persistent allegations that foreign governments are pressurised to prevent Falun Gong practitioners demonstrating during visits by Chinese officials. **[51b]**

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22. ETHNIC GROUPS

22.01 The US Library of Congress, in its *Country Profile* for China dated August 2006, noted:

"Besides the majority Han Chinese, China recognizes 55 other nationality or ethnic groups, numbering about 105 million persons, mostly concentrated in the northwest, north, northeast, south, and southwest but with some in central interior areas. Based on the 2000 census, some 91.5 percent of the population was classified as Han Chinese (1.1 billion). The other major minority ethnic groups were Zhuang (16.1 million), Manchu (10.6 million), Hui (9.8 million), Miao (8.9 million), Uygur (8.3 million), Tujia (8 million), Yi (7.7 million), Mongol (5.8 million), Tibetan (5.4 million), Bouyei (2.9 million), Dong (2.9 million), Yao (2.6 million), Korean (1.9 million), Bai (1.8 million), Hani (1.4 million), Kazakh (1.2 million), Li (1.2 million), and Dai (1.1 million). Classifications are often based on self-identification, and it is sometimes and in some locations advantageous for political or economic reasons to identify with one group over another. All nationalities in China are equal according to the law. Official sources maintain that the state protects their lawful rights and interests and promotes equality, unity, and mutual help among them." **[11a]**

22.02 On 9 July 2009 the BBC reported:

"Foreigners and the Chinese themselves typically picture China's population as a vast homogeneous Han majority with a sprinkling of exotic minorities living along the country's borders. This understates China's tremendous cultural, geographic, and linguistic diversity - in particular the important cultural differences within the Han population… Across the country, China is seeing a resurgence of local ethnicity and culture, most notably among southerners such as the Cantonese and Hakka, who are now classified as Han… Officially, China is made up of 56 nationalities: one majority nationality, the Han, and 55 minority groups. The 2000 census revealed a total official minority population of nearly 104m, or approximately 9% of the total population. The peoples identified as Han comprise 91% of the population from Beijing in the north to Canton in the south, and include the Hakka, Fujianese, Cantonese, and other groups. These Han are thought to be united by a common history, culture, and written language; differences in language, dress, diet, and customs are regarded as minor and superficial. An active state-sponsored programme assists these official minority cultures and promotes their economic development (with mixed results). The recognition of minorities, however, also helped the Communists' long-term goal of forging a united Chinese nation by solidifying the recognition of the Han as a unified 'majority'. Emphasizing the

difference between Han and minorities helped to de-emphasize the differences within the Han community. The Communists incorporated the idea of Han unity into a Marxist ideology of progress, with the Han in the forefront of development and civilization. The more 'backward' or 'primitive' the minorities were, the more 'advanced' and 'civilized' the so-called Han seemed, and the greater the need for a unified national identity. Minorities who do not support development policies are thought to be 'backward' and anti-modern, holding themselves and the country back. The supposedly homogenous Han speak eight mutually unintelligible languages. Even these sub-groups show marked linguistic and cultural diversity. China's policy toward minorities involves official recognition, limited autonomy, and unofficial efforts at control. Although totalling only 9% of the population, they are concentrated in resource-rich areas spanning nearly 60% of the country's landmass and exceed 90% of the population in counties and villages along many border areas of Xinjiang, Tibet, Inner Mongolia, and Yunnan. Xinjiang occupies one-sixth of China's landmass, with Tibet the second-largest province." **[9b]**

22.03 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, noted:

"Most minority groups resided in areas they traditionally inhabited. Government policy calls for members of recognized minorities to receive preferential treatment in birth planning, university admission, access to loans, and employment. However, the substance and implementation of ethnic minority policies remained poor, and discrimination against minorities remained widespread.

"Minority groups in border and other regions had less access to education than their Han counterparts, faced job discrimination in favor of Han migrants, and earned incomes well below those in other parts of the country. Government development programs often disrupted traditional living patterns of minority groups and included, in some cases, the forced relocation of persons. Han Chinese benefited disproportionately from government programs and economic growth. As part of its emphasis on building a 'harmonious society,' the government downplayed racism against minorities, which remained the source of deep resentment in the XUAR, Inner Mongolia Autonomous Region, and Tibetan areas. In September [2009] the State Council issued a white paper on ethnic policy, common prosperity, and development of all ethnic groups. The report stated that the country's ethnic policy ensured the equality among all ethnic groups." **[2e] (Section 6)**

22.04 In a report dated 25 April 2007, Human Rights in China (HRIC) stated:

"Although there have been attempts to address the growing disparities within its borders, China's rapid economic transformation has not improved the lives of ethnic minorities overall. Instead, there continue to be sharp inequalities in basic social services, such as education and health, while income and unemployment comparisons show that persons belonging to ethnic groups fall behind national averages and those for Han Chinese. The costs of inequitable development are high for those living in rural areas, and political exclusion from the process means that solutions are not necessarily made in the best interest of local ethnic minorities. The Western Development Strategy (WDS), targeting the western provinces and autonomous regions, is intended to 'modernize' these areas and narrow the development gap between the interior

and the wealthier coastal provinces. Given the potential for discontent in such inequitable situations, however, the WDS is widely seen as a political tool for strengthening national unity through 'common prosperity'. Its official development goals are undermined by three unspoken but overarching objectives –resource extraction from the borderlands to benefit the coast, assimilation of local ethnic minority groups through Han Chinese population transfers to the autonomous areas, and the alternate purpose of infrastructure development for military use. These policies and the failure of the government to address the resulting inequalities and discrimination contribute to the violations of human rights for ethnic minorities." **[39b]**

(See section 20: Muslims for information on the Uighur and Hui ethnic groups)

(See also section 23: Tibet)

(See also section 27: Children Health issues)

(See also section 28: Family planning ('one child policy') Ethnic minorities)

KOREANS

22.05 As noted by Europa World in its *Country Profile* for China, accessed on 29 September 2010, there are 1.9 million Koreans in China, accounting for 0.16 per cent of the population (based on the 2000 census). **[1a] (Area and Population)** The Canadian Immigration and Refugee Board (IRB) recorded on 12 February 2003, "There are an estimated 1,920,000 Chaoxian (Korean) people living in the Chinese provinces of Jilin, Heilongjiang and Liaoning; however the majority of Chaoxian people live in the Yanbian Chaoxian Autonomous Region of Jilin." **[3s]**

22.06 In an article dated 3 May 2009, regarding recently-settled expatriate South Koreans, *The Korea Times* reported:

"Kim Hee-chul, a South Korean in Beijing… was one of a handful who first came to China in 1992 when the two countries, then ideological adversaries, established diplomatic ties amid the post-Cold War thaw milieu. He has since stayed here, witnessing China's dynamic change. 'China has transformed colossally,' said the soft-spoken Kim, who heads the Korean Community in China (KCC) - an organization that represents some 800,000 South Korean residents in China - the nation's largest expatriate community. Koreans in China are spread through all corners of the land. The eastern coastal city of Qingdao, where South Korean-run factories are concentrated, has China's largest Korean population with 150,000. Qingdao is followed by Beijing with 120,000, and Shanghai with 80,000, according to KCC. When the global financial crisis struck last fall, Koreans were among the hardest hit and some had to give up their businesses and return to Korea. But with signs of a recovery looming, Kim said, people are gradually returning… For Kim, last year was a trying time as anti-Korean sentiment mounted. Chung Shin-chul, a scholar on Korea-China cultural relations at the Chinese Academy of Social Sciences, recommended in recent research on the issue that Korean residents need to make more of an effort to integrate into the local community, rather than isolating themselves. KCC has since been engaged in a vigorous public awareness campaign to bring the two neighbors' relationship closer by holding meetings designed to help create a mutual cultural understanding. 'We've

been getting good responses as well as cooperation from our Chinese partners,' Kim said. The KCC is also engaged in many other activities, which support Korean business establishments. It also operates an emergency hotline for Korean travelers, and provides educational counseling for the 54,000 Korean students in China. Lately, Kim is also paying special attention to a minority group among the Korean residents - the elderly. 'I hope to build a Gyeongro-dang (a care center for elderly people) for them. I am discussing this matter with the Chinese,' he said." **[47a]**

(See also section 32: Foreign refugees North Korean refugees)

(See also COI Report: Democratic People's Republic of Korea http://www.homeoffice.gov.uk/rds/country_reports.html)

MONGOLIANS

22.07 Europa World, accessed on 29 September 2010, stated in its *Country Profile* for China that there are 5.8 million Mongolians there, accounting for 0.47 per cent of the population. The total population of the Inner Mongolian (Nei Mongol) Autonomous Region is 23.3 million (based on the 2000 census). **[1a] (Area and Population)**

22.08 As reported by Amnesty International on 28 January 2005:

"Political activist Hada has been routinely tortured at the prison in northern China where he is serving a 15-year sentence for 'separatism' and 'espionage'. Amnesty International considers him a prisoner of conscience, imprisoned solely for the exercise of his right to freedom of expression and association, and fears he is at risk of further torture. His health is reportedly failing and he is suffering from psychological problems as a result of the torture. Hada was detained in 1995, reportedly because of his involvement in an organization called the Southern Mongolian Democratic Alliance, which aimed to promote human rights, Mongolian culture and greater autonomy for China's minority nationalities." **[6e]**

22.09 In a report dated 1 July 2010, Minority Rights Group International stated:

"In the IMAR [Inner Mongolian Autonomous Region], where ethnic Mongols have long been subjected to cultural assimilation, population transfers and political repression by the Chinese authorities, the NGO Southern Mongolian Human Rights Information Centre (SMHRIC) recorded that, during 2009, human rights advocates remained imprisoned while other activists had been jailed for 'attempting to organize a protest' in the regional capital Hohhot in May for the 62nd anniversary of the Inner Mongolia Autonomous Region." **[57a]**

(See also COI Key Documents: Mongolia http://www.homeoffice.gov.uk/rds/country_reports.html)

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23. TIBET

23.01 As noted by Europa World in its *Country Profile* for China, accessed on 29 September 2010, there are 5.4 million Tibetans within China, accounting for 0.44 per cent of the population. The same source noted that the total population of the Tibetan Autonomous Region (TAR) is 2.6 million (based on the 2000 census). **[1a] (Area and Population) [18b] (map)**

23.02 Europa World also recorded:

"Tibet (Xizang), hitherto a semi-independent region of western China, was occupied in October 1950 by Chinese Communist forces. In March 1959 there was an unsuccessful armed uprising by Tibetans opposed to Chinese rule. The Dalai Lama, the head of Tibet's Buddhist clergy and thus the region's spiritual leader, fled with some 100,000 supporters to Dharamsala, in northern India, where a government-in-exile was established. Thousands of Tibetans, including many lamas (Buddhist monks), were killed, and monasteries were destroyed. Tibet became an 'Autonomous Region' of China in September 1965." **[1a] (Events in Tibet)**

23.03 On 6 July 2009 the BBC noted, "China's Tibetan population lives in the mountains and high plains of the Tibetan plateau in the Tibet Autonomous Region (TAR) and nearby areas of Sichuan, Yunnan, Qinghai and Gansu provinces. The mainstay of Tibet's economy is agriculture, with grazing widespread on the region's high-altitude grasslands." **[9ab]**

(See also section 1: Tibetan names)

HUMAN RIGHTS IN TIBET

23.04 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, noted:

"The government's human rights record in Tibetan areas of China remained poor, and the severe repression of freedoms of speech, religion, association, and movement that increased dramatically following the March 2008 Lhasa riots and subsequent unrest that occurred across the Tibetan Plateau continued during the year. Authorities continued to commit serious human rights abuses, including extrajudicial killings, torture, arbitrary arrests, extrajudicial detention, and house arrest. The preservation and development of Tibet's unique religious, cultural, and linguistic heritage remained a concern.

"In March 2008 monks and nuns from a number of monasteries in Lhasa and other Tibetan communities mounted peaceful protests to commemorate the anniversary of the 1959 Tibetan uprising. After four days the protests and security response devolved into rioting by Tibetans and a violent police crackdown in Lhasa. Some protesters resorted to violence, in some cases deadly, against Han and Hui residents. The ensuing police actions resulted in an unknown number of deaths, injuries, arrests, and human rights abuses. During the year a number of Tibetans, especially monks, were sentenced to prison for their role in the 2008 protests and riots. A significant number of People's Armed Police (PAP) remained in many communities across the

Tibetan Plateau during the year. The fallout from the protests continued to affect the human rights situation in Tibetan regions of China." **[2e] (Tibet)**

21.05 In a report dated 21 July 2010, Human Rights Watch stated:

"[The report] finds that the scale of human rights violations related to suppressing the protests was far greater than previously believed, and that Chinese forces broke international law—including prohibitions against disproportionate use of force, torture and arbitrary detention, as well as the right to peaceful assembly—despite government claims to the contrary. It also reveals that violations continue, including disappearances, wrongful convictions and imprisonment, persecution of families, and the targeting people suspected of sympathizing with the protest movement." **[7n]**

23.06 In its *Annual Report 2009* on the Human Rights Situation in Tibet, the Tibetan Centre for Human Rights and Democracy (TCHRD) stated:

"The bygone year [2009] was marked by some defining events. On the one hand the authorities in Chinese administered Tibet executed Tibetans over the spring 2008 protests, announced 'serf emancipation day', struck hard on Tibetan intellectuals and wangled law to drive home the point that the Communist Party is above law. On the other hand, the Chinese and Tibetan people forged closer ties and the Chinese intellectuals and think tanks boldly differed with their government over the issue of Tibet…

"In the recent past, dominance of political activities has shifted from the so-called 'Tibet Autonomous Region' ('TAR') to Tibetan areas outside the 'TAR' designate. This is clearly evident from the total number of arrests, detentions and sentencing statistics maintained by the TCHRD. Although it is certain that the total figures may be far greater than that documented by the Centre, a total of 1,542 known Tibetans continue to remain in detention or are serving prison sentences since spring 2008. Out of the total, 53.17% (or 820 Tibetans) were from Sichuan province, the rest are as follows: 19.90% (307 Tibetans) were from Gansu, 9.01% (139 Tibetans) belonged to Qinghai, 0.19% (3 Tibetans) were from Yunnan and 17.70% (273 Tibetans) belonged to the 'TAR'. Additionally the figures for known Tibetans who were legally sentenced since spring 2008 also point to the fact that Sichuan has indeed been most active politically." **[45a] (p5-6)**

23.07 In an interview with AsiaNews on 30 April 2008, Urgen Tenzin, executive director of the TCHRD, stated:

"Since the deadline of 17 March [2008] given by the Chinese authorities to the peaceful protestors to surrender, more than 5,000 Tibetans have been arrested by the Chinese police. More than one thousand have been subjected to brutality and torture and many of those who were released are in a very delicate state of mind and body. Many of the Tibetans who come out of detention centres are in unstable condition… Chinese officials have been indoctrinated by a ruthless political ideology that views torture as a legitimate tool to eliminate the 'elements of counter-revolution'… Since the 10 March peaceful protests, Tibetans languishing inside prisons have been accused by the Chinese of 'endangering state security'. Just expressing a point of view that goes against government policy leads to arrest for 'political dissent' and 'subversive opinions'. Chinese officials have made statements to the effect

that Tibetans have confessed; this is likely what will happen to the 17 who were arrested and tragically the world will be informed that they had 'confessed' their crimes. But these so called confessions would have been extracted as a result of torture. The Chinese are known to use torture as an instrument of 'state control' on Tibetans, guilty of 'political dissent' and 'subversive opinions'. Tibetans have been arrested and tortured for speaking with foreigners, singing patriotic songs, possessing photos of His Holiness the Dalai Lama and so on; these things have been going on for many, many years. At the moment, our monasteries are surrounded by military forces, and under the strict surveillance of Chinese police. The situation inside Tibet is very tense, and we are extremely concerned. As the countdown to the Beijing Olympics begins, the extreme clampdown of information is taking place and this only bodes ill for our fellow Tibetans." **[58a]**

(See also section 8: Security forces Torture)

23.08 As reported by WRITENET (writing on behalf of the UNHCR) in its paper on the situation of the Tibetan population in China, published in February 2005:

"We can summarize Chinese policy towards Tibet in the following points:

- China has exercised zero tolerance for separatist movements.
- It has striven to bring about rapid economic growth, including raising the living standards of the people, believing that prosperity will make the Tibetan people more willing to stay within the PRC.
- It has maintained a limited autonomy, including a degree of religious and cultural freedom, but tried actively to increase Chinese control and cracked down on any signs that Tibetan culture poses a threat to the Chinese state.
- These policies are actually quite similar to those towards other ethnic minorities in China, but separatism and threats to the Chinese state are not major problems other than in Tibet and Xinjiang." **[32e] (p10)**

23.09 This report also stated:

"The main group at risk in the Tibetan areas is active political dissidents, especially those seeking Tibetan independence. Activities attracting prison terms are those classified as endangering state security or promoting separatism, but they range from espionage and even bomb blasts through distributing leaflets advocating independence to possessing the Dalai Lama's picture or reading the Dalai Lama's works. Among the dissidents the majority belong to the clerical order." **[32e] (p28)**

23.10 On 10 March 2009 AsiaNews reported:

"The Dalai Lama has accused China of having killed 'tens of thousands of Tibetans' and of having transformed Himalayan homeland into a 'hell on earth'. In a speech marking the 50th anniversary of the failed revolt against Chinese occupation the Buddhist leader repeated his demands for a 'legitimate and meaningful autonomy' for Tibet, even under Beijing's sovereignty… 'Even today Tibetans in Tibet live in constant fear,' he went on. 'Their religion, culture, language, identity are near extinction. The Tibetan people are regarded like criminals, deserving to be put to death'. China

considers its occupation of Tibet to be 'freedom from slavery' and oppression of the feudel lords and monks and claims that it has ceaselessly worked to develop the region, not least by realising a super fast train system that unites Beijing and Lhasa. The Dalai Lama continued saying that 'Many infrastructural developments... which seem to have brought progress to Tibetan areas were really done with the political objective of Sinicising Tibet'. The spiritual leader also underlined the failure of dialogue between the exiled government and Beijing and commemorated those killed last year, when non violent demonstrations turned into clashes with the Han population and Chinese military leading to the death of an estimated 200 people and the arrest of thousands more. Some factions of his government are pressing for a more radical fight against China. The Dalai Lama, in refuting this path of violence, affimed [sic] that Tibetans 'are looking for legitimate and meaningful autonomy, an arrangement that would enable Tibetans to live within the framework of the People's Republic of China'. Beijing continues to accuse the leader of seeking independence for the region. In recent days many party leaders approved a tighter grip against what they define as 'Tibetan separatism'." **[58f]**

POLITICAL PRISONERS HELD IN TIBET

23.11 The USSD Report 2009 stated:

"Based on information available from the Congressional Executive Commission on China's political prisoner database, at year's end there were 754 Tibetan political prisoners imprisoned in Tibetan areas. However, the actual number of Tibetan political prisoners and detainees was believed to be much higher. Of the 754 documented currently detained political prisoners and detainees, 715 were detained on or after the March 2008 protests and 447 political prisoners and detainees were Tibetan Buddhist monks and nuns. At year's end the commission's database contained sentencing information on only 148 of the Tibetan political prisoners. The judicial system imposed sentences on these 148 political prisoners ranging from one year to life imprisonment. An unknown number of prisoners continued to be held under the RTL system." **[2e] (Tibet)**

23.12 On 11 February 2009 *The Guardian* stated, "China has sentenced 76 people and detained more than 950 since last year's deadly riots in Tibet, state media reported today… Last month, the authorities in Lhasa launched a 'strike hard' campaign in which at least 81 people were detained and thousands checked by security officials." **[41k]**

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TIBETAN BUDDHISM

23.13 As stated by the Chinese Government White Paper, *Regional Ethnic Autonomy in Tibet*, published in May 2004, "At present, there are over 1,700 venues for Tibetan Buddhist activities, with some 46,000 resident monks and nuns; four mosques and about 3,000 Muslims; and one Catholic church and over 700 believers in the region. Religious activities of various kinds are held normally, with people's religious needs fully satisfied and their freedom of religious belief fully respected." **[5o] (p3 of Section IV)**

23.14 The USSD *International Religious Freedom Report 2009* noted:

"During the reporting period, the level of religious repression in the TAR and other Tibetan areas remained high, especially around major religious holidays and sensitive anniversaries. Government control over religious practice and the day-to-day management of monasteries and other religious institutions continued to be extraordinarily tight due to continued fallout from the March 2008 outbreak of widespread unrest in Tibetan regions. The Government continued to conduct 'patriotic education' campaigns in monasteries, requiring monks and nuns to sign statements personally denouncing the Dalai Lama and to study communist political texts and propaganda praising the Chinese government's management of religious affairs. Noncompliant monks and nuns faced expulsion from their monasteries. Many monks and some abbots fled their monasteries to avoid complying. The patriotic education campaigns and other restrictions on religious freedom were major factors leading monks and nuns from a number of monasteries to mount initially peaceful protests in Lhasa on March 10, 2008." **[2a] (Introduction to Tibet)**

23.15 The same source stated further:

"Government officials often associated Buddhist monasteries with pro-independence activism in Tibetan areas. In practice, the Government regulated the operations of major monasteries through Democratic Management Committees (DMCs) composed of monastic leaders who generally complied with directions from local religious affairs bureaus (RABs). In most cases, the Government did not contribute to the monasteries' operating funds. Regulations restricted leadership of DMCs to 'patriotic and devoted' monks and nuns and specified that the Government must approve all members of the committees. At some monasteries, government officials were among the members of the committees. Although authorities permitted many traditional religious ceremonies and practices and public manifestations of belief during the reporting period, they rigorously confined most religious activities to officially designated places of worship and maintained tight control over religious leaders and religious gatherings of laypeople. The Government forcibly suppressed activities viewed as vehicles for political dissent or advocacy of Tibetan independence. The Government stated that there were no limits on the number of monks in major monasteries and that each monastery's DMC could decide independently how many monks the monastery could support. In practice, however, the Government imposed strict limits on the number of monks in major monasteries…" **[2a] (Tibet) (Section II. Status of Government Respect for Religious Freedom, Restrictions on Religious Freedom)**

23.16 The report also stated:

"The Government remained wary of Tibetan Buddhism and its links to the Dalai Lama, and tightly controlled religious practices and places of worship in Tibetan areas… Patriotic education campaigns intensified dramatically following the March 2008 unrest and remained frequent throughout the reporting period. Increasing 'legal education' at monasteries and nunneries was a major theme of political education campaigns and reflected the Government's desire to influence monks and nuns not to engage in 'illegal' protests and gatherings. As part of these campaigns, monks and nuns were

required to affirm that Tibet is an inalienable part of the PRC, in many cases to denounce the Dalai Lama, and to express allegiance to the government-appointed Panchen Lama. The primary responsibility for conducting monastic political education remained with monks selected by the Government at each monastery. In some cases, religious affairs officials directed the content of monks' and nuns' religious teachings and forced them to include positive remarks about Chinese leaders and Communist Party religious policies. While the form, content, and frequency of patriotic training at monasteries varied widely, the conduct of such training remained a requirement and was a routine part of monastic management." **[2a] (Tibet) (Section II. Status of Government Respect for Religious Freedom, Legal/Policy Framework)**

23.17 In its *Annual Report 2010*, published on 29 April 2010, the United States Commission on International Religious Freedom (USCIRF) noted:

"Since the 2008 demonstrations, the government has intensified restrictions on Tibetan Buddhism. Tibetan monks and nuns continue to be detained and many have been sentenced to long prison terms for their alleged role in the 2008 protests or for subsequent peaceful demonstrations opposing new restrictions on religious life. Some monasteries and other holy sites have been forcibly closed or destroyed. A security presence has remained at some monasteries and nunneries, and local government officials have escalated their campaigns to require monks and nuns to sign statements denouncing the Dalai Lama. Monks and nuns who refuse to denounce the Dalai Lama or to pledge loyalty to Beijing have been expelled from their monasteries, imprisoned, and tortured… There also continue to be severe restrictions and harassment in Tibetan areas outside the TAR, including in areas where monks and nuns staged peaceful demonstrations in 2008." **[70a]**

23.18 The TCHRD *Annual Report 2009* stated, "The year 2009 has been marked by a visible rise of intense religious repression in Tibet. The year will also go down as one of the worst years of State intervention in the sacred affairs of the Tibetan people, which continue to be legally guaranteed under China's domestic and international laws yet remains grossly violated." **[45a] (p109)**

Possessing pictures of the Dalai Lama

23.19 The USSD *International Religious Freedom Report 2009* stated:

"Some government officials maintained there was no law against possessing or displaying pictures of the Dalai Lama, but rather most Tibetans chose not to display his picture. However, the Implementing Regulations state that 'religious personnel and religious citizens may not distribute books, pictures, or other materials that harm the unity of the nationalities or endanger state security.' Some officials deemed photos of and books by or about the Dalai Lama as materials that violated the Implementing Regulations. Nevertheless, many Tibetans displayed photos of the Dalai Lama and the Dalai Lama-recognized 11th Panchen Lama in their homes, in lockets, and on cellular telephones. The ability of Tibetans to display the Dalai Lama's picture varied regionally and with the political climate. In major monasteries, especially those that attract large numbers of tourists, pictures of the Dalai Lama were not openly displayed. His picture also could not be purchased openly in the TAR or other Tibetan areas of China. Merchants who ignored the restrictions and sold Dalai Lama-related images and audiovisual material reported that

authorities frequently imposed fines. In Tibetan areas outside the TAR, visitors to several monasteries saw pictures of the Dalai Lama prominently displayed, although monks reported that they would temporarily remove such photos during inspections by RAB [Religious Affairs Bureau] and other officials. During an 'anti-crime' crackdown in Lhasa in January 2009, police searched homes and businesses, in addition to personal cell phones and other electronic devices, for 'illicit' images (including images of the Dalai Lama) and music. According to numerous reports, authorities in many Tibetan areas confiscated or defaced photographs of the Dalai Lama in monasteries and private residences following the March 2008 unrest. Furthermore, authorities appeared to view possession of such photos or material as evidence of separatist sentiment. The Government also continued to ban pictures of Gendun Choekyi Nyima, the man widely recognized as the Panchen Lama." **[2a] (Tibet) (Section II. Status of Government Respect for Religious Freedom, Restrictions on Religious Freedom)**

The Panchen Lama

23.20 The USSD *International Religious Freedom Report 2009* noted that most Tibetans continue to recognise the Dalai Lama's choice, Gendun Choekyi Nyima, as the true Panchen Lama. **[2a] (Tibet) (Section II. Status of Government Respect for Religious Freedom, Restrictions on Religious Freedom)**

23.21 The USCIRF *Annual Report 2010*, published on 29 April 2010, recorded:

"The Chinese government continues to deny repeated international requests for access to the disappeared 19-year-old Gedhun Choekyi Nyima, whom the Dalai Lama designated as the 11th Panchen Lama when he was six years old. No one has seen him since, nor have any independent or transparent interviews taken place. Government officials claim that he is in fact alive and well and being 'held for his own safety.' The Chinese government insists that another boy, Gyaltsen Norbu, is the 'true' Panchen Lama, one of the most revered positions in Tibetan Buddhism and a religious figure who will play an important role in selecting the next Dalai Lama. In recent years, Chinese authorities have, on several occasions, featured Norbu in public ceremonies where he stresses the importance of loyalty to the Communist government and endorses the government's official version of Tibetan history. The government continues to take active steps to pressure Tibetans to accept Norbu as Panchen Lama." **[70a]**

Monastic life

23.22 In response to a series of questions submitted by the Country of Origin Information (COI) Service, Dr John Powers from the Centre for Asian Societies and Histories at the Australian National University (ANU) in Canberra supplied the following information on 25 November 2005:

1) What are the main monastic orders operating within Tibet today and how much do their beliefs differ?

"Briefly, there are four main orders: the Nyingma (Old Translation Order), so named because it favours translations of tantras (Buddhist scriptures composed in India between the 7th and 12th centuries that describe meditative practices which became normative for all orders of Tibetan

Buddhism) prepared in the period of the 'first dissemination' (snga dar) of Buddhism in Tibet (7th-9th centuries). The Nyingma order emphasises meditation, and its main practice is the 'great perfection' (rdzogs chen).

"The Sakya (Grey Earth) order was founded as a rejection of some aspects of the Nyingma. It is one of the three 'New Orders' (Sarma; the others are Gelukpa and Kagyupa) and traces itself back to the Indian mahasiddha ('great adept') Virupa. Its hierarchs belong to the Khon family, and its leader is the 'Throne Holder of Sakya' (Sakya Tridzin). It emphasises study and meditation, and its main practice is the 'path and result' (lam bras) system.

"The Kagyupa order traces itself back to the Indian mahasiddha Tilopa, and it has a lineage with a number of iconoclastic and charismatic yogins who are famous for unconventional behaviour. Its main practices are the 'six yogas of Naropa' and the 'great seal' (mahamuda, phyag rgya chen po).

"The Gelukpa is the largest and newest, and is the order of the Dalai Lamas. Founded by Tsong Khapa in the 14th century, it emphasises study and meditation, and is the most scholastic order of Tibetan Buddhism. In the 17th century, the fifth Dalai Lama became the ruler of most of the Tibetan plateau with the help of Mongol armies, and the Gelukpas gradually became the dominant order, mainly due to their reputation for purity of monastic discipline and their emphasis on study and practice. Their main practice is the 'stages of the path' (lam rim).

"All four orders share a lot in common. All wear maroon robes, and all have the same configuration. All follow the same monastic rules (vinaya), which are derived from Indian Buddhism. They all agree that the philosophical school of the Indian Buddhist master Nagarjuna is the supreme system, and all practice [sic] very similar meditation practices, the most important of which derive from Indian texts called tantras. The meditative practices derive from a common canon of texts, and the ceremonies they perform, along with the theories behind them, share many common presuppositions and actions. Aside from different styles of hats and other dress for some ceremonial occasions, you really can't tell them apart when you see them on the street, and most aspects of their religious lives and practices are very similar. There are many different lineages, and each order has its own history and major figures, but the similarities are pervasive." **[50d] (Emphasis retained)**

2) Can certain ceremonies only be performed after a set number of years' religious study?

"Yes, particularly tantric rituals, which often require decades of previous study, as well as authorisation by a qualified master. For the Gelukpas in particular, the period of study required to earn the degree of Geshe (something like a Doctor of Divinity) would be anywhere from 20-30 years. Geshes are considered to be fully qualified to teach and perform ceremonies, but further tantric study would be required to perform many tantric rituals. So the study requirements for performance of most important rituals are significant. This is important in the current climate, because the Chinese government severely restricts the time allowed for study, and so Tibetan monks today are simply unable to devote enough time to fulfil the requirements of either the Geshe degree or the further study required for performance of tantric rituals. The PRC has decided that Tibetan monks will be allowed to perform colourful

ceremonies that draw tourists, but wants to prevent them from gaining the sort of depth and breadth of knowledge that is considered essential by the tradition.

"When I visited Gelukpa monasteries during a recent trip to Tibet, all the monks told me that they have limited time for study and that much of their time is taken up with the indoctrination of 'patriotic re-education' classes, which are compulsory for all monks and nuns. They have little time for the comprehensive study that was the foundation of traditional education and practice. They also have limited funds, so there aren't enough books to go around. Many of the senior monks are in prison or in exile, so teachers are also few and far between, and all have to prove their (at least outward) loyalty to the PRC. When I compared the monks I saw debating at Gelukpa monasteries (Sera Je and Drebung) to those in India, there was a huge difference: the Tibetans in Tibet were many years behind those in India, and they admitted this themselves. Teachers told me that their students spend hours every day in patriotic re-education classes, that their time for study of Buddhism is severely limited, and that the security personnel in the monasteries are suspicious of attempts to devote more time to study." **[50d]**

3) What level of self-censorship is practised by monks?

"Self-censorship is an important tool, but peer censorship is probably more important. The PRC tells monks that if any of the residents of a particular monastery do things that anger the Chinese, the whole monastery will suffer, but they're vague on exactly what will anger them. They do the same thing with groups of travellers (all foreigners are required to join a group that is monitored by a government-approved guide). At one monastery I visited in 2001 (Tashilhunpo), one of the monks told me that there were 22 Chinese security personnel in the monastery full time, and they were monitoring 73 monks. Other monasteries I visited had military bases right next to them, and all religious activities are very closely monitored. There are resident Chinese security personnel in many monasteries, and their job is to keep a close eye on the monks. Monks and nuns have been at the forefront of anti-Chinese agitations, and so the PRC is deeply suspicious of them. Monks are routinely required to sign declarations of allegiance to the PRC, the Communist Party, and to its policies, as well as denunciations of the Dalai Lama. Recent research by human rights groups such as Amnesty International and Human Rights Watch have concluded that there is no freedom of religion in Tibet today, and I reached the same conclusion during my visit there in 2001." **[50d]**

Consequences for expelled monks

23.23 Further to this, Dr John Powers from the Centre for Asian Societies and Histories at the Australian National University (ANU) in Canberra also stated:

4) Is expulsion the only penalty for monks refusing to participate in patriotic education?

"There are a variety of punishments, including imprisonment and torture. Most of the Tibetan monks I've spoken to, both in exile and in Tibet, have spent some time in Chinese prisons, and most have been subjected to some form of torture. Human rights groups commonly estimate that around 90% of Tibetan prisoners are subjected to some form of torture, and my conversations with

Tibetan monastics (monks and nuns) would place the figure at closer to 100% for them. There are other possible penalties, such as blacklisting, which makes it impossible for someone to get a legitimate job." **[50d]**

5) If a monk was expelled or felt unable to remain at a particular monastery (because of the administration) could he gain entry to another monastery elsewhere in Tibet?

"No; a monk who's expelled will be blacklisted. If he were to front up to another monastery seeking admission, the administrators (who are now all political appointees who have demonstrated their loyalty to the Party) would refuse him entry. Also, there are four orders of Tibetan Buddhism, and they're further subdivided into smaller lineages and schools. Most monks enter a monastery with which their family is associated. It's not easy to transfer to another monastery in any circumstances, and once a monk is blacklisted, there are no real options aside from escape into exile. That's why the majority of escapees are monks and nuns (currently about 3000-4000 Tibetans successfully escape into exile every year, and an unknown number die along the way or are captured by Chinese patrols or by Nepali border guards). Only a small number of monks are allowed to reside at any given monastery (monasteries that once housed 10,000-20,000 monks now are allowed only about 200 monks by the PRC authorities), and particularly the main ones are closely monitored, so a blacklisted monk really couldn't go anywhere else." **[50d]**

6) If a monk was expelled would he be able to return to his home village?

"Possibly, but the options there would also be limited. There would be no means of support for many, and also little opportunity to study or practice [sic]. Traditionally, monks are often the third or fourth sons of a family, who are sent to a monastery at an early age. This brings great merit to the family, and it also takes care of excess children, and prevents land from being divided among too many people. So if a monk returns to his home village after being expelled, he's an extra burden, he'll probably be closely watched by local authorities and security personnel, and will have few employment options, and little chance of joining a local monastery." **[50d]**

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TIBETAN REFUGEES IN INDIA

23.24 On 17 April 2008 the BBC reported:

"Tens of thousands have crossed into India since 1959, when Chinese put down a Tibetan uprising. Many of the refugees were housed in settlements in southern and other parts of India in the 1960s and 1970s. Because of dwindling economic opportunities in the settlements, more recent refugees have settled in the north. The city of Dharamsala in the Himalayan foothills, where the Dalai Lama and Tibetan government-in-exile are based, is the hub of the diaspora. The precise number of Tibetans now living in India is unknown. The most common estimates are between 100,000 and 120,000. But according to Thierry Dodin of the London-based information service Tibetinfonet this is almost certainly too low, and the figure could be as high as

200,000. The picture is further blurred by fluctuations. Every year, at least 2,000 people arrive from China – mainly through remote mountain passes via Nepal – while unknown numbers return home. Whatever the numbers, India's Tibetan minority is highly visible. According to Mr Dodin, this is due to both the entrepreneurial zeal of many exiles, who have set up businesses and travel a lot, and to the prestige of the Dalai Lama – which is as high in India as it is in the West." **[9j]**

23.25 The report continued, "The activities of the Central Tibetan Administration (CTA) – as the government-in-exile is officially known – are closely monitored but fairly free. Overt anti-Chinese agitation, however, is frowned upon. In March [2008], Indian police barred several hundred exiles from starting a march on Tibet. The CTA is not recognised as a government by any country – including India – but it receives aid for its work among exiles." **[9j]**

Legal status of Tibetans in India

23.26 As noted by Julia Meredith Hess in Vol. 44 (1) (2006) of *International Migration* (a publication of the International Organisation for Migration):

"The vast majority of the approximately 100,000 Tibetans living in India have chosen to remain stateless, rather than adopt Indian citizenship… Tibetans and other people who flee persecution in their own land are handled legally under India's Foreigner's Act dating from 1946. Thus, the government is free to expel refugees as it would any other foreigners. However, Tibetans' 'refugee status' is often referred to, indicating the understood de facto nature of Tibetans' presence in India as refugees [India is not a signatory to the 1951 Refugee Convention]… Under the Foreigner's Act, Tibetans are required to obtain a 'registration certification', which must be renewed on an annual basis." **[24a] (p 81-82)**

23.27 The same source noted that as of 1994 the Indian government had adopted an unofficial policy of denying registration certificates to Tibetans. In theory, Tibetans without registration cards can be arrested and deported back to China but in practice India allows unregistered Tibetans to remain in India for extended periods. Most Tibetans born in India choose not to apply for Indian citizenship on the basis that to do so would be an admission that they will never be able to return to Tibet. **[24a] (p 83-84)**

23.28 On 17 April 2008 the BBC reported:

"The legal status of many Tibetan exiles is as unclear as their numbers. Most of those who cross into Nepal lack valid travel documents and few obtain a card from the UN refugee agency, UNHCR… Many are unable to obtain residence permits once they reach India, the UNHCR adds. Indian residence permits, which were once routinely granted to Tibetans, are now only automatically available to the children of those who arrived before 1979. There are ways for newcomers to overcome Indian reluctance to grant residency, but they involve lengthy tussles with officialdom and often bribes. Those who obtain legal status are free to work and own property, but they do not have the same rights as citizens – such as formal participation in politics or the ability to carry an Indian passport – the UNHCR says." **[9j]**

(See also COI Report: India
http://www.homeoffice.gov.uk/rds/country_reports.html)

TIBETAN REFUGEES IN NEPAL

23.29 The US State Department's *2009 Country Report on Human Rights Practices*: *Nepal* (USSD Nepal Report 2009), published on 11 March 2010, recorded, "The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 protocol, and the laws do not provide for the granting of asylum or refugee status. The government has in place ad hoc administrative directives that provide some protection for Bhutanese and Tibetan refugees." **[2d] (Section 2d)**

23.30 The same source noted:

"Between 1959 and 1989, the government accepted approximately 20,000 Tibetans and recognized them as refugees. Since 1990 the government has not recognized Tibetans as refugees. Consequently, most Tibetans who arrived in the country have transited to India, although an unknown number of Tibetans arriving since 1989 have chosen to remain or returned to the country after visiting India.

"Between 1990 and 2008, the number of Tibetans transiting the country to find asylum in India ranged from 2,000 to 3,000 per year. Following 2008 protests and subsequent riots in the Tibet Autonomous Region and other Tibetan areas of China, the People's Republic of China heightened security along its border. After March 2008 the number of Tibetans transiting the country dropped significantly, falling to fewer than 700 per year. There continued to be reports of harassment by Chinese border guards within Nepal's borders, including a credible report by an international observer of a joint patrol by Chinese and Nepali border officials more than 30 miles inside Nepal. There were also numerous instances of APF officers assisting and protecting Tibetan refugees found in the border region. There were no confirmed reports of refoulement, but there were unconfirmed allegations of acquiescence to the return of Tibetans found on the border." **[2d] (Section 2d)**

23.31 On 28 March 2008 the BBC reported:

"Kathmandu is home to thousands of Tibetan exiles and over the past fortnight they have mounted almost daily protests against Beijing. Several hundred of the demonstrators have been detained. Meanwhile, Amnesty International and the UN have both criticised the government's handling of the protests. On Monday the UN Office of the High Commissioner for Human Rights in Nepal said the Nepalese police were arresting people who were not demonstrating purely on the basis of their appearance – an apparent reference to Tibetans. The police have been filmed beating protesters, including monks, with considerable force. Nepal says it cannot allow Tibetans to demonstrate because it recognises Tibet as an integral part of China. But the UN says the mass arrests are against the spirit of a society governed by the rule of law." **[9m]**

23.32 On 28 July 2010 the Tibetan newspaper, *Phayul,* reported on its website:

"Nepal has forcibly handed over three fleeing Tibetan refugees to Chinese authorities in early June, the United Nations said… adding it was 'extremely concerned' by the move… Meanwhile, the Washington-based Tibet advocacy group International Campaign for Tibet (ICT) has published a report giving the details of the incident. Two of the repatriated refugees - a young woman and a monk - are now in jail in Tibet, ICT's report said. This is the first such case reported since 2003, when 18 Tibetans, some of them children, were detained by Nepalese police and handed over to Chinese authorities in Tibet in a move that sparked international condemnation. The ICT said it has reasons to fear there could have been other unobserved deportations in the remote border areas. Nepal has traditionally given safe passage to fleeing Tibetan refugees under an informal agreement between the government and the UN refugee agency. The 'Gentlemen's Agreement' between the government of Nepal and the UN High Commissioner for Refugees (UNHCR), put in place in 1989, when Nepal stopped giving them refugee status, provides for the safe transit of Tibetan refugees through Nepalese territory and onward to India. By forcibly returning the three Tibetan refugees to Chinese border police, ICT said Nepal has violated the well-established agreement with the UNHCR and contravened its obligations under international law… Nepal government has lately vowed to check 'anti-China activities' to strengthen friendly ties with China, a major donor for the impoverished country. The forced repatriations followed reports of a new aid package from China designed to help Nepal improve border security. The governments of the two countries will set up a joint mechanism to help share intelligence on 'anti-China activities' in Nepal, Nepalese media reported, following a bilateral security talks [sic] in Kathmandu." **[43b]**

Legal status of Tibetans in Nepal

23.33 Article 9 of the Nepalese Constitution states:

"(4) After the commencement of this constitution [1990], the acquisition of citizenship of Nepal by a foreigner may be regulated by law which may, inter alia, require the fulfillment of the following conditions:

a that he can speak and write the language of the nation of Nepal;
b that he is engaged in any occupation in Nepal;
c that he has renounced his citizenship of another country; and
d that he has resided in Nepal for at least fifteen years." **[92a]**

23.34 The British Embassy in Kathmandu advised on 25 May 2005, "Tibetan refugees… do not really have any defined legal status in Nepal. Some have been issued Refugee certificates but this has been a random process and these certificates do not give them any legal status." The Embassy also indicated that there is no special provision for Tibetan refugees to apply for Nepalese citizenship. **[31f]**

23.35 The USSD Nepal Report 2009 observed:

"Many of the Tibetans who lived in the country did not have legal resident status. Those who arrived after 1990 generally had neither status nor documentation. Even those with acknowledged refugee status had no legal rights beyond the ability to remain in the country. Bribery was required to obtain access to higher education, business ownership, licenses, and legal

transactions, including documentation of births, marriages, and deaths. In February during the period leading to the 50th anniversary of the Dalai Lama's exile from Tibet, approximately 20 Tibetans reported that Kathmandu police extorted money and threatened them with arrest and deportation.

"There were numerous reports that police and other local officials harassed Tibetans engaged in daily activities. Police reportedly conducted random checks of identity documents of Tibetans, including monks. Reportedly, these checks sometimes included threats of deportation, followed by requests for bribes." **[2d] (Section 2d)**

23.36 On 17 April 2008 the BBC reported:

"Most of those who cross into Nepal lack valid travel documents and few obtain a card from the UN refugee agency, UNHCR. According to a 2003 paper by the agency, the Nepalese authorities want Tibetans 'out of the country within two weeks'... In Nepal, the position of Tibetans is even more precarious. The country does not recognise refugee status. Most Tibetans in Kathmandu have no papers and can be picked up by police. Several hundred were detained in the capital after a wave of anti-Chinese demonstrations. There are no reliable estimates of the numbers of Tibetans living in Nepal. The country is keen not to antagonise China by putting out a welcome mat for Tibetan exiles, and is mainly used as a transit point." **[9j]**

(See also section 34: Treatment of returnees Treatment of Tibetans)

(See also COI Key Documents: Nepal http://www.homeoffice.gov.uk/rds/country_reports.html)

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24. LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

LEGAL RIGHTS

24.01 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, noted, "No laws criminalize private homosexual activity between consenting adults. Homosexuality was decriminalized in 1997 and removed from the official list of mental disorders in 2001." **[2e] (Section 6)**

24.02 According to sources quoted by the Canadian Immigration and Refugee Board, "The crime of 'hooliganism', which in the past was used to prosecute homosexuals, was repealed in 1997." (IRB, 26 September 2005) **[3n]**

24.03 On 25 February 2009 *The Guardian* reported that same sex marriages are not permitted, but referred to a "series of 'wedding pictures' staged by lesbians and gay men in the heart of Beijing." **[41j]**

TREATMENT BY, AND ATTITUDES OF, STATE AUTHORITIES

24.04 The first government-backed forum for gay men was launched on 15 August 2006. (*China Daily*, 15 August 2006) **[14m]** On 5 April 2007 the BBC reported:

"A Chinese TV channel has launched what it says is the first ever programme to focus on gay issues in China. The programme is being broadcast over the internet and will feature gay presenters discussing issues related to the homosexual community… It will be accessible to millions of people through the broadcaster's internet site and other portals, said the show's producer... It will be a forum for gay people 'to get in touch with each other and communicate… In a lot of major Chinese cities, gay people are playing sports, swimming, working out, singing karaoke – they are getting together in all types of activities,' he said." **[9d]**

24.05 In its *World Report 2010*, covering events in 2009 and published on 20 January 2010, Human Rights Watch stated:

"Shanghai saw the country's first gay pride festival in June 2009, followed by a seven-day LGBT-themed film festival. Though homosexual conduct is no longer criminalized in China, the police shut down two film screenings and a play. After a series of police raids on gay men's meeting places in public parks, about 100 gay men held a protest in People's Park in Guangzhou on August 25, 2009. Police questioned protest leaders for several hours in the park's public security house. This protest in defense of gay rights has been hailed as a milestone in LGBT rights organizing in China." **[7i]**

24.06 The USSD Report 2009 noted:

"On March 30 and April 3 [2009], approximately 50 gay men were reportedly detained in Renmin Park in Guangzhou and questioned by police. On August 25, police in Guangzhou tried again to remove a group of gay men from Renmin Park. The men refused, and after a nonviolent standoff, the police desisted. In June the first gay pride festival took place in Shanghai. Also in June the Beijing Queer Film Festival was held. Police had blocked previous attempts to hold the festival. Homosexual plotlines and scenes are not allowed on broadcast television. While there is no legal prohibition against the registration of lesbian, gay, bisexual, or transgender student groups, none were allowed to register at any universities. In July a group of lesbians organized an online petition calling on the government to rescind a 1998 law banning gay persons from donating blood." **[2e] (Section 6)**

SOCIETAL TREATMENT AND ATTITUDES

24.07 The USSD Report 2009 noted, "Due to societal discrimination and pressure to conform to family expectations, most gay individuals refrained from publicly discussing their sexual orientation." **[2e] (Section 6)**

24.08 On 26 September 2005 the Canadian Immigration and Refugee Board (IRB) recorded:

"According to some sources, government and Chinese society are showing greater tolerance towards homosexuals than they have in the past… More and more gays and lesbians have been 'coming out' since the 1990s particularly in

urban areas... Telephone hotlines and websites specifically for homosexuals are available while gay bars and clubs have sprung up even in smaller cities and are for the most part tolerated by local authorities or even sometimes publicly advertised... A gay and lesbian film festival was held in 'the outskirts' of Beijing in 2005 and in 2001, when both times Peking University banned the festival from its campus… While Shenzhen in Guangdong Province is reportedly one of the most tolerant cities for gays in China, the Chinese countryside has not experienced the same level of openness as urban areas have… According to *The Sydney Morning Herald*, '[i]n the Chinese hinterland ... the gay emergence is more tentative but strengthening among a homosexual community'... Nevertheless, homosexuals in China continue to face social stigma… Homosexuality is also considered a taboo subject in the media, though the BBC reported that by 2004 there was more coverage of homosexual issues in the mainstream media than there had been in the past… strong pressure to conform to family expectations also comes to bear on homosexuals." **[3n]**

24.09 China's first national free advice line for gay people was launched on 8 May 2006. It was manned by 13 volunteers in Shanghai and Guangzhou. (*China Daily*, 11 May 2006) **[14f]** On 13 January 2004 the BBC reported, "As China opens up, the country's urban gays are slowly coming out. China officially struck homosexuality off the list of mental illnesses two years ago and even smaller cities now boast gay bars and meeting places. Through the internet Chinese gays now have unprecedented access to information about developments in gay rights from overseas sources… There are now hundreds of gay websites in China and the number is growing all the time." **[9i]**

LESBIANS

24.10 On 26 September 2005 the Canadian Immigration and Refugee Board (IRB) recorded, "More and more gays and lesbians have been 'coming out' since the 1990s particularly in urban areas... A gay and lesbian film festival was held in 'the outskirts' of Beijing in 2005 and in 2001, when both times Peking University banned the festival from its campus." **[3n]**

24.11 On 25 February 2009 *The Guardian* reported:

"…attitudes are finally changing in a country where gay sex was illegal until 1997 and homosexuality classified as a mental illness until four years later… These days there are gay and lesbian bars in most big cities in China. There are unofficial magazines, NGOs that work with the community, even government funding for grassroots work, albeit mainly connected to tackling HIV. But, as in many countries, the gulf between attitudes in large cities and small villages can be stark. And the Chinese gay community faces different problems to its counterparts in the west: the censorship of gay books and films, the closure of bars and culture festivals, the variable tolerance of NGOs in general… Gay men and lesbians say there is less overt hostility than in the west and certainly less physical harassment. Li's research in cities suggests about 91% of people are happy to work with gay colleagues – a higher rate than in US surveys – and that 30% back gay marriage." **[41j]**

TRANSGENDER PERSONS

24.12 On 16 April 2008 the official *People's Daily* newspaper reported, "Ying Ning, the 33-year-old Tianjin man who became a woman through transsexual operations, got a new Chinese ID card as a female… Ying applied to the local police station for a new ID card. Regulations require such applicants to provide medical proof of a gender change and parental consent, even for those of legal age… China is believed to have more than 1,000 people who have received such operations…" **[12a]**

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25. DISABILITY

25.01 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, noted:

"The law protects the rights of persons with disabilities and prohibits discrimination; however, conditions for such persons lagged far behind legal dictates, failing to provide persons with disabilities access to programs designed to assist them. The MCA and the China Disabled Persons Federation, a government-organized civil association, were the main entities responsible for persons with disabilities. In September government officials confirmed that there were 83 million persons with disabilities living in the country. According to government statistics, in 2008 there were 3,731 vocational education and training facilities, which provided training and job-placement services for 774,000 persons with disabilities. More than 4.5 million persons with disabilities were employed in cities and towns; 17.2 million were employed in rural areas. Government statistics stated that 7.4 million persons with disabilities enjoyed the minimum life guarantee; nearly three million had social insurance." **[2e] (Section 6)**

25.02 The same source also stated:

"Nearly 100,000 organizations existed, mostly in urban areas, to serve those with disabilities and protect their legal rights. The government, at times in conjunction with NGOs, sponsored programs to integrate persons with disabilities into society… Government statistics showed that almost one-quarter of persons with disabilities lived in extreme poverty. Unemployment among adults with disabilities remained a serious problem. Under the Employment Promotion Law, local governments were required to offer incentives to enterprises that hired persons with disabilities. Regulations in some parts of the country also required employers to pay into a national fund for the disabled when the employees with disabilities did not make up the statutory minimum percentage of the total workforce.

"Standards adopted for making roads and buildings accessible to persons with disabilities were subject to the Law on the Handicapped, which calls for their 'gradual' implementation; however, compliance with the law was lax. Students with disabilities were discriminated against in access to education. The law permits universities legally to exclude otherwise qualified candidates from higher education.

"The law forbids the marriage of persons with certain acute mental illnesses, such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The law stipulates that local governments must employ such practices to raise the percentage of healthy births." **[2e] (Section 5)**

25.03 In an article dated 4 September 2008, AsiaNews reported, "The government has launched a campaign aimed at promoting the rights of the disabled and attention toward them, but their living conditions do not seem to have improved. Business owners prefer to pay fines rather than hire disabled persons, many of whom are victims of workplace accidents and are sacrificed in the name of economic growth." **[58d]**

(See also section 27: Children Child care)

(See also section 28: Family planning ('one child policy') Family planning law and other regulations, Coercion (Forced abortion/sterilisation))

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26. WOMEN

LEGAL RIGHTS

26.01 Article 48 of the Constitution states, "Women in the People's Republic of China enjoy equal rights with men in all spheres of life, political, economic, cultural, and social, including family life." **[5a]** The Chinese government has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). **[28a]** Women's rights are also protected by the Law on the Protection for Women's Rights and Interests, effective from 1 October 1992. **[5f]**

26.02 However, as noted by the US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010:

"Authorities often did not enforce laws protecting the rights of women. According to legal experts, it was difficult to litigate a sex discrimination suit because the vague legal definition made it difficult to quantify damages, so very few cases were brought to court. Some observers noted that the agencies tasked with protecting women's rights tended to focus on maternity-related benefits and wrongful termination during maternity leave rather than on sex discrimination, violence against women, and sexual harassment. Women's rights advocates indicated that in rural areas women often forfeited land and property rights to their husbands in divorce proceedings. In principle rural contract law and laws protecting women's rights stipulate that women enjoy equal rights in cases of land management, but experts argued that in practice this was rarely the case, due to the complexity of the law and difficulties in its implementation." **[2e] (Section 6)**

(See also section 28: Family planning ('one child policy'))

(See also section 29: Trafficking)

POLITICAL RIGHTS

26.03 As noted by the USSD Report 2009:

"The government placed no special restrictions on the participation of women or minority groups in the political process. However, women held few positions of significant influence in the CCP or government structure. There was one female member of the CCP's 25-member Politburo, who also concurrently served as one of five state councilors. Women headed three of the country's 27 ministries. The government encouraged women to exercise their right to vote in village committee elections and to run in those elections, although only a small fraction of elected members were women. In many locations a seat on the village committee was reserved for a woman, usually given responsibility for family planning." **[2e] (Section 3)**

SOCIAL AND ECONOMIC RIGHTS

Position of women in society

26.04 On 15 October 2006 *The Guardian* reported:

"In 1949 female illiteracy in rural China was 99 per cent. In 1976 when Mao died it was 45 per cent and today it is 13 per cent. One of Mao's first acts was to give women the same rights in divorce as men, and for all his other barbarism he consistently championed the equality of women. China is still a sexist society, but compared with the rest of Asia it is light years ahead. Female illiteracy in rural India, for example, is still 55 per cent. The change has gone deep into the marrow of Chinese society. One survey recently revealed that Chinese girls between 16 and 19 name becoming president, chief executive or senior manager of a company as their top career choices; Japanese girls between 16 and 19 say they want to become housewives, flight attendants or child-care workers." **[41g]**

26.05 The USSD Report 2009 stated, "Women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems." **[2e] (Section 6)** In its *World Report 2010*, covering events in 2009 and published on 20 January 2010, Human Rights Watch commented, "Chinese women continue to be victims of entrenched gender-based discrimination and violence. Women in rural areas are particularly vulnerable to abuses including gender-based discrimination, unequal access to services and employment, sexual trafficking, and violence." **[7i]**

(See also section 27: Children Child care)

(See also section 28: Family planning ('one child policy'), Enforcement, Monitoring and Single women)

Marriage

26.06 The USSD Report 2009 noted, "In order to delay childbearing, the law sets the minimum marriage age for women at 20 years and for men at 22 years." **[2e] (Section 6)** As reported by *TIME* on 30 October 2006, "The concept of alimony is only beginning to enter Chinese society, keeping some wives from splitting with their husbands for fear of not being able to provide for children." **[65i]**

26.07 On 25 February 2009 *The Guardian* reported that same sex marriages are not permitted. **[41j]** The website of the US Consulate General in Chengdu, China, accessed on 15 October 2010, noted:

"Marriages in China are registered according to the laws of China, regardless of the nationality of those being married. Marriage registration procedures are administered by the marriage registration office of the local civil affairs bureau (Minzhengju) in each jurisdiction… Upon receipt of an application to register a marriage, the civil affairs office will ascertain that both parties are of minimum marriageability age (generally 22 for men and 20 for women, though a higher minimum may be established by the local civil affairs office) and that both parties are single and otherwise free to marry. People who have been married before will be asked to submit original or certified copies of final divorce or annulment decrees, or of death certificates if widowed." **[60a]**

26.08 The same source stated, "Certain categories of Chinese citizens, such as diplomats, security officials, and others whose work is considered to be crucial to the state, are not legally free to marry foreigners. Chinese students generally are permitted to marry if all the requirements are met, but they should check with their school first." **[60a]**

(See also section 28: Family planning ('one child policy'), Ethnic minorities, Enforcement, Monitoring and Single women)

Divorce

26.09 On 28 April 2003, the Standing Committee of the NPC voted to amend the Marriage Law. In addition to making bigamy a criminal offence punishable by two years' imprisonment it made the following pronouncement on divorce, "In divorce cases, property division should be determined under contract by both parties. Should they fail, the people's court will make decisions in favor of the offspring and the female." The official *People's Daily* newspaper reported these amendments on the same day. **[12d]** As reported by the same source on 19 August 2003, "Couples will receive divorce certificates at once if they both agree to get divorced and settle amicably their property, any debts and care of any children, the new rules say." **[12g]**

26.10 On 25 January 2008 the BBC reported:

"The divorce rate in China has increased by almost 20% over the past year, with 1.4m couples filing for separation during 2007… Some experts put the rise down to a change in the law which has made divorces easier to obtain. Others say China's one-child policy has produced a generation of adults focused on their own needs and unable to sustain a relationship… The rising divorce rate is part of a long-term trend. Since China began its market reforms

in the late 1970s, the number of people getting a divorce has quadrupled. This has been exacerbated by a change in the law in 2003 allowing couples to divorce in a day, analysts say. Previously, couples needed permission from either their employers or community committees to divorce." **[9q]**

VIOLENCE AGAINST WOMEN

26.11 The USSD Report 2009 noted, "Rape is illegal, and some persons convicted of rape were executed. The law does not recognize expressly or exclude spousal rape." **[2e] (Section 6)** The report stated further:

"Violence against women remained a significant problem. According to a 2008 survey by the ACWF [All-China Women's Federation], domestic violence affected one-third of China's 267 million families. The government supported shelters for victims of domestic violence, and some courts were beginning to provide protections to victims. However, official assistance did not always reach such victims, and public security forces often ignored situations of domestic violence. According to reports, 30 to 37 percent of families suffered from domestic violence, and more than 90 percent of the victims were women. The ACWF reported that it received 50,000 domestic violence complaints annually. Spousal abuse typically went unreported; an ACWF study found that only 7 percent of rural women who suffered domestic violence sought help from police. While domestic violence tended to be more prevalent in rural areas, it also took place among the highly educated urban population. The ACWF reported that approximately one-quarter of the 400,000 divorces registered each year were the result of family violence… Both the Marriage Law and the Law on the Protection of Women's Rights and Interests have stipulations that directly prohibit domestic violence; however, some experts complained that the stipulations are too general, fail to define domestic violence, and are difficult to implement." **[2e] (Section 6]**

26.12 The same source stated, "The number of victims' shelters grew. According to ACWF statistics, in 2008 there were 27,000 legal-aid service centers, 12,000 special police booths for domestic violence complaints, 400 shelters for victims of domestic violence, and 350 examination centers for women claiming to be injured by domestic violence nationwide. Most shelters were operated by the government, some with NGO participation." **[2e] (Section 6]** In a report dated 8 March 2006, *The Independent* noted, "Ninety per cent of cities and provinces in China have now established regulated legal and counselling centres and advice lines for female victims of domestic violence." **[67a]**

(See also section 27: Children Female infanticide)

(See also section 28: Family planning ('one child policy') Coercion (Forced abortion/sterilisation))

(See also section 30: Medical Issues Mental Health)

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27. CHILDREN

BASIC INFORMATION

27.01 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, noted:

"Female infanticide, sex-selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons and the coercive birth limitation policy… Citizenship is derived from the parents. Parents must register their children in compliance with the national household registration system within one month of birth. Children not registered cannot access public services. No data was available on the number of unregistered births." **[2e] (Section 6)**

(See also section 28: Family planning ('one child policy'), Family planning law and other regulations, Coercion (Forced abortion/sterilisation))

(See also section 31: Freedom of movement Household registry (hukou))

27.02 China is a signatory to the UN Convention on the Rights of the Child, but in its concluding observations on China dated 24 November 2005, the UN Committee on the Rights of the Child stated, "While welcoming the significant progress made with respect to legislative reform in mainland China, the Committee is concerned that not all laws applicable to children fully conform to the Convention." **[32f] (p2)** It also reported:

"The Committee notes with appreciation the elaboration of a second National Plan of Action, the National Children's Development Programme (2001-2010), for the mainland, and also takes note of the growing number of committees and working groups at the State, regional and provincial levels to monitor and implement child rights. However, it is concerned that coordination is fragmented and that the Programme is not implemented uniformly across all regions and localities on the mainland and that coordination of implementation at local and regional levels is sometimes insufficient… The Committee notes the information that non-governmental organizations are becoming increasingly active in mainland China, but it is concerned that the space in which they may operate and the scope of their activities remain very limited." **[32f] (p3 and 5)**

27.03 The same source recorded:

"The Committee welcomes the State party's abolition of the death penalty in mainland China for persons who have committed an offence when under the age of 18. However, it is concerned that life imprisonment continues to be possible for those under 18, even if that sentence is not often applied. While noting efforts to reform laws relating to juvenile justice, such as the Law on the Protection of Minors, the Committee remains concerned that existing legislation, regulations and administrative procedures do not adequately set out the detailed obligations of the authorities and the judiciary for the protection of children in conflict with the law at all stages. While noting that the State party has raised the minimum age of criminal responsibility in the Hong Kong SAR [Special Administrative Region], the Committee remains concerned that the age of 10 years is too low. The Committee is further concerned that

children between the ages of 16 and 18 are not consistently accorded special protection when coming into conflict with the law." **[32f] (p18)**

27.04 The USSD Report 2009 noted, "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." The report also noted, "Sexual and physical abuse and extortion occurred in some detention centers." **[2e] (Section 1c)**

(See also section 12: Prison conditions)

EDUCATION

27.05 As noted by Europa World, accessed on 29 September 2010, "Reform of the whole educational system commenced in the late 1990s, with the long-term objective of introducing nine-year compulsory education. In 2003 the Government stated its intention to provide nine years of compulsory education for the entire population by 2008." The same source also noted, "Fees are charged at all levels." **[1a] (Education)**

27.06 The USSD Report 2009 recorded:

"The law provides for nine years of compulsory education for children. However, in economically disadvantaged rural areas, many children did not attend school for the required period and some never attended at all. Public schools were not allowed to charge tuition; however, faced with insufficient local and central government funding, many schools continued to charge miscellaneous fees. Such fees and other school-related expenses made it difficult for poorer families and some migrant workers to send their children to school.

"The proportion of girls attending school in rural and minority areas was reportedly smaller than in cities; in rural areas 61 percent of boys and 43 percent of girls completed education higher than lower middle school. The government reported that nearly 20 million children of migrant laborers followed their parents to urban areas. Most children of migrant workers who attended school did so at schools that were unlicensed and poorly equipped." **[2e] (Section 6)**

27.07 On 20 March 2006 *Asia Times* reported, "… roughly 60% of Chinese families in major cities now spend one-third of their income on children's education…" **[64d]** In its background information on China, accessed on 12 October 2010, UNICEF stated:

"In September 2006, the Government of China announced that it would provide nine years of free compulsory education to all rural school-aged children by the end of 2007. The central government announced that it would cover 80 per cent of rural students' tuition and 'miscellaneous fees', with provincial governments covering the remaining 20 per cent. However, even with this commitment, there are still other expenses relating to compulsory education that are not covered by the government and must be paid by students and their families." **[29a]**

27.08 As observed by the Economist Intelligence Unit (EIU) in its *2009 Country Profile* for China, dated 19 December 2008:

"Official figures show that 99.5% of all school-age children were enrolled in school in 2007. Government figures showed that in 2007, 99.9% of primary school pupils went on to junior secondary school, and that of these 79.3% entered senior secondary school. However, the overall figures mask some weaknesses, particularly in basic-level education. The proportion of illiterate and semi-literate people in 2007 was lowest in Beijing municipality, at 3.3%, but was as high as 36.8% in Tibet and above 10% in nine other provinces. Many rural schools are inadequately funded, although attendance has been boosted by a new national policy that provides free education to rural children and is currently being extended to urban regions. Truancy and absenteeism remain widespread, despite the requirement of a notional nine years of compulsory education (six years at primary school and three years in junior secondary school)." **[4a] (Education)**

27.09 In a report dated 1 March 2007, Amnesty International stated, "Millions of internal migrant children still struggle to get a decent education. Many of those who live with their parents in the city are effectively shut out of state schools, because their parents are not legally registered, or by the high school fees, or their failure to pass qualifying exams administered by schools. Private schools set up especially by internal migrants for their children, on the other hand, face sudden, possibly discriminatory, closure by local governments, and offer lower quality education than state schools." **[6n]**

27.10 The EIU noted:

"There were 1,908 universities and institutions of higher education in China in 2007, up from 1,041 in 2000, with total graduate enrolment of 18.8m. Engineering and management are the two most popular areas of study. Enrolment has soared in the past two decades, but this has been accompanied by a sharp rise in the student-teacher ratio, which stood at 17.3:1 in 2007, compared with 4.2:1 at the beginning of the reform period in 1978. University entrance is generally on merit and is highly competitive. A national university entrance examination ranks all students, and students with poor scores can end up studying unexpected subjects in remote institutions." **[4a] (Education)**

27.11 As recorded by Europa World, accessed on 29 September 2010, "The numbers of Chinese students studying abroad were increasing in the early 21st century." **[1a] (Education)** On 6 January 2006 the official Xinhua news agency reported that 900,000 Chinese students have gone abroad to study since 1949. According to the Ministry of Education more than 200,000 of them have returned to China after completing their studies. **[13n]**

ADOPTION RIGHTS/RULES

27.12 As reported by the US State Department's guide to international adoption, updated in March 2010, "Chinese law permits adoption by married couples, defined as one man and one woman. They must adopt the child jointly. In addition, they must have been married at least two years. If either person has previously divorced, the couple must have been married at least five years. No more than two divorces are allowed… Chinese law allows for the adoption of

children up to and including age 13; children ages 14 and up may not be adopted." **[2b]**

27.13 The USSD Report 2009 noted, "Adopted children were counted under the birth limitation regulations in most locations. As a result, couples that adopted abandoned infant girls were sometimes barred from having additional children." **[2e] (Section 6)**

(See also section 28: Family planning ('one child policy') and following subsection on Child care)

CHILD CARE

27.14 In its concluding observations on China dated 24 November 2005, the UN Committee on the Rights of the Child stated, "The Committee is concerned about the limited information available with regard to abuse, neglect and maltreatment of children in mainland China as well as the limited number of programmes available to combat violence and provide assistance to victims." **[32f] (p10)**

27.15 The USSD Report 2009 noted:

"There were more than 150,000 urban street children, according to state-run media and the Ministry of Civil Affairs. This number was even higher if the children of migrant workers who spend the day on the streets were included. In August 2008 state media reported that the number of children in rural areas left behind by their migrant worker parents totaled 5.8 million. The law forbids the mistreatment or abandonment of children. The vast majority of children in orphanages were girls, many of whom were abandoned. Boys in orphanages were usually disabled or in poor health. Medical professionals sometimes advised parents of children with disabilities to put the children into orphanages. The government denied that children in orphanages were mistreated or refused medical care but acknowledged that the system often was unable to provide adequately for some children, particularly those with serious medical problems." **[2e] (Section 6)**

27.16 In 2007 the orphan population was estimated at 17 million out of a total population of 342 million children in China. (UNICEF) **[29a]** The website of COCOA (Care of China's Orphaned and Abandoned), accessed on 14 October 2010, recorded:

"In spite of a severe shortage of funds in the state orphanages, and sometimes low morale, there are many people – both Chinese and foreigners – who are doing their best to improve conditions. Charities, politicians, pressures groups, the media and the UN itself have all helped to increase awareness of the problems in the orphanages. China is slowly learning to trust the western charities that have been working in its orphanages, and now positively welcomes the offers of help and expertise from some sources… So there has been progress. But only a little – there is masses still to do. There are about 100,000 orphanages in China, and only a small percentage have been exposed to new radical management. Girl babies are still being abandoned, along with disabled children. Progress is agonisingly slow." **[49a]**

27.17 The USSD Report 2009 stated:

"The law prohibits discrimination against minors with disabilities and codifies a variety of judicial protections for juvenile offenders. In 2007 the Ministry of Education reported that nationwide there were 1,618 schools for children with disabilities. According to NGOs, there were approximately 20 million children with disabilities, only 2 percent of whom had access to special education that could meet their needs… The physical abuse of children can be grounds for criminal prosecution. However, misdiagnosis, inadequate medical care, stigmatization, and abandonment remained common problems. According to reports, doctors frequently persuaded parents of children with disabilities to place their children in large government-run institutions, where care was often inadequate. Those parents who chose to keep children with disabilities at home generally faced difficulty finding adequate medical care, day care, and education for their children." **[2e] (Section 6)**

(See also section 25: Disability)

27.18 On 27 February 2006 the official Xinhua news agency reported that a total of ten people, including the director of a state-run orphanage, received prison sentences ranging from one to 15 years after they were convicted of selling abducted babies to foreigners wanting to adopt Chinese orphans. The group was active from 2002 to 2005 and trafficked 78 babies in 2005 alone, said Xinhua. The harshest sentences were handed down to the three "smugglers" and the director of the orphanage received a one-year prison sentence. **[13m]**

27.19 In a report dated 14 November 2008, AsiaNews stated:

"A recent study by the All-China Women's Federation says that 58 million children under the age of 18 are left at home [by parents who have migrated to the cities in search of work], equivalent to 20% of all children in the countryside. Among them, more than 40 million are under the age of 15, and 30 million are between the ages of 6 and 15. 52% of the children live in the provinces of Henan, Hunan, Guangdong, Anhui, Sichuan and Jiangxi. Of these, 47% live with one of their parents, usually their mother, and 26% with their grandparents (but this figure is 73% in the central and western regions): in extreme cases, some grandparents have as many as 7 grandchildren in their care. The remaining 27% live with other relatives, friends, or on their own… 44% of children see their parents only once a year, and a similar percentage see them twice a year. But 3% see them only once every two years, and in extreme cases children have not seen their parents for six years… Left to themselves, these children grow up in an abnormal fashion: they quickly learn to rely on their own resources, but they are often victims of accidents, injuries, natural disasters; they try to study and meet their parents' expectations, but often with poor results, partly because no one helps them: according to the All-China Women's Federation of Qingdao, 45% of their grandchildren have never gone to school, and 55% went only to elementary school. The girls who are left behind are more frequently the victims of sexual violence, usually by people they know or by neighbors: in general, they are older adults able to provide 'safety.' An investigation by the Southern Metropolis Daily in 2008 said that 76 girls ages 7 and up in a mountain region of Liangshan (Sichuan) were subjected to forced labor in Dongguan. For some, however, resentment toward their parents creates violent and criminal behavior. Public safety sources say that at least 80% of youth delinquency cases in rural areas involve the children of migrants. Figures from the

supreme court say that since the year 2000 in China, there has been an annual increase of 13% in juvenile delinquency, and 70% of juvenile delinquents are children of migrants. Experts note that the problem is caused above all by the inability of migrants to get residency (hukou) in the big cities where they work. Without residency, their children have no right to education and health care." **[58e]**

(See also section 26: Women Position of women in society)

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FEMALE INFANTICIDE

27.20 The USSD Report 2009 noted:

"The Law on the Protection of Juveniles forbids infanticide; however, there was evidence that the practice continued. According to the National Population and Family-planning Commission, a handful of doctors have been charged with infanticide under this law. Female infanticide, sex-selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons and the coercive birth limitation policy… Female babies suffered from a higher mortality rate than male babies, contrary to the worldwide norm. State media reported that infant mortality rates in rural areas were 27 percent higher for girls than boys and that neglect was one factor in their lower survival rate." **[2e] (Section 6)**

27.21 In its concluding observations on China dated 24 November 2005, the UN Committee on the Rights of the Child stated that "it remains concerned that selective abortions and infanticide as well as the abandonment of children, in particular girls and children with disabilities, continue as negative consequences of existing family planning policies and societal attitudes." **[32f] (p5)** In its *Annual Report 2010*, published on 10 October 2010, the US Congressional-Executive Commission on China (CECC) noted, "Sex-selective abortion and infanticide continue, despite Chinese government regulations which aim to deter such practices…" **[28a] (p129)**

(See also section 26: Women Violence against women)

(See also section 28: Family planning ('one child policy') Coercion (Forced abortion/sterilisation); and following subsection on Child abduction)

CHILD ABDUCTION

27.22 The USSD Report 2009 noted:

"Kidnapping and buying and selling children for adoption increased over the past several years, particularly in poor rural areas. There were no reliable estimates of the number of children trafficked; however, according to media reports, as many as 20,000 children were kidnapped every year for illegal adoption. Most children trafficked internally were sold to couples unable to have children, particularly sons. Those convicted of buying an abducted child may be sentenced to three years' imprisonment. In the past most children

rescued were boys, but increased demand for children reportedly drove traffickers to focus on girls as well." **[2e] (Section 6)**

27.23 In a report dated 23 September 2007, *The Observer* recorded:

"In China, 190 children are snatched every day - more than twice the number taken in England and Wales in a year. The Chinese government does not acknowledge the extent of the problem, or the cause. The Single Child Policy has made it essential to have a son, leading to the abortion of more than 40 million girls and setting the price on a boy's head at more than six months' wages… He carries the family name, he is the child who will provide for his parents as they age. A daughter will leave the family to marry into another name, passively obliterating her own family line and leaving her relatives without the assurance of help in old age. The One Child Policy - which Save The Children calls a 'mass, live experiment in family life which is unique in the history of the world' - has resulted in prohibitive family-planning laws… while rural families are allowed a second child if their first is a girl, urban families must pay a fine for flouting the one-child rule. And if you haven't had an abortion to get rid of your female child… how can you be sure to get a son? Sometimes the only choice seems to be to buy a stolen child, gender already determined." **[10a]**

27.24 On 31 May 2009 *The Times* reported:

"Small boys have long been abducted for sale in China, but in recent years the country's strict birth control policy, which has led to abortions of girls in families intent on having a boy, has left the countryside short of female babies. According to a recent report in the British Medical Journal, 124 boys are born for every 100 girls in the country as a whole, and in one province the figure has risen to 192. Stolen girls have therefore become increasingly valuable commodities in an cruel trade. Many are bought by farmers who want wives for their small sons when they come of age or by men who want a child bride without a dowry, say police and the state media. The public security ministry says that between 2,000 and 3,000 children and young women are kidnapped every year, but the state-controlled newspapers have put the figure as high as 20,000. Only a handful of cases are solved… The Chinese government accepts that child abductions are growing... In raids over the past month, police have freed 51 girls from kidnappers, according to official media reports. This is a complex criminal challenge. Police who raided one village in Guangnan county in southern Yunnan found that babies were being raised for sale and families were acting as brokers for other peasants who wanted to sell off 'surplus' infants." **[90a]**

(See also section 28: Family planning ('one child policy'), Enforcement)

(See also section 29: Trafficking)

CHILD LABOUR

27.25 The USSD Report 2009 noted:

"The law prohibits the employment of children under the age of 16, but child labor remained a problem. The government does not publish statistics on the extent of child labor. The labor law specifies administrative review, fines, and

revocation of business licenses of those businesses that illegally hire minors and provides that underage children found working should be returned to their parents or other custodians in their original place of residence. However, a significant gap remained between legislation and implementation. Workers between the ages of 16 and 18 were referred to as 'juvenile workers' and were prohibited from engaging in certain forms of physical work, including labor in mines." **[2e] (Section 7d)**

27.26 On 30 April 2008 the BBC reported:

"Chinese police have rescued more than 100 village children sold to work as slave labourers in the booming southern province of Guangdong. The children, from the ethnic Yi minority, came from poor families in Sichuan about 600 miles (960 km) away… China announced a nationwide crackdown on slavery and child labour last year. It emerged that hundreds of poor farmers, children and mentally disabled people had been forced to work in mines and kilns in Shanxi province and neighbouring Henan… the latest incident highlights the dark side of China's economic miracle, and according to unconfirmed media reports there may be more than 1,000 child labourers in at least one city in southern China." **[9h]**

(See also section 22: Ethnic groups)

CHILD SOLDIERS

27.27 As noted by the Coalition to Stop the Use of Child Soldiers in its 2008 Report on China, "The minimum age for voluntary recruitment was not specified in the Military Service Law… There were close links between the military and the education system. The Military Service Law required secondary school and higher education students to undergo one month's military training (Articles 43–46)." **[91a]**

(See also section 9: Military service)

'BLACK' CHILDREN OR 'HEI HAIZI' (UNREGISTERED CHILDREN)

27.28 Writing in a report on illegal births and abortions in China published in the journal *Reproductive Health* in August 2005, Elina Hemminki, Zhuochun Wu, Guiying Cao and Kirsi Viisainen recorded:

"The Chinese family planning regulations do not include the concept of an 'illegal child' (i.e. a child born out of an 'illegal pregnancy'), and the law prohibits discrimination against children born outside marriage. However, children from illegal pregnancies may not be registered or treated equally until their parents pay the fines imposed as punishment. Especially in urban areas registration with the local authority is required for medical care, schooling and employment." **[15a] (Illegal Pregnancy)**

27.29 As noted by the Canadian Immigration and Refugee Board (IRB) on 26 June 2007:

"In general, China's family planning regulations limit parents in urban areas to one child and those in rural areas to two, if the first child is a girl… Couples

exceeding their birth quota may face penalties, including 'stiff' fines… As a result, many births in China are not registered… Referred to as 'black' children, or Hei Haizi, unregistered children in China are believed to count in the millions… The majority of the unregistered children are believed to be females from the country's rural areas… China's migrant population is also thought to account for many unregistered births… As a consequence of not being registered at birth, 'black' children are not entered into their family's hukou [household registration] records… An 11 August 2005 article in Reproductive Health… similarly notes that children born outside of China's family planning regulations may not be registered by the authorities or be 'treated equally,' unless their parents pay a fine... Without registration, 'black children' may not be able to access medical care, education or employment, particularly in urban areas… They may also not have access to other state benefits and services, or be entitled to land allotments… However, according to a 2003 report by France's Commission des Recours des Réfugiés, corrupt family planning officials and direct payments to teachers and doctors may allow 'black' children to be integrated into society… The professor of International Affairs at the Georgia Institute of Technology similarly notes in his correspondence that '[u]nregistered children [in China] generally can't have much access to state-provided or community-provided benefits including subsidized education. But they may now have increased access on pay as you go basis'." **[3z]**

27.30 The Canadian IRB stated further:

"In her book 'Wanting a Daughter, Needing a Son', Kay Ann Johnson, professor of Asian studies and politics at Hampshire College, Massachusetts, states that whether an unregistered child is able to obtain a hukou, 'and with what consequences,' depends on local practice… The author notes that in many places in China, it is 'relatively easy' to purchase a hukou, though these hukou may not be recognized in all places as equivalent to the regular hukou… She further indicates that in some places, hukou-less children may be able to attend school without additional fees and obtain medical care… According to the expert on China from Germany, cited in the China report of the 10th European Country of Origin Information Seminar, the 'stigma of being a 'black' [person] can be reduced by marriage to a person possessing citizen's rights'… The China expert also indicates that, although 'black children' are a disadvantaged group, '[t]here is no reason that ... [they] should face a higher risk of violence than others;' they face problems similar to such socially excluded groups as farmers and migrants… In March 2006, however, news sources reported that over the past four years, family planning officials in Gaoping County [Hunan Province] had 'violently removed' twelve unregistered children, some 'illegally' adopted, from their homes... According to the sources, the family planning officials demanded that fines be paid for the children's return… In her book 'Wanting a Daughter, Needing a Son', Johnson states that 'the discrimination 'hidden [unregistered] children' face is serious and widespread enough to constitute a new social problem, creating a class of mostly female children who lack the full protection of the law and equal access to basic social entitlements'." **[3z]**

27.31 In an article dated 14 June 2010, Radio Free Asia reported:

"Authorities in the Chinese capital have said that children born outside strict family planning quotas or out of wedlock will have an amnesty on household

registrations ahead of a nationwide census in November. The census, the sixth nationwide population count under the ruling Communist Party, will run from November 2010 to June 2012, official media reported. 'People who violated family planning policies can apply for household registration by taking the opportunities of the census,' the official English-language China Daily newspaper quoted Gu Yanzhou, deputy director of the Beijing Statistic Bureau, as saying. He said census officials would not pass on such information to family planning departments to provide a basis for fines, which are also commonly levied on mothers giving birth outside the rules.

"Experts said the benefits appear to be extended across the nation, but don't represent a step forward for the rights of China's citizens. 'This doesn't represent a step forward,' said Deng Xiaogang, associate professor with the department of sociology at the University of Massachusetts in Boston. 'It is the correction of illegal actions.' Beijing-based lawyer Cheng Hai, who specializes in China's household registration, or 'hukou,' system agreed. 'According to our household registration law and the marriage law, children born out of wedlock have the same rights as those born to a married couple,' Cheng said. 'Any child can be registered by any of its relatives.' 'The policies of the past few decades in which children born out of wedlock have been refused household registration are in fact contravening this rule; these are policies put into practice at a local level.' 'Any child born in China should be able to get a household registration here.'" **[73a]**

27.32 In an article dated 1 November 2010, *The Globe and Mail* reported:

"In an effort to persuade families to admit the real size of their families, the government has promised to collect reduced fines from families that reveal their 'extra' children during the census period… While Mr. Li and others like him say that, for reasons of principle, they want to register their second children for the census without paying any fine at all, many other parents appear eager to take advantage of the semi-amnesty on offer. In the southern city of Guangzhou, an industrial hub that's a magnet for migrant workers from the poor countryside, police had to set up special processing centres to deal with the number of parents who came forward with unregistered children in the weeks before the Nov. 1 start of the census. According to local media reports, some of those registered for the first time were already teenagers, hinting at the lengths some families have gone to in order to keep secret their decision to break the one-child rule… The government says part of the motivation for reducing the penalty is to get an accurate grasp of the number of children living among the tens of millions of migrant labourers who exist on the fringes of swelling cities such as Beijing, Guangzhou and Shanghai." **[75a]**

(See also section 31: Freedom of movement Household registry (hukou))

(See also section 28: Family planning ('one child policy'), Single women)

HEALTH ISSUES

27.33 In its background information on China, accessed on 12 October 2010, UNICEF stated:

"Some 140 million people have abandoned the countryside to seek work in China's rapidly growing cities. The current hukou residency system often

denies migrant children access to free public education and health care, but reforms are underway. Maternal and under-five mortality rates have improved dramatically since 1990, but high rates persist in rural areas that lack quality medical care… Less than 10 per cent of rural schools have safe drinking water or adequate sanitation." **[29a]**

27.34 In its concluding observations on China dated 24 November 2005, the UN Committee on the Rights of the Child stated, "While noting the marked improvement in health-care indicators, the Committee reiterates its previous concern with regard to existing disparities on the mainland between rural and urban areas, eastern and western provinces, and Han and ethnic minorities relating to infant and child mortality, nutrition, and other child health indicators." **[32f] (p12)**

27.35 On 21 October 2008 *The Telegraph* reported, "Children born in parts of China's countryside are six times as likely to die by the age of five as their richer cousins in the nation's booming cities, according to new research… In some of China's poorest counties, infant mortality – death at or near birth – was 123 for every 1,000 babies born alive; in the richest, the figure was just 26 – though this is several times higher than in western countries. Ten children died before the age of five out of every 1,000 in the richest cities, compared to 64 in poorer rural areas." **[25a]**

(See also section 2: Economy Poverty)

(See also section 22: Ethnic groups)

(See also section 30: Medical issues)

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28. FAMILY PLANNING ('ONE CHILD POLICY')

28.01 Article 25 of the State Constitution (adopted on 4 December 1982) states, "The State promotes family planning so that population growth may fit the plan for economic and social development." Article 49 states, "Both husband and wife have the duty to practise family planning." **[5a]**

28.02 In its *Annual Report 2010*, published on 10 October 2010, the US Congressional-Executive Commission on China (CECC) noted:

"During the Commission's 2010 reporting year, central and local authorities continued to interfere with and control the reproductive lives of Chinese women through an all-encompassing system of population planning regulations. Population planning policies limit most women in urban areas to bearing one child, while permitting slightly more than half of Chinese women—located in many rural areas—to bear a second child if their first child is female. The Commission notes the emergence of a growing debate in the Chinese media about possible reform of these policies, but has not yet seen government action to introduce national reform measures.

"Local officials continue to monitor the reproductive cycles of Chinese women in order to prevent unauthorized births. The Chinese government requires married couples to obtain a birth permit before they can lawfully bear a child and forces them to employ contraceptive methods at other times. Although Chinese law prohibits officials from infringing upon the rights and interests of citizens while promoting compliance with population planning policies, reports from recent years indicate that abuses continue. Violators of the policy are routinely punished with fines, and in some cases, subjected to forced sterilization, forced abortion, arbitrary detention, and torture. In some cases surgical sterilization may be required of Chinese women following the birth of their second child. Mandatory abortion, which is often referred to as 'remedial measures' (bujiu cuoshi) in government reports, is endorsed explicitly as an official policy instrument in the regulations of 18 of China's 31 provincial-level jurisdictions. In 2010, the Commission found that local officials continued to coerce women with unauthorized pregnancies to undergo abortions in both urban and rural areas across China's major regions.

"China's population planning policies in both their nature and implementation violate international human rights standards. Although implementation tends to vary across localities, the government's population planning law and regulations contravene international human rights standards by limiting the number of children that women may bear and by coercing compliance with population targets through heavy fines." **[28a] (p116)**

28.03 The official government portal, china.org, accessed on 12 February 2009, stated, "…in urban areas, if both husband and wife are only children in their families, they can have two children. In most rural areas, if a family only has one girl, the couple can have another child. In some remote and poor mountainous areas, farmers are allowed to have two children." **[5u]** On 16 January 2009 *The Guardian* reported, "A Chinese court has sentenced a mother to death for hiring a man to strangle her 9-year-old son so she could have a baby with her new husband without violating the 'one child' policy… People who remarry may have second children if their new partners are childless." **[41l]**

28.04 On 21 September 2007 the BBC reported:

"A team of independent Chinese and foreign experts who recently produced a report on the family planning rules say China has put a positive spin on the figures. For example, just over half the population might be able to have two children if the first is a girl but, of course, couples are just as likely to have a boy first. Taking that into consideration means the majority of families are effectively limited to having just one child. 'We find that 63% of all couples in China could end up with only one child, 36% with two children and only 1% with three or more,' the experts' report stated. Family planning rules in China may be complex, and vary from region to region, but one child is still the norm in most households." **[9u]**

28.05 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, noted:

"The 2002 National Population and Family-planning Law standardizes the implementation of the government's birth limitation policies; however, enforcement varied significantly… The law requires each person in a couple

that has an unapproved child to pay a 'social compensation fee,' which can reach 10 times a person's annual disposable income. The law grants preferential treatment to couples who abide by the birth limits.

"Social compensation fees were set and assessed at the local level. The law requires family-planning officials to obtain court approval before taking 'forcible' action, such as detaining family members or confiscating and destroying property of families who refuse to pay social compensation fees. However, in practice this requirement was not always followed, and national authorities remained ineffective at reducing abuses by local officials." **[2e] (Section 6)**

(See also section 26: Women)

(See also section 27: Children Child abduction and 'Black' children or 'hei haizi' (unregistered children))

FAMILY PLANNING LAW AND OTHER REGULATIONS

28.06 The USSD Report 2009 noted, "Although some officials suggested that adjustments to the policy were needed to address the problem of an unequal sex ratio at birth, the government continued to affirm the orientation of its family-planning policy at the highest levels." **[2e] (Section 6)** Article 2 of the Population and Family Planning Law (2002) states:

"China is a populous country. Family planning is a fundamental state policy. The State shall adopt a comprehensive approach to controlling population size and improving socio-economical and public health characteristics of population. The State shall rely on publicity and education, advances in science and technology, comprehensive services and the establishment and improvement of the incentive and social security systems to carry out the family planning program." **[5j]**

28.07 Article 4 of the Population and Family Planning Law states, "The People's Governments and staff at all levels implementing the family planning program shall act strictly within the law, enforcing it in a civil manner, and must not infringe on citizens' legitimate rights and interest. The family planning administrative departments and their staff acting within the law are protected by law." **[5j]** The USSD Report 2009 observed, "Although the family-planning law states that officials should not violate citizens' rights in the enforcement of family-planning policy, these rights, as well as penalties for violating them, are not clearly defined." **[2e] (Section 6)**

28.08 In October 2003 China abolished the controversial and unpopular national system of mandatory premarital health checks, which was intended to promote the state's eugenics goal of population quality by reducing the number of children born with defects due to hereditary or infectious diseases. However, a subsequent increase in the number of such new-born children led the government to take action to promote the importance of premarital checkups. (*China Daily*, 20 February 2005) **[14n]**

28.09 In January 2007 the National Population and Family Planning Commission issued new regulations. They reaffirmed the family planning policy and the eugenics goal of promoting population quality, and again linked these with

economic and social development. The regulations stated, "Without exception, all substantial issues that China encounters in its efforts to achieve better and faster economic and social development are closely related to quantity, quality, structure and distribution of the population… Vigorous efforts are required to disseminate scientific knowledge about prevention of birth defects… Scientific premarital medical checkups should be advocated." **[5r]**

28.10 On 27 May 2008 *The Telegraph* reported:

"China has said it will drop its one-child policy for the parents of children who died in the Sichuan earthquake [on 12 May 2008]. The Population and Family Planning Committee in Chengdu, the capital of Sichuan province, said the exemption could also apply to those whose children were disabled or seriously injured. The announcement, which applies to Chengdu and neighbouring cities Dujiangyan and Pengzhou, may have been timed in an effort to calm the mounting anger among parents whose children died in the disaster… The Chinese government said yesterday that more than 65,000 people died in the disaster, and has previously said that at least 9,000 of those were children and teachers who were in class when the earthquake struck. The government is also struggling to deal with 5,500 children who were orphaned by the earthquake." **[25b]**

(See also section 27: Children Child care)

ETHNIC MINORITIES

28.11 The official government portal, china.org, accessed on 12 February 2009, stated, "In ethnic minority areas, more preferential policies permit some families to have three children, and in the farming and pastoral areas in Xinjiang Uygur Autonomous Region, families are allowed to have four children. In Tibet's farming and pastoral areas, there is no restriction on childbirth." **[5u]**

FAMILY PLANNING IN RURAL AREAS

28.12 The USSD Report 2009 noted, "In most rural areas, the policy was more relaxed, with couples permitted to have a second child in cases where the first child was a girl." **[2e] (Section 6)** However, under regulations issued in January 2007, rural areas where the policy was previously implemented less strictly, were explicitly singled out for a more vigorous effort, as was the migrant population. The regulations stated:

"The priority of and challenge to population and family planning programme both lie in China'[s] rural areas… With regard to job training, cooperative medical service, poverty alleviation, allocation of housing lands, renovation of water supply facilities and toilets, utilization of biogas and application of new technologies, competent government departments need to formulate and improve policies that give family planning households, especially rural one-child or two-daughter households, priority consideration and preferential treatments… Rural girl-child families that accepted family planning should have access to social support and enjoy preferential treatment in poverty reduction/relief, charity assistance, subsidized loans, employment, project support, etc." **[5r]**

28.13 On 7 June 2009, citing an article in *The South China Morning Post*, the Zenit news agency stated, "…authorities are able to act without scrutiny in the rural areas and they employ brutal methods, including the destruction of houses and forced sterilizations… forced abortions remain common." **[52a]** A report by Reuters, dated 19 November 2007, stated:

"China has vowed fresh efforts to strengthen rural family planning, warning that measures to control population growth in the vast countryside face 'unprecedented challenges'… in tens of thousands of villages those policies were strained by growing mobility, lack of a social security net and 'traditional' ideas about family size, the National Population and Family Planning Commission warned… 'Stabilizing low birth rates in the countryside is an extremely arduous task.' In past years, China has been seeking to soften its draconian and often controversial family control policies, including forced abortions. But local officials remain under intense pressure to keep numbers down – leading to skewed statistics, corruption and sometimes brutality." **[34d]**

ENFORCEMENT

28.14 Writing in a report on illegal births and abortions in China published in the journal *Reproductive Health* in August 2005, Elina Hemminki, Zhuochun Wu, Guiying Cao and Kirsi Viisainen recorded, "Enforcement of the population policy has been pursued via the Communist Party and the State Family Planning (FP) Commission, both of which have a functioning vertical structure." **[15a] (Illegal Pregnancies)**

28.15 As noted by the Center for Reproductive Rights in a report entitled, *Women of the World: Laws and Policies Affecting their Reproductive Lives, East and Southeast Asia*, published in 2005, "China utilizes a five-tier network to provide family planning services at the national, provincial, prefectural, county, and township levels. The network covers 95% of all urban and rural areas with more than 2,500 county technical service units, 140,000 technical service staff, and 4 million family planning specialists, excluding volunteers and part-time workers in villages." **[38a] (p42)**

28.16 The same source noted:

"In general, local regulations permit married couples without children to make their own arrangements to have a first child. Within three months of a pregnancy, couples must bring their residency papers, marriage certificate, premarital health-care exam certificate, and a letter from the work unit or the villagers' committee to the local people's government or family planning department to register for a 'birth permit.' In limited circumstances, married couples may petition the local family planning department for permission to have a second child. Pregnancies for a second child without government approval or in violation of local laws and regulations must be terminated under the directives of family planning technical service personnel. In some provinces, the local villagers' or residents' committee are permitted to 'take measures' and establish a deadline for terminating the pregnancy. Couples who refuse to undergo an abortion are given a warning, and if the abortion is not performed, the couple may be fined up to CNY 2,000 (USD 242). Citizens who have children without permission from the government must pay social compensation fees, must assume financial responsibility for all maternal health-care costs, and are denied maternity insurance benefits for leave and

subsidies; rural citizens are refused future increases in land allocation." **[38a] (p41)**

28.17 The USSD Report 2009 recorded:

"The population control policy relied on education, propaganda, and economic incentives, as well as on more-coercive measures. Those who violated the child limit policy by having an unapproved child or helping another do so faced disciplinary measures such as social compensation fees, job loss or demotion, loss of promotion opportunity, expulsion from the party (membership is an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of private property… The law states that family-planning bureaus will conduct pregnancy tests on married women and provide them with unspecified 'follow-up' services. Some provinces fined women who did not undergo periodic pregnancy tests…

"Officials at all levels remained subject to rewards or penalties based on meeting the population goals set by their administrative region. Promotions for local officials depended in part on meeting population targets. Linking job promotion with an official's ability to meet or exceed such targets provided a powerful structural incentive for officials to employ coercive measures to meet population goals." **[2e] (Section 6)**

28.18 The CECC Report 2010 noted:

"For women who give birth to an out-of-plan child before authorities discover the pregnancy, the government imposes penalties known as 'social compensation fees' (shehui fuyang fei). For certain couples, these fines pose a dilemma between undergoing an unwanted abortion and incurring potentially overwhelming financial costs. In some cases, authorities not only levy fines against violators, but also punish them through job dismissal and other penalties. Some children may go without household registration (hukou) in China because they are born out of plan and their parents do not pay the necessary fines. Lack of a valid hukou raises barriers to access to social benefits typically linked to the hukou, including subsidized healthcare and public education." **[28a] (p118)**

28.19 On 7 June 2009, citing a report detailing the findings of an undercover investigation in China, the Zenit news agency stated, "The fines for having an illegal child are now three to five times the family's income... Not surprisingly, when couples are faced with the prospect of such a fine, many consent to either abortion or sterilization… in Guangxi province babies born outside the government's limits are taken into custody by government officials, who hold the infants until the parents are able to pay the huge fines." **[52a]** On 2 July 2009 the BBC reported:

"Dozens of baby girls in southern China have reportedly been taken from parents who broke family-planning laws, and then sold for adoption overseas. An investigation by the state-owned Southern Metropolis News found that about 80 girls in one county had been sold for $3,000 (£1,800). The babies were taken when the parents could not pay the steep fines imposed for having too many children. Local officials may have forged papers to complete the deals, the report said… Parents in rural areas are allowed two children, unlike urban dwellers who are allowed one. But if they have more than that, they face

a fine of about $3,000 -several times many farmers' annual income. The policy is deeply unpopular among rural residents… Nearly 80 baby girls in a county in Guizhou province, in the south of the country, were confiscated from their families when their parents could not or would not pay the fine, Southern Metropolis News said. The girls were taken into orphanages and then adopted by couples from the United States and a number of European countries. The adoption fee was split between the orphanages and local officials, the newspaper said. Child trafficking is widespread. A tightening of adoption rules for foreigners in 2006 has proved ineffective in the face of local corruption." **[9ae]**

(See also section 26: Women Position of women in society and Marriage)

(See also section 27: Children Child abduction)

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MONITORING

28.20 On 7 June 2009, citing an article in *The South China Morning Post*, the Zenit news agency stated, "Every married couple has to answer to the National Population and Family Planning Commission (NPFPC). Every village and every street in the cities are monitored by a family planning clinic controlled by the NPFPC… there are officially 650,000 people employed to enforce the family planning laws. However, unofficial estimates say the real number is more than a million." **[52a]** As noted by Elina Hemminki, Zhuochun Wu, Guiying Cao and Kirsi Viisainen in a report on illegal births and abortions in China, published in the journal *Reproductive Health* in August 2005:

"In rural areas, an extensive system has been created at the village and district level to ensure constant surveillance of contraceptive use and pregnancy status of all married women at reproductive age. It is common for married women to be requested to visit an FP station every two or three months for pregnancy testing, allowing for early pregnancy detection. In cities, family planning officials and cadres within workplaces have a central function. The surveillance of contraceptive use may be more common than surveillance of pregnancies, as fear of loosing a job may motivate women not to have an illegal pregnancy." **[15a] (Illegal Pregnancies)**

(See also section 26: Women Position of women in society and Marriage)

COERCION (FORCED ABORTION/STERILISATION)

28.21 Reports of physical coercion by officials trying to meet birth targets continued. (USSD Report 2009 and CECC Report 2010) **[2e] (Section 1f) [28a] (p116-120)** The USSD Report 2009 noted that "the country's birth limitation policies retained harshly coercive elements in law and practice." **[2e] (Section 6)** The report also stated:

"In February [2009], according to international media reports, three women who were acting as surrogate mothers were reportedly forced to undergo abortions in a hospital in Guangzhou. In the case of families that already had two children, one parent was often pressured to undergo sterilization. The

penalties sometimes left women with little practical choice but to undergo abortion or sterilization… Several provinces--Anhui, Hebei, Heilongjiang, Hubei, Hunan, Jilin, Liaoning, and Ningxia--require 'termination of pregnancy' if the pregnancy violates provincial family-planning regulations. An additional 10 provinces--Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Sichuan, Shanxi, Shaanxi, and Yunnan--require unspecified 'remedial measures' to deal with unauthorized pregnancies." **[2e] (Section 1f)**

28.22 The CECC Report 2010 noted:

"The Commission has reported on a number of cases of violence against women in connection with officials' enforcement of population planning policies. During this reporting year, the use of violence to coerce compliance with the PFPL [Population and Family Planning Law] was illustrated by family planning officials in Changfeng county, Anhui province. According to Chinese Human Rights Defenders (CHRD), on July 15, 2010, Changfeng family planning officials kidnapped 23-year-old Li Hongmei and her three-week-old daughter and took them to a local hospital where they reportedly held Li's baby hostage until she signed her consent to undergo sterilization. According to CHRD, Li remained hospitalized for at least a month after the procedure due to illness.

"In 2010, authorities across a wide range of Chinese localities launched population planning enforcement campaigns—often dubbed 'spring family planning service activities' (chunji jisheng fuwu xingdong) —that employed coercive measures to terminate 'out-of-plan' pregnancies. In February, the Jiangxi provincial government reported that one such campaign had commenced in Anyi county where officials vowed to engage in a '100-day battle' in which they would 'insist without wavering on the principle of IUD [intrauterine device] insertion after the first child, surgical sterilization after the second child, and abortion of out-of-plan pregnancies.' In March 2010, a local official in Ezhou city, Hubei province, instructed cadres preparing for a spring campaign to 'immediately adopt remedial measures against those with out-of-plan pregnancies, follow procedures to terminate the pregnancy . . . and forcefully ensure implementation in order to reduce the birth rate.' Regulations published in 2009 in Zhanjiang city in Guangdong province spell out penalties for violators of the policy and explicitly call for officials to 'force' (qiangxing) abortion of 'extra births': Strictly prohibit out-of-plan second births or multiple births; those who have out-of-plan pregnancies must adopt abortion measures, force those who exceed birth limits to have an abortion. Out-of-plan children will not be allowed to enjoy benefits for villagers; for a period of 15 years, parents of out-of-plan children will not be allowed to enjoy benefits for villagers, gain employment at a village-run enterprise, or be granted documents." **[28a] (p117-118)**

28.23 The report continued:

"In 2010, the Commission analyzed government reports from nine provinces that used the phrase 'by all means necessary' (qian fang bai ji) to signify intensified enforcement measures and less restraint on officials who oversee coerced abortions. Between January and March 2010, city and county governments in at least four provinces (Henan, Hubei, Guangdong, and Jiangsu) and at least one provincial-level government (Jiangxi) vowed to 'by all means necessary, stabilize the low birth level.' In March, Panjin municipal

authorities in Liaoning province expressed their resolve to crack down on population planning violations 'in order to stabilize a low birth rate . . . continuously strengthen measures . . . [and] by all means necessary, drive population and family planning work into the 'fast lane.' ' In addition to mandating abortion of pregnancies that exceed fertility limits, all pregnancies that occur without an official permit, including first pregnancies, are regarded by the government as 'out-of-plan' and subject to 'remedial measures.' In Jiangxi province, a Xingzi county official highlighted this point in responding to an anonymous citizen's online inquiry in March 2010. Noting that there are 10 circumstances in which a couple may apply for a permit to have a second child in Jiangxi, the official told the citizen that 'even if you conform to some of the stipulated conditions, you must first obtain a 'repeat birth permit,' then you may remove the IUD and become pregnant; otherwise, it would be considered an out-of-plan pregnancy'…

" When women reach the state-imposed limit on number of births, local authorities often mandate surgical sterilization to prevent 'out-of-plan' pregnancies. In February 2010, the Qiaojia county government in Yunnan province issued a directive that urged officials to 'by all means necessary, raise the rate of surgical sterilization after the second birth and IUD insertion after the first birth.' The directive also warns that the government will 'stop salary payments without exception' for government workers who fail to adopt contraception measures within a specified time period. In March 2010, the Qianxi county government in Guizhou province issued a similar directive authorizing 'special rectification activities' to sterilize women with two children. Qianxi officials face a penalty of 1,000 yuan (US$147) for each woman with two children that they fail to sterilize, and conversely, they are promised a reward of the same amount for each tubal ligation that they see through to completion. In some areas, coerced sterilization is accomplished through punitive action taken against the family members of targeted women, which can include extended periods of detention." **[28a] (p118-119)**

28.24 The same report stated:

"The Commission observed during its 2010 reporting year a greater number of reports confirming its 2009 finding that some local governments are specifically targeting migrant workers for forced abortions… In April 2010, the National Population and Family Planning Commission released an 'implementation plan' for enforcing population planning regulations for migrant workers within a 10-province region called the Bohai Rim. This plan calls for governments where migrant workers reside to 'persuade and educate' those with out-of-plan pregnancies to 'promptly adopt remedial measures.' If a migrant worker refuses, local authorities are instructed to coordinate with the migrant's home government (place of household registration) to 'launch unified enforcement work'… Anhui provincial family planning measures for migrant workers require officials to 'mobilize pregnant migrant workers without a birth permit to adopt remedial measures.' Those who initially refuse are fined repeatedly until they terminate the pregnancy, or if they fail to abort within a designated period of time, officials are required to 'order them to adopt remedial measures on the spot.'" **[28a] (p118-119)**

28.25 On 22 April 2007 Radio Free Asia (RFA) reported that the authorities in the south-western province of Guangxi and the eastern province of Shandong had forced dozens of pregnant women to undergo abortions, some as late as nine

months. The report also stated, "Under China's draconian family planning rules, local officials must keep new births in their region down below a specified target or face fines and a poor career record. Family planning officials have been reported to use violence in many parts of China in order to keep births down. Couples who get pregnant after more than one child have complained of beatings and even house demolitions resulting from their breach of strict population guidelines." **[73b]**

28.26 A report by the Canadian Immigration and Refugee Board on 10 May 2007 recorded, "… a China expert from Germany, cited in the China report of the 10th European Country of Origin Information Seminar [17 March 2006], stated that '[i]t is very common not only to terminate out-of-plan pregnancies, but also to sterilize one of the parents'. However, according to a 3 August 2006 report by the Center for Reproductive Rights… sterilization rates among women in China are 'significantly' higher than those for males." The same source noted, "According to Amnesty International (AI) [on 23 May 2006], '[d]espite laws prohibiting such practices [in China], many women continue to be subjected to forced abortions and sterilizations by local authorities attempting to comply with strict family planning policies.'" **[3aa]** In an article dated 15 February 2009, detailing recent cases of forced abortion, sterilisation and infanticide, *The Times* reported, "Abuses of women's reproductive rights, some of which break China's own laws, are provoking outrage as Chinese public opinion wakes up to the persistence of forced abortion, compulsory sterilisation and even infanticide… numerous reports in the Chinese media claim that it still goes on." **[90b]**

28.27 On 17 April 2010 *The Independent* reported:

"Hundreds of senior citizens have been held captive in Chinese government offices as part of a campaign by family planning officials to force their children to submit to sterilisation. The elderly people are parents of children suspected of flouting strict family planning rules in the southern Chinese city of Puning. According to the Nanfang Rural News, the local government has drawn up a list of nearly 10,000 people who are suspected of planning to have a second or third child. Around half that group has agreed to comply with sterilisation. The 1,377 detained people include some of those who have so far refused, but mostly consist of their parents. Witnesses said that they were being held in cramped, damp conditions, including one group of 200 which had been herded into a hundred-square-metre room… The detainees are being lectured on family planning rules… 'It's not uncommon for family planning authorities to adopt tough tactics,' an employee at the Puning Population and Family Bureau told the Global Times. Further 'extraordinary measures' to be taken against families with more than one child – or two if the first is a girl – include subsequent children's exclusion from school and health insurance." **[67b]**

28.28 Reporting on the same incidents, the CECC Report 2010 stated:

"In addition to detentions, Puning authorities employed a series of other 'measures that exceed conventional practice' such as nullification of household registration (hukou) for unsterilized women, refusal to grant household registration to their children, and punitive actions taken against their relatives such as cancellation of state benefits and permits. As of April 12, 63 officials who failed to adopt these measures were reportedly subjected to disciplinary action, including one township Communist Party secretary who

was suspended. Puning is not exceptional in its use of coercive 'measures that exceed conventional practices,' as the Commission analyzed official government reports containing the same phrase in provinces such as Jiangxi, Jiangsu, Anhui, Gansu, and the Guangxi Zhuang Autonomous Region." **[28a] (p120)**

28.29 The USSD Report 2009 recorded, "If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The law stipulates that local governments must employ such practices to raise the percentage of healthy births." **[2e] (Section 6)**

(See also Section 25: Disability)

(See also section 26: Women Violence against women)

(See also section 27: Children Female infanticide)

EVASION

28.30 On 14 February 2006 the official *China Daily* newspaper reported that women in China are increasingly using IVF to boost their chances of having twins or triplets and therefore avoiding government restrictions on births. According to this report, "There are no penalties for multiple births." **[14b]**

28.31 On 31 January 2007 the BBC reported that in 2001 Hong Kong's highest court ruled that a child born in Hong Kong to parents who came from China had the right to residency in Hong Kong. Since then numerous Chinese women have travelled there to give birth to avoid the penalties for breaking China's one-child policy. The report stated, "After an influx of about 20,000 non-local women to Hong Kong's hospitals last year, the government has taken a series of measures to help stem the flow. Mainland mothers who look heavily pregnant will have to show immigration officers a hospital booking confirmation alongside their visitor's visa. If they do not have the booking, they will not be allowed in." **[9ah]**

(See also section 26: Women)

(See also Latest News: Reports on China published or accessed between 2 and 15 November 2010)

RETURNED OVERSEAS CHINESE

28.32 The Law of the People's Republic of China on the Protection of the Rights and Interests of Returned Overseas Chinese and the Family Members of Overseas Chinese, effective from 1 January 1991, states, "Returned overseas Chinese and the family members of overseas Chinese shall be entitled to the citizen's rights prescribed by tile [sic] Constitution and the law and at the same time shall perform the citizen's duties prescribed by the Constitution and the law." **[5d]** On 3 May 2002 the Canadian IRB noted that no information could be found on whether a child born in a foreign country to Chinese nationals would have an automatic right to reside in China or whether a foreign-born child's rights would differ from those of a Chinese national. **[3j]**

(See also section 33: Citizenship and nationality)

28.33 As noted by the Canadian IRB on 25 August 2005, a report by *The Economist* dated 18 December 2004 stated that some Chinese nationals, especially from among the urban population, choose to have a second child abroad so that the child can obtain foreign citizenship and therefore not be included in the count. The Canadian IRB added that corroborating information could not be found. **[3i]** On 21 January 2004 the US Citizenship and Immigration Services also noted, "Relatively little information is available to the Resource Information Center (RIC) within time constraints on the treatment of rural Chinese women who return to China with children born outside the country. For this reason, it is unclear whether the fact that the children are U.S. citizens makes any difference." **[84d]**

28.34 The same source stated:

"The 2001 RIC report (similarly) notes that, '[t]he question frequently arises whether Chinese couples who have an unauthorized child while residing abroad are likely to face penalties upon returning to China. The evidence available suggests that, in many if not most cases, the answer is no'. The report, however, discussed this question largely in relation to returning students and other educated Chinese, as opposed to Chinese from rural areas with little education. A China specialist at the U.S. State Department told the RIC that his office presently had little information on the treatment of returning Chinese who had children while abroad. The specialist added that actual implementation of China's population control policy varies considerably throughout the country, and that some people in southern Fujian and Guangdong provinces had reported no problems in returning after having children abroad. However, a retired China analyst at the U.S. Census Bureau said in a telephone interview that 'there is no reason to expect' that women who have children abroad will be treated differently than those who give birth in China. He said that allowing women who have children outside China to be exempted from the policy upon return would undermine the policy, yet he did say that he had no specific information on the treatment of rural women who return to China after giving birth abroad." **[84d]**

28.35 On 25 August 2005 the Canadian IRB noted that information on penalties faced by couples returning to China from overseas who are in violation of family planning regulations was scarce, other than that found in provincial family planning regulations available in English. Of the six sets of provincial regulations examined by the Canadian IRB, three applied the one child policy equally to returned overseas Chinese and other residents alike (Guangdong, Zhejiang and Beijing, the latter also stating that "[i]f one or both spouses of childbearing age are registered household residents of another province or city, and give birth to a child in violation of these Regulations, the spouse and his or her children shall be ineligible to register their household residence in Beijing"). The three other sets of provincial regulations examined by the Canadian IRB contained special provisions for returned overseas Chinese to have a second child in certain restricted circumstances (Henan, Hunan and Fujian – see below). **[3i]**

FAMILY PLANNING REGULATIONS IN FUJIAN

28.36 Article 2 of the Population and Family Planning Regulations of Fujian Province 2002 (effective from 1 September 2002) states, "Both husband and wife are under the obligation to practice family planning and citizens' legitimate rights and interests to reproduction are protected by law." **[5l]**

28.37 Article 11 states:

"Returned overseas Chinese may give birth to a second child in any of the following circumstances if approved:

- Those who have already become pregnant at the time when they return to settle down;
- Both husband and wife are returned overseas Chinese for less than six years and have only one child;
- All of their children reside overseas and the returned couple have no children inside interior China;

"Preceding paragraph (3) applies to the spouse of an overseas Chinese who has returned and resides in this province.

"This Regulation applies to the following circumstances: Either of the couple is this province's resident and the other party is a resident of Special Administrative Districts Hong Kong and Macao. However, if the children are born by them after the marriage and the children are born [to] the Hong Kong and Macao residents before the marriage and have not resided inside interior China, such children shall not be counted as the number of children that they give birth to.

"If either of the couple is a Taiwan resident, the preceding paragraph shall apply with reference." **[5l]**

FAMILY PLANNING REGULATIONS IN GUANGDONG

28.38 Article 25 of the Population and Family Planning Regulations of Guangdong Province 2002 (effective from 1 September 2002) states:

"Contraception shall be the primary component of family planning. Operations for the purpose of contraception and birth control shall be conducted in such a way as to ensure the safety of the person being operated upon. In order to prevent and decrease the number of unwanted pregnancies, the family planning administrative department at each level of government shall create the prerequisite conditions and advise couples of child-bearing age in how to make an informed choice about contraceptive measures. The first choice for a woman of child-bearing age who has given birth to one child shall be an intrauterine device. Where there are already two or more children, the first choice shall be a ligation for either the husband or wife." **[5k]**

28.39 Article 49 states:

"Where a birth is not in conformity with these Regulations, a social support fee [also known as "social compensation fee"] shall be levied. The family planning administrative department at the level of county or non-districted local city

shall request the people's government of the county, ethnic county or town or neighbourhood office or a farm or forestry centre directly under a county or higher jurisidctional [sic] level to make the decision about levying said charge. The specific work shall be carried out by the subordinate family planning operational agency, and the village (residents) committee and pertinent work-units shall assist in the execution of this work.

"If the party in question has real difficulty paying the social support fee in one lump sum, an application to pay in instalments may be submitted in conformity with the law to the body that decided on levying the fee, but the period during which instalments may be paid shall not exceed three years.

"Where a migrant gives birth in a matter that contravenes these Regulations, the collection of the social support fee shall be done in accordance with national regulations. Payment to the national treasury of social support fees and late payment fines shall be managed under a two-track revenue and expenditure control system. No entity or individual shall retain, divert, embezzle or pocket said funds." **[5k]**

FAMILY PLANNING REGULATIONS IN BEIJING AND SHANGHAI

28.40 On 9 August 2003 the official Xinhua news agency reported that under new regulations (effective from 1 September 2003) nine types of household in Beijing are permitted a second child. **[13a]** The report continued:

"The nine groups that are allowed a second child include couples who have a disabled first child, who are the only child of their respective families and currently have only one child, and remarried couples who have only one child. Under the former municipal Population and Birth Control Statutes, these couples could only have a second child at least four years after the first child was born and if the mother was at least 28 years old." **[13a]**

28.41 As recorded by the same source on 13 April 2004, Shanghai also approved similar measures, which permit couples who are both single children to have a second child. It also allows couples with children from a previous marriage to have a child together, as well as permitting urban couples to have a second child if one of the spouses is "disabled to such an extent that it affects his or her ability to work." **[13h]**

28.42 On 24 July 2009 the BBC reported, "A public information campaign has been launched [in Shanghai] to highlight exemptions to the country's one-child policy. Couples who were both only children, which includes most of the city's newly-weds, are allowed a second child. The move comes as China's most populous city becomes richer and older, with the number of retired residents soaring… the current average number of children born to a woman over her lifetime was less than one." **[9z]**

28.43 On 30 September 2006 the official *People's Daily* newspaper confirmed that Beijing will not ease restrictions on family planning to allow people with higher educational qualifications to automatically have a second child. **[12ac]**

SINGLE WOMEN

28.44 As reported by the Canadian IRB on 6 September 2005, information on the treatment of unmarried women who bear children was difficult to find, except in provincial family planning regulations. **[3h]** A further report by the same source on 23 June 2009 stated:

"Article 55 (d) of the Population and Family Planning Regulations of the Province of Guangdong states that '[i]n the case of a first birth out of wedlock, a social support fee shall be imposed that is twice the amount' of the fee imposed on married couples who have one more child than is permitted (China 25 July 2002). When an unwed mother has a second child, the fee imposed is between three to six times the amount levied on married couples who have one more child than is permitted… According to Article 14 of the Population and Family Planning Regulations of the Province of Fujian, a woman is not allowed to give birth out of wedlock (China 30 July 2002). In the case of an unmarried woman who bears a child, Article 39 sets out the application of a social maintenance fee equivalent to four to six times the average annual disposable income of the residents of the county where the woman resides… The fine is higher for a second or subsequent child born out of wedlock..." **[3ab]**

28.45 The USSD Report 2009 noted, "In order to delay childbearing, the law sets the minimum marriage age for women at 20 years and for men at 22 years. It continued to be illegal in almost all provinces for a single woman to have a child. Hunan Province required individuals conceiving children out of wedlock to pay 6 to 8 percent of their income from the previous year in addition to the standard social compensation fee." **[2e] (Section 6)**

28.46 Writing in a report on illegal births and abortions in China published in the journal *Reproductive Health* in August 2005, Elina Hemminki, Zhuochun Wu, Guiying Cao and Kirsi Viisainen recorded, "The Chinese family planning regulations do not include the concept of an 'illegal child' (i.e. a child born out of an 'illegal pregnancy'), and the law prohibits discrimination against children born outside marriage. However, children from illegal pregnancies may not be registered or treated equally until their parents pay the fines imposed as punishment." **[15a] (Illegal Pregnancy)**

(See also section 27: Children 'Black' children or 'hei haizi' (unregistered children))

(See also section 31: Freedom of movement Household registry (hukou))

28.47 As reported by the BBC on 30 July 2009:

"There are 13 million abortions each year [in China], compared to 20 million births, according to newly published research. Researchers believe the real figure could be even higher because there are many abortions at unregistered clinics… young single women are most likely to have abortions… many women who have abortions are single and aged between 20 and 29… China began restricting the number of children each couple can have in 1978. Officials say this has prevented 400 million extra births." **[9ac]**

28.48 In a report dated 2 November 2001, the Canadian IRB stated, "Unwed, pregnant women who do not want an abortion, but instead decide to have the baby might be able to pay the local government officials or the medical doctor to 'look the other way' and allow the pregnancy to be carried to term." **[3f]** The report also noted:

"According to a professor of Sociology at Brown University whose area of research includes China's one-child policy, each local region in China is subject to birth quotas (31 Oct. 2001). As unmarried women are ineligible for the quota, the professor felt that, if such a woman were to become pregnant then an abortion would most probably be encouraged. The professor also noted that, as in many cultures, there is some shame involved in pregnancies outside of marriage and that because of the economic difficulties of raising a child alone, many women would seek an abortion as a matter of choice." **[3f]**

28.49 As reported by the *Epoch Times* (a publication sympathetic to Falun Gong) on 27 October 2005, there is confusion as to whether students are allowed to apply for birth permits. "In February [2004], China's Ministry of Education released a new rule that revokes the marriage ban of college students. However, this rule fails to clearly state whether students studying at college are allowed to have a child. As such, the birth control units for colleges and universities insist on not granting birth permits to students for there are no related policies or birth quota for them." **[40c]**

(See also section 26: Women Position of women in society and Marriage)

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29. TRAFFICKING

29.01 The United Nations Inter-Agency Project (UNIAP) on Human Trafficking, on its country page for China, accessed on 12 October 2010, noted:

"Due to the nature of the definition in national legislation the majority of the official victims [of trafficking] are clearly women and children, however there are many cases involving men who have been trafficked into forced labour, not meeting the official definition of trafficked persons. The reported trafficking cases identified girls and young women between 14 and 20 years as most likely to be trafficked. Information from the Ministry of Public Security shows that cases of people being trafficked to work in the entertainment industry has now risen to 50-60% of the total reported trafficking cases, and 16-20 year-old girls are becoming the main targets for such exploitation." **[27a]**

29.02 The USSD *Trafficking in Persons Report 2010*, published on 14 June 2010, stated:

"China is a source, transit, and destination country for men, women, and children who are subjected to trafficking in persons, specifically forced labor and forced prostitution. Women and children from neighboring countries including Burma, Vietnam, Laos, Mongolia, Russia and North Korea, and from locations as far as Romania and Zimbabwe are trafficked to China for

commercial sexual exploitation and forced labor. Well-organized international criminal syndicates and local gangs play key roles in both internal and cross-border trafficking. During the year, there was a significant increase in the reported number of Vietnamese and Burmese citizens trafficked in China. Some trafficking victims are kept locked up, and many of them are subjected to debt bondage. Many North Koreans who enter into China are subjected to forced prostitution or forced labor in forced marriages or in Internet sex businesses. While the majority of trafficking occurs within China's borders, there are reports that Chinese men, women, and children are subjected to forced prostitution and forced labor in numerous countries and territories worldwide…

"Internal trafficking is most pronounced among China's migrant population, which is estimated to exceed 150 million people. Forced labor remains a serious problem, including in brick kilns, coal mines, factories, and on construction sites throughout China. There were numerous confirmed reports of involuntary servitude of children, adults, and migrant workers…" **[2f]**

29.03 The same report stated:

"The Government of the People's Republic of China does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Although the government ratified the 2000 UN TIP [Trafficking in Persons] Protocol during the year, committing itself to bringing its domestic laws into conformity with international standards on trafficking, it did not revise anti-trafficking laws and the National Plan of Action to criminalize and address all forms of labor and sex trafficking. The government reported an increase in the number of 'trafficking' offenders prosecuted and victims assisted, however these efforts were based on China's limited definition of 'trafficking,' and the government continues to conflate human smuggling and child abduction for adoption with trafficking offenses. Authorities took steps to strengthen victim protection services and increased cooperation with local NGOs to provide victims access to services in some areas of the country and to provide anti-trafficking training to border guards. Despite these efforts, the government failed to sufficiently address China's trafficking problem." **[2f]**

29.04 The report stated further:

"The government lacked a formal, nationwide procedure to systematically identify victims of trafficking. It also failed to provide comprehensive victim protection services to both internal and foreign victims of trafficking throughout the country. Victims are sometimes punished for unlawful acts that were a direct result of their being trafficked – for instance, violations of prostitution or immigration and emigration controls. Chinese authorities continue to forcibly repatriate North Korean trafficking victims, who face punishment upon their return for unlawful acts that were sometimes a direct result of being trafficked. The government's inadequate data collection system and limited transparency continued to impede progress in recording and quantifying anti-trafficking efforts." **[2f]**

29.05 On 4 September 1991 the Standing Committee of the NPC adopted the following decree regarding the Severe Punishment of Criminals who abduct

and Traffic in or Kidnap Women or Children. Article One of this decree is as follows:

"Whoever abducts and traffics in a woman or a child shall be sentenced to fixed-term imprisonment of not less than five years and not more than ten years, and shall concurrently be punished with a fine of not more than 10,000 yuan; if under any of the following circumstances, the offender shall be sentenced to fixed-term imprisonment of not less than ten years or life imprisonment, with the concurrent punishment of a fine of not more than 10,000 yuan or confiscation of property; if the circumstances are especially serious, the offender shall be sentenced to death with the concurrent punishment of confiscation of property:

1 Being a ringleader of a gang engaged in the abduction of and trafficking in women or children;
2 Abducting and trafficking in three or more women and/or children;
3 Raping the woman who is abducted and trafficked in;
4 Enticing or forcing the woman who is abducted and trafficked in to engage in prostitution, or selling such woman to any other person or persons who will force the woman to engage in prostitution;
5 Causing serious bodily injury or death or other severe consequences of the woman or child who is abducted and trafficked in or of their relatives;
6 Selling a woman or a child out of the territory of China. Abducting and trafficking in a woman or a child mean any act of abducting, buying, trafficking in, fetching or sending, or transferring a woman or a child, for the purpose of selling the victim." **[5e]**

SUPPORT AND ASSISTANCE

29.06 The USSD *Trafficking in Persons Report 2010* noted:

"The Chinese government made efforts to improve protection during the reporting period; however, efforts to identify and protect victims of trafficking remained inadequate. Authorities continued to focus protection efforts on women and children. The government's efforts to proactively identify male trafficking victims and victims of labor trafficking were inadequate. In July, Fujian officials strengthened efforts, including working with village committees, to identify trafficking victims and at-risk populations. Chinese trafficking victims abroad had little access to resources or protection by Chinese authorities. Chinese authorities worked with IOM to expand their capacity to provide support to Chinese trafficking victims in foreign countries, although the programs are at the nascent stage. The Ministry of Foreign Affairs has begun to explore options for dealing with Chinese victims overseas, but has not fully expanded its capabilities." **[2f]**

29.07 The same source continued:

"While reports state there are an estimated 1,400 shelters in the country that can offer some assistance to victims, there are only five nationwide dedicated to trafficking victims, one of which was operated by the government. While authorities reported shelters across the country assisted 12,000 women and children trafficking victims, the government's statistics were based on the country's definition of trafficking, which is inconsistent with international norms. Most shelters are not specifically staffed and trained to assist trafficking

victims, though the government is working with international organizations to address shortcomings. NGOs along the southern border reported some improvements in 2009 in Chinese official rescue and rehabilitation support to trafficking victims. All these efforts, however, need to be strengthened significantly. Due to an inadequate number of dedicated shelters to assist trafficking victims, trafficking victims generally return to their homes without access to counseling or psychological care. Victims nationwide did not have access to long-term care." **[2f]**

(See also section 26: Women)

(See also section 27: Children Child abduction)

(See also section 34: Exit/entry procedures Treatment of returnees)

CHINESE MIGRANTS

29.08 As recorded by Ronald Skeldon of the University of Sussex, writing on Chinese migration in April 2004:

"… any simple correlation between the total population of China and the number of Chinese overseas is deceptive, because the majority of the latter trace their roots to a very few regions within China. The three southern coastal provinces of Guangdong, Fujian, and Zhejiang have dominated the emigration, and within those provinces, a limited number of districts and even villages. These areas were marginal to the Chinese state and weak in terms of their resource base. However, most importantly, these areas were the earliest and most intensively affected by the seaborne expansion of European colonial powers, which linked them to a wider global system. Furthermore, in contrasting numbers of Chinese overseas with the base population of China, Chinese ethnicity must not be confused with Chinese migration, because many of the Chinese overseas were born outside China in the lands chosen by their parents and grandparents." **[50a]**

29.09 The same source also stated, "In addition to migrants from Fujian and some from Guangdong provinces, migrants from Zhejiang and, increasingly, from provinces in the northeast figure prominently in the flows to Europe." **[50a]**

Map courtesy of US State Department

29.10 According to a report by CEME (Cooperative Efforts to Manage Emigration), which brought together the findings of a week-long visit to Fujian undertaken in June 2004, economic growth in Fujian stimulates outward migration. **[97]** On 7 February 2004 *The Guardian* reported, "People from Fujian have a long history of seeking their fortune overseas. In extreme cases some villages have 80% of families with someone living overseas." **[41c]**

29.11 The CEME report also stated:

"There are more than 80 counties in Fujian, but only 2-3 are sources for other countries' irregular immigrants. Each comprises more than 20 towns, and each town covers up to 20 administrative villages; and can vary in approach. It is difficult to gauge the exact number of exits/entries of the province. Policy and practice are divided between the Entry/Exit Bureau of the MPS and the Border Defence Force of the same Ministry. With 3,000 kilometers of coastline and many thousands of boats, it is difficult to monitor and record all entries and exits." **[97] (p5)**

SNAKEHEADS (PEOPLE SMUGGLERS)

29.12 As reported by Channel News Asia on 13 February 2004:

"The network of snakeheads, or human smugglers, operating in China's Fujian province is 'huge', meeting demand from locals attracted by the potential of earning 10 times an average Chinese wage in Europe, according to a report. 'Many snakeheads belong to one family, and others are friends,' a man who worked as a snakehead for 10 years told the *China Daily*. 'They cooperate with each other, take charge of different areas of human smuggling, and get rich by sharing money from the stowaways.' The issue has been thrown into the spotlight by the drowning of 19 presumed Chinese picking cockles a week ago in Britain's Morecambe Bay. Fifteen of them are believed to be from Fuqing city in Fujian, natives of which have a long history of illegally entering other countries." **[93b]**

29.13 The US National Institute of Justice, in its August 2004 report entitled, *Characteristics of Chinese Human Smugglers* (published by the US Department of Justice), identified several highly specialised roles within a smuggling operation. These are listed below:

"Recruiters are often relatives or close friends of the would-be immigrants who somehow know the smugglers. They may or may not have any further involvement in the smuggling operation.

"Coordinators are central figures in smuggling operations because they have the connections to acquire necessary services for a fee. Their survival depends on their relationship with other partners who have access to those services.

"Transporters help immigrants leave and enter countries. China-based transporters get immigrants to the border or the smuggling ship. U.S.-based transporters take smuggled immigrants from airports or seaports to safe houses.

"Document vendors are well connected and able to produce documents to facilitate the transportation of immigrants. Some documents are authentic, obtained through official or unofficial channels, while others are fraudulent.

"Corrupt public officials are the authorities in China and many transit countries who are paid to aid illegal Chinese immigrants. Some corrupt government officials act not only as facilitators but also as core members or partners of a smuggling organization. Subjects who belonged to large smuggling groups often indicated that local Chinese officials headed their groups.

"Guides are responsible for moving illegal immigrants from one transit point to another or assisting immigrants who are entering the United States. Crew members are employed by snakeheads to charter or to work on smuggling ships.

"Enforcers mostly are illegal immigrants themselves who are hired to work on the smuggling ships.

"Debt collectors are based in the United States and are responsible for locking up illegal immigrants in safe houses until their smuggling fees are paid. Additional debt collectors are based in China." **[94] (p9)**

29.14 According to Dr Frank N. Pieke in his paper entitled, *Chinese Globalization and Migration to Europe*, published on 9 March 2004:

"American research (Chin 1999; Zhang and Chin 2000) on Chinese human smugglers has revealed that snakeheads are not triad-like criminal organizations that can be countered by conventional law-enforcement methods aimed at eliminating the organization's leadership. Rather, snakeheads are independent and highly specialized entrepreneurs enmeshed in loose networks, only cooperating on specific consignments. Consequently, countering snakeheads should focus on spoiling their market, both by raising the risks and costs of their operations and by taking away the demand for their services. The key issue then becomes how many Fujianese a country should

admit under a program of migration to make a sufficient number of snakeheads abandon their trade for something less risky and more profitable." **[50e] (p13-14)**

29.15 As reported by CEME (Cooperative Efforts to Manage Emigration), which brought together the findings of a week-long visit to Fujian undertaken in June 2004, "Persons convicted of organizing smuggling or trafficking can be fined or, if convicted, sentenced to 2, 5, 10 years or life imprisonment." **[97] (p7)** The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, noted:

"Trafficked persons sometimes became entangled with alien smuggling rings, which often had ties to organized crime and were international in scope. Persons trafficked by alien smugglers paid high prices for their passage to other countries, where they hoped their economic prospects would improve. Some reportedly promised to pay RMB 231,000 to RMB 385,000 (approximately $33,790 to $56,320) for passage. Upon arrival many reportedly were forced to repay traffickers for the smuggling charges or a larger amount at high interest rates, and in some cases in addition to their living expenses by working for a set period of time. Living and working conditions for trafficked persons were poor. Traffickers restricted their victims' movements and confiscated their travel documents. Threats to report trafficking victims to authorities or to retaliate against families made trafficked persons even more vulnerable…

"Persons convicted of engendering forced prostitution, abduction, or commercial exploitation face criminal sanctions; convictions for trafficking minors carry heavier sentences, such as a death sentence. Victims and their families can bring civil suits against offenders, but few civil suits made it beyond initial stages. Those that did encountered obstacles claiming compensation." **[2e] (Section 6)**

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30. MEDICAL ISSUES

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

30.01 The World Health Organisation (Regional Office for the Western Pacific), in its 2009 Country Health Information Profile for China, noted:

"The disease profile resembles that of a developed country, with some 85% to 90% of deaths due to noncommunicable diseases and injuries… Among the remaining infectious diseases, hepatitis B infection, TB and lower respiratory infections still account for significant mortality… Economic growth has enabled wealthier households to benefit more from access to health care and medical technologies. However, most low-income households face important barriers in accessing affordable essential health services and medicine. Despite large-scale government infrastructure investment, the cost of health services remains a major barrier to accessing quality services, particularly for people in remote and rural areas. Increasing levels of user fees are resulting in low usage of health services among low-income households, as medical care

expenditure and the cost of health services are rapidly outpacing average incomes…

"While health insurance coverage is increasing, especially in rural areas, many people are underinsured and continue to face high out-of-pocket costs. While the health insurance schemes, particularly in rural areas, report high coverage, benefits are often limited to catastrophic illness; inpatient medical services frequently require pre-payment and reimbursement can be as low as 20%-30% of the total bill. The technical quality of care is affected by incentives in the existing provider payment mechanisms. Benefits are also not portable across localities, which is a major concern for migrant workers…

"The availability and affordability of essential medicines needs to be improved. Inadequate access, quality and use of medical products and technologies are rooted in different factors, including the absence of a national medicines policy to guide and coordinate different stakeholders and policies in the pharmaceutical sector; the absence of a generics-substitution policy; and financial incentives in the health care system that contribute to irrational use. Senior-level officials have publicly recognized the problems in the pharmaceutical sector and the insufficient access to essential medicines." **[53a]**

30.02 In a report dated 16 January 2009, *Asia Times* stated:

"…China is medically speaking two nations. Primary care, even in the cities, is almost non-existent and with no independent doctors or neighborhood clinics, people have to go to hospitals even for simple healthcare needs. With hospitals told to finance their own costs and 79% of the population having no health insurance, the burden on the average Chinese is considerable, with the result that many simply cannot afford any healthcare at all. The one to 950 ratio of doctors to the population appears encouraging… But these numbers don't reflect the fact that most of China's doctors are concentrated in the cities. Likewise, while most general hospitals are clearly below Western standards aside from a few specialized hospitals which routinely perform complex operations with well-trained doctors and the latest equipment. These are increasingly catering to the need of the newly affluent Chinese. In a country where large swaths of the population do not have access to the most basic healthcare, it is this group which spends an estimated $2 billion a year on cosmetic surgery. This can only increase the gap between the haves and the have-nots. According to current estimates, it would take half a million additional doctors, well distributed across the country, to provide the healthcare that the Chinese really need. This, however, would require not only additional training of doctors but also a reform of their status and remuneration." **[64b]**

30.03 On 20 October 2008 the BBC reported:

"The UK-based medical journal, The Lancet, is launching a major series of scientific papers in Beijing on China's plans for healthcare reform. The spotlight comes as the country is debating an ambitious programme which aims to provide health insurance for all its 1.3 billion people by 2020. The Healthy China 2020 plan is intended to create a universal health service. Critics say the Chinese health system presently falls far behind the needs of those it is supposed to be treating… Primary healthcare, especially for the poor, disintegrated in recent decades when the old state system was

dismantled and medical fees introduced. Healthcare is a top public complaint – many cannot get access to it or simply cannot afford it. Many of the 700 million people in the countryside have to travel to cities to get decent care. Bill Summerskill, the Lancet's executive editor, says the current system just is not working. 'More than half the money comes out of pocket. And if people end up in hospital, the average hospitalisation is greater than an average person's wage,' he told the BBC. 'China is facing a real problem with this new phenomenon of health poverty. Where people either can't afford to get the care or else, having received the care, are then bankrupted by it,' he added… About 177 million Chinese people have high blood pressure. At the moment, only about one in 10 gets adequate treatment." **[9c]**

30.04 On 21 October 2008 *The Telegraph* reported:

"A special study of China's health system commissioned by The Lancet magazine throws light on the social costs of the country's breakneck economic growth. It found that improvements in health care had slowed in recent decades despite the country's 'miracle' economy. Investment was so heavily focused on prosperous urban areas that the life expectancy was now 11 years greater in Shanghai than in the poor western province of Gansu. The differences lasted from cradle to grave… The current leadership of President Hu Jintao and the prime minister Wen Jiabao has staked its reputation on healing the growing divide between rich and poor. It has already unveiled ambitous proposals intended to spread health insurance, now largely found in the city, to cover all China's 1.3 billion people by 2020. At the moment, most people in rural areas have to pay doctors' and hospital bills out of their own pocket, even though the average cost of a hospital admission is now almost equal to the average annual income. The report says that because of its boom the country 'is in a much better position than other nations to overcome health inequities' by paying for reforms. But the report points to more fundamental problems than in just insurance. Too often doctors prescribe drugs that are profitable rather than useful. Migrant workers – who come from the city but work in the building sites, restaurants and factories of the expanding cities – have 'grossly inadequate' care. Most strikingly, so much money has been invested in general development in urban areas, with public spending 48 times higher in the richest than the poorest counties, that the basics of life are affected: 96 per cent of the population of large cities have safe drinking water but less than 30 per cent in poor areas." **[25a]**

30.05 On 9 April 2009 *The Telegraph* reported:

"Public health care in China has been underfunded for years, and the high cost and poor availability of services are among the biggest complaints of the Chinese public. China is pumping in 850 billion yuan ($124 billion) to reform the ailing system in the next three years as part of an ambitious – and still only hazily outlined – plan to provide basic medical coverage and insurance to all of China's 1.3 billion people… A serious illness can wipe out a family's life savings... Though mostly state-owned, public hospitals currently rely on profits from the sale of drugs and expensive treatments and tests to cover their operating expenses. The facilities have been accused of aggressively prescribing expensive and sometimes unnecessary drugs and treatment, creating a heavy burden on patients and a waste of medical resources." **[25d]**

(See also section 2: Economy Poverty)

(See also section 27: Children Health issues)

HIV/AIDS

30.06 As documented by an UNGASS report on the UNAIDS website, covering the period January 2006 – December 2007:

"Currently, China's HIV epidemic remains one of low prevalence overall, but with pockets of high infection among specific sub-populations and in some localities. The characteristic of the epidemic in China are: The epidemic continues to expand, but the rate is slowing; sexual transmission is now the main mode for the spread of HIV; geographic distribution is highly varied; and the epidemic continues to be driven by high-risk behaviour within particular sub-populations… The government's resource commitments to AIDS have continued to increase and comprehensive training to strengthen the HIV awareness of leaders is being implemented… Mass organizations, civil society organizations and business enterprises are actively involved in the national response to AIDS… Comprehensive HIV prevention initiatives are increasingly focused on behavioural change among the most-at-risk populations (MARPs). Coverage of interventions aimed at behavioural change by sex workers and their clients has increased and interventions to men who have sex with men were also strengthened through pilot projects. Among injecting drug users, the methadone maintenance treatment programme has been expanded, along with clean needle exchange in locations with high injecting drug use. HIV transmission through blood (plasma) donation and transfusion was effectively contained and the coverage of prevention of mother-to-child transmission was expanded. Voluntary counselling and testing services were progressively expanded." **[54a]**

30.07 According to an article by the Associated Press, dated 18 February 2009:

"AIDS was the top killer among infectious diseases in China for the first time last year, with 6,897 people dying in the nine months through September, a state news agency said. Though the report by the Xinhua News Agency, citing the Ministry of Health, did not explain the jump, a possible factor is the Chinese government's improved reporting of HIV/AIDS statistics in recent years as it slowly acknowledged the presence of the disease… China long denied that AIDS was a problem, accounting in part for the low number of reported deaths. But leaders have shifted in recent years, confronting the disease more openly and promising anonymous testing, free treatment for the poor and a ban on discrimination against people with the virus. Nevertheless, many Chinese are still reluctant to be tested. The government and UNAIDS estimate the number of people living with HIV in China is actually about 700,000 – much higher than the confirmed number of infections. The government estimates that 85,000 of those have AIDS… The HIV virus that causes AIDS gained a foothold in China largely due to unsanitary blood plasma-buying schemes and tainted transfusions in hospitals. But last year, health authorities said sex had overtaken drug abuse as the main cause of HIV infections. The government remains sensitive about the disease, regularly cracking down on activists and patients who seek more support and rights." **[44a]**

Anti-retroviral therapy

30.08 Human Rights Watch reported on 11 November 2003 that the Chinese government had begun making anti-retroviral drugs available free of charge to all rural residents and to those in urban areas unable to pay for the treatment themselves. **[7g]** As reported by the official *China Daily* newspaper on 14 April 2004, to qualify for free medical treatment, patients must be rural residents or urban citizens who have economic difficulties and are not covered by any basic medical insurance. **[14j]**

30.09 On 15 April 2004 the official *People's Daily* newspaper reported that the government had announced the introduction of free AIDS tests and consultations for all citizens. The report stated, "According to the regulation, the central government pay for the tests in the AIDS-stricken areas while the local governments in other areas pay themselves." **[12q]**

30.10 The Kaiser Network reported on 17 August 2006, "Some HIV-positive people develop resistence to first-line antiretrovirals, but second-line drugs are seven to 28 times as expensive as first-line drugs, according to Reuters. In addition, commonly-used second-line antiretrovirals, including tenofovir and Abbott Laboratories' Kaletra, are not available in China. Abbott and China are negotiating a pricing deal on Kaletra, but an agreement is not expected soon, according to Reuters." **[95c]**

30.11 As documented by an UNGASS report on the UNAIDS website, covering the period January 2006 – December 2007:

"Expanding access to free antiretroviral treatment under the 'Four Free One are' policy has been a priority, with coverage extended to 1,190 counties in 31 provinces (autonomous regions and municipalities). Standardized ART was strengthened, the national drug resistance monitoring system was established and a pilot second-line drug trial was launched. Comprehensive treatment models, prevention of opportunistic infection treatment and traditional Chinese medicine treatment were under exploration, while care and support have been further intensified... While there have been impressive achievements in the national response to AIDS, a number of core challenges remain. These are outlined under seven key areas, namely: (1) programme management and accountability; (2) awareness campaigns and anti-discrimination; (3) comprehensive interventions; (4) treatment, care and support; (5) all society involvement; (6) capacity-building of response teams; and (7) monitoring and evaluation systems." **[54a]**

30.12 A Reuters report dated 30 October 2008 stated:

"Chinese AIDS victims are dying needlessly because a 'tragic stigma' prevents them seeking help in a country where one fifth of people think the disease can be passed on by sharing a toilet, a top activist said on Thursday. The government has promised to hand out free, Chinese-made drugs to anyone infected with the disease and the country's leaders have met those living with HIV/AIDS but there is still widespread ignorance about how it is spread… 'Everywhere I have gone... they have reported to me the high levels of stigma, ostracism and discrimination that people with HIV/AIDS experience in China,' said Edwin Cameron, a South African Supreme Court judge who is HIV positive. 'This is a tragedy because the Chinese government has a very good

treatment program,' he added during a visit to China to help raise awareness. Cameron said that while 35,000 to 40,000 people with AIDS were on treatment, more than double that number needed drugs and were scared to be tested, or even to pick up the results of blood tests because of the result of being labeled HIV positive… Last year China officially had 700,000 people living with HIV/AIDS and expected 50,000 new infections this year." **[34a]**

30.13 In a report dated 8 December 2008, Human Rights Watch stated:

"China has won increasing praise for its aggressive response to the HIV/AIDS epidemic. Among other efforts, the Chinese government has sharply expanded HIV prevention programs and increased the availability of 'first line' HIV treatment medicines. Particularly promising have been community-based programs targeting drug users that have increased the availability of methadone therapy to address opioid drug dependency. Yet, despite these advances, harsh law enforcement practices and extended confinement of drug users in detox and RTL centers continue, impeding efforts to provide effective drug dependency therapy and ignoring the HIV prevention and treatment needs of drug users." **[7o]**

30.14 On 20 April 2009 Reuters reported:

"Chinese children with AIDS, especially from rural families, are going without treatment because their families are too poor to afford it, despite a government policy of free treatment… Many children with AIDS die before the age of five, often undiagnosed. Some live too far from hospitals and others have been turned away from hospitals and schools that fear contagion from AIDS patients. China guarantees free drug treatment for AIDS, but many poor families cannot afford the associated fees or treatment for other diseases which may strike the weakened children. The government provides generic versions of four drugs for front-line treatment, but many patients have developed resistance. Asia Catalyst called for the Chinese government to 'fill in the gaps' by extending coverage for additional medical costs, and providing cheaper second-line drugs." **[34b]**

(See also section 27: Children Health issues)

Discrimination against HIV/AIDS sufferers

30.15 A Reuters report dated 30 October 2008 stated:

"It is officially illegal to discriminate against those with the disease but ignorance means signs banning victims from places like gyms and bathhouses are common and blood tests sometimes required for jobs or hospital operations. The government has also sent out mixed messages, with sporadic crackdowns on domestic activists and visa bans on most foreigners infected with the disease. But Wang Longde, head of the Chinese Preventative Medicine Association, said he hoped the visa rule will go by the end of the decade and overall things had improved from a few years ago when police would wait outside his office to arrest patients on the grounds that they must be infected if they were visiting him." **[34a]**

30.16 As recorded by the US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010:

"Despite provisions in the new Employment Promotion Law, discrimination against persons with HIV/AIDS and hepatitis B carriers (including 20 million chronic carriers) remained widespread in many areas. Persons with HIV/AIDS suffered discrimination, and local governments sometimes tried to suppress their activities. At the same time, international involvement in HIV/AIDS prevention, care, and treatment, as well as central government pressure on local governments to respond appropriately, brought improvements in some localities. Some hospitals that previously refused to treat HIV/AIDS patients had active care and treatment programs because domestic and international training programs improved the understanding of local healthcare workers and their managers. In Beijing dozens of local community centers encouraged and facilitated HIV/AIDS support groups.

"Some NGOs working with HIV/AIDS patients and their family members continued to report difficulties with local governments, particularly in Henan Province. Henan authorities provided free treatment to persons with HIV/AIDS, but foreign and local observers noted that local governments were reluctant or even hostile toward coordinating efforts with NGOs and preferred to work independently." **[2e] (Section 6)**

30.17 In September 2003 Human Rights Watch published a report entitled, *Locked Doors: The Human Rights of People living with HIV/AIDS in China*, detailing the many obstacles that people faced when diagnosed as HIV positive in China. This report highlighted both the high level of ignorance about the disease, particularly in rural areas, and the continued reluctance of local officials to fully implement central government initiatives. **[7f]** In June 2005 Human Rights Watch published a report entitled, *Restrictions on AIDS Activists in China*. This report stated, "Even as NGO activity generally increases, activists and NGO staff continue to report constant state surveillance, a web of bureaucratic obstacles, and even open harassment in the course of doing their daily work." **[7c] (Summary)**

30.18 On 13 February 2006 the official Xinhua news agency announced that from 1 March 2006 new regulations designed to control the spread of HIV/AIDS would come into force. "According to the regulation, any working unit or individual cannot discriminate against people living with HIV/AIDS, AIDS patients and their relatives. Their rights of marriage, employment, medical care and education are protected by law." **[13j]**

(See also Latest News: Events in China from 2 to 15 November 2010)

MENTAL HEALTH

30.19 On 17 June 2009 the official *China Daily* referred to "the growing problem of mental illness across a country that lacks national legislation to deal with it." The report stated further:

"At least 56 million patients with mental ailments across the country have not received any treatment and only one in four patients with serious mental disorders are hospitalized… 'Lack of money is a problem not only for patients, but also hospitals,' Zhang Zhaoping, vice-director of Huidong county federation for disabled persons, told Nanfang Daily... Mental illness covers a wide range of ailments, from depression to schizophrenia. The affliction

accounts for 20 percent of all diseases in the country and has become a serious threat to public health, with the rate expected to rise to 25 percent by 2020, the Ministry of Health said. Latest figures show there are 11 hospital beds and less than two psychiatrists for every 100,000 patients, far below the world's average of more than 43 beds and nearly four doctors for the same number of patients. The country's health budget last year was 5.5 percent of gross domestic product, while the investment in mental health services took up 2.3 percent of the health budget in 2008." **[14a]**

30.20 On 12 June 2009 *The Wall Street Journal* reported:

"Rates of mental illness in the China are higher than previously estimated, according to a new study… Over a one-month period, those with a mood disorder such as depression totaled 6.1% of the population while 5.6% suffered from an anxiety disorder and 5.9% from a substance abuse disorder. The study found 1% suffered from a psychotic disorder, meaning some condition that involves having a distorted sense of reality. Overall, 17.5% of the population surveyed had some mental disorder. Seventy percent of Chinese individuals with psychotic disorders had received professional help at some point, according to the Lancet study. But, among those with non-psychotic disorder, only 12% had ever received treatment, and nearly half who said they sought help had received it from non-mental health professional… 'Projection of our results to all of China suggests that 173 million adults in the country have a mental disorder and 158 million of these have never received any type of professional help for their condition,' wrote the authors… 'A major redistribution of societal and health resources is needed to address a problem of this size and will only happen with the active participation (or, at least, concordance) of powerful political, economic, social, and professional stakeholders in the community,' they said." **[17a]**

30.21 The WHO *Mental Health Atlas 2005* (a project of the Department of Mental Health and Substance Abuse, WHO, Geneva) recorded in its *Country Profile* for China, "Among all the cities of China, Shanghai has the most developed psychiatric setup… Services at each of the three levels – municipal, district and grass-root level are available" **[53b]**

30.22 On 14 September 2006 Radio Free Asia (RFA) reported, "Currently, fees for an hour's psychotherapy in China range from 200-500 yuan (U.S.$25-62), well out of the reach of any of the country's 900 million rural residents, among whom suicide rates for women are alarmingly high." **[73g]**

30.23 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, noted, "A high female suicide rate continued to be a serious problem… Many observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, birth-limitation policies, and other societal factors contributed to the high female suicide rate. Women in rural areas, where the suicide rate for women was three to four times higher than for men, were especially vulnerable." **[2e] (Section 6)**

(See also section 12: Psychiatric custody (Ankang system))

(See also section 26: Women)

(See also section 27: Children)

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31. FREEDOM OF MOVEMENT

HOUSEHOLD REGISTRY (HUKOU)

31.01 In a report dated 1 March 2007, Amnesty International stated:

> "The hukou system requires every resident of China to be registered with the local Public Security Bureau. Household registration booklets are kept by local security bureaux for all families (individuals living alone being counted as a household) which contain information including the names, dates of birth, occupations, marriage status, etc., on all members of the household. Chinese citizens have only one place of permanent hukou registration. According to the Provisional Regulations on the Management of Temporary Residents in the Urban Areas, issued in 1985, any person staying or living outside of their hukou zone for more than three days, including foreign nationals, must register with the local hukou authorities at the local police station and obtain a guest, or temporary, hukou registration. Individuals who fail to do so may be subject to fines and removal to their place of permanent registration. Landlords, hotels, and other households who host visitors are responsible for ensuring that their guests register with the local police although these regulations have been relaxed in some localities. Any person staying in a locality outside their hukou zone for more than three months must, furthermore, apply for a Temporary Residential Permit (zanzhuzheng) which provides the legal basis for residence and the key basis of legal identity. In many localities this permit is necessary in order to work, to rent housing, to open a bank account, to enter public buildings (such as libraries), to receive registered mail, and for other personal identification purposes." **[6n]**

31.02 The report stated further:

> "Obtaining a temporary residential permit can be a time-consuming and costly process, although the fees and the documentation required ranges widely between localities… (However,) it continues to be difficult to obtain a residency permit in Beijing. According to an internal migrant worker in Beijing 'police don't give them out easily, you have to have guanxi', meaning personal contacts. Those seeking to obtain a temporary residential permit may, however, face additional costs. Reports in some localities point to the need for internal migrants to bribe local officials and police officers in order to obtain a temporary permit… The documentation required for obtaining a temporary residency permit differs between localities, although either a labour contract or documentation from a local host or local landlord is generally required… Localities that seek to limit the influx of internal migrants will tend to have more stringent documentation requirements. The validity of temporary residential permits varies between localities, generally between six to twelve months, and according to individual status. Permits must be renewed with proper documentation at the end of their validity, with a fee being charged for each renewal. Temporary hukou status does not automatically convert to permanent residential status no matter how long an individual lives in a

locality. Holders of temporary residential permits are not considered local residents, but are considered only to have legal permission to temporarily reside in a locality outside their hukou zone." **[6n]**

31.03 The report also noted:

"However welcome these partial reforms may be, the hukou system continues to provide the basis for legal categories based on social origin which facilitate and fuel discrimination. Hukou designation remains a hereditary status inherited at birth from one's parents. Even under the reformed hukou system, a Chinese child born in Beijing of Chinese parents who are originally from a rural village will inherit the hukou registration category of the parents' home-town. This will prevent him or her from being able to obtain permanent Beijing residency, and condition the child's chance of enjoying free, compulsory, education, the right to health care, and protection in the workplace if he or she should remain in Beijing long enough to start work. While the system has abolished the terminology of 'rural' versus 'urban' hukou categories, the designation of being a 'temporary' versus a 'permanent' resident in a city serves to condition the enjoyment of a wide range of rights as effectively as the old designations. And, according to current eligibility standards in most localities, the vast majority of internal migrants are unable to obtain permanent urban hukou." **[6n]**

31.04 As reported by the Canadian IRB on 19 April 2002:

"A hukou does not expire so there is no need for it to be renewed. There are occasions when a hukou required amending, i.e.: if the person moves, if there is an addition to the family, if the person gets married, etc. The information that we have been able to obtain is that amendments to the hukou are made by the local government, [at the] local police station, [which is] responsible for issuing and maintaining the hukou." **[3m] (Based on information supplied by an official at the Chinese Embassy in Canada, 11 April 2002)**

31.05 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, noted:

"Although the government maintained restrictions on the freedom to change one's workplace or residence, the national household registration system ('hukou') continued to change, and the ability of most citizens to move within the country to work and live continued to expand. Rural residents continued to migrate to the cities, where the per capita disposable income was more than four times the rural per capita income, but many could not officially change their residence or workplace within the country. Most cities had annual quotas for the number of new temporary residence permits that could be issued, and all workers, including university graduates, had to compete for a limited number of such permits. It was particularly difficult for rural residents to obtain household registration in more-economically developed urban areas." **[2e] (Section 2d)**

(See also section 27: Children 'Black' children or 'hei haizi' (unregistered children))

(See also section 35: Official documents Forged and fraudulently obtained documents)

INTERNAL MIGRANTS

31.06 The USSD Report 2009 stated:

> "The household registration system added to the difficulties rural residents faced even after they relocated to urban areas and found employment. The National Bureau of Statistics reported that there were 225 million migrant workers at the end of 2008. These economic migrants lacked official residence status in cities, and it was difficult for them to gain full access to social services, including education, despite laws, regulations, and programs meant to address their needs. Migrant workers had little recourse when subject to abuse by employers and officials. Some major cities maintained programs to provide migrant workers and their children access to public education and other social services free of charge, but migrants in some locations reported that it was difficult to qualify for these benefits in practice." **[2e] (Section 2d)**

31.07 In a report dated 1 March 2007, Amnesty International stated:

> "Tens of millions of [internal] migrants are denied rights to adequate health care and housing, and are excluded from the wide array of state benefits available to permanent urban residents. They experience discrimination in the workplace, and are routinely exposed to some of the most exploitative conditions of work. Internal migrants' insecure legal status, social isolation, sense of cultural inferiority and relative lack of knowledge of their rights leaves them particularly vulnerable, enabling employers to deny their rights with impunity. The children of internal migrants do not have equal access to free, compulsory, education, and many of them have to be left behind in the countryside." **[6n]**

31.08 The report continued:

> "While internal migrants from rural areas are now able to work in the cities, unlike during the Maoist era when they were all but shut out, they are required to register as temporary residents there, a process which a majority find difficult or impossible to complete. Many migrant workers are thus not able to complete all the required documentation for being properly registered, with the result that from the perspective of state authorities they are in the cities illegally. This makes them vulnerable to exploitation by the police, landlords, employers, local officials, as well as permanent urban residents. 'Undocumented' internal migrants in China continue to risk arrest and forcible removal back to their home-towns. Thus, rather than rewarding, or at least respecting the rights of those individuals who have demonstrated the willingness to leave home – often leaving family and loved ones behind, to fill the gaps in the labour market wherever they might be, and to labour in the most difficult and gruelling conditions, a succession of Chinese administrations have maintained the administrative and regulatory system that underpins discrimination against them. While the central government is taking more seriously the plight of internal migrant workers, and has passed regulatory measures seeking to improve their working and living conditions, Amnesty International considers that change has been slow and implementation inadequate." **[6n]**

31.09 In a report dated March 2008, Human Rights Watch addressed the abusive conditions experienced by Beijing's migrant construction workers, detailing their exploitation by employers and the failure of the Chinese government to effectively address these violations. The report stated, "Chinese government authorities are well aware of the abuses migrant construction workers face and have begun to make the necessary policy adjustments in certain areas… But our research shows that a lack of rigorous implementation of existing policies have created critical policy gaps which leave migrant workers vulnerable to suffer a range of serious human rights abuses." **[7m]**

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32. FOREIGN REFUGEES

32.01 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, noted:

"Although the country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, the law does not provide for the granting of refugee or asylum status. The government largely cooperated with the UNHCR when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos resident in the country. During the year the government and the UNHCR continued discussions concerning the granting of citizenship to these residents." **[2e] (Section 2d)**

32.02 As reported by the same source:

"The SAR [Special Administrative Region] is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol and has no temporary protection policy. The director of immigration has discretion to grant refugee status or asylum on an ad hoc basis but only in cases of exceptional humanitarian or compassionate need. The Immigration Ordinance does not provide foreigners the right to have asylum claims recognized. The government's practice was to refer refugee and asylum claimants to a lawyer or the UNHCR." **[2e] (Hong Kong)**

NORTH KOREAN REFUGEES

32.03 The USSD Report 2009 noted:

"The government continued to consider all North Koreans 'economic migrants' rather than refugees, and the UNHCR continued to have limited access to North Korean refugees inside China. The lack of access to UNHCR-supported durable solutions and options, as well as constant fear of forced repatriation by authorities, left North Korean refugees vulnerable to human traffickers. Even refugees under UNCHR care were subjected to harassment and restrictions by authorities. The government continued to deny the UNHCR permission to operate along its northeastern border with North Korea.

"In practice the government did not provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a

particular social group, or political opinion. Some North Koreans were permitted to travel to third countries after they entered diplomatic compounds in the country. The intensified crackdown begun in 2008 against North Korean refugees reportedly extended to harassment of religious communities along the border. The undocumented children of some North Korean asylum seekers and of mixed couples (i.e., one Chinese parent and one North Korean parent) reportedly did not have access to health care, public education, or other social services. The government also arrested and detained individuals who provided food, shelter, transportation, and other assistance to North Koreans. According to reports, some activists or brokers detained for assisting North Koreans were charged with human smuggling, and in some cases the North Koreans were forcibly returned to North Korea. There were also reports that North Korean agents operated clandestinely within the country to forcibly repatriate North Korean citizens." **[2e] (Section 2d)**

32.04 As noted by International Crisis Group in a report entitled, *Perilous Journeys: The Plight of North Koreans in China and Beyond* (Asia Report No. 122), published on 26 October 2006:

"The large number of border crossers have caused the North Korean government to use sentences and change the penal code. The 1999 version distinguished between 'unlawful border crossing' and crossing 'with intent to overturn the Republic.' The 2004 revision further distinguishes between 'crossing' and 'frequent crossings.' According to the latter version, 'frequent crossing' of the border without permission is a criminal act punishable by up to two years in labour camps (three years in 1999 version.) Acts of treason… are punishable by five to ten years of hard labour, or ten years to life in more serious cases." **[8a] (p18)**

32.05 In a report dated April 2008, Human Rights Watch stated:

"In the Yanbian Korean Autonomous Prefecture in eastern Jilin province, northeast China, many North Korean children and children of Chinese fathers and North Korean mothers live in legal limbo. There is no official data estimating the number of such children living in the area, but local residents put the number at anywhere between a few thousand and several tens of thousands. A serious problem these children face is access to education, as Chinese schools require verification of identity for admittance and continued schooling. In China, every citizen must be registered under a household registration system called hukou. Chinese law stipulates that a child born in China is entitled to citizenship if either parent is a Chinese citizen. However, since registering a child would expose the identity of the mother, Chinese men who have had children with North Korean women are faced with an awful choice. They can register their child at the risk of exposing their mothers, who could be arrested and repatriated to North Korea as 'illegal' economic migrants, or they can decide not to register the child – leaving the child without access to education. When both parents are North Koreans, it is impossible for a child to obtain hukou. Children of North Korean women face different treatment in different districts in Yanbian. Practices are often harsh: in many districts, officials routinely arrest and repatriate North Korean women found to be living with Chinese men in their districts. Although the law does not explicitly require it, some also refuse to allow the registration of half-North Korean children as Chinese citizens unless and until their mothers have been arrested and repatriated to North Korea." **[7j]**

32.06 On 24 February 2009 the Canadian Immigration and Refugee Board (IRB) noted:

"According to Article 7 of the Nationality Law of the People's Republic of China, [f]oreign nationals or stateless persons who are willing to abide by China's Constitution and laws and who meet one of the following conditions may be naturalized upon approval of their applications: (1) they are near relatives of Chinese nationals; (2) they have settled in China; or (3) they have other legitimate reasons. (China 10 Sept. 1980) However, according to Human Rights Watch (HRW), since the Chinese government considers North Koreans 'illegal' economic migrants and 'regularly arrests and repatriates them,' North Korean wives and half-North Korean children of Chinese citizens may be precluded from obtaining citizenship…" **[3ac]**

(See also section 22: Ethnic groups Koreans)

(See also section 27: Children)

(See also section 31: Freedom of movement Household registry (hukou))

(See also COI Report: Democratic People's Republic of Korea http://www.homeoffice.gov.uk/rds/country_reports.html)

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33. CITIZENSHIP AND NATIONALITY

33.01 The Constitution states, "All persons holding the nationality of the People's Republic of China are citizens of the People's Republic of China. All citizens of the People's Republic of China are equal before the law. Every citizen enjoys the rights and at the same time must perform the duties prescribed by the Constitution and the law. The State respects and preserves human rights." **[5a]**

33.02 Article 4 of the Nationality Law of the People's Republic of China, dated 10 September 1980, states, "Any person born in China whose parents are both Chinese nationals or one of whose parents is a Chinese national shall have Chinese nationality." **[5x]** The United States Office of Personnel Management Investigations Service in its paper entitled, *Citizenship Laws of the World* (March 2001), stated that if at least one parent is a Chinese citizen and the child has not acquired the citizenship of another country then that child is considered a citizen of China. **[23a] (p 51)**

RESTORATION OF NATIONALITY

33.03 The Chinese Nationality Law states:

"Article 3 The People's Republic of China does not recognize dual nationality for any Chinese national…

"Article 9 Any Chinese national who has settled abroad and who has been naturalized as a foreign national or has acquired foreign nationality of his own free will shall automatically lose Chinese nationality…

"Article 13 Foreign nationals who once held Chinese nationality may apply for restoration of Chinese nationality if they have legitimate reasons; those whose applications for restoration of Chinese nationality have been approved shall not retain foreign nationality.

"Article 14 Persons who wish to acquire, renounce or restore Chinese nationality, with the exception of cases provided for in Article 9, shall go through the formalities of application. Applications of persons under the age of 18 may be filed on their behalf by their parents or other legal representatives.

"Article 15 Nationality applications at home shall be handled by the public security bureaus of the municipalities or counties where the applicants reside; nationality applications abroad shall be handled by China's diplomatic representative agencies and consular offices.

"Article 16 Applications for naturalization as Chinese nationals and for renunciation or restoration of Chinese nationality are subject to examination and approval by the Ministry of Public Security of the People's Republic of China. The Ministry of Public Security shall issue a certificate to any person whose application has been approved.

"Article 17 The nationality status of persons who have acquired or lost Chinese nationality before the promulgation of this Law shall remain valid." **[5x]**

33.04 On 15 November 2002 the Canadian Immigration and Refugee Board (IRB) stated:

"It is possible to recover Chinese nationality after it has been lost. To recover Chinese nationality, a person must first renounce the other nationality they are holding and provide a report – for example, proof of renunciation of other nationality and request for reinstatement of Chinese nationality – to Chinese authorities. Acquisition, loss or recovery of Chinese nationality can be requested or processed through Chinese consulates or embassies outside China, or inside China through the Public Security Ministry. Besides holding another country's nationality, there is no general reason why a person who originally held Chinese nationality would be denied its reinstatement. However, each case is different and must be evaluated on its specific circumstances and merits by the authorities." **[3p] (Based on a telephone interview with the PRC Embassy in Ottawa, Canada)**

33.05 The Hong Kong government's website, accessed on 14 October 2010, provided guidance for those wishing to apply for restoration of Chinese nationality. **[86b]** (http://www.gov.hk/en/residents/immigration/chinese/restoration.htm)

(See also section 38: Hong Kong)

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34. EXIT/ENTRY PROCEDURES

34.01 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, noted:

"The government permitted legal emigration and foreign travel for most citizens. There were reports that some academics and activists continued to face travel restrictions around sensitive anniversaries. Most citizens could obtain passports, although those whom the government deemed threats, including religious leaders, political dissidents, and ethnic minorities, were refused passports or otherwise prevented from traveling overseas." **[2e] (Section 2d)**

34.02 On 25 October 2005 the Canadian IRB recorded, "The Frontier Defense Inspection Bureau (FDIB) is in charge of the inspection barriers, and FDIB officers examine the passports and immigration departure cards of Chinese travellers. The officers also verify the identity of the person through a 'computerised record system.' Chinese travellers do not need to present their resident identity card during the inspection." (Based on information supplied by a representative of the Canadian Embassy in Beijing) **[3q]**

(See also section 8: Security forces Police)

(See also section 38: Hong Kong)

TREATMENT OF RETURNEES

34.03 Article 322 of the Criminal Law covers the penalties for illegal emigration. It states, "Whoever violates the laws and regulations controlling secret crossing of the national boundary (border), and when the circumstances are serious, shall be sentenced to not more than one year of fixed-term imprisonment and criminal detention or control." **[5i]** As reported by the Canadian IRB on 9 August 2000, "Leaving China without exit permission or a passport is a criminal offence in China punishable of [sic] up to one year in prison." **[3b]**

34.04 Articles 52 and 53 of the Criminal Law cover financial penalties for returnees. They state:

"Article 52. In imposing a fine, the amount of the fine shall be determined according to the circumstances of the crime.

"Article 53. A fine is to be paid in a lump sum or in installments [sic] within the period specified in the judgment [sic].

"Upon the expiration of the period, one who has not paid is to be compelled to pay. Where the person sentenced is unable to pay the fine in full, the people's court may collect whenever he is found in possession of executable property.

"If a person truly has difficulties in paying because he has suffered irresistible calamity, consideration may be given according to the circumstances to granting him a reduction or exemption." **[5i]**

34.05 On 11 June 2006 *The New York Times* reported:

"There is some dispute about what happens to those who are repatriated to China, in part because there have been so few… A Department of Homeland Security spokesman told me, 'We have no reports of people who have been sent back to China being persecuted.' Others, though, are not so sanguine. Two years ago, Richard Posner, a judge on the U.S. Court of Appeals for the Seventh Circuit, vacated a de-portation order for a Chinese youth because the immigration judge did not consider the evidence – numerous human rights reports from both U.S. and British organizations – that the asylum seeker might well be sent to jail or a labor camp if returned to China. Posner was concerned that the Chinese youth might be tortured upon his return, though he also conceded that 'the treatment of repatriated Chinese by their government is to a considerable extent a mystery.' Indeed, one Chinese legal scholar I spoke with, Daniel Yu, said that while there is a law on the books in China that calls for a short jail sentence if a person leaves the country illegally, more than likely whatever punishment there might be is at the discretion of local officials." **[21a]**

34.06 On 16 June 2008 ABC News reported, "The suicide of a man who was forcibly returned to China by Australian immigration authorities has prompted calls by refugee advocates for better treatment of people seeking protection visas. The man, known as Mr Zhang, was beaten and tortured when he was deported to China a year ago. He spent almost a decade arguing his case for asylum, repeatedly telling Australian authorities he was at risk because of his involvement with pro-democracy groups in China." **[48a]**

34.07 The USSD Report 2009 noted, "The law neither provides for a citizen's right to repatriate nor otherwise addresses exile. The government continued to refuse reentry to numerous citizens who were considered dissidents, Falun Gong activists, or troublemakers. Although some dissidents living abroad were allowed to return, dissidents released on medical parole and allowed to leave the country often were effectively exiled. Activists residing abroad were imprisoned upon their return to the country." **[2e] (Section 2d)** The same report stated:

"MPS officials stated that repatriated victims of trafficking no longer faced fines or other punishment upon their return. However, authorities acknowledged that some victims continued to be sentenced or fined because of corruption among police, the difficulty in identifying trafficked victims, and provisions allowing for the imposition of fines on persons traveling without proper documentation. Trafficking victims often lacked proper identification, which made it difficult to distinguish them from persons who illegally crossed borders." **[2e] (Section 6)**

34.08 As recorded by the US State Department's *2009 Country Report on Human Rights Practices: Taiwan*, published on 11 March 2010, "Because of its international status, the [sic] Taiwan is unable to be a party to the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol; its law does not provide for the granting of asylum or refugee status. All PRC citizens unlawfully present are required by law to be returned to the PRC… During the first eight months of the year [2009], 200 illegal PRC immigrants were deported." **[2k] (Section 2d)**

34.09 The Passport Law of the People's Republic of China came into force on 1 January 2007. Article 14 provides that where an applicant has been 'repatriated to China due to his illegal exiting China, illegal dwelling or illegal employment overseas', the passport issuance departments shall not issue a passport 'within six months to three years as of the day when he completes the criminal punishment or is repatriated to China.' **[5w]** In a letter to the Country of Origin Information (COI) Service, dated 5 December 2007, the Foreign & Commonwealth Office (FCO) stated:

"We have no evidence of the likely amount of time that a failed asylum seeker [to whom Article 14 of the above law is applicable] would have to wait before being able to apply for a passport. The local passport authority would make a judgement according to the individual circumstances of the case and the level of seriousness of the offence. The length of the suspension (i.e. whether it would be closer to 6 months or 3 years) is down to the discretion of the issuing authority, and might vary between provinces. We have no reliable information on how the new law is applied in practice." **[31e]**

Fuzhou detention centre (Fujian)

34.10 According to a report by CEME (Cooperative Efforts to Manage Emigration), which brought together the findings of a week-long visit to Fujian undertaken in June 2004:

"The team visited the main Fujian detention centre just outside Fuzhou, which can accommodate up to 300 persons – both foreigners caught entering the country illegally and Chinese returning from illegal migration activities abroad. Managed by the Border Defense Force, the centre is intended to detain persons returned and those awaiting the outcome of administrative investigation for up to 15 days. It offers information, awareness raising through newspapers, TV and discussions, recreation, medical attention and individualized 'ideological education'. The team was told that detainees are allowed 1-3 hours 'free activity' every day, and that their dietary needs are taken into account. The centre has on a number of occasions been presented as a model to immigration officials (including Ministers) from Australia, Canada and the US. It appeared clean, well kept and managed; but was unoccupied at the time of the CEME visit (indeed seemed only to have housed some 200 occupants in the year). It offers excellently presented displays of its history, including distinguished visits from other countries, and a rousing documentary video of its purpose, history and operation. The team found the centre to be a conspicuous demonstration by the government to the world of how heavily it is investing in combating irregular forms of migration. However, given that the centre was unoccupied, the team speculated about how much it was actually used for the purposes and to the extent claimed." **[97] (p9)**

34.11 As reported by the Canadian IRB on 9 August 2000:

"The detention centre [in Fuzhou] is a rectangular, four storey building with a large enclosed courtyard. It can accommodate a maximum of 100 detainees. The cells are all around the building with recreation facilities such as a ping pong table in the courtyard. On the first floor, there are several rooms for questioning deportees. Those rooms are fairly small with a plexiglass divider separating the detainee and the interviewer. We recognized one of the deportees of the previous day being questioned as we walked by. Each cell

can accommodate up to 10-12 people. The cells are large rectangular rooms with an elevated floor on each side where mattresses are set at night and rolled up during the day. Each cell has its own bathroom, television, and window. From what we could see most of the inmates were sleeping, watching television or playing cards. A larger room is used as a cafeteria and 're-education' room. The whole detention centre is very clean and the living conditions did not appear to be particularly harsh, almost comparable to the equivalent in Canada." **[3b]**

Treatment of Tibetans

34.12 A report by the International Campaign for Tibet (ICT) dated 26 February 2008 and reproduced by the Tibetan newspaper, *Phayul,* on its website, stated, "Tibetans caught attempting to escape from Tibet or to re-enter Tibet after a period in exile are at risk of torture and imprisonment. A group of Tibetans who were refouled from Kathmandu in a high-profile case in May 2003 reported being beaten and forced to carry out hard labor in prison." **[43a]** On 28 July 2010 *Phayul* reported, "Nepal has forcibly handed over three fleeing Tibetan refugees to Chinese authorities in early June, the United Nations said… adding it was 'extremely concerned' by the move… Two of the repatriated refugees - a young woman and a monk - are now in jail in Tibet…" **[43b]**

34.13 The USSD Report 2009 noted:

"Tibetans continued to encounter substantial difficulties and obstacles in traveling to India for religious, educational, and other purposes… In addition to passport restrictions, reinforcement of border posts made travel, such as pilgrimages to Nepal and India to see the Dalai Lama, more difficult. The government restricted the movement of Tibetans during sensitive anniversaries and events and increased controls over border areas at these times. There were reports of arbitrary detention of persons, particularly monks and nuns, returning from India and Nepal. Detentions generally lasted for several months, although in most cases authorities did not bring formal charges against prisoners. Tight border controls sharply limited the number of persons crossing the border into Nepal and India." **[2e] (Tibet)**

34.14 As reported by *The Guardian* on 1 February 2007, "More than 30 Tibetans were tortured and sent to a labour camp after their attempt to escape across the Himalayas from their homeland failed when Chinese border guards fired and killed several of the unarmed group, according to a survivor… More than 4,000 Tibetans flee to Nepal each year across the border, which crosses several of the highest mountains on earth, including Everest." **[41h]**

(See also section 23: Tibet)

Treatment of Uighur(s)

34.15 The USSD Report 2009 noted, "Uighurs were sentenced to long prison terms, and in some cases executed, on charges of separatism. The government reportedly sought the repatriation of Uighurs living outside the country, where they faced the risk of persecution." **[2e] (Section 6)**

34.16 On 9 October 2008 the BBC reported that 17 Chinese Uighurs who had been held as terrorist suspects at Guantanamo Bay "had been cleared for release in

2004 but the US says they may face persecution if returned to China… The Bush administration has maintained that if they cannot be returned home and no other country will take them, they should stay at Guantanamo. In 2006, five Chinese Muslim men released from Guantanamo Bay were flown to Albania for resettlement… Beijing has demanded that all Uighurs held at Guantanamo be repatriated to China." **[9e]** In a further report on 7 January 2009 the BBC stated that "all the Uighurs [at Guantanamo] refused to return to China, fearing persecution on their return. Dr Michael Dillon, a China expert, says they have every reason to be frightened: 'The Chinese authorities would certainly want them back, would want to detain them, put them on trial and there is a very, very serious possibility that some of them – if not all of them – would be subject to the death penalty'." **[9v]**

34.17 In a report dated 27 June 2006, Amnesty International expressed serious concern for the safety of two Uighurs, Yusuf Kadir Tohti and Abdukadir Sidik, forcibly returned to China from Kazakhstan. This reported stated, "Over recent years, Amnesty International has monitored growing numbers of forced returns of Uighurs to China from several of its neighbouring countries, including those of Central Asia, such as Kazakhstan. In some recent cases, returnees are reported to have been subjected to serious human rights violations, including torture, unfair trials and even execution." **[6m]**

(See also section 20: Muslims Uighurs)

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35. OFFICIAL DOCUMENTS

ID CARDS

35.01 On 3 July 2007 the Canadian IRB noted:

"In 2004, the government of China began issuing a second-generation Resident Identity (ID) Card to its citizens… The new computer-readable ID card replaces the first-generation card that has been in circulation for more than 20 years… by March 2006, over 100 million second-generation ID cards had already been issued… It is estimated that approximately 800 million second-generation cards will be issued by the end of 2008… The second-generation resident ID card measures 85.6 millimetres by 54 millimetres… The new card is covered with a 'special coating'… described by one source as a 'hard wearing' polyester plastic... Unlike the old card, the new card contains cardholder data on both sides, which apparently allows ethnic minorities to have information in both Chinese Han characters and ethnic minority characters…The second-generation card is reportedly the same colour for both men and women, and the text on the card is written horizontally rather than vertically… The colour of the second-generation resident ID card was not identified in the sources consulted by the Research Directorate. One side of the new resident ID card includes the cardholder's name, gender, ethnicity, date of birth, residence, ID number and photograph… The cardholder's photograph appears on the right hand side of the card… while the ID number appears at the bottom... The reverse side of the card has a design of China's national emblem, found in the upper left-hand corner… decorative patterns

and an image of the Great Wall of China... The reverse side of the card also identifies the validity periods of the card and the issuing authority… The second-generation ID card, referred to as a 'smart card,' has an embedded digital microchip… The microchip contains cardholder information, including name, sex, birth date, address and household registration location." **[3l]**

35.02 The same source stated:

"Resident ID cards are issued by the Public Security Bureau (PSB) at the county level in the area in which the cardholder permanently resides… Under China's law on Resident Identity Cards, all citizens aged 16 and older are required to apply for a Resident Identity Card… Persons under the age of 16 are eligible to obtain an ID card… however, their guardian must apply for the card on their behalf… If a resident ID card expires, is lost or damaged, the cardholder must make an application for a new one… A 28 January 2005 *Taipei Times* article also notes that since the resident ID card is no longer paper-based, a cardholder must apply for a new card if changes to such categories as residence or marital status need to be made… The validity periods of resident identity cards vary based on the age of the cardholder… Second-generation ID cards issued to citizens under the age of 16 are valid for 5 years… Resident ID cards issued to citizens aged 16 to 25 and 26 to 45 are valid for 10 years and 20 years, respectively… Resident ID cards issued to citizens aged 46 and older do not expire… Once a resident ID card expires, application must be made for a new one… the cost of the second-generation ID card is 20 yuan… If a person loses his or her resident ID card, the replacement cost is 40 yuan… Citizens in rural areas living on social assistance and 'needy' rural citizens are reportedly exempt from paying these fees when applying to replace their first-generation card with a second-generation one… A temporary resident ID card costs 10 yuan… Under China's law on Resident Identity Cards, a temporary resident ID card may be issued to a citizen when he or she 'is in urgent need' of a resident identity card during the application period of his or her regular ID card… The law notes that in certain areas of the country it could take up to 90 days for a resident ID card to be issued… however a 17 March 2006 South China Morning Post article notes that the time required to issue the new second-generation ID card could be reduced to 30 days." **[3l]**

35.03 Another report by the Canadian IRB dated 20 April 2004 stated:

"With respect to the procedures for replacing a lost or stolen identity card, a representative at the Canadian immigration office in Beijing stated that if a PRC citizen loses an [identification] ID card, they will go to their local police substation that is responsible for issuing the Family Registration Booklets ('hukou') and ID cards. The police substation is responsible for registering all people (foreigners too) that are living in their jurisdiction, including temporary residents. If one moves, then one is required to register the change of address. As a result, when a PRC citizen loses an ID card, they have to pay a nominal handling fee, and bring a couple of photos along for a re-issuance (the records of the citizen's hukou and previous ID applications will all be kept there). A person doesn't have to come in themselves with the photo, a relative may come in their place. A new ID card should have the new date of issue, with a new period of validity from that new issuance date." **[3e]**

FORGED AND FRAUDULENTLY OBTAINED DOCUMENTS

35.04 As reported by the Canadian IRB on 8 September 2005, "A professor of criminal justice at Rutgers University, who has written on Chinese human smuggling, told the Research Directorate that, in his opinion, 'it is pretty easy to obtain all kinds of fake documents in China,' including identity documents, birth certificates, university diplomas and hospital documents." Citing a 2002 report by the Australian Institute of Criminology the IRB reported that "… corrupt officials provide 'both genuine and fraudulent documents in exchange for money, or… for the migrant smuggler's promise to smuggle a member of the corrupt official's family abroad'." **[3g]**

35.05 On 14 June 2007 the Canadian IRB reported:

"… a representative of the New York-based Human Rights in China (HRIC) states that '[i]t is completely conceivable that corrupt officials could be involved in the illegal production and sale of fraudulent [identity] documents. Reports to this effect circulate regularly, sometimes involving passports as well... The fake documents would be most useful to people with active arrest warrants trying to evade police notice, or for obtaining employment or housing'… In an effort to reduce fraud and to correct Resident Identity Card mistakes, the general public in China reportedly now has access to the country's Public Security Bureau (PSB) database, which contains information on 1.3 billion citizens… according to the PSB, about 90 percent of criminals make use of fraudulent identity cards." **[3d]**

35.06 On 3 July 2007 the Canadian IRB reported, "Unlike the old laminated paper ID card, the second-generation ID card is designed with a technology that is difficult to counterfeit... A 28 January 2005 *Taipei Times* article notes that the new card has 21 features that are 'duplication-proof;' however, the article does not identify these features... second-generation ID cards can be verified for authenticity through the use of card readers." **[3l]**

35.07 On 24 June 2009 the Canadian IRB reported:

"In 12 June 2009 correspondence, a professor of law at George Washington University Law School, who specializes in the Chinese legal system, stated that 'just about any document can be forged in China, and many are.' A 2007 briefing paper published by the Economist Intelligence Unit (EIU) indicates that a United States (US) consular official based in southern China reported that fake passports in China are rare, while the ability to screen other documents is inhibited by 'widespread fraud'... According to the official, 'you can't trust any [personal] documents in China', and the market for fraudulent documents is rapidly expanding… The official further indicated that documents are assumed to be fraudulent unless proven otherwise, and that the verification of documents is a 'labour-intensive and time-consuming process'... A 2009 Vancouver Sun article reports that it is possible to 'buy any kind of document you want' in China... In 9 June 2009 correspondence, a professor of international affairs at the Georgia Institute of Technology, who has published on the hukou system in China, stated that both hukou forgery and acquiring a genuine hukou by fraudulent means 'have been observed for a long time' in China. The Professor also noted that 'while it is hard to ascertain which type of counterfeiting is more common in a given place, obtaining a genuine document by fraudulent means (such as bribery) appeared to be the preferred

kind of fraud'... A 16 March 2009 South China Morning Post article reports that two employees of Beijing's labour and security bureau produced fake documents that allowed 26 people to obtain city residence permits; the two employees were jailed for 10 to 12 years. Specific information on fraudulent summonses could not be found among the sources consulted by the Research Directorate." **[3ad]**

(See also section 31: Freedom of movement Household registry (hukou))

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36. EMPLOYMENT RIGHTS

36.01 The Government White Paper, *China's Employment Situation and Policies (Section II)*, published in April 2004, stated, "Chinese law stipulates that workers must not be discriminated against in the matter of employment because of ethnic identity, race, sex or religious belief. Chinese law strictly prohibits the employment of people under the age of 16. The state strictly investigates and deals with the illegal use of child laborers and the recommendation of children for work." **[5n] (p7 of Section II)**

(See also section 27: Children Child labour)

36.02 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, noted:

"The Employment Promotion Law, which went into effect in 2008, improves protection against discrimination in employment, and local governments began modifying their regulations to reflect the new law. Under the law and adopted regulations, employment discrimination against persons carrying an infectious disease is prohibited, and provisions allow such persons to work as civil servants. While the law improves protection against discrimination in employment, it does not address some common types of discrimination in employment, including discrimination based on height, physical appearance, or place of origin." **[2e] (Section 6)**

36.03 The same source reported:

"The law does not provide for freedom of association, as workers were not free to organize or join unions of their own choosing. Independent unions are illegal, and the right to strike is not protected in law. The All-China Federation of Trade Unions (ACFTU), which is controlled by the CCP and chaired by a member of the Politburo, is the sole legal workers' organization. The trade union law gives the ACFTU control over all union organizations and activities, including enterprise-level unions, and requires the ACFTU to 'uphold the leadership of the Communist Party.' While ACFTU constituent unions were generally unassertive and ineffective in protecting the rights and interests of members, the ACFTU successfully advocated for and positively influenced the implementation of government policies protecting rights and interests of workers. The ACFTU and its provincial and local branches continued to organize new unions at a rapid pace…

"While many labor rights NGOs and lawyers were able to operate effectively, authorities continued to monitor labor rights organizations closely. Labor rights organizations reported close surveillance by government security agencies, and in some cases they were warned to stop their activities in support of worker rights. During the year many groups reported an increase in monitoring in advance of sensitive anniversaries.

"In some cases authorities interfered with the programs or activities of labor organizations… The right to strike is not protected in law… During the year there were many reports of strikes or work stoppages throughout the country, and official media more aggressively publicized cases of worker rights violations and protests… Official media also more aggressively publicized worker protests other than strikes, involving actual or feared job loss, wage or benefit arrears, dissatisfaction with new contracts offered in enterprise restructuring, failure to honor contract terms, or discontent over substandard conditions of employment." **[2e] (Section 7a)**

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37. DISPUTED TERRITORIES

TAIWAN

37.01 As noted by the Foreign & Commonwealth Office (FCO) in its *Country Profile* for Taiwan, dated 11 June 2010, the Republic of China (ROC), more commonly called Taiwan, has a population of 23.1 million (March 2010). **[31b] [18c] (map)**

37.02 According to a report by *Asia Times* dated 19 August 2004:

"Today, many accept China's claim to Taiwan – a Chinese province, the CCP claims, since time immemorial – without question. But in the first two decades of the CCP's existence (1921-42) Taiwan was of only passing interest to both the CCP and the former Republic of China (ROC) government. Taiwan was an area defined both visually and rhetorically as beyond the margins of the Han Chinese world. In documents, speeches, maps and even postage stamps, Taiwan and the Taiwanese were characterized as a region and a regional national minority, not a province. Taiwan was only later declared an integral part of China when it was politically expedient to do so." **[64a]**

37.03 In its *Country Profile* for Taiwan, dated 11 June 2010, the FCO recorded:

"In December 1949, following the Nationalists' defeat on the mainland, the government of the then 'Republic of China' under President Chiang Kai-shek moved to Taiwan, together with approximately two million supporters. The Nationalist (KMT) administration on Taiwan maintained its claim to be the legitimate government of the whole of China and set up a national central government on the island. Chiang Kai-shek held the office of 'President' until his death in 1975. Under his rule, the political system remained virtually frozen for almost 30 years. Following Chiang Kai-shek's death Taiwan embarked on a process of reform and gradual democratisation under his son, President Chiang Ching-kuo. In 1986, the main opposition groups came together to form

the Democratic Progressive Party (DPP) and were allowed to contest parliamentary elections. They were formally legalised in 1989. Chiang Ching-kuo died in 1987, shortly after Martial Law was lifted. Lee Teng-hui succeeded him as President. Lee was the first Taiwan-born leader of the KMT and was symbolic of evolving 'Taiwanisation' of the KMT. Lee introduced a range of democratic reforms, including lifting restrictions of the press and introducing proper elections to the National Assembly. The first direct elections for the office of President were held in 1996. Lee Teng-hui won and continued as 'President'." **[31b]**

37.04 The same source stated:

"China has sought reunification through negotiation; however, the Chinese have not renounced the threat of military action against Taiwan. China enacted its anti-secession law on 14 March 2005 to, 'oppose and check 'Taiwanese independence. The anti-secession law reiterates the 'one-China' policy and sets out certain measures to maintain peace and stability in the Taiwan Strait and to promote cross-Strait relations. But it also authorises the use of 'non-peaceful' means if peaceful reunification fails. Despite political differences, economic and people-to-people links have continued to develop at an impressive rate. As have trade and investment. In 2009, two way trade totalled USD 109 bn. Taiwan is a major investor on the Mainland. In July 2009 Taiwan started limited easing of restrictions on Mainland investment. Although direct trade is still restricted, Taiwanese investment in China is substantial." **[31b] See also [13e] (text of anti-secession law)**

37.05 The FCO also noted:

"Ma Ying-jeou's inauguration as President in May 2008 created new opportunities for improving the relationship. The Chinese President, Hu Jintao, spoke in April 2008 of a 'golden opportunity in history' and stressed that peaceful development of cross-Strait relations was a shared wish and interest for both sides. The Kuomintang and the Chinese Communist Party met subsequently in mainland China and agreed, on the basis of the '1992 consensus', to resume unofficial talks which began in June 2008. A second round was held in November 2008 and led to the launch of direct shipping links across the Taiwan Strait on 18 December 2008 and the start of daily charter flights. Four rounds of talks had been held by December 2009, with a total of twelve agreements signed to ease economic restrictions." **[31b]**

37.06 The US State Department's *2009 Country Report on Human Rights Practices: Taiwan*, published on 11 March 2010, recorded, "Taiwan generally respected the human rights of its citizens; however, the following problems continued to be reported: corruption by officials, violence and discrimination against women, trafficking in persons, and abuses of foreign workers." **[2k]**

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38. SPECIAL ADMINISTRATIVE REGIONS (SARS)

HONG KONG (SAR)

38.01 As noted by the FCO in its *Country Profile* for Hong Kong, dated 30 June 2010, Hong Kong is a special administrative region of China and occupies a total land area of 1,098 sq km on the southern coast of China. It comprises Hong Kong Island, Kowloon and the New Territories, and about 235 outlying islands. It has a population of 7.01 million people. **[31c] [18d] (map)**

38.02 The same source recorded that Hong Kong reverted from the UK back to China on 1 July 1997 and is allowed a high degree of autonomy under a policy known as 'One Country, Two Systems'. The FCO also noted that Hong Kong is governed by a partially elected Legislative Council (the LegCo), which comprises 60 members. The head of government is Donald Tsang (Chief Executive) and the head of state is Hu Jintao (President of China). **[31c]**

38.03 The same source also stated, "There are around 3.5 million British passport-holders in Hong Kong. The majority are British Nationals (Overseas) - BN(O)s. This form of British nationality accords visa-free access to the UK for visits, but not the right of abode in the UK. BN(O)s enjoy the same level of consular service in third countries as other British Nationals." **[31c]**

38.04 The Hong Kong government's website, accessed on 14 October 2010, noted, "You are regarded as a person of Chinese nationality if you are a Hong Kong resident: (a) of Chinese descent who was born in Hong Kong or other parts of China; or (b) who fulfils the criteria of Chinese nationality in the Nationality Law of the People's Republic of China. If you have declared a change of nationality and are no longer a Chinese national, you are not eligible for a HKSAR Passport." **[86a]**

(See also section 33: Citizenship and nationality)

38.05 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, recorded:

"The government generally respected the human rights of its citizens, although core issues remained. The SAR [Special Administrative Region] limits the ability of citizens to participate in and change their government. Claims of press self-censorship persisted. The legislature is limited in its power to introduce or amend legislation and is not empowered to approve executive appointments. Disproportionate political influence is granted to certain sectors of society through the existence of small-circle 'functional constituencies,' that elected half of the LegCo [Legislative Council]. Societal prejudice against certain ethnic minorities persisted. The government began steps to implement a minimum wage for all workers except live-in domestic helpers and student interns, who lacked a guaranteed right to bargain collectively." **[2e] (Hong Kong)**

MACAO (SAR)

38.06 As recorded by the FCO in its *Country Profile* for Macao, dated 8 December 2006, Macao is a special administrative region of China and occupies a total land area of only 28.2 sq km on China's south-east coast. Bordering

Guangdong Province, it is 60 km from Hong Kong and is made up of the peninsula of Macao, and the two islands of Taipa and Coloane, linked by a 2.2 kilometre long strip of reclaimed land known as Cotai. It has a population of 488,100 (2005). **[31d] [18e] (map)**

38.07 The same source noted that Macao reverted from Portugal back to China on 20 December 1999. Under the policy known as 'One Country, Two Systems' it is allowed a high degree of autonomy in areas other than foreign policy and defence. Macao is governed by a partially elected Legislative Council, which comprises 29 members. The head of government is Edmund Ho Hau Wah (Chief Executive) and the head of state is Hu Jintao (President of China). **[31d]**

38.08 The US State Department's *2009 Country Report on Human Rights Practices* (USSD Report 2009), published on 11 March 2010, noted, "The [Macao] government generally respected the human rights of its citizens; however, some problems remained, most notably limits on citizens' ability to change their government, reports of official corruption, and trafficking in persons." **[2e] (Macau)**

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Annex A1: Chronology of major events – China post-1949

Based on BBC Timeline, dated 9 October 2010. **[9a]**

1949 **1 October** - Mao Zedong, having led the Communists to victory against the Nationalists after more than 20 years of civil war, proclaims the founding of the People's Republic of China. The Nationalists retreat to the island of Taiwan and set up a government there.

1950 China intervenes in the Korean War on the side of North Korea.

Tibet becomes part of the People's Republic of China.

1958 Mao launches the "Great Leap Forward", a five-year economic plan. Farming is collectivised and labour-intensive industry is introduced. The drive produces economic breakdown and is abandoned after two years. Disruption to agriculture is blamed for the deaths by starvation of millions of people following poor harvests.

1959 Chinese forces suppress large-scale revolt in Tibet.

1962 Brief conflict with India over disputed Himalayan border.

1966-76 "Cultural Revolution", Mao's 10-year political and ideological campaign aimed at reviving revolutionary spirit, produces massive social, economic and political upheaval.

1972 US President Richard Nixon visits. Both countries declare a desire to normalise relations.

1976 Mao dies. "Gang of Four", including Mao's widow, jockey for power but are arrested and convicted of crimes against the state.

1977-78 Deng Xiaoping emerges as the dominant figure among pragmatists in the leadership. Under him, China undertakes far-reaching economic reforms, beginning in 1978.

1979 Diplomatic relations established with the US.

1986-90 China's "Open-door policy" opens the country to foreign investment and encourages development of a market economy and private sector.

1989 Troops open fire on demonstrators who have camped for weeks in Tiananmen Square initially to demand the posthumous rehabilitation of former CCP General Secretary Hu Yaobang, who was forced to resign in 1987. The official death toll is 200. International outrage leads to sanctions.

Jiang Zemin takes over as Chinese Communist Party general secretary from Zhao Ziyang, who refused to support martial law during the Tiananmen demonstrations.

1992 Russia and China sign declaration restoring friendly ties.

1997 Deng Xiaoping dies, aged 92. Rioting erupts in Yining, Xinjiang and on day of Deng's funeral Xinjiang separatists plant three bombs on buses in Urumqi, Xinjiang, killing nine and injuring 74.

Hong Kong reverts to Chinese control.

1998 Zhu Rongji succeeds Li Peng as premier, announces reforms in the wake of the Asian financial crisis and continued deceleration of the economy. Thousands of state-owned enterprises are to be restructured through amalgamations, share flotations and bankruptcies. About four million civil service jobs to be axed.

1999 Nato bombs the Chinese embassy in Belgrade, Yugoslavia, souring Sino-US relations.

Falun Gong, a quasi-religious sect, outlawed as a threat to stability.

Macao reverts to Chinese rule.

2000 Crackdown on official corruption intensifies, with the execution for bribe taking of a former deputy chairman of the National People's Congress.

The Falun Gong sect continues to defy its ban and holds demonstrations.

2001 **June** - Leaders of China, Russia and four Central Asian states launch the Shanghai Cooperation Organisation (SCO) and sign an agreement to fight ethnic and religious militancy while promoting trade and investment. The group emerges when the Shanghai Five – China, Russia, Kazakhstan, Kyrgyzstan and Tajikistan – are joined by Uzbekistan.

November - China joins the World Trade Organisation.

2002 **November** - Vice-President Hu Jintao is named head of the ruling Communist Party, replacing Jiang Zemin, the outgoing president. Jiang is re-elected head of the influential Central Military Commission, which oversees the armed forces.

2003 **March** - National People's Congress elects Hu Jintao as president. He replaces Jiang Zemin, who steps down after ten years in the post.

March-April - China and Hong Kong are hit by the pneumonia-like Sars virus, thought to have originated in Guangdong province in November 2002. Strict quarantine measures are enforced to stop the disease spreading.

June - Hong Kong is declared free of Sars. Days later the World Health Organization lifts its Sars-related travel warning for Beijing.

July/August - Some 500,000 people march in Hong Kong against Article 23, a controversial anti-subversion bill. Two key Hong Kong government officials resign. The government shelves the bill.

2004 **September** - Former president Jiang Zemin stands down as army chief, three years ahead of schedule.

November - China signs a landmark trade agreement with ten south-east Asian countries; the accord could eventually unite 25 per cent of the world's population in a free-trade zone.

2005 **January** - Former reformist leader Zhao Ziyang dies. He opposed violent measures to end 1989's student protests and spent his last years under virtual house arrest.

Aircraft chartered for the Lunar New Year holiday make the first direct flights between China and Taiwan since 1949.

March - Hong Kong Chief Executive Tung Chee-hwa resigns. He is succeeded in June by Donald Tsang.

New law on Taiwan calls for use of force should Taipei declare independence from mainland China.

April - Relations with Japan deteriorate amid sometimes-violent anti-Japanese protests in Chinese cities, sparked by a Japanese textbook which China says glosses over Japan's World War II record.

August - China and Russia hold their first joint military exercises.

2006 **May** - Work on the structure of the Three Gorges Dam, the world's largest hydropower project, is completed.

July - New China-Tibet railway line, the world's highest train route, begins operating.

August - Official news agency says 18 million people are affected by what it describes as the country's worst drought in 50 years.

November - Government says pollution has degraded China's environment to a critical level, threatening health and social stability.

2007 **February** - President Hu Jintao tours eight African countries to boost trade and investment. Western rights groups criticise China for dealing with corrupt or abusive regimes.

April - During a landmark visit, Wen Jiabao becomes the first Chinese prime minister to address Japan's parliament. Both sides agree to try to iron out differences over their shared history.

June - New labour law introduced after hundreds of men and boys were found working as slaves in brick factories.

July - China's food and drug agency chief is executed for taking bribes. Food and drug scandals have sparked international fears about the safety of Chinese exports.

September - A new Roman Catholic bishop of Beijing is consecrated – the first for over 50 years to have the tacit approval of the Pope.

2008 **January** - The worst snowstorms in decades are reported to have affected up to 100 million people.

March - Anti-China protests escalate into the worst violence Tibet has seen in 20 years, five months before Beijing hosts the Olympic Games.

May - A massive earthquake hits Sichuan province, killing tens of thousands.

June - China and Taiwan agree to set up offices in each other's territory at the first formal bilateral talks since 1999.

August - Beijing hosts Olympic Games.

September - Nearly 53,000 Chinese children fall ill after drinking tainted milk, leading Premier Wen Jiabao to apologise for the scandal.

November - The government announces a $586bn (£370bn) stimulus package to avoid the economy slowing. Chinese Premier Wen Jiabao says the effect of the global financial crisis on China is worse than expected.

2009 **February** - Russia and China sign $25bn deal to supply China with oil for next 20 years in exchange for loans.

March - Chinese official reveals plans to step up patrols in disputed waters in South China Sea to combat illegal fishing and ward off other countries' "unfounded claims".

July - Scores of people are killed and hundreds injured in the worst ethnic violence in decades as a protest in the restive Xinjiang region turns violent. Officials in Shanghai urge parents [who qualify under existing regulations] to have a second child in effort to counter effects of ageing population. Leaders of China and Taiwan exchange direct messages for the first time in more than 60 years.

October - China stages mass celebrations to mark 60 years since the Communist Party came to power. Six men are sentenced to death for involvement in ethnic violence in Xinjiang.

December - China executes Briton Akmal Shaikh for drug dealing, despite pleas for clemency from the British government.

2010 **January** - China posts a 17.7% rise in exports in December, suggesting it has overtaken Germany as the world's biggest exporter. The US calls on Beijing to investigate cyber attacks, saying China has tightened censorship. China condemns US criticism of its internet controls.

March - The web giant Google ends its compliance with Chinese internet censorship and starts re-directing web searches to Hong Kong, in response to cyber attacks on email accounts of human rights activists.

September - Diplomatic row erupts over Japan's arrest of Chinese trawler crew in disputed waters in East China Sea. Japan later frees the crew but rejects Chinese demands for an apology.

October - Jailed Chinese dissident Liu Xiaobo is awarded Nobel Peace Prize, prompting official protests from Beijing.

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Annex A2: Chronology of major events – Tibet post-1910

Based on BBC Timeline, dated 28 April 2010. **[9f]**

1911 Tibet is declared an independent republic after decades of rebuffing attempts by Britain and China to establish control.

1935 The man who will later become the 14th Dalai Lama is born to a peasant family in a small village in north-eastern Tibet. Two years later, Buddhist officials declare him to be the reincarnation of the 13 previous Dalai Lamas.

1949 Mao Zedong proclaims the founding of the People's Republic of China and threatens Tibet with 'liberation'.

1950 China invades eastern Tibet. The Dalai Lama, now aged 15, officially becomes head of state.

1951 Tibetan leaders are forced to sign a treaty dictated by China. The treaty, known as the 'Seventeen Point Agreement', professes to guarantee Tibetan autonomy and to respect the Buddhist religion, but also allows the establishment of Chinese civil and military headquarters at Lhasa.

Mid-1950s Mounting resentment against Chinese rule leads to outbreaks of armed resistance.

1954 The Dalai Lama visits Beijing for talks with Mao, but China still fails to honour the Seventeen Point Agreement.

1959 **March** - Full-scale uprising breaks out in Lhasa. Thousands are said to have died during the suppression of the revolt. The Dalai Lama and most of his ministers flee to northern India, to be followed by some 80,000 other Tibetans.

1963 Foreign visitors are banned from Tibet.

1965 Chinese government establishes Tibetan Autonomous Region (TAR).

1966 The Cultural Revolution reaches Tibet and results in the destruction of a large number of monasteries and cultural artefacts.

1971 Foreign visitors are again allowed to enter the country.

Late 1970s End of Cultural Revolution leads to some easing of repression, though large-scale relocation of Han Chinese into Tibet continues.

1980s China introduces 'Open Door' reforms and boosts investment while resisting any move towards greater autonomy for Tibet.

1987 The Dalai Lama calls for the establishment of Tibet as a zone of peace and continues to seek dialogue with China, with the aim of achieving genuine self-rule for Tibet within China.

1988 China imposes martial law after riots break out.

1989 The Dalai Lama is awarded the Nobel Prize for Peace.

1993 Talks between China and the Dalai Lama break down.

1995 The Dalai Lama names a six-year-old boy, Gedhun Choekyi Nyima, as the true reincarnation of the Panchen Lama, the second most important figure in Tibetan Buddhism. The Chinese authorities place the boy under house arrest and designate another six-year-old boy, Gyancain Norbu, as their officially sanctioned Panchen Lama.

2002 Contacts between the Dalai Lama and Beijing are resumed.

2006 A new railway linking Lhasa and the Chinese city of Golmud is opened. The Chinese authorities hail it as a feat of engineering, but critics say it will significantly increase Han Chinese traffic to Tibet and accelerate the undermining of traditional Tibetan culture.

2007 **November** - The Dalai Lama hints at a break with the centuries-old tradition of selecting his successor, saying the Tibetan people should have a role.

December - The number of tourists travelling to Tibet hits a record high, up 64 per cent year on year at just over four million, Chinese state media say.

2008 **March** - Anti-China protests escalate into the worst violence Tibet has seen in 20 years, five months before Beijing hosts the Olympic Games.

Pro-Tibet activists in several countries focus world attention on the region by disrupting progress of the Olympic torch relay.

October - The Dalai Lama says he has lost hope of reaching agreement with China about the future of Tibet. He suggests that his government-in-exile could now harden its position towards Beijing.

November - The British government recognises China's direct rule over Tibet for the first time. Critics say the move undermines the Dalai Lama in his talks with China.

China says there has been no progress in the latest round of talks with aides of the Dalai Lama, and blames the Tibetan exiles for the failure of the discussions.

A meeting of Tibetan exiles in northern India reaffirms support for the Dalai Lama's long-standing policy of seeking autonomy, rather than independence, from China.

December - Row breaks out between European Union and China after Dalai Lama addresses European MPs. China suspends high-level ties with France after President Nicolas Sarkozy meets the Dalai Lama.

2009 **January** - Chinese authorities detain 81 people and question nearly 6,000 alleged criminals in what the Tibetan government-in-exile called a security

crackdown ahead of the March anniversary of the 1959 flight of the Dalai Lama.

March - China marks flight of Dalai Lama with new "Serfs' Liberation Day" public holiday. China promotes its appointee as Panchen Lama, the second-highest-ranking Lama, as spokesman for Chinese rule in Tibet. Government reopens Tibet to tourists after a two-month closure ahead of the anniversary.

April - China and France restore high-level contacts after December rift over President Sarkozy's meeting with the Dalai Lama, and ahead of a meeting between President Sarkozy and China's President Hu Jintao at the London G20 summit.

August - Following serious ethnic unrest in China's Xinjiang region, the Dalai Lama describes Beijing's policy on ethnic minorities as "a failure". But he also says that the Tibetan issue is a Chinese domestic problem.

October - China confirms that at least two Tibetans have been executed for their involvement in anti-China riots in Lhasa in March 2008.

2010 **April** - Envoys of Dalai Lama visit Beijing to resume talks with Chinese officials after a break of more than one year.

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Annex B: Political organisations

All-China Federation of Trade Unions (ACFTU)
Government-sponsored Trade Union. **[2e] (Section 7a)**

All-China Women's Federation (ACWF)
Government-sponsored women's organisation. **[2e] (Section 6)**

Catholic Patriotic Association (CPA)
Government-sponsored Catholic organisation. **[2a] (Section I. Religious Demography)**

CCP United Front Work Department (UFWD)
Provides policy 'guidance and supervision' on the implementation of regulations regarding religious activity. **[2a] (Section II. Status of Religious Freedom, Legal Policy/Framework)**

China Disabled Persons' Federation (CDPF)
Government-organised civil association for the disabled. **[2e] (Section 6)**

China Christian Council (CCC)
Government-sponsored Protestant organisation. **[2a] (Section I. Religious Demography)**

Chinese Communist Party (CCP) (Zhongguo Gongchan Dang)
Ruling Party; membership 70.8 million. **[11a]**

Democratic Alliance for the Betterment and Progress of Hong Kong (DAB)
Founded 2005; formed by merger of Democratic Alliance for the Betterment of Hong Kong (f. 1992, supported return of Hong Kong to the motherland and implementation of the Basic Law) and Hong Kong Progressive Alliance (f. 1994, supported by business and professional community); pro-Beijing.
Chair: Tam Yiu-chung.
Sec-Gen: Thomas Pang. **[1a] (Hong Kong – Political Organizations)**

Democratic Party
Founded 1994; formed by merger of United Democrats of Hong Kong (UDHK—declared a formal political party in 1990) and Meeting Point; merged with The Frontier (f. 1996) in Nov. 2008; liberal grouping; advocates democracy.
Chair: Albert Ho Chun-yan.
Sec-Gen: Cheung Yin-tung. **[1a] (Hong Kong – Political Organizations)**

Islamic Association of China (IAC)
Government-sponsored Muslim organisation. **[2a] (Section II. Status of Religious Freedom, Legal Policy/Framework)**

National People's Congress (NPC) (Quanguo Renmin Daibiao Dahui)
Chinese Parliament. **[1a] (National People's Congress)**

National Population and Family Planning Commission of China (NPFPC)
Government department responsible for overseeing population control; formerly known as the State Family Planning Commission. **[3j] (Children)**

People's Armed Police (PAP)
Paramilitary branch of the police. **[11a]**

People's Liberation Army (PLA)
Chinese army. **[1a] (Defence)**

State Administration for Religious Affairs (SARA)
Provides policy 'guidance and supervision' on the implementation of regulations regarding religious activity. **[2a] (Section II. Status of Religious Freedom, Legal Policy/Framework)**

Taoist Association
Government-sponsored Taoist organisation. **[2a] (Section I. Religious Demography)**

Three-Self Patriotic Movement (TSPM)
Government-sponsored Protestant organisation. **[2a] (Section I. Religious Demography)**

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Annex C: Prominent people: past and present

Chiang Kai-shek
Nationalist (KMT) leader who lost civil war. Fled to Taiwan 1949. Died 1975. **[31b]**

Dalai Lama
Spiritual and political leader to whom most Tibetans look for guidance; heads government-in-exile based in Dharamsala (northern India). Left Tibet in 1959. **[1a] (Events in Tibet)**

Deng Xiaoping
Paramount leader for most of 1980s and early 1990s. Architect of economic reforms. Also ordered troops into Tiananmen Square. Died 1997. **[1a] (Contemporary Political History)**

Edmund Ho Hau Wah
Chief Executive of Macao SAR. **[31d]**

Hu Jintao
President of China since March 2003. Also General Secretary of the CCP and head of the military. **[31a]**

Hu Yaobang
Liberal party leader whose death sparked Tiananmen Square protests. Died 1989. **[1a] (Contemporary Political History)**

Li Hongzhi
Founder of banned 'cult' Falun Gong. **[50c] (p3-8)**

Jiang Zemin
Succeeded Deng Xiaoping as core leader. Stepped down as head of the army in September 2004, having already relinquished the Presidency and leadership of the CCP to Hu Jintao. **[1a] (Contemporary Political History)**

Ma Ying-jeou
President of Taiwan. Elected March 2008. **[31b]**

Mao Zedong
Founded PRC on 1 October 1949. Presided over disastrous 'Great Leap Forward' and instigated Cultural Revolution. Died in 1976. **[1a] (Contemporary Political History)**

Panchen Lama
Next most senior Lama after the Dalai Lama (see above). There are two Panchen Lamas: Gendun Choekyi Nyima, selected by the Dalai Lama as the 11th reincarnation of the Panchen Lama, and Gyalsten Norbu (also know as Bainqen Erdini Qoigyijabu), selected by Beijing also as the 11th reincarnation of the Panchen Lama. **[2a] (Tibet, Section II. Status of Government Respect for Religious Freedom, Restrictions on Religious Freedom)**

Donald Tsang
Chief Executive of Hong Kong SAR. **[31c]**

Wen Jiabao
Premier of China since 2003. **[31a]**

Wu Bangguo
Chairman of the Standing Committee of the NPC since 2003. **[31a]**

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Annex D: List of abbreviations

AI	Amnesty International
CCP	Chinese Communist Party
CEDAW	Committee on the Elimination of All Forms of Discrimination Against Women
CPJ	Committee to Protect Journalists
EU	European Union
EBRD	European Bank for Reconstruction and Development
FCO	Foreign & Commonwealth Office (UK)
FH	Freedom House
GDP	Gross Domestic Product
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRW	Human Rights Watch
IAG	Illegal Armed Group
ICG	International Crisis Group
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
IOM	International Organisation for Migration
MSF	Médecins Sans Frontières
NA	Northern Alliance
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
NPC	National People's Congress
OCHA	Office for the Coordination of Humanitarian Affairs
ODIHR	Office for Democratic Institutions and Human Rights
ODPR	Office for Displaced Persons and Refugees
OECD	Organisation of Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
PRC	People's Republic of China
RSF	Reporteurs Sans Frontières
SAR	Special Administrative Region
STD	Sexually Transmitted Disease
STC	Save The Children
TB	Tuberculosis
TI	Transparency International
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
USSD	United States State Department
WFP	World Food Programme
WHO	World Health Organization

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Annex E: Known dissident groups

This is not an exhaustive list.

China Democracy Party (CDP) (Zhongguo Minzhu Dang)
Founded in 1998 and subsequently declared illegal. The CDP remained banned, and the government continued to monitor, detain, and imprison current and former CDP members. **[2e] (Sections 2b and 3)**

The China Progressive Alliance (CPA) (Zhonghua jinbu tongmeng)
Founded in mid-1991 by supporters of 1989 democracy movement. Members met in May 2001 and agreed 11-point manifesto – committed to fighting dictatorship, but also working with progressive elements of the CCP. **[6c] (p3)**

The Free Labour Union of China (FLUC) (Zhonggou Ziyou Gonghui)
Founded late-1991. In January 1992 distributed leaflets encouraging the formation of independent trade unions. After some of its members were secretly arrested in June 1992 the group sent a letter of appeal to the International Labour Organisation (ILO) in Geneva. **[6c] (p4)**

The Liberal Democratic Party of China (LDPC) (Zhongguo Ziyou Minzhu Dang)
First surfaced in November 1991, posting a statement critical of human rights violations in China at Beijing university. Made similar statements in March 1992. **[6c] (p3)**

The Social Democratic Party of China (SDPC) (Zhonggou Shihiu Minzhu Dang)
Founded in 1991 and based in Lanzhou, Gansu province. "It claimed to have over 100 members, including students, workers, intellectuals and government cadres, most of whom had participated in the 1989 democracy movement." Issued its manifesto in April 1992, calling on other parties to join together to advance democracy. By May 1992, 50 members had been arrested. **[6c] (p4)**

The Chinese Nation's People's Party
Founded in mid-1990s by Li Wenshan and Chen Shiqing, two middle-aged farmers in Gansu province. It advocated democracy, human rights and prosperity and had 1,000 members by early 1999. Li and Chen along with 10-12 members were tried on 30 August 2000. Li and Chen received 13- and eight-year prison terms respectively. Eight others were sent to re-education through labour camps. **[59b]**

Chinese Plum Nation Party
Founded in late 1980s by 50-year-old farmer Fen Zhengming. Operating in 17 provinces by early 1990s. Fen detained in April 1992 and given 15-year sentence. **[59b]**

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Annex F: Democratic parties

Political organisations existing prior to the establishment of the PRC (1949) which subordinate themselves to the will of the CCP. **[11a]**

- China Association for Promoting Democracy
- China Democratic League
- China National Democratic Construction Association
- China Zhi Gong Dang (Party for Public Interests)
- Chinese Peasants' and Workers' Democratic Party
- Jiu San (3 September) Society
- Revolutionary Committee of the Chinese Kuomintang
- Taiwan Democratic Self-Government League **[1a] (Other Political Organisations)**

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Annex G: Glossary of Chinese terms

danwei	work unit
Fei Ch'ien	'flying money', underground banking system
getihu	family-run business
Guanxi	social connections, used to obtain favours
hei haizi	'black children' – children born contrary to the 'one child policy'
huafeng	'Chinese ways'
Huayi	'dependants of overseas Chinese'
Huaqiao	'people abroad' = overseas Chinese
hukou	household registration document
hutong	'alley(s)' or 'street(s)' in Beijing
jiefang	'to liberate' or 'to release'
Lai see	money envelopes given as gifts during Chinese New Year
laodong jiaoyang	're-education through labour' (RTL); main form of administrative detention
Laogai	labour camps
mingong	Chinese migrant peasant
Mianzi	'face', prestige or respect
Nongzhuan fei	hukou conversion, i.e. from rural to urban resident
qigong	modern syncretic blend of ideas and beliefs regarding energy cultivation/relaxation technique
renshe	the 'customers' of Snakeheads (people smugglers)
Shuang gui	similar to house arrest but used to punish CCP members for breaches of Party discipline
shourong shencha	'Custody and Investigation', form of administrative detention now abolished
shourong qiansong	'Custody and Repatriation', another form of administrative detention now abolished
Tiananmen	'gate of heavenly peace'
Tianming	'Mandate of Heaven'
tongxianghui	association of people with the same birth place
wai shi	system used for managing foreigners in China
Xinfang	petitioning system
xiagang	'off post' redundant state workers
Xinjiang	'New Frontier' also see XUAR
Xiaokang	relatively prosperous
xiejiao	'evil cult'
Xizang	Chinese name for Tibet
Zanzhu Zheng	Temporary Resident's Permit
Zhonghua Renmin Gongheguo	People's Republic of China, official name of the country
Zhongnanhai	Headquarters of the CCP in Beijing

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Annex H: Glossary of English terms

Basic Law	Hong Kong's mini-constitution
'Bare Branches'	Term used to denote unattached males
CCP	Chinese Communist Party
Executive Council	Hong Kong's top decision-making body
HK	Hong Kong
IMAR	Inner Mongolia Autonomous Region
LegCo	Hong Kong and Macao Legislative Councils
MPS	Ministry of Public Security
"Mixing Sand"	Name given to Han migration to Xinjiang
NHAR	Ningxia Hui Autonomous Region
Procuracy	Responsible for investigating and prosecuting criminal cases
PRC	People's Republic of China
PSB	Public Security Bureau, local police force
ROC	Republic of China, official name for Taiwan
SAR	Special Administrative Region – Hong Kong and Macao
SARG	Special Administrative Region Government
Snakeheads	People smugglers
TAR	Tibet Autonomous Region
'Three Represents'	Perplexing personal philosophy of former President Jiang Zemin
XUAR	Xinjiang Uygur Autonomous Region

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Annex I: Glossary of Tibetan terms

Democratic Management Committees (DMC)	Committees which oversee the running of Buddhist temples in Tibet
Geshe	Monk or lama who has completed the highest form of monastic studies
Lamas	'superior ones', most revered Tibetan Monks, reincarnation of the Buddha
Lamaseries	monasteries
Lhasa	Tibetan capital
Potala Palace	Official residence of the Dalai Lama in Lhasa
Rinpoche	honorific title given to monks
Tibet	'rooftop of the world'

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Annex J: Guide to Tibetan names

Name	Pronunciation	Meaning
Chodak	CHO-dak	Dharma Spreader
Choden	CHO-den	One who is devout, religious
Choegyal	CHO-gyal	Dharma king
Chophel	CHO-pel	The flourishing of the Dharma
Dhargey	DAR-gye	Progress, development, spreading
Dorje	DOR-je	Vajra, which means indestructible
Gyaltsen	GYEL-tsen	Victory banner
Jampa	JAM-pah	Loving kindness
Jamyang	JAM-yang	Gentle voice
Kalsang	KAL-sang	Good fortune
Karma	KAR-ma	Action, deed
Kunchen	KUN-chen	All-knowing
Lhundup	LUN-d(r)oop	Spontaneously accomplished
Lobsang	LOB-sang	Noble-minded
Ngawang	NAR-wang	Powerful speech
Ngodup	NOD-oop	Attainment, accomplishment
Norbu	NOR-bo	Jewel
Palden	PAL-den	Glorious
Pema	PEM-a	Lotus
Phuntsok	Poon-tsok	Excellence
Rabten	RAB-ten	Steadfast
Rinchen	RIN-chen	Precious, gem (great value)
Samdup	SAM-d(r)oop	Fulfilment (of one's wishes)
Sangye	SANG-gye	Buddha
Sonam	SON-am	Merit
Tenzin	TEN-zin	Holder of the teachings
Thekchen	TEK-chen	Mahayana
Thokmay	TOK-me	Unobstructed, unhindered
Thubten	TOOB-ten	The Buddha's teaching
Tinley	T(R)IN-ley	Enlightened activity
Tsering	TSER-ing	Long life
Tseten	TSET-en	Stable life
Tsewang	TSE-wang	Life empowerment
Wangchuk	WANG-chook	Lord, mighty
Wangdue	WANG-doo	Subduer
Yonten	YON-ten	Good qualities

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Annex K: References to source material

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