Home Office

CHINA
Country of Origin Information (COI) Report

COI Service

20 December 2013

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Preface

I This Country of Origin Information (COI) report has been produced by the COI Service, Home Office, 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 10 December 2013. The report was issued on 20 December 2013.

ii The report is compiled wholly from material produced by a wide range of external information sources and does not contain any Home Office 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 may be 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 report reflects the way it is used by Home Office 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 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 information sources. In compiling the report no attempt has been made to resolve discrepancies between information provided in different source documents though COI Service 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. 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 report and the accompanying source material are public documents. All reports are published on 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 are available in electronic form, the relevant weblink 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 COI Service upon request.

ix In producing this report, COI Service has sought to provide an accurate, up to date, balanced and impartial compilation of extracts of the available source material. Any comments regarding this report or suggestions for additional source material are very welcome and should be submitted to COI Service as below.

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Independent Advisory Group on Country Information

x The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office's COI material. The IAGCI welcomes feedback on Home Office's COI Reports and other COI material. Information about the IAGCI's work can be found on the Independent Chief Inspector's website at http://icinspector.independent.gov.uk/country-information-reviews/

xi In the course of its work the IAGCI reviews the content of selected Home Office COI documents and makes recommendations specific to those documents and of a more general nature. A list of the Reports and other documents which have been reviewed by the IAGCI or the Advisory Panel on Country Information (the independent organisation which monitored Home Office's COI material from September 2003 to October 2008) is available at http://icinspector.independent.gov.uk/country-information-reviews/

xii Please note: it is not the function of the IAGCI to endorse any Home Office 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:

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1. Map

1.01 Map of China.[1]

[1] The Economist Intelligence Unit http://www.eiu.com/, Country Report, September 2012, date accessed 14 November 2013

For background information please refer to the China COI report 12 October 2012

Human Rights

2. Introduction

2.01 The Congressional Research Service (CRS) report of 19 June 2013, stated:

'Human rights conditions in the PRC [People's Republic of China] reflect multiple and conflicting trends. The government is led by the Chinese Communist Party (CCP), whose rule is referenced in the preamble to China's Constitution, and the legislative and judicial branches of government lack real power to check the CCP and the state. The PRC Constitution (Article 35) guarantees many rights, including the freedoms of speech, press, assembly, demonstration, and religious belief. However, the government restricts these rights in practice. The CCP regards these rights as subordinate to its own authority and to the policy goals of maintaining social stability and state security, promoting economic development, and providing for economic and social rights. The PRC leadership frequently denounces foreign criticisms of its human rights policies as interference in China's internal affairs, and asserts that perspectives on human rights vary according a [sic] country's level of economic development and social system.

'During the past decade, the PRC government has developed along the lines of what some scholars call "responsive authoritarianism." It has striven to become more legalistic, accountable, and responsive. The government has made some progress in enacting laws aimed at curbing some of the most egregious human rights abuses. In the past year, the state enacted new laws that may provide better protections for some criminal defendants and pledged to reform the notorious Reeducation Through Labor camps.

'However, the government has rejected political reforms that might undermine its monopoly on power, and continued to respond forcefully to signs and instances of social instability, autonomous social organization, and independent political activity. The state has continued to crack down upon unsanctioned religious, ethnic, and labor activity and organizations, political dissidents, and rights lawyers. Government authorities have imposed particularly harsh policies against Tibetans, Uighurs, and Falun Gong adherents. Chinese leaders have tolerated some public criticism and protest against government officials and policies, particularly at the local level, but have also arrested protest leaders. Communist Party and state officials retain a significant degree of arbitrary authority, and corruption has negated many efforts to improve governance.' [2]

2.02 The Minority Rights Group International report, State of the World's Minorities and Indigenous Peoples 2012, published on 28 June 2012, stated:

'The year 2011 revealed unmistakable signs of ferment and frustration in Chinese society. Unsettled by the pro-democracy Arab Spring uprisings and the country's scheduled leadership transition in October 2012, the government launched the largest

[2] Congressional Research Service (CRS) http://www.fas.org/, Human Rights in China and U.S. Policy: Issues for the 113th Congress, 19 June 2013, (p1-2), http://www.fas.org/sgp/crs/row/R43000.pdf, date accessed 2 September 2013

crackdown on human rights lawyers, activists and critics in a decade. This resulted in tightened internet censorship, persecution of high-profile critics, and an increasing number of forced disappearances and arbitrary detentions.' [3]

2.03 The US State Department's 2012 Country Report on Human Rights Practices (USSD Report 2012), China, published on 19 April 2013, noted that:

'Repression and coercion, particularly against organizations and individuals involved in rights advocacy and public interest issues, were routine. Individuals and groups seen as politically sensitive by authorities continued to face tight restrictions on their freedom to assemble, practice religion, and travel. Efforts to silence and intimidate political activists and public interest lawyers continued to increase. Authorities resorted to extralegal measures such as enforced disappearance, "soft detention," and strict house arrest, including house arrest of family members, to prevent the public voicing of independent opinions. Public interest law firms that took on sensitive cases continued to face harassment, disbarment of legal staff, and closure. There was severe official repression of the freedoms of speech, religion, association, and harsh restrictions on the movement of ethnic Uighurs in the Xinjiang Uighur Autonomous Region (XUAR) and of ethnic Tibetans in the Tibet Autonomous Region (TAR) and other Tibetan areas. Abuses peaked around high-profile events, such as the visit of foreign officials, sensitive anniversaries, and in the period leading up to the meeting of the 18th Party Congress in November [2012].' [4]

2.04 The Human Rights Watch (HRW) World Report 2013: China, covering events of 2012, published 31 January 2013, concurred, stating:

'Chinese people had no say in the selection of their new leaders, highlighting that despite the country's three decades of rapid modernization, the government remains an authoritarian one-party system that places arbitrary curbs on freedom of expression, association, religion, prohibits independent labor unions and human rights organizations, and maintains party control over all judicial institutions. The government also censors the press, internet, and publishing industry, and enforces highly repressive policies in ethnic minority areas in Tibet, Xinjiang, and Inner Mongolia.

'At the same time, citizens are increasingly prepared to challenge authorities over volatile livelihood issues, such as land seizures, forced evictions, abuses of power by corrupt cadres, discrimination, and economic inequalities. Based on law enforcement reports, official and scholarly statistics estimate that there are 250-500 protests each day, with anywhere from ten to tens of thousands of participants. Despite facing risks, internet users and reform-oriented media are aggressively pushing censorship boundaries by advocating for the rule of law and transparency, exposing official wrongdoing, and calling for political reforms.' [5]

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[3] Minority Rights Group International (MRGI) http://www.minorityrights.org/, State of the World's Minorities and Indigenous Peoples 2012, 28 June 2012 http://www.minorityrights.org/11374/state-of-the-worlds-minorities/state-of-the-worlds-minorities-and-indigenous-peoples-2012.html, date accessed 2 September 2013

[4] US State Department (USSD) http://www.state.gov/, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Executive Summary), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013

[5] Human Rights Watch (HRW) https://www.hrw.org/, World Report 2013 (Events of 2012), 31 January 2013, [p382], https://www.hrw.org/sites/default/files/wr2013_web.pdf, date accessed 30 August 2013

2.05 The Freedom House (FH) report, Freedom in the World 2013, China, covering events in 2012, published in January 2013, stated:

'At its 18th Congress in November 2012, the Chinese Communist Party announced a new slate of leaders for the next five years. Conservative figures made up a majority of the new Politburo Standing Committee, which would be headed by general secretary Xi Jinping. The delicate leadership transition had been disrupted in February, when a subordinate of Politburo member Bo Xilai fled to a U.S. consulate, setting off China's biggest political scandal in years. The subsequent months were marked by intense political wrangling, Bo's expulsion from the party, his wife's conviction for the murder of a British businessman, and a nationwide clampdown on activists. After the party congress, the new leadership pledged to strengthen anticorruption efforts, but also imposed tighter internet censorship and surveillance. Despite the regime's hostility toward organized dissent, however, a growing number of Chinese asserted basic rights, shared uncensored information online, and challenged perceived injustice, sometimes forcing government concessions. Key dissidents who had been silenced for much of 2011 as part of a crackdown in the wake of the Arab Spring were more vocal during 2012, adding to society's pushback against official repression.' [6]

(See also Section 7: Political affiliation - Opposition groups and political activists)

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3. Security forces

3.01 The US State Department's 2011 Country Report on Human Rights Practices (USSD Report 2012), China, published on 19 April 2013, noted that:

'The main domestic security agencies include the Ministry of State Security, the Ministry of Public Security, and the People's Armed Police. The People's Liberation Army is primarily responsible for external security but also has some domestic security responsibilities. Local jurisdictions also frequently used civilian municipal security forces, known as "urban management" officials, to enforce administrative measures. The Ministry of Public Security coordinates the country's civilian police force, which is organized into specialized police agencies and local, county, and provincial jurisdictions. Procuratorate oversight of the police was limited, and checks and balances were absent.'[7]

3.02 The same source added, 'Corruption at the local level was widespread. Police and urban management officials engaged in extrajudicial detention, extortion, and assault. In 2009 the Supreme People's Procuratorate acknowledged continuing widespread abuse in law enforcement. In 2009 domestic news media reported the convictions of public security officials who had beaten to death prisoners or suspects in their custody.' [8]

[6] Freedom House http://www.freedomhouse.org/, Freedom in the World 2013: China, January 2013, http://www.freedomhouse.org/report/freedom-world/2013/china, date accessed 2 September 2013
[7] US State Department (USSD), 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 1c - Role of the Police and Security Apparatus), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013
[8] US State Department (USSD) http://www.state.gov/, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 1c - Role of the Police and Security Apparatus), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013

3.03 The Freedom House (FH) report, Freedom in the World 2013, China, covering events in 2012, published in January 2013, stated:

'Security forces work closely with the CCP [Chinese Communist Party] at all levels. During 2012, the party continued to expand its apparatus for "stability maintenance," a term that encompasses maintaining law and order, suppressing peaceful dissent, and closely monitoring the populace. Key components include state intelligence agencies, such as the Public Security Bureau; paramilitary forces like the People's Armed Police; and extralegal CCP-based entities like the 610 Office, stability-maintenance units, and administrative enforcers called chengguan who routinely engage in abusive conduct at the grassroots level. In March, the government announced that it would allocate 702 billion yuan ($111 billion) that year for internal security forces, an increase of over 12 percent from 2011. The new total surpassed the military budget for the second consecutive year. The massive spending has fueled a lucrative market for outsourcing surveillance to civilians and private companies. As the CCP leadership transition proceeded during the year, analysts said some party chiefs were pushing to curb the growing power of the security apparatus.' [9]

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Police

Peoples Armed Police (PAP)

3.04 The USSD Report 2012, stated: 'The Ministry of Public Security coordinates the country's civilian police force, which is organized into specialized police agencies and local, county, and provincial jurisdictions. Procuratorate oversight of the police was limited, and checks and balances were absent.' [10]

3.05 Jane's Security Country Risk Assessment on the People's Armed Police Organisation, updated 17 November 2011 stated:

'The People's Armed Police (PAP) is one of China's three armed forces - alongside the People's Liberation Army (PLA) and reserve forces - and numbers approximately 1.5 million personnel. This includes regular military forces (the PLA) on domestic defence duty and approximately 660,000 armed, frontier defence and fire-fighting police personnel. The PAP is organised like a military service system. It exists for domestic, police and social control purposes and follows the administrative rules and regulations of the PLA. The first legislation on the PAP was passed in August 2009, when the organisation was given statutory authority to respond to security emergencies and "take necessary measures to dispel large assemblies of people that compromise social order".' [11]

[9] Freedom House, Freedom in the World 2013: China, January 2013, http://www.freedomhouse.org/report/freedom-world/2013/china, date accessed 2 September 2013
[10] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 1d), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013
[11] IHS (Information Handling Services), Jane's http://www2.janes.com (Subscription), Security Assessment – Security and Foreign Forces, People's Armed Police Organisation, date accessed 12 November 2013

3.06 The Global Security profile on the People's Armed Police, updated 28 July 2011, accessed 2 September 2013, noted:

'Since "the Democratic Movement June, 4 1989 in Tianmen Square," the status and importance of the People's Armed Police have seen [sic] rapidly elevated. The CCP's Central Military Committee has made public that in case there is any domestic upheaval, the People's Armed Police will be first mobilized. In other words, the Armed Police is PRC's main force in charge of the domestic security and social stability…

'Most of the armed police corps in provinces, municipalities and autonomous regions have created comprehensive combat command systems integrating the use of computers and telecommunications technology. The upgraded command systems can enhance communications between tens of thousands of duty posts nationwide, and among armed police corps in municipalities and provinces with their Beijing-based headquarters. Advanced armored carriers, multi-functional refueling trucks, field water-supply vehicles, and other kinds of equipment have also helped enhance the combat capability of the armed police.'[12]

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Chengguan Urban Management Law Enforcement

3.07 Human Rights Watch (HRW) published a report on 23 May 2012, describing the role of the chengguan Urban Management Law Enforcement, which was formed in 1997and tasked with 'enforcing non-criminal urban administrative regulations'. The report stated:

'Individual municipalities define the duties and powers of their chengguan units. According to a Chinese academic study of chengguan operations, "Provincial, autonomous region and municipal governments decide the [scope of] chengguan law enforcement rights … [this has led directly] to local governments allowing chengguan duties to excessively affect [citizens] rights and has led to the limitless expansion of chengguan scope of duties."

'Chengguan duties can extend to enforcement of municipal government property eviction and demolition orders. These actions frequently involve angry or violent protests between enforcement personnel and aggrieved property owners, situations more appropriate for better trained and qualified police officers.

'Beijing regulations, which other municipalities have adopted as a model, give chengguan enforcement powers in 14 areas and stipulate 300 sub-categories of violations for which chengguan have the power to impose punishment, including a catch-all "other administrative punishments" category. In the area of hygiene, for example, the regulations give chengguan authority to ensure the quality of restaurants' cooking oil, while in the public utilities area they provide that the chengguan are to ensure the safety of the city's gas pipelines. During the 2008 Beijing Olympics, the municipal government mobilized more than 5,000 chengguan officers to assist with ensuring good air quality during the games. In Yantai city in Shandong province, the municipality has empowered local chengguan with vague "emergency" law enforcement powers. Those responsibilities have allowed for extremely wide interpretation and

[12] Global Security http://www.globalsecurity.org/, People's Armed Police, updated 28 July 2011, http://www.globalsecurity.org/intell/world/china/pap.htm, date accessed 2 September 2013

application which have been criticized for "covering almost every aspect of city residents' lives … [and] the vital interests of the people".'[13]

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Armed forces

3.08 The Congressional Research Service (CRS) report of 19 June 2013, stated:

'China's military, the People's Liberation Army (PLA), is not a national army belonging to the state. Rather, it is an armed wing of the Communist Party, with the Party's exercise of "absolute leadership" over the military a fundamental guarantee of Communist Party rule. The PLA's willingness to put the Communist Party's interests first was tested in 1989, when the Party ordered tanks into the streets of Beijing to clear unarmed protestors from Tiananmen Square. The PLA did as the Party ordered, killing hundreds of protestors in the process - no authoritative death toll has ever been released. The PLA also served the Party by enforcing seven months of martial law in the capital before and after the killings, even though its actions badly damaged the PLA's image within China and around the world.'[14]

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Human rights violations by security forces

Arbitrary arrest and detention

3.09 The US State Department's 2011 Country Report on Human Rights Practices (USSD Report 2012), China, published on 19 April 2013, noted that, 'Arbitrary arrest and detention remained serious problems. The law grants police broad administrative detention powers and the ability to detain individuals for extended periods without formal arrest or criminal charges. Throughout the year human rights activists, journalists, unregistered religious leaders, and former political prisoners and their family members continued to be among those targeted for arbitrary detention or arrest.'[15]

US State Department (USSD) 2012 Country Report on Human Rights Practices: China, 19 April 2013 cited events where arbitrary arrest and detention had been recorded. (Section 1d - Arbitrary Arrest or Detention)

3.10 The Amnesty International (AI) Annual Report 2012: The state of the world's human rights: China (AI Report 2012), published on 24 May 2012, covering events in 2011, stated that:

'The number of people subjected to enforced disappearances grew. Many were held in secret detention… Many others remained or were placed under illegal house arrest.

[13] HRW, 'Beat Him, Take Everything Away', Abuses by China's Chengguan Para-Police, 23 May 2012, (p1, 18-19), http://www.hrw.org/reports/2012/05/23/beat-him-take-everything-away-0, date accessed 2 September 2013
[14] Congressional Research Service (CRS) http://www.fas.org/, Human Rights in China and U.S. Policy: Issues for the 113th Congress, 19 June 2013, (p6 - The Military as an Armed Wing of the Communist Party), http://www.fas.org/sgp/crs/row/R43000.pdf, date accessed 2 September 2013
[15] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 1d - Arbitrary Arrest or Detention), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013

'On 30 August [2011], the authorities released draft revisions of China's Criminal Procedure Law, the first proposed changes since 1997. Notwithstanding some positive amendments, the revisions proposed to legalize detention of individuals for up to six months without notification of their family or friends. Many legal commentators regarded this as a legalization of enforced disappearances. Prohibitions against the use of illegal evidence, including coerced confessions and other evidence obtained through torture and other ill-treatment, were incorporated into the draft revisions. However, torture remained pervasive in places of detention, as government policies, such as ones requiring prison and detention centre staff to "transform" religious dissidents to renounce their faith, fostered a climate conducive to torture.'[16]

3.11 The US Congressional-Executive Commission on China (US-CECC), Annual Report 2013, published 10 October 2013, observed that arbitrary detention takes several different forms in China, including, '"soft detention" (ruanjin), "black jails" (hei jianyu), shuanggui (a form of Party discipline), enforced disappearance, and various forms of administrative detention such as reeducation through labor, "custody and education" (for sex workers and their clients), and compulsory drug treatment centers. Many forms of arbitrary detention violate China's own laws.'[17]

3.12 The same report added:

'During this reporting year, authorities continued to use ruanjin [soft detention] against individuals deemed "sensitive," such as dissidents, rights defense lawyers, activists, civil society actors, and sometimes their family members as well. Liu Xia's ongoing unlawful home confinement (since October 2010) is an example of the use of ruanjin against an activist's spouse. Before Xu Zhiyong was taken into custody in mid-July, he was unlawfully confined to his home for three months. Police aim to keep "sensitive" individuals under control and out of sight around major events or anniversaries such as the 18th National Congress of the Chinese Communist Party and the anniversary of the 1989 Tiananmen protests.'[18]

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Torture

3.13 China became a Signature to the Convention against Torture on 12 December 1986 and Ratification came in October 1988.[19]

3.14 The US-CECC, Annual Report 2013, stated:

'Despite the Chinese government's continued efforts to address the problem, torture and abuse in police stations, detention centers, prisons, administrative detention facilities, and secret detention sites remain widespread in China. In April 2013, a Chinese magazine published a detailed account of torture, abuse, and forced labor at

[16] Amnesty International (AI) http://www.amnesty.org/, Annual Report 2012: China, 24 May 2012, (Enforced disappearances), http://www.amnesty.org/en/region/china/report-2012, date accessed 2 September 2013
[17] US Congressional-Executive Commission on China (CECC), Annual Report 2013, 10 October 2013, (p79 - Arbitrary Detention), http://www.cecc.gov/sites/chinacommission.house.gov/files/AR13DJ.PDF, date accessed 31 October 2013
[18] US CECC, Annual Report 2013, 10 October 2013, (p79 - Arbitrary Detention), http://www.cecc.gov/sites/chinacommission.house.gov/files/AR13DJ.PDF, date accessed 31 October 2013
[19] United Nations Treaty Collection http://treaties.un.org/, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment New York, 10 December 1984: (China), http://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=IV-9&chapter=4&lang=en, date accessed 3 September 2013

the Masanjia Women's RTL [Re-Education Through Labor] Center in Liaoning province, sparking a great deal of online commentary and fueling calls for the reform or abolition of RTL. In May, Southern Weekend published an expose´ on corruption and forced labor in RTL centers based on interviews with former RTL guards, one of whom is quoted as saying: "The reality is that we force RTL detainees to work and make money [for us]. That's what every RTL center does".'[20]

3.15 The same report added:

'Torture by police in the course of criminal investigations remains a common problem. The government relies overwhelmingly on confessions as evidence in criminal cases. Sex workers interviewed by Human Rights Watch describe how police beat them after taking them into custody to try to force them to confess to prostitution. Many of the targets of Bo Xilai's crackdown on organized crime in Chongqing have alleged that police tortured them to confess. Gong Gangmo was reportedly tortured by police in part to coerce him to frame his lawyer, Li Zhuang, of the crime of suborning perjury. Gong has filed an appeal seeking to have his verdict overturned, as has Li. Gong, who has since apologized to Li Zhuang for setting him up, will be assisted by Li in his appeal.' [21]

3.16 The USSD Report 2012, noted that, '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. In March the NPC enacted amendments to the criminal procedure law that exclude evidence, including confessions, obtained through illegal means, including under torture in certain categories of criminal cases. The amendments were scheduled to go into effect on January 1, 2013.'[22]

3.17 The Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report, published in April 2013 stated that, 'there were widespread reports in 2012 of abuse, mistreatment and torture. Human rights defenders were particularly at risk. Reports detailed the use of methods of abuse and torture, including sleep deprivation, the use of stress positions, beatings and electric shocks.' [23]

3.18 The USSD Report 2012 further recorded that, 'Numerous former prisoners and detainees reported that they were beaten, subjected to electric shock, forced to sit on stools for hours on end, deprived of sleep, and otherwise subjected to physical and psychological abuse. Although ordinary prisoners were subjects of abuse, political and religious dissidents were singled out for particularly harsh treatment. In some instances close relatives of dissidents also were singled out for abuse.' [24]

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[20] US CECC, Annual Report 2013, 10 October 2013, (p83 - Torture and Abuse in Custody), http://www.cecc.gov/sites/chinacommission.house.gov/files/AR13DJ.PDF, date accessed 31 October 2013
[21] US CECC, Annual Report 2013, 10 October 2013, (p83 - Torture and Abuse in Custody), http://www.cecc.gov/sites/chinacommission.house.gov/files/AR13DJ.PDF, date accessed 31 October 2013
[22] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013
[23] Foreign & Commonwealth Office (FCO) https://www.gov.uk/government/organisations/foreign-commonwealth-office, The Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report , April 2013, (p142 – Torture), http://www.hrdreport.fco.gov.uk/wp-content/uploads/2011/01/2012-Human-Rights-and-Democracy.pdf, date accessed 4 September 2013
[24] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013

Extrajudicial killings

3.19 The USSD Report 2012, noted that: 'During the year security forces reportedly committed arbitrary or unlawful killings (see Tibet …). In many instances few or no details were available… It was not clear to what extent impunity was a problem. Following cases of police killings there often was an announcement that an investigation was to be conducted. However, it was not clear whether there were any findings of police malfeasance or any cases in which police were disciplined.' [25]

The US State Department (USSD) 2012 Country Report on Human Rights Practices: China[26] and Tibet[27] , 19 April 2013, cited events where arbitrary or unlawful killings had been recorded. (Section 1 - Arbitrary or Unlawful Deprivation of Life)

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4. Avenues of complaint

Petitioning the government

4.01 The US State Department's 2012 Country Report on Human Rights Practices (USSD Report 2012), China, published on 19 April 2013, noted that, 'The law protects an individual's ability to petition the government; however, persons petitioning the government faced 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.'[28]

4.02 Describing the petitioning system, a Xinhua news agency report from in July 2013 noted that:

'China's petitioning system dates back to the early 1950s and has played a supporting role in public supervision over Party and state organs. Under the system, people can seek solutions and help when their rights are infringed upon by some authority or its staff members by visiting or writing letters and calls agencies. Their complaints will be forwarded by letters and calls agencies to concerned authorities, who will then push the targeted authority or staff members to correct their improper practices. However, petitioning has became a thorny issue for China, because the country, which is in a period of rapid social transition, has seen interest-related disputes, as well as public outcry over officials' corruption and lagged-behind public services, surge. Forced housing demolitions, inappropriate land expropriations, poorly-managed pollution

[25] US State Department (USSD) http://www.state.gov/, 2012 Country Report on Human Rights Practices: Tibet, 19 April 2013, (Section 1 - Arbitrary or Unlawful Deprivation of Life), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204195.htm, date accessed 30 August 2013
[26] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm date accessed 30 August 2013
[27] USSD, 2012 Country Report on Human Rights Practices: Tibet, 19 April 2013, http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204195.htm, date accessed 30 August 2013
[28] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 2b), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013

problems and alleged judicial unfairness have been among the most widely-reported causes of petitioning in recent years.' [29]

4.03 The USSD Report 2012 added:

'Courts deciding civil matters faced the same limitations on judicial independence as in criminal cases. The State Compensation Law provides administrative and judicial remedies for plaintiffs whose rights or interests government agencies or officials have infringed. In 2010 the NPC Standing Committee amended the law to allow compensation for wrongful detention, mental trauma, or physical injuries inflicted by detention center or prison officials. Citizens seldom applied for state compensation because of the high cost of bringing lawsuits, low credibility of courts, and citizens' lack of awareness of the State Compensation Law. Victims' claims were difficult to assess because of vague definitions in the law and difficulties in obtaining evidence of injury or damage. Judges were reluctant to accept state compensation cases, and government agencies seldom implemented court judgments in favor of plaintiffs.' [30]

4.04 With regards to complaints from those serving prison sentences, the USSD Report 2012 noted that, 'There were no prison ombudsmen per se; however, prisoners and detainees are legally entitled to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhuman conditions. The law states that letters from a prisoner to higher authorities of the prison or to the judicial organs shall be free from examination. While authorities occasionally investigated credible allegations of inhuman conditions, the results were not documented in a publicly accessible manner.' [31]

(See also Section 6: Prison conditions)

4.05 Some petitioners faced retailian, which, as reported by the USSD Report 2012:

'This was partly due to incentives the central government provided to local officials to prevent petitioners 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 to prevent them from filing complaints against local officials with the central government. Such detentions often went unrecorded. Rules issued by the General Office of the State Council mandate sending officials from Beijing to the provinces to resolve petition problems locally, thereby reducing the number of petitioners entering Beijing; the rules also mandate a 60-day response time for petitions and provide for a single appeal in each case.' Further adding:

'Petitioners from outside of Beijing faced harassment, illegal detention, and even more severe forms of punishment when attempting to travel to Beijing to present their

[29] Xinhua news agency http://www.news.cn/english/, Chinese petitioning goes online, 1 July 2013, http://news.xinhuanet.com/english/china/2013-07/01/c_132502382.htm, date accessed 5 September 2013
[30] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 1e - Civil Judicial Procedures and Remedies), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013
[31] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 1c – Prison and Detention Center Conditions), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013

grievances. In August [2012], as part of a larger-scale crackdown on petitioners in the period leading to the 18th Party Congress, Yunnan's Xuanwei City reportedly detained 40 would-be petitioners and sent some to psychiatric hospitals. Yunnan petitioner Cai Huaxian reportedly was sentenced to one year of RTL [Re-Education through Labour].' [32]

4.06 A news report by Radio Free Asia in November 2013 noted that, 'those who pursue complaints against the government—often for forced evictions, loss of farmland, accidents, or death and mistreatment in custody - say they are repeatedly stonewalled, detained in "black jails," beaten, and harassed by the authorities if they try to petition a higher level of government.'[33]

4.07 The BBC reported in an online news article in December 2011 that 'Local governments hire the firms to stop people who travel to Beijing to voice grievances about perceived injustices in their areas.' The Freedom House (FH) report, Freedom in the World 2013, China[34], covering events in 2012, published in January 2013, added: 'Local officials face penalties if they fail to limit the flow of petitioners traveling to Beijing to report injustices to the central government. As a result, petitioners are routinely intercepted, harassed, detained in illegal "black jails," or sent to labor camps without trial. Detained petitioners are reportedly subject to beatings, psychological abuse, and sexual violence.' [35]

4.08 In July 2013 Xinhua news agency reported that:

'China's top authority for handling comments and complaints from the public formally started receiving petitions submitted via the Internet on Monday. The State Bureau of Letters and Calls (SBLC) has created a special section on its website that allows Internet users to sign up and submit petitions. People can lodge complaints when their rights are infringed upon as a result of an abuse of power on the part of authorities, enterprises, public institutions, civil groups or their employees, according to a guide posted on the bureau's website. They can also offer comments or suggestions regarding the work of the above-mentioned entities and their employees.' [36]

4.09 A news report by Radio Free Asia in November 2013 noted that China's Communist Party had announced it was to reform its system for lodging complaints against the government. However, the article further noted that rights activists had raised concern about the changes were unlikely '… to lead to more justice for petitioners.' The article further added:

'Many petitioners are middle-aged or elderly people with little or no income who rent ramshackle accommodation in Beijing's "petitioner villages," in constant fear of being detained by officials from their hometown, who run representative offices in the capital for the sole purpose of reducing the number who complain about them. Nearly 20,000

[32] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 2b), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013
[33] Radio Free Asia (RFA) http://www.rfa.org/, China's Reform of Petitioning System 'Unlikely' to Mean More Justice, 19 November 2013 http://www.rfa.org/english/news/china/petition-11292013103445.html, date accessed 3 December 2013
[34] Freedom House http://www.freedomhouse.org/, Freedom in the World 2013: China, January 2013, http://www.freedomhouse.org/report/freedom-world/2013/china, date accessed 2 September 2013
[35] BBC News http://www.bbc.co.uk/, Beijing to crack down on "black jails", 2 December 2011, http://www.bbc.co.uk/news/world-asia-china-15998076, date accessed 5 September 2013
[36] Xinhua news agency, Chinese petitioning goes online, 1 July 2013, http://news.xinhuanet.com/english/china/2013-07/01/c_132502382.htm, date accessed 5 September 2013

grievances are filed daily to complaints offices across China in person, according to official figures released on Thursday.' [37]

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Black jails

This Section should be read in conjunction with Section 6: Prison conditions

4.10 Black jails, as described by the BBC in an online article in December 2011, were '… temporary detention centres established to hold petitioners, people who come to Beijing to report individual problems to the central government.' [38]

4.11 A Human Rights Watch (HRW) report focusing on China's secret "Black Jails", published on 12 November 2009, stated:

'Black jails appear to have emerged since the Chinese government abolished laws permitting the arbitrary detention of non-residents and vagrants. While that decision was a welcome move to curb the police's powers of arbitrary detention, black jails now serve as extralegal detention centers for "undesirables" in cities. Black jails constitute an unlawful system to detain petitioners as a means to protect government officials at the county, municipal, and provincial levels from financial and career advancement penalties linked to limiting petitioning activities by citizens from their areas in major cities like Beijing.' [39]

4.12 In May 2013 ten people were handed jail sentences ranging from six months to two years for illegally imprisoning 11 petitioners in Beijing during April last year. According to a Xinhua news article from 5 February 2013, Wang Gaowei and his nine accomplices, all natives of the city of Yuzhou in central China's Henan province falsely imprisoned the 11 petitioners 'in two courtyards in Wangsiying township in Beijing's Chaoyang district for two to six days before being arrested by police on May 2. The court ruled that Wang and the other nine respondents had infringed on the personal rights of the 11 petitioners, constituting the crime of false imprisonment.' As well as the jail sentences, the criminals were ordered to pay each petitioner between '1,300 yuan (208 U.S. dollars) and 2,400 yuan in compensation, the court said.' [40]

4.13 Xie Jinghua and her husband were held up to eight days in separate hotel rooms against their will as reported by CNN news in November 2012. The couple initially travelled to Beijing in March to 'protest the compensation they were given for the demolition of the family's farmhouse to make way for the expansion of Shanghai's Pudong International Airport in 2005. When the couple arrived in Beijing, Xie said they

[37] RFA, China's Reform of Petitioning System 'Unlikely' to Mean More Justice, 19 November 2013, http://www.rfa.org/english/news/china/petition-11292013103445.html, date accessed 3 December 2013
[38] BBC News, Beijing to crack down on "black jails", 2 December 2011, http://www.bbc.co.uk/news/world-asia-china-15998076, date accessed 5 September 2013
[39] Human Rights Watch (HRW) http://www.hrw.org/, China: Secret "Black Jails" Hide Severe Rights Abuses, 12 November 2009, http://www.hrw.org/news/2009/11/02/china-secret-black-jails-hide-severe-rights-abuses, date accessed 5 September 2013
[40] Xinhua news agency, 10 jailed over false imprisonment of petitioners, 5 February 2013, http://news.xinhuanet.com/english/china/2013-02/05/c_132152264.htm, date accessed 5 September 2013

were picked up by plain clothes police and forced to travel hundreds of miles back to Shanghai, then held separately at the hotel.' [41]

4.14 The CNN report further added, 'Xie and her husband were not alone. Three other people have told CNN they were held against their will at the Holiday Inn Express Nanhuizui - located in Lingang New City on the outskirts of Shanghai - to keep them from airing grievances to the central government during the 10-day annual meeting of China's legislature in March. The hotel management and owners deny their claims.' [42]

4.15 A Researcher for the Institute of Peace and Conflict Studies (IPCS) reported in December 2011 on black jails in China and how they operated, noting that:

'Even minors are detained in these jails and many reports have highlighted cases of rape within these jails. Though many private security companies are registered, due to the huge sums of money involved many illegal detention centers have come up. The local governments pay approximately US$ 29 per person to the operators of these black jails and a recent illegal detention center uncovered was being paid by five local authorities. The whole nexus serves the central government as well and that is why no major actions to stop these illegal detentions have been undertaken by the Chinese state.' [43]

4.16 The same IPCS article added:

'Chinese officials have never openly admitted the existence of these jails. The attempt by the provincial government to stop petitioners from reaching the higher authorities is driven by the fact that the promotions in the party ladder are given to officials for their good work in their provinces and such instances do not reflect well for their records. Moreover, in 2003 official detention centers were closed down after the residency requirements or the hukou rules were loosened. This is how the "black jails" originated as the local governments started hiring private firms to stop people from traveling to Beijing with their complaints against the injustices in their areas.

'A Foreign Ministry spokesman Qin Gang even denied the existence of these jails at a recent press conference stating "I can assure you that there are no so-called black jails in China." However the Chinese state-run and international media often reports their existence.' [44]

Further information on black jails can be located in the Human Rights Watch (HRW) Report "An Alleyway in Hell": China's Abusive "Black Jails", published 12 November 2009. [45]

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[41] Cable News Network (CNN) http://edition.cnn.com/, Chinese petitioners claim hotel used as 'black jail', 14 November 2012, http://edition.cnn.com/2012/11/14/business/china-hotel-black-jail/, Date accessed 5 September 2013

[42] CNN, Chinese petitioners claim hotel used as 'black jail', 14 November 2012, http://edition.cnn.com/2012/11/14/business/china-hotel-black-jail/, Date accessed 5 September 2013

[43] The Institute of Peace and Conflict Studies (IPCS) http://www.ipcs.org/, Chinese Black Jails: "An Alleyway in Hell"?, 29 December 2011, http://www.ipcs.org/article/military/chinese-black-jails-an-alleyway-in-hell-3535.html, date accessed 5 September 2013

[44] IPCS, Chinese Black Jails: "An Alleyway in Hell"?, 29 December 2011, http://www.ipcs.org/article/military/chinese-black-jails-an-alleyway-in-hell-3535.html, date accessed 5 September 2013

[45] HRW, China: Secret "Black Jails" Hide Severe Rights Abuses, 12 November 2009, http://www.hrw.org/news/2009/11/02/china-secret-black-jails-hide-severe-rights-abuses, date accessed 5 September 2013

5. Legal issues

Double jeopardy

5.01 Articles 8 to 12 of the Criminal Law cover the circumstances in which an individual who commits crimes outside the People's Republic of China (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.' [46]

[46] National Legislative Bodies http://www.refworld.org/, Criminal Law of the People's Republic of China, 1 October 1997, (p3), http://www.refworld.org/publisher,NATLEGBOD,,CHN,3ae6b5cd2,0.html, date accessed 11 September 2013

Body doubles/stand-ins

5.02 The practice of hiring "body doubles" or "stand-ins" to attend court hearings has been widely reported in China. In one case reported by the China Digital Times in August 2012 it recorded:

'In 2009, a hospital president who caused a deadly traffic accident hired an employee's father to "confess" and serve as his stand-in. A company chairman is currently charged with allegedly arranging criminal substitutes for the executives of two other companies. In another case, after hitting and killing a motorcyclist, a man driving without a license hired a substitute for roughly $8,000. The owner of a demolition company that illegally demolished a home earlier this year hired a destitute man, who made his living scavenging in the rubble of razed homes, and promised him $31 for each day the "body double" spent in jail. In China, the practice is so common that there is even a term for it: ding zui. Ding means "substitute," and zui means "crime"; in other words, "substitute criminal." [47]

5.03 During the trial of Gu Kailai, wife of former high-profile Chinese politician Bo Xilai, who was given a suspended death sentence in August 2012 for the murder of British businessman Neil Heywood, it was widely reported that a body double had been used in court. Photos of Gu Kailai circulated by the media suggested there were significant diferences between the person in the court room to previous photos of Gu Kailai. The BBC reported in August 2012:

'As soon as footage of Gu Kailai appeared in the official report of the trial, rumours began to circulate on the internet about the identity of the woman in the dock. Several posts and re-posts surfaced on Chinese social media sites on the same day, with a screen grab of the courtroom scene, suggesting that the woman - who appeared plumper than Gu - was a body double. One internet user posted some "before and after" photos and asked: "Are we looking at the same woman? There are rumours that the woman who appeared in the court room is a body double, because whether you are thin or fat, your bone structure shouldn't change".' [48]

5.04 While reporting on the Gu Kailai trial, the Huffington Post observed in August 2012, that, 'Although hiring a body double to serve jail time is an outlandish concept to Western society, the idea of a [sic] replacing oneself with a hired substitute is a common practice in China according to The Daily Herald.' [49]

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6. Prison conditions

This Section should be read in conjunction with Section 3: Security forces – Human rights violations by security forces – Black jails and Avenues of complaint

[47] China Digital Times http://chinadigitaltimes.net/, Double Jeopardy: China's Fake Prisoners, 6 August 2012, http://chinadigitaltimes.net/2012/08/double-jeopardy-chinas-fake-prisoners/, date accessed 11 September 2013
[48] BBC News http://www.bbc.co.uk/, Gu Kailai and the body double debate, 24 August 2012, http://www.bbc.co.uk/news/magazine-19357107, date accessed 11 September 2013
[49] Huffington Post http://www.huffingtonpost.co.uk/, Neil Heywood Murder: Gu Kailai 'Hired Body Double To Serve Her Prison Sentence', 21 August 2012, http://www.huffingtonpost.co.uk/2012/08/21/gu-kailai-lookalike-murder-body-double-bo-xailai_n_1816468.html, date accessed 11 September 2013

6.01 The US State Department's 2011 Country Report on Human Rights Practices (USSD Report 2012), China, published on 19 April 2013, noted that:

'Conditions in penal institutions for both political prisoners and criminal offenders were generally harsh and often degrading…

'Prisoners and detainees were regularly held in overcrowded conditions with poor sanitation. Food often was inadequate and of poor quality, and many detainees relied on supplemental food, medicines, and warm clothing provided by relatives. Prisoners often reported sleeping on the floor because there were no beds or bedding. Adequate, timely medical care for prisoners remained a serious problem, despite official assurances that prisoners have the right to prompt medical treatment…

'Conditions in administrative detention facilities, such as RTL (Re-Education through Labour) camps, were similar to those in prisons. Beating deaths occurred in administrative detention and RTL facilities. Detainees reported beatings, sexual assaults, lack of proper food, and no access to medical care…

'It was unclear whether recordkeeping on prisoners was adequate. Authorities employ alternatives to incarceration for both violent and nonviolent offenders. According to Vice Minister of Justice Zhao Dacheng, more than one million convicts have served their sentences in community corrections programs since 2003…

'Information about prisons, including associated labor camps and factories, was considered a state secret, and the government generally did not permit independent monitoring of prisons or RTL camps. Prisoners remained inaccessible to local and international human rights organizations and media groups. Authorities did not allow the International Committee of the Red Cross to have access to prisoners or perform authentic prison visits in the country.' [50]

6.02 The International Centre for Prison Studies (ICPS), World Prison Brief accessed on 6 September 2013, provided statistical information on the prison population of China[51], as well as Macau[52] and Hong Kong[53] Special Administrative Regions (SARs).

6.03 The USSD Report 2012 additionally noted, 'Many prisoners and detainees did not have reasonable access to visitors and were not permitted religious observance. Under article 52 of the prison law, "considerations shall be given to the special habits and customs of prisoners of minority ethnic groups." Detention Center Regulation article 23 has similar requirements. Little information was available about the implementation of these regulations.' [54]

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[50] US State Department (USSD) http://www.state.gov/, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 1c - Prison and Detention Center Conditions), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013
[51] The International Centre for Prison Studies (ICPS) and University of Essex http://www.prisonstudies.org/, World Prison Brief: China, updated 2012, http://www.prisonstudies.org/country/china, date accessed 3 December 2013
[52] ICPS and University of Essex, World Prison Brief: Macau, updated 2012, http://www.prisonstudies.org/country/macau-china, date 3 December 2013
[53] ICPS and University of Essex, World Prison Brief: Hong Kong, updated 2012, http://www.prisonstudies.org/country/hong-kong-china, date accessed 3 December 2013
[54] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 1c - Prison and Detention Center Conditions), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013

6.04 The USSD Report further added, 'Advocacy groups continued to report instances of organ harvesting from prisoners. In March, Vice Minister of Health Huang Jiefu reportedly pledged to abolish within three to five years the practice of taking human organs for transplant from death row prisoners. In November, Ministry of Health official Wang Haibo reportedly called the use of prisoner organs "unethical" and stated that the phasing out of the country's reliance on prisoners via a new donation system would begin in early 2013.' [55]

6.05 On 1 December 2011 the China Daily news reported on new improvements implemented for protecting the rights of prison inmates:

'China has made improvement in protecting the rights of prison inmates in recent years, including elimination of bans on homosexuality and promotion of the death penalty by injection, according to a judicial official in charge of penal human rights studies.

'"A prison is supposed to possess a grave air. But it will be useless if it neglects inmates' indignity and human rights," said Feng Jiancang, head of the Human Rights office of the Ministry of Justice's Institute for Crime Prevention, at a forum on human rights in Beijing on Sept 22 [2011].

'The ministry has rewritten the national code of conduct for prison inmates, eliminating [the] ban on homosexuality and other lifestyles and practices that were previously not allowed in prisons, according to Feng.

'Inmates will not be forced to squat with both hands crossed behind their heads, a practice that is commonly used to demoralize inmates who are entering prison for the first time. In addition, female inmates are allowed to keep their hair dyed, which, according to Feng, is "a minor detail (of revision) but with a great significance to respect for human rights."

'As for death row inmates, they are granted more clemencies, says professor Hong, as they are allowed to see their families before execution, and can choose their way of execution, lethal injection or shooting.' [56]

This Section should be read in conjunction with Section 3: Security forces – Human rights violations by security forces – Torture

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Administrative detention/labour camps

Punishment of minor offences and Re-Education through Labour (RTL)

6.06 Following a meeting of a key decision-making body of the governing Communist Party at the beginning on November 2013, a key policy document was subsequently released announcing a reform to re-education through labor. According to a Xinhua News Agency press release the '… controversial correction system, commonly known as

[55] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 1c - Prison and Detention Center Conditions), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013

[56] China Daily http://europe.chinadaily.com.cn/, Progress made in protecting inmates' rights, 1 December 2011, http://europe.chinadaily.com.cn/china/2011-12/01/content_14198203.htm, date accessed 6 September 2013

"Laojiao," began in the 1950s. The program usually takes in minor offenders whose offence is not severe enough to take them to court.'[57]

6.07 An article by Radio Free Asia (RFA) dated 8 January 2013 reported that:

'China has vowed to reform its controversial "re-education through labor" system of administrative punishments following a prolonged campaign by lawyers, former inmates, and rights activists to abolish it, official media reported. But rights activists and overseas groups gave a doubtful welcome to the news, with some saying it may be too soon to celebrate. "The Chinese government will advance reforms for its controversial re-education through labor system this year," Xinhua news agency reported following a top meeting of China's law enforcement officials on Monday. But it said no further information on the reforms had been made available, sparking doubts that the government may yet shy away from genuine abolition.' [58]

6.08 CNN News reported on 16 January 2013 that, 'On January 7 [2013], Meng Jianzhu, the head of the powerful Political and Legal Committee of the Chinese Communist Party, reportedly announced that the government would "stop using" the system, in which roughly 160,000 people are detained for up to four years without trial for "crimes that are not severe enough to warrant a criminal sentence," by the end of 2013.' [59]

6.09 Describing how the labour camps came about, the Economist reported in January 2012 that, 'Established in 1957 under Mao, the system (known as laojiao) has been used as an easy way for police, on their own authority, to imprison people. Official statistics from the end of 2008 show that 160,000 people were imprisoned in 350 laojiao facilities nationwide. (Laojiao camps are different from other camps formerly known as laogai, whose inmates have been through the judicial system.) Foreign pressure groups say there are more.' [60]

6.10 Human Rights in China (HRIC), a nongovernmental organisation promoting international human rights in China, noted in an undated article, accessed on 9 September 2013, about China's Re-education Through Labor programme, that:

'Reeducation through Labor (RTL) has been in existence for about 45 years. It was first employed during the Chinese Communist Party's 1955 campaign against counter-revolutionaries. According to an official report, more than 3.5 million people have been subjected to punishment under RTL since that time. Some legal scholars dispute this figure, asserting that the population affected is actually much larger…

'Two groups of people have been increasingly targeted for punishment in RTL in the last couple of decades: drug users and those engaged in prostitution or patronizing prostitutes. Generally, recidivists are the people most often sent to RTL. However, in some provinces, first-time offenders may also be sentenced, especially during campaign periods when set targets may have to be met. It is estimated that in some

[57] Xinhua News Agency, China to abolish reeducation through labor, 15 November 2013
[58] Radio Free Asia (RFA) http://www.rfa.org/, Fears Over Labor Camp Reforms, 8 January 2013,http://www.rfa.org/english/news/china/rtl-01082013152629.html, date accessed 6 September 2013
[59] CNN http://edition.cnn.com/, Rights group: China may not be ready for labor camp reforms, 16 January 2013, http://edition.cnn.com/2013/01/15/opinion/china-labor-camps-human-rights-watch, date accessed 9 September 2013
[60] The Economist http://www.economist.com/, Labour camps, Long overdue, The government says it will reform its system of labour camps, 12 January 2013, http://www.economist.com/news/china/21569448-government-says-it-will-reform-its-system-labour-camps-long-overdue, date accessed 9 September 2013

provinces, those using drugs account for one-third of the total RTL population. In addition, substantial numbers of political and religious dissidents are sent to RTL camps.' [61]

6.11 As from 1 April 2012 a new regulation came into force aimed at protecting the legitimate rights of detainees' and administering the country's detention centres holding people in custody for minor offences. China.org reported on 2 March 2012 that:

'In China, minor offenders such as those who disturbed public order or court order will be detained for up to 15 days. Detention centers and the warders are prohibited from insulting, abusing and imposing physical punishments on detainees, according to the regulation. The detention centers should inform the detainees of their legal rights and the rules they should abide by. The centers should also give timely notice to the detainees' family members. Moreover, the regulation required the centers to organize proper physical and cultural activities for the inmates, and the inmates should be allowed of outdoor activities of no less than two hours each day. The regulation also banned forced labor in the detention houses. Furthermore, the detention centers are told to provide necessary drug rehabilitation treatments for the detained drug addicts. The body frisking and administration work on female detainees should only be conducted by female police officers, according to the regulation.' [62]

6.12 An article published in August 2010 by the Beijing Review reported on a new scheme to deal with minor offences in Zhejiang Province, noting:

'The People's Procuratorate of Ningbo, in east China's Zhejiang Province, became the center of controversy when it implemented a program to deal with minor crime offenders, which is known as "good deeds for nonprosecution." Under the program, offenders may be exempted from prosecution provided they carry out good community service work for a specified probation period.

'Since the program came into effect in May, [2010] 13 offenders have passed probation periods and avoided being prosecuted. The latest example was in Ningbo's Beilun District in early July, where the local procuratorate ordered a man who caused a traffic accident to serve as a traffic supervisor with a decision depending on whether or not to charge him based on his performance.

'The new program's implementation has strict conditions, said sources with the local procuratorate: It only applies to first-time offenders and minor crimes; the offender should be facing a sentence of less than three years if he or she is convicted; and there must be hard proof indicating the offender would not do harm to society in the probation period.' [63]

6.13 The US State Department's 2011 Country Report on Human Rights Practices (USSD Report 2011), China, published on 24 May 2012, noted that:

'The law permits administrative, nonjudicial panels, known as "labor reeducation panels," to remand persons to RTL camps or other administrative detention programs

[61] Human Rights in China (HRIC) http://www.hrichina.org/, Arbitrary & disproportionate punishment, Reeducation Through Labor, undated, http://www.hrichina.org/crf/article/4593, date accessed 9 September 2013
[62] China.org http://www.china.org.cn/, China aims to protect detainees' rights, 2 March 2012, http://www.china.org.cn/china/NPC_CPPCC_2012/2012-03/02/content_24777695.htm, date accessed 6 September 2013
[63] Beijing Review http://www.bjreview.com.cn/, Should Minor Criminals Be Given Leniency? 19 August 2010, http://www.bjreview.com.cn/quotes/txt/2010-09/10/content_297281.htm, date accessed 6 September 2013

for up to three years without trial. Labor reeducation panels are authorized to extend these administrative sentences for up to one year. Detainees are technically allowed to challenge administrative RTL sentences and appeal for sentence reduction or suspension. However, appeals were rarely successful.' [64]

6.14 The Human Rights in China (HRIC), a nongovernmental organisation promoting international human rights in China, noted in an undated article, accessed on 9 September 2013 about China's Reeducation Through Labor…, that:

'According to reports from political detainees and others, conditions in RTL camps are generally abusive, with overcrowded, unsanitary living conditions; inadequate food; endemic violence; and excessive working hours being among the major concerns. Nationwide, there are now close to 300 RTL centers, according to official statistics. RTL detainees are mostly treated just like prisoners in the criminal justice system; although now, unlike in the past, they are generally segregated from inmates convicted of criminal offenses.' [65]

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Other forms of administrative detention

6.15 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.' [66]

6.16 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.' [67]

[64] USSD, 2011 Country Report on Human Rights Practices: China, 24 May 2012, (Section 1d - Arrest Procedures and Treatment While in Detention), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186268, date accessed 9 September 213
[65] HRIC, Arbitrary & disproportionate punishment, Reeducation Through Labor, undated, http://www.hrichina.org/crf/article/4593, date accessed 9 September 2013
[66] China.org.cn, Law of the People's Republic of China on Administrative Penalty, (Adopted at the Fourth Session of the Eighth National People's Congress on March 17, 1996 and promulgated by Order No. 63 of the President of the People's Republic of China on March 17, 1996), (p2), http://www.china.org.cn/english/government/207306.htm, date accessed 9 September 2013
[67] China.org.cn, Law of the People's Republic of China on Administrative Penalty, (Adopted at the Fourth Session of the Eighth National People's Congress on March 17, 1996 and promulgated by Order No. 63 of the President of the People's Republic of China on March 17, 1996), (p2), http://www.china.org.cn/english/government/207306.htm, date accessed 9 September 2013

6.17 The USSD Report 2012 noted:

'Other forms of administrative detention include "custody and education" (for women engaged in prostitution and those soliciting prostitution) and "custody and training" (for minor criminal offenders). The law establishes a system of "compulsory isolation for drug rehabilitation." The minimum stay in such centers is two years, and the law states that treatment can include labor. Public security organs authorize detention in these centers, and it often was meted out as an administrative rather than criminal measure. Authorities used administrative detention to intimidate political activists and prevent public demonstrations.' [68]

(See also Section 8: Banned spiritual groups - Falun Gong)

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7. Political affiliation

7.01 The Congressional Research Service (CRS) report, Understanding China's Political System, 20 March 2013, stated:

'Although China is effectively a one party state, multiple coalitions, factions, and constituencies exist within the political system.' [p17] '… China has eight other minor political parties. Their role is strictly circumscribed, but the Communist Party uses their existence to argue that China operates a "multi-party cooperation system," and is therefore not strictly a one-party state. Crucially, the minor political parties are all required to accept the permanent leadership of the Communist Party. They are expected to work "hand in hand" with the Communist Party in "developing socialism with Chinese characteristics," and they are barred from operating as opposition parties. With each party's yearly intake of new members capped by the Communist Party, the combined members of the minor parties number fewer than 1 million, compared to the Communist Party's 82.6 million members. The smallest of the parties claims a membership of just 2,100.' [69]

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Freedom of political expression

7.02 Article 35, Chapter II of the Constitution states, 'Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration.' [70]

7.03 However 'such rights are subordinated to the discretion of the CCP [Chinese Communist Party] and its status as the ruling power,' according to the Freedom House report, Freedom of the Press 2013, China, published on 1 July 2013. The report further stated:

[68] US State Department (USSD) http://www.state.gov/, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 1d - Arrest Procedures and Treatment While in Detention), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013
[69] Congressional Research Service (CRS) http://www.fas.org/, Understanding China's Political System, 20 March 2013, (p33), http://www.fas.org/sgp/crs/row/R41007.pdf, date accessed 15 October 2013
[70] National People's Congress http://www.npc.gov.cn/, Constitution of the People's Republic of China, adopted 4 December 1982 and amended March 2004, http://www.npc.gov.cn/englishnpc/Constitution/node_2825.htm, date accessed 9 October 2013

'Moreover, the constitution cannot, in most cases, be invoked in court as a legal basis for asserting individual rights. Judges are appointed by the CCP and generally follow its directives, particularly in politically sensitive cases. There is no press law that governs the protection of journalists or the punishment of their attackers. Instead, vague provisions in the penal code and state secrets legislation are routinely used to imprison Chinese citizens for the peaceful expression of views that the CCP considers objectionable. Criminal defamation provisions are also occasionally used to similar effect. Amendments to the Criminal Procedure Law passed in March 2012 permit suspects accused of "endangering state security" - a charge that is often employed to punish nonviolent activism and political expression - to be detained for up to six months in an unofficial location, prompting concerns that the rule effectively legalizes enforced disappearances.' [71]

7.04 The same report added:

'Since open-government regulations took effect in 2008, many agencies have become more forthcoming in publishing official documents, but courts have largely hesitated to enforce information requests, and government bodies routinely withhold information, even regarding matters of vital public concern. Journalists and other media workers are required to hold government-issued press cards in order to be considered legitimate. Those who violate content restrictions risk having their press-card renewals delayed or rejected, being blacklisted outright, or facing criminal charges.' [72]

7.05 The Amnesty International (AI) Annual Report 2012: The state of the world's human rights: China (AI Report 2012), published on 24 May 2012, covering events in 2011, stated that:

'The authorities continued to abuse criminal law to suppress freedom of expression. They detained or arrested close to 50 people and harassed and intimidated dozens more during the crackdown on "Jasmine" protests that began in February [2011] in response to the popular movements in the Middle East and North Africa. An initially anonymous call for peaceful Sunday strolls spread across a growing number of cities as a form of protest against corruption, the suppression of rights, and the lack of political reform.

'Amendments in March to the Regulations on the Administration of Publications added a new requirement that those who distributed publications over the internet or information networks must be licensed, or risk criminal penalties. The authorities shut down or took direct control of a number of publications that had published investigative journalism pieces on sensitive issues. They reportedly banned hundreds of words from mobile phone text messages, including "democracy" and "human rights".' (Freedom of expression) [73]

(See also Section 6: Prison conditions - Administrative detention/labour camps)

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[71] Freedom House http://www.freedomhouse.org/, Freedom of the Press 2013, China, 1 July 2013, http://www.freedomhouse.org/report/freedom-press/2013/china, date accessed 9 October 2013
[72] Freedom House, Freedom of the Press 2013, China, 1 July 2013, http://www.freedomhouse.org/report/freedom-press/2013/china, date accessed 9 October 2013
[73] Amnesty International (AI) http://www.amnesty.org/, Annual Report 2012: China, 24 May 2012, http://www.amnesty.org/en/region/china/report-2012 Date accessed 2 September 2013

Freedom of association and assembly

7.06 Although the law provided for freedom of peaceful assembly the US State Department's 2012 Country Report on Human Rights Practices (USSD Report 2012), China, published on 19 April 2013, noted that the government severely restricted this right in practice. [74]

7.07 The Human Rights Watch (HRW) World Report 2013: China, covering events of 2012, published 31 January 2013, observed that, 'citizens are increasingly prepared to challenge authorities over volatile livelihood issues, such as land seizures, forced evictions, abuses of power by corrupt cadres, discrimination, and economic inequalities. Based on law enforcement reports, official and scholarly statistics estimate that there are 250-500 protests each day, with anywhere from ten to tens of thousands of participants.' [75]

7.08 The USSD Report 2012, added:

'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. 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" and protests, including some violent protests, against local governments increased during the year, according to an international NGO. As in past years, the vast majority of demonstrations concerned land disputes; housing problems; 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.' [76]

7.09 With regards to freedom of association, the USSD Report 2012, stated, 'CCP [Chinese Communist Party] policy and government regulations require that all professional, social, and economic organizations officially register with, and receive approval from the government. In practice these regulations prevented the formation of truly autonomous political, human rights, religious, spiritual, labor, and other organizations that the government believed might challenge its authority.' [77]

7.10 The Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report, published in April 2013, stated:

'The party continues to control the only officially recognised trade union, the All-China Federation of Trade Unions. Collective bargaining and the right to strike are restricted both in law and in practice. On 1 January, new Regulations on Consultation and Mediation for Labour Disputes in Enterprises entered into force. The regulations were a

[74] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 2b - Freedom of Assembly), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013
[75] Human Rights Watch (HRW) https://www.hrw.org/, World Report 2013 (Events of 2012), 31 January 2013, (p300), https://www.hrw.org/sites/default/files/wr2013_web.pdf, date accessed 30 August 2013
[76] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 2b - Freedom of Assembly), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013
[77] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 2b - Freedom of Association), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013

positive step and should in time help to improve resolution of labour disputes, but their immediate effect has been limited.' [78]

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Civil disturbances

7.11 On 7 October 2013 Radio Free Asia reported that police had fired upon protesters in Duru, Tibet who had '… gathered to confront police attempting to search the home of Dorje Draktsel, who was detained last week after taking part in local protests… sources said.' The report added that: 'At least 60 were wounded when the Chinese troops opened fire, with many of those hurt suffering gunshots to their hands and legs and others knocked unconscious when police fired tear gas into the crowd, they said.'

The report further noted:

'[Dorje] Draktsel, a resident of the township's Yangthang village, had been tagged by authorities as one of the leaders of the protest by Driru-area Tibetans resisting orders to fly the Chinese flag from their homes. "He had escaped from Dathang township and was going to Driru town when he was taken into custody," a Tibetan living in exile Tashi Dondrub told RFA's Tibetan Service, citing contacts in the region. After Draktsel was detained, "[Chinese] armed police went to search his home, and when the villagers protested, more armed police arrived and fired into the crowd," Dondrub said. At least two of the protesters were critically wounded.' [79]

(See also Section 9: Tibet – Human rights in Tibet)

7.12 The USSD Report 2012 cited the following recorded instances:

'On July 1 [2012], hundreds of student demonstrators assembled in front of municipal buildings in Shifang, Sichuan Province, to protest plans to construct a copper smelting plant in the area. Over the next few days, thousands of banner-bearing demonstrators joined the protest. The official media reported that the protests turned violent with demonstrators overturning police vehicles and throwing bricks at government buildings. Police fired tear gas and stun grenades into the crowd and detained 27 protesters. Videos and images circulated online showed protesters bloodied and beaten. On July 3, local authorities announced that the copper plant construction would be suspended and later that day released 21 of the 27 detainees.

'In October [2012] thousands of protesters took to the streets in opposition to the expansion of a petrochemical plant in Ningbo and its production of paraxylene. During the three days of protests, police fired tear gas and detained more than 100 demonstrators. According to press reports, most of those arrested were subsequently released. Authorities subsequently agreed to halt the expansion of the plant.

[78] Foreign & Commonwealth Office (FCO) https://www.gov.uk/, The 2012 Foreign & Commonwealth Office Report , Published in April 2013, (p138 - Freedom of expression and assembly), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/186688/Cm_8593_Accessible_complete.pdf, date accessed 9 October 2013

[79] Radio Free Asia (RFA) http://www.rfa.org/, Chinese Police Fire on Unarmed Tibetan Protesters in Driru, 7 October 2013, http://www.rfa.org/english/news/tibet/unarmed-10072013172339.html, date accessed 15 November 2013

'In April a training event for 50 public-interest lawyers organized by Nanjing NGO [non-governmental organisation] Tianxiagong (Justice for All) was delayed at the last moment when the host hotel in Suzhou abruptly canceled the participants' hotel rooms and conference room, saying the government had requisitioned them. Two backup venues also canceled their reservations. Attempts to secure other locations in Suzhou were unsuccessful. Eventually the public interest lawyers were forced to hold a shortened training event outdoors in a park in a nearby city.' [80]

7.13 The International Work Group for Indigenous Affairs (IWGIA) report, The Indigenous World – 2013, published in 25 May 2013, described in its Profile on China, that:

'Reports of Tibetan protests and suicide by self-immolation have received much international attention. In 2012, there were also riots and clashes between Uighurs and Han Chinese in Kashgar, Xinjiang Uighur Autonomous Region, along with protests by ethnic Mongolians in Inner Mongolian Region, and other cases of human rights violations.

'While gaining wide international news coverage, these incidents have been silenced within China, including in ethnic minority areas. Inside China, much of the reporting on these ethnic minority issues and their protests has largely disappeared from the state media, and from most local news. It seems the ethnic minority peoples have had their voices silenced, have lost their freedom of expression and the right of access to the media. They are lost under the guise of the protection and benevolence of the great Chinese motherland.' [81]

7.14 On 3 July 2012 Caixin online news reported on the rioting in Guangdong Province which resulted in over 300 injuries. The incident, which occurred on 25 June 2012, was sparked by the beating of a migrant worker's son by local men. The article stated:

'Witnesses say a fight between a 14-year-old boy surnamed Tan from Chongqing and a local student attracted a crowd. Three local men then covered the boy's head with a plastic bag and tied his hands behind his back while beating him. One man who was recognized as a village security guard was taken away by the policemen. One shop owner said scores of people gathered in front of the village committee to "seek punishment for the two other men that beat Tan." "This riot originated from a personal misunderstanding," said Xue Xiaofeng, party secretary of Zhongshan city, adding that the spread of "rumors and a mob mentality" escalated the incident. By 10 p.m. on June 25, around 300 people had gathered outside the village committee office, police said. The crowd was dispersed at 3 a.m. on June 26.' [82]

7.15 A British Broadcasting Corporation (BBC) article reported on the violent protests in July 2012 when thousands of people in the southwestern city of Shifang took to the streets in an environmental protest against the government's plans to allow the building of a copper alloy plant because of their concern about its pollution. The article noted:

[80] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Sction 2b - Freedom of Assembly), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013
[81] International Work Group for Indigenous Affairs (IWGIA) http://www.iwgia.org/, The Indigenous World – 2013, 25 May 2013, (p232), http://www.iwgia.org/publications/search-pubs?publication_id=613, date accessed 9 October 2013
[82] Caixin http://english.caixin.com/, Beating of Boy Sparks Three Days of Unrest, 3 July 2012, http://english.caixin.com/2012-07-03/100406897.html, date accessed 15 October 2013

'Plans to build a copper alloy plant in Sichuan province have been scrapped following violent protests by residents, a Chinese official says. Officials in Shifang posted a statement on the city's Twitter-like weibo account on Tuesday evening [of 3 July 2012] announcing the move. "Shifang will not build this project henceforth," Shifang Communist Party head Li Chengjing said in the post. The decision was made in response to public concerns, he added…

'Local authorities said hundreds of residents and students were involved in the protests, while state-run Global Times, quoting an unnamed police officer, said "several thousand" took part. Both police and residents were injured in the clashes as bottles were thrown and cars damaged, they said. Police also detained some of the protesters. A city government notice on Wednesday [4 July] said that of the 27 people who were taken away, six remained in detention while the rest had been released.' [83]

7.16 Al Jazeera reported that the Shifang government confirmed that on 2 and 3 July [2012] police had 'forcibly taken away 27 suspected criminals' for 'tearing down the door of the municipal government building, smashing windows, and throwing bricks and stones at police and government workers.' Officials later confirmed that 21 of the detainees had been released the following day, after receiving 'criticism and education.' [84]

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Opposition groups and political activists

7.17 The Congressional Research Service (CRS) report, Understanding China's Political System, 20 March 2013, stated that, 'Although China is effectively a one party state, multiple coalitions, factions, and constituencies exist within the political system.' [85]

7.18 The Amnesty International Report 2013, The State of The World's Human Rights, covering the period January to December 2012, published on 23 May 2013, reported that, 'The authorities maintained a stranglehold on political activists, human rights defenders and online activists, subjecting many to harassment, intimidation, arbitrary detention and enforced disappearance.' Citing that, 'At least 130 people were detained or otherwise restricted to stifle criticism and prevent protests ahead of the leadership transition initiated at the18th Chinese Communist Party Congress in November.' [86]

7.19 However, the Freedom House (FH) report, Freedom in the World 2013, China, covering events in 2012, published in January 2013, stated that:

'Citizens who attempt to form opposition parties or advocate for democratic reforms have been sentenced to long prison terms in recent years. In January 2012, Li Tie of Hubei Province was sentenced to 10 years in prison for being a member of the China Social Democracy Party and for his online writings. In October, Cao Haibo of Yunnan

[83] BBC News http://www.bbc.co.uk/, China "scraps" Shifang plant after violent protests, 4 July 2012, http://www.bbc.co.uk/news/world-asia-china-18700884, date accessed 15 October 2013
[84] Al Jazeera http://www.aljazeera.com/, China frees protesters after halting project, 4 July 2012, http://www.aljazeera.com/news/asia-pacific/2012/07/20127452518723296.html, date accessed 15 October 2013
[85] Congressional Research Service (CRS) http://www.fas.org/, Understanding China's Political System, 20 March 2013, (p17 - Factionalism), http://www.fas.org/sgp/crs/row/R41007.pdf, date accessed 15 October 2013
[86] Amnesty International (AI) http://www.amnesty.org/, Annual Report 2013, The State of The World's Human Rights, covering the period January to December 2012, 23 May 2013, (p61), http://www.amnesty.org/en/library/asset/POL10/001/2013/en/b093912e-8d30-4480-9ad1-acbb82be7f29/pol100012013en.pdf, date accessed 16 September 2013

Province was sentenced to eight years for starting online discussion groups about a possible political party. Democracy advocate and 2010 Nobel Peace Prize winner Liu Xiaobo remained behind bars in 2012, having been sentenced in 2009 to 11 years in prison. His wife, Liu Xia, was under strict house arrest throughout the year.' [87]

7.20 The Freedom House report further added, 'In addition to democracy advocates, tens of thousands of grassroots activists, petitioners, Falun Gong practitioners, Christians, Tibetans, and Uighurs are believed to be in prison or extrajudicial forms of detention for their political or religious views, although complete figures are unavailable.' [88]

See also Section 9: Tibet – Political prisoners held in Tibet

7.21 The Chinese People's Political Consultative Conference, Process of Founding and Key Achievements in History, undated, accessed on 16 October 2013, observed that:

'Apart from the CPC [Communist Party of China], there are eight democratic parties in China. They are the Revolutionary Committee of the Chinese Kuomintang, China Democratic League, China Democratic National Construction Association, China Association for Promoting Democracy, China Peasants and Workers' Democratic Party, China Zhi Gong Dang, Jiu San Society, and the Taiwan Democratic Self-Government League. Formed and developed in the War of Resistance Against Japan (1937-1945) and the struggles against Kuomintang autocratic rule, these democratic parties originated mainly in the national bourgeoisie, urban upper petty bourgeoisie circles, and also among intellectuals and other patriotic individuals.' (Formation and Development of Democratic Parties) [89]

7.22 The People's Daily noted the following in an undated article:

'These democratic parties enjoy political freedom, organizational independence and lawful equality within the fixed scope of the Constitution of the state. The basic principle of the cooperation between the CPC and the other parties is long-term coexistence, mutual supervision, sincere treatment with each other and the sharing of weal and woe.

'The democratic parties are neither parties out of office nor opposition parties. They are parties fully participating in the political life of the nation. At present, all the standing committees of the people's congresses, the committees of the CPPCC [Chinese People's Political Consultative Conference] and government agencies at all levels and the economic, cultural, educational, scientific and technological and other departments have members of the democratic parties as leaders. For instance, the current chairpersons of the eight democratic parties' central committees hold the posts of vice-chairpersons of the NPC [National People's Congress] Standing Committee and the CPPCC National Committee. The ranks of the democratic parties have also swelled. All the provinces, autonomous regions and municipalities and large and medium cities now have local and basic organizations of the democratic parties.' [90]

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[87] Freedom House http://www.freedomhouse.org/, Freedom in the World 2013: China, January 2013, http://www.freedomhouse.org/report/freedom-world/2013/china, date accessed 2 September 2013
[88] Freedom House, Freedom in the World 2013: China, January 2013, http://www.freedomhouse.org/report/freedom-world/2013/china, date accessed 2 September 2013
[89] China.org http://www.china.org.cn/, Chinese People's Political Consultative Conference, Process of Founding and Key Achievements in History, nd, http://www.china.org.cn/english/archiveen/27750.htm, date accessed 16 October 2013
[90] People's Daily Online, http://english.people.com.cn/, Democratic Parties, nd

7.23 The Amnesty International Report 2013 further added that:

> 'At the end of 2011 and beginning of 2012, several human rights defenders who consistently called for political reform were sentenced to long jail terms for "inciting subversion of state power" through articles and poems they wrote and distributed. Sentences included 10 years for Guizhou human rights forum leader Chen Xi and activist Li Tie, nine years for Sichuan human rights activist Chen Wei, seven years for Zhejiang Democratic Party member Zhu Yufu and, at the end of 2012, eight years for Jiangsu internet activist Cao Haibo, who set up an online group to discuss constitutional law and democracy.'[91]

(See also Section 2: Introduction on Human Rights)

(See also Section 9: Tibet – Human rights in Tibet)

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China Democracy Party (CDP)

7.24 The China Democracy Party (CDP) was formed as an alternative to the one party state led by the Chinese Communist Party as a way to reform the state from within.[92] The group was banned but the government continued to monitor, detain, and imprison current and former CDP members.[93] Qin Yongmin, one of the founders of the CDP, was imprisoned in 1998, accused of 'endangering state security'. He was released in November 2010 after spending twelve years in detention. On his release, '…officers seized his prison notes and warned him not to speak to reporters or meet other dissidents.' Two other cofounders, Wang Youcai and Xu Wenli, were also convicted on the same charges but were given lighter sentences and later exiled to the United States.[94]

7.25 The USSD 2012 report stated that, 'Other current or former CDP members … remained in prison or in RTL [Re-Education through Labour] camps for their calls for political reform and their affiliation with the CDP. ' [95]

7.26 A US-based CDP website, accessed on 21 October 2013, noted that the CDP held protests in the US where it aimed to attract Chinese Americans and build a mass movement with the eventual aim of returning to China and establishing a democratic

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http://english.people.com.cn/data/China_in_brief/Political_Parties/Democratic%20Parties.html Date accessed 16 October 2013

[91] Amnesty International, Annual Report 2013, The State of The World's Human Rights, covering the period January to December 2012, 23 May 2013 (p62), http://www.amnesty.org/en/library/asset/POL10/001/2013/en/b093912e-8d30-4480-9ad1-acbb82be7f29/pol100012013en.pdf, date accessed 16 September 2013

[92] AsiaNews http://www.asianews.it/, Qin Yongmin, cofounder of the China Democracy Party, freed today, 29 November 2010, http://www.asianews.it/news-en/Qin-Yongmin,-cofounder-of-the-China-Democracy-Party,-freed-today-20125.html, date accessed 21 October 2013

[93] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013

[94] AsiaNews, Qin Yongmin, cofounder of the China Democracy Party, freed today, 29 November 2010, http://www.asianews.it/news-en/Qin-Yongmin,-cofounder-of-the-China-Democracy-Party,-freed-today-20125.html, date accessed 21 October 2013

[95] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013

system of government. The website suggested procedures for joining the CDP, both for those inside China and for those outside.

Further information about the China Democracy Party as noted in paragraph 7.26 can be located on their website.[96]

7.27 An organisation calling itself the UK Branch of China Democracy Party is an independent political organisation whose mission, according to their website, is to 'publicize the Party's general and specific policies; recruit new Party members; foster cadres and activists'. Further information about the party can be located on their website. [97]

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Tiananmen Square activists

7.28 The US State Department's 2012 Country Report on Human Rights Practices (USSD Report 2012), China, published on 19 April 2013, noted that, 'Observers believed that persons remained in prison for crimes in connection with their involvement in the 1989 Tiananmen prodemocracy movement, although the number was unknown because related official statistics were never made public.' [98]

(See also Section 7: Political affiliation - Freedom of association and assembly)

(See also Section 7 Political affiliation - Opposition groups and political activists)

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8. Banned religious and spiritual groups

Overview

8.01 Article 36, Chapter II of the Constitution allows that citizens enjoy the freedom of religious belief. [99] However, as reported in the Annual Report of the U.S. Commission on International Religious Freedom (USCIRF), covering January 31, 2012 – January 31, 2013, 'The government tightly controls religious groups and actively represses and harasses religious activity that it views as "superstitious," a "cult," a threat to national security or social harmony, or falling outside the vague parameters of "normal" religious practices.'[100]

[96] China Democracy Party http://www.hqcdp.org/, The Political Principle of China Democracy Party, 11 February 2008, http://www.hqcdp.org/english/, date accessed 21 October 2013
[97] China Democracy Party UK Branch, UK Branch of China Democracy Party, http://www.ukcdp.co.uk/ukcdp/ukcdp.htm, date accessed 21 October 2013
[98] US State Department (USSD) http://www.state.gov/, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 1e - Political Prisoners and Detainees), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013
[99] National People's Congress , http://www.npc.gov.cn/ Constitution of the People's Republic of China, adopted 4 December 1982 and amended March 2004, http://www.npc.gov.cn/englishnpc/Constitution/node_2825.htm, date accessed 9 October 2013
[100] United States Commission on International Religious Freedom (USCIRF) http://www.uscirf.gov/, The Annual Report of the U.S. Commission on International Religious Freedom (USCIRF), published April 2013 (Covering January 31, 2012 – January 31, 2013), (p31),

8.02 Some religious groups are banned by law. The US State Department's International Religious Freedom (US-IRF) Report 2012 listed these as the Guanyin Method Sect (Guanyin Famen or the Way of the Goddess of Mercy), Zhong Gong (a qigong exercise discipline), Falun Gong and several Christian groups including the Shouters, Eastern Lightning, the Society of Disciples (Mentu Hui), Full Scope Church, Spirit Sect, New Testament Church, Three Grades of Servants (or San Ban Pu Ren), Association of Disciples, Lord God Sect, Established King Church, Unification Church, Family of Love, and the South China Church.' [101]

8.03 The Australia: Refugee Review Tribunal's Protestants in China, 21 March 2013, provided further information on the banned groups.[102]

8.04 The USCIRF reported, however, that, 'Despite restrictions, harassment, arrests, and government oversight, the number of religious adherents continues to grow in China and the government continues to tolerate regular and public worship activities of both legally-approved and some unregistered religious groups. Tolerance for unregistered religious activity often varies, depending on province, locality, or relationship with provincial government officials.' [103]

8.05 The USCIRF further added, 'Members of unregistered Protestant groups that the government arbitrarily deems "evil cults" are the most vulnerable to detention, arrest, and harassment. The extrajudicial security apparatus, called the 6-10 Office, has broadened its mandate beyond Falun Gong activity to include groups that self-identify as Protestant. The government has banned at least 18 Protestant groups.' [104]

8.06 Any citizens accused of being associated with banned religious groups faced fixed-term imprisonment under Article 300 of the Criminal Law of the People's Republic of China, 1 October 1997. [105] The US-IRF Report 2012 observed that, 'Individuals belonging to or supporting other banned groups were imprisoned or administratively sentenced to RTL on charges such as "distributing evil cult materials" or "using a heretical organization to subvert the law."' [106]

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http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20(2).pdf, date accessed 25 September 2013

[101] US State Department, http://www.state.gov/, International Religious Freedom (US-IRF) Report 2012: China, 23 May 2013, (Section II. - Legal/Policy Framework), http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dlid=208222#wrapper, date accessed 25 September 2013

[102] Australia: Refugee Review Tribunal http://www.mrt-rrt.gov.au/, Protestants in China, 21 March 2013, (via Refworld), http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=country&docid=51f27dcd4&skip=0&coi=CHN&querysi=" south china, date accessed 10 December 2013

[103] USCIRF, The Annual Report of the U.S. Commission on International Religious Freedom (USCIRF), published April 2013 (Covering January 31, 2012 – January 31, 2013), (p31), http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20(2).pdf, date accessed 25 September 2013

[104] USCIRF, The Annual Report of the U.S. Commission on International Religious Freedom (USCIRF), published April 2013 (Covering January 31, 2012 – January 31, 2013), (p38), http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20(2).pdf, date accessed 25 September 2013

[105] National Legislative Bodies, Criminal Law of the People's Republic of China http://www.refworld.org/, 1 October 1997, http://www.refworld.org/publisher,NATLEGBOD,,CHN,3ae6b5cd2,0.html, date accessed 25 September 2013

[106] US-IRF Report 2012: China, 23 May 2013, (Section II. Government Practices), date accessed 25 September 2013

8.07 The USCIRF Annual Report 2013 cited a number of cases of the Criminal Law being enforced, including:

'In February [2012], two leaders of a house church in Yulin, Shaanxi province, were sent to a labor camp for allegedly leading an "evil cult." In April, seven leaders of a house church in Pingdingshan, Henan province, were arrested on a similar charge. In December, Pastor Cao Nan of Shenzhen, Guangdong province and several members of his church were arrested for holding public worship services in a local park. The members were released after a few days, but Cao Nan was held in administrative detention for several weeks for using "false religion" to "harm social order." Pastor Cao is suing the local police for his detention.

'Protestant pastor Alimjan Yimit (Himit) continues to serve a 15-year sentence in the XUAR, allegedly for "leaking state secrets to overseas organizations." Jiang Yaxi also remains in custody awaiting trial; she was arrested in November 2011 for the sale and distribution of a Christian documentary.' [107]

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Falun Gong (Falun Dafa)

8.08 The Encyclopedia Britannica, accessed on 11 September 2013, described the Falun Gong movement as a '… controversial Chinese spiritual movement founded by Li Hongzhi in 1992; its adherents exercise ritually to obtain mental and spiritual renewal. The teachings of Falun Gong draw from the Asian religious traditions of Buddhism, Taoism, Confucianism, and Chinese folklore as well as those of Western New Age movements.' The same source added: 'The movement's sudden emergence in the 1990s was a great concern to the Chinese government, which viewed Falun Gong as a cult.' [108]

8.09 The spiritual group was banned in 1999 and calssified by the government as "an evil cult". Members are prone to arrest, harassment and intimidation as reported in the Human Rights Watch (HRW) World Report 2013.' [109]

8.10 The US-IRF Report 2012 observed that prior to the government's 1999 ban on Falun Gong, it was estimated that there were 70 million adherents.' [110]

8.11 The US-IRF Report 2012 further reported that:

'It remained difficult to confirm some aspects of reported abuses of Falun Gong adherents. International Falun Gong-affiliated nongovernmental organizations (NGOs) and international media reported that detentions of Falun Gong practitioners continued

[107] United States Commission on International Religious Freedom (USCIRF), The Annual Report of the U.S. Commission on International Religious Freedom (USCIRF), published April 2013 (Covering January 31, 2012 – January 31, 2013), (p38), http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20(2).pdf, date accessed 25 September 2013
[108] Encyclopedia Britannica (Online Academic Edition) http://www.britannica.com/, Falun Gong, undated, http://www.britannica.com/EBchecked/topic/724793/Falun-Gong, date accessed 11 September 2013
[109] Human Rights Watch (HRW) https://www.hrw.org/, World Report 2013 (Events of 2012), 31 January 2013, (p306 - Freedom of Religion), https://www.hrw.org/sites/default/files/wr2013_web.pdf, date accessed 30 August 2013
[110] US-IRF Report 2012: China, 24 May 2013, (Section I. Religious Demography), http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dlid=208222#wrapper, date accessed 13 September 2013

to increase around sensitive dates. Authorities reportedly instructed some neighborhood communities to report Falun Gong members to officials and offered monetary rewards to citizens who informed on Falun Gong practitioners. Falun Gong-affiliated NGOs alleged that detained practitioners were subjected to various methods of physical and psychological coercion in attempts to force them to deny their belief in Falun Gong. Falun Gong sources estimated that since 1999, at least 6,000 Falun Gong practitioners had been sentenced to prison. Falun Gong adherents also have been subjected to administrative sentences of up to three years in RTL [Re-Education through Labour] camps. Reports from overseas Falun Gong-affiliated advocacy groups estimated that thousands of adherents in the country had been sentenced to RTL. The media reported allegations of Falun Gong practitioners held without trial at the Masanjia Labor Camp in Liaoning Province.' [111]

8.12 The USCIRF Annual Report 2013 stated that, 'Falun Gong face some of the most intense and violent forms of persecution. Adherents are tortured and mistreated in detention and are pursued by an extralegal security force chartered to stamp out "evil cults." The Chinese government also continues to harass, detain, intimidate, and disbar attorneys who defend members of vulnerable religious groups.' [112]

8.13 The USCIRF Annual Report 2013 further stated that:

'Reportedly, over 3,500 Falun Gong practitioners have died as a result of government-approved persecution. China maintains an extrajudicial security apparatus, the 6-10 office, to stamp out Falun Gong activities and uses specialized facilities known as "transformation through reeducation centers" to force practitioners to renounce their beliefs through the use of torture and medical experimentation. Falun Gong practitioners have documented dozens of deaths in these transformation centers.

'Provincial authorities were urged to conduct anti-cult campaigns, including public meetings and the signing of anti-cult "pledge cards." According to the CECC [Congressional-Executive Commission on China], a government website provided training materials for these campaigns.' [113]

8.14 The USCIRF report added that:

'It is difficult to determine how many Falun Gong practitioners are in detention because they are most often incarcerated in re-education through labor (RTL) camps and mental health institutions. However, the U.S. Department of State noted that Falun Gong adherents may constitute half of the 250,000 officially recorded inmates in RTL camps. The UN Special Rapporteur on Torture has reported that practitioners make up two-thirds of the alleged victims of torture presented to him.

[111] US-IRF Report 2012: China, 24 May 2013, (Section II – Government Practices), http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dlid=208222#wrapper, date accessed 13 September 2013
[112] USCIRF, Annual Report 2013, covering the period from covering 31 January 2012 to 31 January 2013, 30 April 2013, (p6 - China), http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20%282%29.pdf, date accessed 13 September 2013
[113] USCIRF, Annual Report 2013, covering the period from covering 31 January 2012 to 31 January 2013, 30 April 2013, (p38 - Falun Gong), http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20%282%29.pdf, date accessed 13 September 2013

'As of December 2012, the CECC's prisoner database lists 486 Falun Gong practitioners as currently serving prison sentences, though the actual number may be much higher. One such prisoner is Wei Jun, currently serving a five-year sentence at the Heilongjiang Women's Prison, her fourth incarceration since 1999. According to her testimony of torture and abuse while in custody, which was smuggled from prison, she suffers from partial paralysis from being beaten by both prison guards and other prisoners. The Falun Dafa Information Center (FDIC) claims evidence showing that over 50 Falun Gong practitioners died in custody since 2011.

'Numerous allegations of government-sanctioned organ harvesting and psychiatric experimentation also continue to surface, and both the UN Special Rapporteur on Torture and the Committee against Torture, a UN treaty-monitoring body, have highlighted concerns.' [114]

8.15 The Freedom House (FH) report, Freedom in the World 2013, China, covering events in 2012 and published in January 2013, stated, 'The CCP [Chinese Communist Party] continues to devote considerable resources to suppressing the Falun Gong Falun Gong [sic] spiritual group and coercing adherents to renounce their beliefs. During the year, authorities abducted practitioners in home raids, sentenced them to labor camps and long prison terms, and punished those who appealed on their behalf.' [115]

8.16 The US-IRF Report 2012 cited the following recorded events with regards to those associated with Falun Gong:

'In July 2011 Guangzhou's Haizhu District People's Court sentenced lawyer Zhu Yubiao to two years' imprisonment for possessing Falun Gong books and DVDs, according to online reporting. Zhu, who previously handled Falun Gong cases, had been held in police custody since August 2010 on charges of "using a cult to undermine the law." Although Zhu was scheduled to be released in August, authorities transferred him to Sanshui Law School, where Falun Gong practitioners reportedly attend mandatory study sessions.

'In October [2011] authorities detained Falun Gong practitioner Chen Linfen in Fujian's Zhangzhou No. 1 Detention Center after three police and one staff member of the local Residence Committee ransacked her house and confiscated Falun Gong books, according to online accounts.

'In November Beijing police arrested Zhang Fengying during a grocery shopping trip after she spoke to local residents about the benefits of practicing Falun Gong, according to her daughter. Zhang was later charged with "using an evil cult" to undermine law enforcement.' [116]

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[114] USCIRF, Annual Report 2013, covering the period from covering 31 January 2012 to 31 January 2013, 30 April 2013, (p38-39 - Falun Gong), http://www.uscirf.gov/images/2013%20USCIRF%20Annual%20Report%20%282%29.pdf, date accessed 13 September 2013

[115] Freedom House http://www.freedomhouse.org/, Freedom in the World 2013: China, January 2013, http://www.freedomhouse.org/report/freedom-world/2013/china, date accessed 2 September 2013

[116] US-IRF Report 2012: China, 23 May 2013, (Section II – Government Parctices), http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dlid=208222#wrapper, date accessed 25 September 2013

8.17 The Amnesty International (AI) Annual Report 2012: The state of the world's human rights: China (AI Report 2012), published on 24 May 2012, covering events in 2011, stated that:

'The authorities continued to pursue a systematic, nationwide, often violent campaign against the Falun Gong, a spiritual group banned since 1999 as a "heretical cult". The government was in the second year of a three-year campaign to increase the "transformation" rates of Falun Gong practitioners, a process through which individuals were pressured, often through mental and physical torture, to renounce their belief in and practice of Falun Gong. Practitioners who refused to renounce their faith were at risk of escalating levels of torture and other ill-treatment. The authorities operated illegal detention centres, informally referred to as "brainwashing centres", for this process. Falun Gong sources reported that one practitioner died every three days while in official custody or shortly after release, and said that thousands remained unaccounted for.'[117]

8.18 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.' [118]

(See also Section 3: Security forces - Torture)

(See also Section 6: Prison conditions - Administrative detention/labour camps)

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Origins and support

8.19 The Encyclopedia Britannica, accessed on 11 September 2013, stated:

'The origins of the movement are found both in long-standing Chinese practices and in recent events. Qi Gong (Chinese: "Energy Working"), the use of meditation techniques and physical exercise to achieve both good health and peace of mind, has a long history in Chinese culture and religion; however, practitioners in modern China present these techniques as purely secular in an effort to escape official restrictions against independent religious activity. Nevertheless, in the late 20th century new masters appeared who taught forms of Qi Gong more clearly rooted in religion. The most

[117] Amnesty International (AI) http://www.amnesty.org/, Annual Report 2012: China, 24 May 2012, (Falun Gong), http://www.amnesty.org/en/region/china/report-2012 , date accessed 2 September 2013
[118] Falun Dafa Information Centre http://faluninfo.net/, 2010 Annual Report, 25 April 2010, http://faluninfo.net/topic/166/, date accessed 13 September 2013

influential of these, Li Hongzhi (born in 1951, according to followers, or in 1952, according to critics, who contend that Li "adjusted" his birthdate to lend it Buddhist spiritual significance), worked in law enforcement and corporate security before becoming the full-time spiritual leader of Falun Gong in 1992.

'While in traditional Chinese Buddhism falun means the "wheel of law" or "wheel of dharma," Li uses the word to indicate the centre of spiritual energy, which he locates in the lower abdomen and believes can be awakened through a set of exercises called Xiu Lian ("Cultivating and Practicing"). Unlike other Qi Gong groups, Falun Gong insists that its founder is the only authoritative source for determining the correct exercises and that a spiritual discipline, the "cultivation of the Xinxing" ("Mind-Nature"), is essential to the success of the exercises. On a more esoteric level, Li also teaches that demonic space aliens seek to destroy humanity and, since their arrival in 1900, have manipulated scientists and world leaders. Critics of the movement not only ridicule such claims but regard its reliance on Xiu Lian as an alternative to official medicine as hazardous to the members' health. Indeed, the Chinese government claims that 1,400 Falun Gong devotees have died as a result of this alleged rejection of modern medicine.

'After gathering a large following in China (100 million, according to Falun Gong, or between 2 and 3 million, according to the Chinese government), Li took his movement abroad in the mid-1990s, settling permanently in New York City in 1998. The next year, a massive campaign was launched by the medical establishment (including both practitioners and academics) and the Chinese government to denounce Falun Gong as a xiejiao ("teaching of falsehood," or "cult"). Unlike other Chinese organizations, Falun Gong responded strongly, staging an unauthorized demonstration of more than 10,000 followers in Beijing on April 25, 1999, which prompted an even greater government response. In October the enforcement of a new anticult law led to the arrest of 100 Falun Gong leaders (joining 1,000 members who had been arrested earlier). Public trials began in November and continued into the 21st century, with many defendants receiving prison sentences of up to 12 years. While the Chinese government gained the cooperation of some Western "anticult" groups in its domestic and international campaign to expose Falun Gong as a "cult," it was also criticized by human rights organizations who denounced inter alia the suspicious deaths, allegedly by accident, of some Falun Gong members detained in Chinese jails.' [119]

The Falun Dafa Information Centre provides information on Falun Gong, including teachings and beliefs.[120]

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Treatment of Falun Gong practitioners' relatives

8.20 The USSD Report 2011 noted that family members of some Falun Gong practitioners were targeted for arbitrary arrest, detention and harassment. [121]

8.21 The US-IRF Report 2011, stated that, 'In November [2011] Hunan Province authorities reportedly initiated a campaign against Christians and Falun Gong adherents, targeting

[119] Encyclopedia Britannica (Online Academic Edition), Falun Gong, undated, http://www.britannica.com/EBchecked/topic/724793/Falun-Gong, date accessed 11 September 2013
[120] Falun Dafa Information Centre, Falun Gong, http://faluninfo.net/, date accessed 3 December 2013
[121] USSD 2012 Country Report on Human Rights Practices: China, 24 May 2012, http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186268, date accessed 16 September 2013

families for "refuse cult" activities. More than 200 Christians and Falun Gong practitioners in Beishan Village, Longhui County, were subjected to a "study class" with lessons on disseminating "anti-cult" information. As part of the campaign, more than 11,000 local residents reportedly were forced to sign guarantees prohibiting them from participating in religious and spiritual activities.' [122]

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9. Tibet

9.01 The British Broadcasting Corporation (BBC) noted in its Country Profile on Tibet, updated on 13 August 2013 and accessed on 16 September 2013, that: 'Tibet, the remote and mainly-Buddhist territory known as the "roof of the world", is governed as an autonomous region of China. Beijing claims a centuries-old sovereignty over the Himalayan region. But the allegiances of many Tibetans lie with the exiled spiritual leader, the Dalai Lama, seen by his followers as a living god, but by China as a separatist threat.' [123]

9.02 The US State Department's 2012 Country Report on Human Rights Practices (USSD Report 2012), China (Tibet), published on 19 April 2013, noted that, 'Tibet policies in the PRC [People's Republic of China] are overseen by the Chinese Communist Party (CCP) Central Committee's United Front Work Department, headed since September by Ling Jihua. Chen Quanguo, an ethnic Han from Henan Province, became the TAR party secretary in August 2011.' [124]

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Human rights in Tibet

This section should be read in conjunction with Section 7: Political affiliation – Civil disturbances.

9.03 The Amnesty International Report 2013, The State of The World's Human Rights, covering the period January to December 2012, published 23 May 2013, stated, 'Socioeconomic discrimination against ethnic Tibetans persisted.' [125] The USSD Report 2012: China (Tibet) concurred, stating:

'During the year the government's respect for and protection of human rights in the TAR [Tibet Autonomous Region] and other Tibetan areas deteriorated markedly. Under the banner of maintaining social stability, the government engaged in the severe repression of Tibet's unique religious, cultural, and linguistic heritage by, among other means, strictly curtailing the civil rights of China's ethnic Tibetan population, including the

[122] US-IRF 2011: China, 30 July 2012, (Section II. Status of Government Respect for Religious Freedom - Government Practices), http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dlid=192619#wrapper, date accessed 16 September 2013
[123] BBC News http://www.bbc.co.uk/, Tibet Profile, updated 13 August 2013, http://www.bbc.co.uk/news/world-asia-pacific-16689779, date accessed 16 September 2013
[124] USSD, 2012 Country Report on Human Rights Practices: China (Tibet), 19 April 2013, http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204195.htm, date accessed 30 August 2013
[125] Amnesty International (AI) http://www.amnesty.org/, Annual Report 2013, The State of The World's Human Rights, covering the period January to December 2012, 23 May 2013, (p63 - Tibet Autonomous Region), http://www.amnesty.org/en/library/asset/POL10/001/2013/en/b093912e-8d30-4480-9ad1-acbb82be7f29/pol100012013en.pdf, date accessed 16 September 2013

freedoms of speech, religion, association, and movement. The government routinely vilified the Dalai Lama and blamed the "Dalai clique" and "other outside forces" for instigating the 83 self-immolations by Tibetan laypersons, monks, and nuns that occurred throughout the year.' [126]

9.04 The same report noted that other human rights abuses included:

'… extrajudicial killings, torture, arbitrary arrests, extrajudicial detentions, and house arrests. There was a deepening perception among Tibetans that they were systemically targeted for economic marginalization and educational and employment discrimination. The presence of the People's Armed Police (PAP) and other security forces remained at high levels in communities across the Tibetan Plateau. Repression was severe throughout the year but increased in the periods before and during politically and religiously sensitive anniversaries and events.' [127]

9.05 The USSD Report 2012, China (Tibet) further recorded that:

'Freedom of movement for all Tibetans, but particularly for monks and nuns, declined severely throughout the TAR, as well as in Tibetan areas of Qinghai, Gansu, and Sichuan provinces. Anecdotal evidence indicated this was less of a problem in Yunnan Province's sole TAP, Diqing (Deqen) TAP, where Tibetans made up 40 percent of the population and rarely protested against government policies. The PAP and local PSBs set up roadblocks and checkpoints on major roads, in cities, and on the outskirts of cities and monasteries, particularly around sensitive dates. Tibetans traveling in monastic attire were subject to extra scrutiny by police at roadside checkpoints.' [128]

9.06 The Human Rights Watch (HRW) World Report 2013: China, covering events of 2012, published 31 January 2013, concurred, stating:

'The situation in the Tibet Autonomous Region (TAR) and the neighboring Tibetan autonomous areas of Qinghai, Sichuan, Gansu, and Yunnan provinces remained tense following the massive crackdown on popular protests that swept the plateau in 2008, and the introduction of measures designed to place all Tibetan monasteries under the direct control of government officials who will be permanently stationed there…

'Chinese security forces maintain a heavy presence and the authorities continue to tightly restrict access and travel to Tibetan areas, particularly for journalists and foreign visitors. Tibetans suspected of being critical of political, religious, cultural, or economic state policies are systematically targeted on charges of "separatism." On June 18, a Sichuan province court sentenced senior Tibetan cleric, Yonten Gyatso, to seven years in prison for disseminating information about the situation in Tibet and contacting human rights organizations abroad.

'Secret arrests and torture in custody remains widespread. In June, a 36-year-old Tibetan monk named Karwang died due to prolonged torture in police custody in Ganzi

[126] USSD, 2012 Country Report on Human Rights Practices: China (Tibet), 19 April 2013, (Executive Summary), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204195.htm, date accessed 30 August 2013
[127] USSD, 2012 Country Report on Human Rights Practices: China (Tibet), 19 April 2013, (Executive Summary), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204195.htm, date accessed 30 August 2013
[128] USSD, 2012 Country Report on Human Rights Practices: China (Tibet), 19 April 2013, (Freedom of Movement), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204195.htm, date accessed 30 August 2013

(Kardze in Tibetan). He had been arrested mid-May on suspicion of having put up posters calling for Tibetan independence.'[129]

9.07 The Chinese authorities disputed these allegations of human rights abuses, claiming that they were 'conspiracies to fan ethnic dissatisfaction against the Communist Party and government.' The HRW report, "They Say We Should Be Grateful", published on 27 June 2013, stated that the 'government usually stresses that Tibetans' rights are fully guaranteed under the law, and point to political, social, and economic development over the past half-century as signs that the human rights of ethnic Tibetans are fully protected.' [130]

9.08 The Amnesty International Report 2013 recorded that, 'Numerous people allegedly involved in antigovernment protests were beaten, detained, subjected to enforced disappearance or sentenced following unfair trials. At least two people were believed to have died because of injuries sustained from police beatings.' [131]

9.09 The USSD Report 2012, China (Tibet) further recorded that, 'The police and prison authorities in Tibetan areas employed torture and degrading treatment in dealing with some detainees and prisoners.' The same report added:

'There were reports during the year that some Tibetans who returned from Nepal either voluntarily or as a result of refoulement suffered torture while incarcerated or otherwise in the custody of Chinese officials, including electric shocks, exposure to cold, and severe beatings, as well as being forced to perform heavy physical labor. Security forces routinely subjected detainees and prisoners to "political investigation" sessions and punished them if they were deemed insufficiently loyal to the state.' [132]

9.10 On 18 April 2012 it was reported by the BBC that Tibetans protesting against Chinese rule were facing the worst crackdown since tens of thousands of people were killed in the Cultural Revolution of the 1960s and 1970s. [133]

9.11 In January 2012 Amnesty International reported that a number of clashes between Chinese security forces and Tibetan monks over the past month left three people dead and thirty-six injured. [134] A BBC news article from 14 January 2012 suggested that the clashes had been prompted by a Tibetan setting himself on fire in China, the latest in a

[129] Human Rights Watch (HRW) https://www.hrw.org/, World Report 2013 (Events of 2012), 31 January 2013, (p309 – Tibet), https://www.hrw.org/sites/default/files/wr2013_web.pdf, date accessed 30 August 2013
[130] HRW, "They Say We Should Be Grateful", 27 June 2013, (p33), http://www.hrw.org/sites/default/files/reports/tibet0613webwcover_0.pdf , date accessed 16 September 2013
[131] Amnesty International, Annual Report 2013, The State of The World's Human Rights , covering the period January to December 2012, 23 May 2013, (p63), http://www.amnesty.org/en/library/asset/POL10/001/2013/en/b093912e-8d30-4480-9ad1-acbb82be7f29/pol100012013en.pdf, date accessed 16 September 2013
[132] USSD, 2012 Country Report on Human Rights Practices: China (Tibet), 19 April 2013, (Torture and Other Cruel and Degrading Treatment), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204195.htm, date accessed 30 August 2013
[133] BBC News http://www.bbc.co.uk/, China crackdown on Tibet "worst since Cultural Revolution", 18 April 2012, http://www.bbc.co.uk/news/world-asia-17761598, date accessed 18 September 2013
[134] Amnesty International (AI), China must avoid excessive force in response to Tibetan protests, 24 January 2012, http://www.amnesty.org/en/news/china-must-allow-independent-investigation-tibetan-protest-clashes-2012-01-24, date accessed 18 September 2013

series of self-immolations. Sixteen incidences of self-immolations by Tibetans were recorded in the past year. [135]

9.12 On 31 January CNN reported that to contain the situation China sent in reinforcements to 'try to impose order on the scenic Ganzi Tibetan Autonomous Prefecture in Sichuan Province.' The report added that state media reported that 'outside rights groups and the exiled Tibetan spiritual leader, the Dalai Lama, are to blame for the troubles.' [136]

9.13 In a further incident, six Vietnamese Falun Gong followers detained while traveling illegally in China were "brutally" beaten by police and held in prison for several days before being deported home, according to the men. Radio Free Asia reported on 16 September 2013 that they were 'part of a group of a dozen followers who had traveled to China in July. The other six, all women, were deported home last week.' The report added:

'The men were flown to Hanoi on Thursday [12 September 2013], nearly a week after their whole group was rounded up by police in Beijing on Sept. 6. The group had been arrested, one of the men said, after making plans for a protest in Tiananmen Square against the Chinese government's treatment of practitioners of Falun Gong - which is banned in China as an "evil cult." The six women in the group, who had entered China with proper documentation, were deported to Hanoi after being held overnight, while the men, who had entered China without visas, were interrogated and put in prison for five days, according to Vu Hong To.' [137]

9.14 Furthermore, in its Annual Report 2011 on the human rights situation in Tibet, the Tibetan Centre for Human Rights and Democracy (TCHRD) stated:

'Torture is an ongoing problem in Tibet, as evidenced by the past experiences of Tibetans who flee into exile each year. While the Chinese government has proposed a new law to make evidence from torture inadmissible in court, there are still many loopholes that allow for torture to occur unchecked. Torture is often used as a punishment in itself, more to dissuade future dissent than to gain any new "evidence" from the past. The PRC [People's Republic of China] has now drafted new laws to legalize enforced disappearances of those deemed security threats.' [138] (p2)

9.15 The TCHRD Annual Report 2012 on the human rights situation in Tibet cited recorded instances where Monks had been tortured, including the following:

'In May 2012, a Tibetan monk from Nyagrong Monastery died in detention after he was beaten and tortured by the prison authorities while they attempted to force a confession from him. Karwang, 36, had been arbitrarily detained after posters calling for freedom appeared on the walls of Chinese government buildings in Nyagrong (Ch: Xinlong) County, Kardze (Ch: Ganzi) Tibetan Autonomous Prefecture, Sichuan Province.

[135] BBC News, Tibetan self-immolation triggers clash in China, 14 January 2012, http://www.bbc.co.uk/news/world-asia-china-16561227, date accessed 18 September 2013
[136] Cable News Network (CNN) http://edition.cnn.com/, China cracks down on unrest ahead of Tibetan holiday, 31 January 2012, http://edition.cnn.com/2012/01/30/world/asia/china-tibetans-crackdown/index.html?hpt=hp_t3, date accessed 18 September 2013
[137] Radio Free Asia (RFA) http://www.rfa.org/, Remaining Vietnamese Falun Gong Followers Held in China Return Home, 16 September 2013, http://www.rfa.org/english/news/vietnam/falun-gong-09162013193359.html, date accessed 17 September 2013
[138] Tibetan Centre for Human Rights and Democracy (TCHRD) http://www.tchrd.org/, Human Rights Situation in Tibet: Annual Report 2011 (p2), http://www.tchrd.org/category/annual-reports/, date accessed 24 September 2013

Karwang's body was returned to his family but the authorities never proved that Karwang was responsible for pasting the leaflets.

'A monk from Kirti Monastery, Lobsang Khedup, 39, was released in January 2012 from Mianyang Prison after serving about six months of his three year sentence. The lower part of his body is paralysed due to torture and beatings he received from prison guards. In addition to his paralysis, Lobsang can barely speak. His release from detention stems from the fact that he has minimal chances of recovery from these injuries, and more importantly, the Chinese authorities did not want another case of death in detention caused by torture to ruin the carefully cultivated image of a "harmonious, rising" China.' [139]

9.16 The TCHRD Annual Report 2011added, 'The only chance that Tibetans have to voice their concerns is often through public protest. But the Chinese government does all it can to intimidate and harass Tibetans into not voicing their concerns. Because authorities consider these protests to be political in nature, it is not uncommon for them to be beaten, arrested, and even shot at.' [140]

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Tibetan self-immolations

9.17 The International Federation for Human Rights (FIDH) report on the 'Human rights violations and self-immolation Testimonies by Tibetans in exile', 16 May 2012, stated:

'Fifty years after the brutal crackdown that lead the Dalai Lama and tens of thousands of Tibetans to escape from Tibet to India, the self-immolation of a young Tibetan monk from Kirti Monastery in Sichuan Province on 27 February 2009 marked the beginning of a new form of protest against the severe repression imposed by the People's Republic of China (PRC) on the people of Tibet. Between 16 March 2011 and 20 April 2012, the self-immolation of 34 more people, most of whom died, has revealed the degree of tension that prevails in the region. It also overwhelmingly suggests that the PRC's [People's Republic of China] policy for dealing with the Tibet question has failed.' [141]

9.18 The Telegraph newspaper, online edition, reported in June 2013 that, 'at least 117 Tibetans have set themselves alight since 2009, mostly in heavily Tibetan areas of Sichuan, Gansu and Qinghai provinces rather than in what China terms the Tibet Autonomous Region. Most have died.' [142]

9.19 The number of reported self-immolations by Tibetan Buddhist laypersons and clergy during 2012 was 83 (p63, Amnesty International). The US State Department's 2011 Country Report on Human Rights Practices (USSD Report 2012), Tibet, published on 19 April 2013, noted that this was more than six times that of 2011. The report added:

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[139] TCHRD, Human Rights Situation in Tibet: Annual Report 2012 (p33), http://www.tchrd.org/category/annual-reports/, date accessed 24 September 2013
[140] TCHRD, Human Rights Situation in Tibet: Annual Report 2011, (p4), http://www.tchrd.org/category/annual-reports/, date accessed 24 September 2013
[141] The International Federation for Human Rights (FIDH) http://www.fidh.org/, Human rights violations and self-immolation Testimonies by Tibetans in exile (Introduction), 16 May 2012, http://www.fidh.org/IMG//pdf/tibet587a.pdf, date accessed 18 September 2013
[142] The Telegraph http://www.telegraph.co.uk/, Dalai Lama doubts effect of Tibetan self-immolations, 13 June 2013, http://www.telegraph.co.uk/news/worldnews/asia/tibet/10117850/Dalai-Lama-doubts-effect-of-Tibetan-self-immolations.html, date accessed 18 September 2013

'In addition to an increase in the incidence of self-immolation, the geographic range of such incidents extended across the Tibetan Plateau (and in one case, to Beijing), and there was an increase in self-immolations by laypersons (as opposed to current or former Buddhist monks or nuns), the majority of whom were age 21 or older. A particularly alarming surge in self-immolations took place from October through early December, when 43 Tibetans reportedly self-immolated, 35 of them laypersons, including 18 in Gansu Province (which had previously seen only two such incidents), 16 in Qinghai Province, six in Sichuan Province, and three in the TAR. The vast majority of these incidents resulted in death.' [143]

9.20 The BBC reported in April 2013 that, 'The majority of the self-immolations since 2011 have taken place in ethnic Tibetan areas outside Tibet, many in Aba county. Most involved Buddhist monks or nuns calling, Tibetan activist groups say, for greater religious freedom and the return of their exiled spiritual leader, the Dalai Lama.' The BBC added: 'The Chinese government accuses the Dalai Lama of orchestrating the protests, a charge he strongly rejects. Foreign media are banned from the region, making verifying the self-immolation cases difficult. Chinese state media have confirmed some but not all.' [144]

9.21 The USSD Report 2012 (Tibet), stated:

'According to various overseas rights groups, on November 14, the government of Huangnan (Malho) TAP in Qinghai Province issued a notice to local party members and government officials ordering them to discipline bereaved family members of self-immolators by withholding public benefits, including disaster relief. The notice also called for the punishment of laypersons, monastic personnel, family members, and officials who organize or participate in burial or mourning activities. Villages where self-immolations take place are subject to the cancellation of publicly funded development and disaster relief projects, and monasteries found to have participated in or organized fundraising activities or prayer ceremonies for self-immolators or their families are subject to cancellation of public funding or even closure.

'Not long after the issuance of the November 14 notice, a number of friends, relatives, and associates of self-immolators across the Tibetan Plateau were detained, arrested, or sentenced. For example, the official Xinhua News Agency reported on December 9 that police had detained Kirti Monastery monk Lorang Konchok and his nephew, Lorang Tsering, and accused them of instigating self-immolations. On December 14, Phayul (a news Web site maintained by Tibetan exiles) reported that Chinese officials arrested five Tibetans in connection with the December 9 self-immolation of 17-year-old Bhenchen Kyi, a student in Zeku (Tsekhog) County, Huangnan (Malho) TAP, Qinghai Province. The whereabouts of the five were unknown. On December 27, Phayul reported that the father and grandfather of Gonpo Tsering, who self-immolated on November 26 in Luqu County, Gannan (Kanlho) TAP, Gansu Province, were detained in early December. Their whereabouts were unknown.' [145]

[143] USSD, 2012 Country Report on Human Rights Practices: China (Tibet) http://www.state.gov/, 19 April 2013, (Tibetan Self-Immolations), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204195.htm, date accessed 18 September 2013
[144] BBC News http://www.bbc.co.uk/, Two Tibetan monks in China die after self-immolations, 25 April 2013, http://www.bbc.co.uk/news/world-asia-china-22290746, date accessed 18 September 2013
[145] USSD, 2012 Country Report on Human Rights Practices: China (Tibet) (Tibetan Self-Immolations),, 19 April 2013, http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204195.htm, date accessed 18 September 2013

9.22 The Amnesty International Report 2013, The State of The World's Human Rights, covering the period January to December 2012, published on 23 May 2013, recorded that, 'At least three men were sentenced to up to seven and a half years in prison in separate cases for passing on information about cases of self-immolation to overseas organizations and media.' [146]

9.23 The Congresional-Executive Commission on China (CECC) report, Tibetan Self-Immolation - Rising Frequency, Wider Spread, Greater Diversity, dated 22 August 2012, stated:

'Chinese government and Party officials have not acknowledged the role of Party policy and government legal measures in Tibetan decisions to commit self-immolation. Officials have blamed self-immolations on the Dalai Lama and organizations and individuals the Party associates with him ("the Dalai Clique"). On January 12, 2012, a Ministry of Foreign Affairs spokesman asserted that the self-immolations "were organized, premeditated and instigated by overseas groups and people." Speaking to European Union officials on December 29, 2011, Zhu Weiqun, Executive Deputy Head of the Communist Party's United Front Work Department (UFWD) and Director of the Party's General Office of the Central Coordinating Group for Tibet Affairs blamed the Dalai Lama directly for the self-immolations and told the EU officials to expect no change in Chinese government policies on Tibetan issues…' The report listed instances of self-immolation between February 27, 2009–August 10, 2012, which were reported, or believed, to involve political or religious protest. [147]

The International Federation for Human Rights (FIDH) report on the 'Human rights violations and self-immolation Testimonies by Tibetans in exile', 16 May 2012, presented a selection of six testimonies from Tibetan asylum seekers in Europe which were based on thirty interviews carried out by FIDH throughout 2011 in Belgium, France and Switzerland – the three European countries hosting the largest number of Tibetans. [148]

The US State Department's 2012 Country Report on Human Rights Practices (USSD Report 2012), China (Tibet), published on 19 April 2013, provides further detailed information, including cited violations of human rights issues in Tibet.[149]

(See also Section 3: Security forces - Torture)

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[146] Amnesty International (AI) http://www.amnesty.org/, Annual Report 2013, The State of The World's Human Rights, covering the period January to December 2012, 23 May 2013, http://www.amnesty.org/en/library/asset/POL10/001/2013/en/b093912e-8d30-4480-9ad1-acbb82be7f29/pol100012013en.pdf, date accessed 16 September 2013

[147] Congresional-Executive Commission on China http://www.cecc.gov/, Tibetan Self-Immolation - Rising Frequency, Wider Spread, Greater Diversity, 22 August 2012, http://www.cecc.gov/publications/issue-papers/special-report-tibetan-self-immolation-rising-frequency-wider-spread, date accessed 18 September 2013

[148] FIDH, Human rights violations and self-immolation Testimonies by Tibetans in exile, 16 May 2012, http://www.fidh.org/IMG//pdf/tibet587a.pdf, date accessed 18 September 2013

[149] USSD, 2012 Country Report on Human Rights Practices: China (Tibet), 19 April 2013, http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204195.htm, date accessed 18 September 2013

Political prisoners held in Tibet

9.24 The US Congressional-Executive Commission on China's (US-CECC's), Annual Report 2013, published 10 October 2013, stated:

'As of September 1, 2013, the Commission's Political Prisoner Database (PPD) contained 1,531 records - a figure certain to be far from complete - of Tibetan political prisoners detained on or after March 10, 2008, the beginning of a period of mostly peaceful political protests that swept across the Tibetan plateau.

'Among the 1,531 PPD records of Tibetan political detentions reported since March 2008 are 28 Tibetans ordered to serve re-education through labor (23 are believed released upon completing their terms) and 328 Tibetans whom courts sentenced to imprisonment ranging from six months to life (142 are believed released upon sentence completion). Of the 328 Tibetan political prisoners sentenced to imprisonment since March 2008, sentencing information is available for 315 prisoners, including 309 with fixed-term sentences averaging 4 years and 8 months, based on PPD data as of September 1, 2013.' [150]

9.25 The USSD Report 2012, China (Tibet), observed that, 'In 2009 the deputy director of the TAR [Tibet Autonomous Region] Justice Bureau told a foreign diplomat that there were 3,000 prisoners in the five TAR prisons, which are separate from the Reform through Labor (RTL) system.' The report added that:

'According to numerous sources, political prisoners in Tibetan areas endured unsanitary conditions and often had little opportunity to wash or bathe. Many prisoners slept on the floor without blankets or sheets. Former prisoners reported being confined with 20 to 30 cellmates for many days, isolated in a small cell for as long as three months, and deprived of sunlight and adequate food, water, and blankets. In addition, prison authorities banned religious observances.' [151]

9.26 The Tibetan Centre for Human Rights and Democracy (TCHRD)'s Human Rights Situation in Tibet: Annual Report 2012, provided a List of Known Political Prisoners. [152]

9.27 The BBC reported on 2 April 2013 that, 'China has released Tibetan political prisoner Jigme Gyatso after 17 years in jail, reports say. Tashi Phuntsok, spokesman for Tibet's government in exile, said Mr Gyatso was freed a year before the end of his jail term, probably because of ill health. Mr Gyatso was jailed in 1996 on charges of separatism and endangering national security and is thought to be suffering from kidney problems.' [153]

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[150] US Congressional-Executive Commission on China (CECC) http://www.cecc.gov/, Annual Report 2013 (p184-185 - Summary: Tibetan Political Detention and Imprisonment), 10 October 2013, http://www.cecc.gov/sites/chinacommission.house.gov/files/AR13DJ.PDF, date accessed 31 October 2013
[151] US State Department (USSD) http://www.state.gov/, 2012 Country Report on Human Rights Practices: China (Tibet) (Prison and Detention Center Conditions), 19 April 2013, http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204195.htm, date accessed 30 August 2013
[152] Tibetan Centre for Human Rights and Democracy (TCHRD) http://www.tchrd.org/, Human Rights Situation in Tibet: Annual Report 2012 (p71-105), http://www.tchrd.org/category/annual-reports/, date accessed 24 September 2013
[153] BBC News http://www.bbc.co.uk/, China releases Tibetan political prisoner after 17 years, 2 April 2013, http://www.bbc.co.uk/news/world-asia-china-22003893, date accessed 24 September 2013

10. Family planning ("one child policy")

10.01 The Congressional Research Service (CRS) report of 19 June 2013 stated, 'China's "One-Child Policy," launched in 1980 to curb population growth, promotes an ideal of one child per family. Each province has its own family planning guidelines. Many jurisdictions allow for more than one child for ethnic minorities, rural couples in which the first child is a girl, couples in which both parents are only children, and in various other circumstances.' [154]

10.02 The Freedom House (FH) report, Freedom in the World 2013, China, covering events in 2012 and published in January 2013, stated, 'Despite increasing discussion of potential reforms, China's population controls remain in place, and couples are required to obtain government permission before conceiving. In urban areas, only one child per couple is permitted, while many rural families are limited to two children.' [155]

10.03 The US State Department's 2012 Country Report on Human Rights Practices (USSD Report 2012), China, published on 19 April 2013, noted that:

'The law grants married couples the right to have one birth and allows eligible couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations…

'The National Population and Family Planning Commission reported that all provinces eliminated the birth-approval requirement before a first child is conceived, but provinces may still continue to require parents to "register" pregnancies prior to giving birth to their first child. This registration requirement can be used as a de facto permit system in some provinces, as some local governments continued to mandate abortion for single women who became pregnant. Provinces and localities imposed fines of various amounts on unwed mothers.' [156]

10.04 In September 2013 the New York Times reported that, 'Nineteen province-level governments in China collected a total of $2.7 billion in fines last year from parents who had violated family planning laws, which usually limit couples to one child, a lawyer [Wu Youshui of Zhejiang Province] who had requested the data said…' [157]

10.05 The US Congressional-Executive Commission on China (US-CECC), Annual Report 2013, published 10 October 2012, concurred, observing that, 'The population planning policies of all of China's 31 provincial-level jurisdictions limit couples to bearing one child.' [158]

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[154] Congressional Research Service (CRS) http://www.fas.org/, Human Rights in China and U.S. Policy: Issues for the 113th Congress, 19 June 2013, (p17 - China's Family Planning Policies), http://www.fas.org/sgp/crs/row/R43000.pdf, date accessed 2 September 2013

[155] Freedom House http://www.freedomhouse.org/, Freedom in the World 2013: China, January 2013, http://www.freedomhouse.org/report/freedom-world/2013/china, date accessed 2 September 2013

[156] US State Department (USSD) http://www.state.gov/, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 6 – Women), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013

[157] New York Times (NYT) http://www.nytimes.com/, Population Control Is Called Big Revenue Source in China, 26 September 2013, http://www.nytimes.com/2013/09/27/world/asia/chinese-provinces-collected-billions-in-family-planning-fines-lawyer-says.html?_r=0, date accessed 7 November 2013

[158] US Congressional-Executive Commission on China (US-CECC) http://www.cecc.gov/, Annual Report 2013, 10 October 2013, (p99 – Introduction), http://www.cecc.gov/sites/chinacommission.house.gov/files/AR13DJ.PDF, date accessed 31 October 2013

10.06 Article 25 (Chapter I) 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 (Chapter II) states, 'Both husband and wife have the duty to practise family planning.' However, 'The PRC [People's Republic of China] Population and Family Planning Law and provincial implementing guidelines…limit couples' freedom of reproductive choice by stipulating if, when, and how often they may bear children.' [159]

10.07 The Guardian online reported in April 2011 on China's One Child Policy, noting:

'The description of the system as a "one-child policy" is misleading. Most married women in China have the chance to bear two offspring, but the entitlement to breed beyond a solitary child is determined by a complex set of rules that vary from province to province and are often applied differently from village to village.

'Broadly speaking, urban couples are allowed one child, rural families can try for a second if the first is a girl and women from ethnic minorities are permitted to give birth two or three times in their lifetime. But there are close to a dozen exceptions, including if a baby has disabilities or if the mother and father are both single children. Communist cadres and government officials can be fired for procreational transgressions because they are supposed to set an example. By contrast, Tibetans have the fewest restrictions.

'Money is another key factor. The rich in Shanghai and Beijing can easily afford the penalties for a second or third child. The poor in Gansu and Yunnan, by contrast are at risk of having their meagre property confiscated if they fail to remain within birthing quotas.' [160]

The Center for Reproductive Rights report, Women of the World: Laws and Policies Affecting their Reproductive Lives East and Southeast Asia, 7 January 2011 provides further information on China's family planning Policies and Laws. [161]

(See also subsection on Family planning in rural and urban areas)

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Family planning law and other regulations

10.08 The US-CECC, Annual Report 2013 stated that, 'The PRC [People's Republic of China] Population and Family Planning Law and provincial implementing guidelines limit couples' freedom of reproductive choice by stipulating if, when, and how often they may bear children.' [162]

[159] National People's Congress http://www.npc.gov.cn/, Constitution of the People's Republic of China, adopted 4 December 1982 and amended March 2004, http://www.npc.gov.cn/englishnpc/Constitution/node_2825.htm, date accessed 9 October 2013
[160] The Guardian http://www.guardian.co.uk/, China's one-child policy means benefits for parents – if they follow the rules, 25 October 2011, http://www.guardian.co.uk/environment/2011/oct/25/china-one-child-policy-benefits-rules?intcmp=239, date accessed 23 October 2013
[161] Center for Reproductive Rights http://reproductiverights.org/, Women of the World: Laws and Policies Affecting their Reproductive Lives East and Southeast Asia, (China), 7 January 2011, (p39-44), http://reproductiverights.org/sites/crr.civicactions.net/files/documents/China.pdf, date accessed 23 October 2013
[162] US CECC, Annual Report 2013, 10 October 2013, (p99 - Population Planning), http://www.cecc.gov/sites/chinacommission.house.gov/files/AR13DJ.PDF, date accessed 31 October 2013

10.09 Article 1 of the Population and Family Planning Law (2002) states, 'This law is enacted, in accordance with the Constitution, so as to bring population into balance with social economic development, resources, and the environment: to promote family planning; to protect citizens' legitimate rights and interests; to enhance family happiness, and to contribute to the nation's prosperity and social progress.' [163]

10.10 Article 2 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.' [164]

10.11 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.' [165]

10.12 The USSD Report 2012, stated:

'The National Population and Family Planning Commission reported that all provinces eliminated the birth-approval requirement before a first child is conceived, but provinces may still continue to require parents to "register" pregnancies prior to giving birth to their first child. This registration requirement can be used as a de facto permit system in some provinces, as some local governments continued to mandate abortion for single women who became pregnant. Provinces and localities imposed fines of various amounts on unwed mothers.

'Regulations requiring women who violate family-planning policy to terminate their pregnancies still exist in the 25th and 22nd provisions of the Population and Family Control Regulation of Liaoning and Heilongjiang provinces, respectively. An additional 10 provinces – Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Sichuan, Shanxi, Shaanxi, and Yunnan – require unspecified "remedial measures" to deal with unauthorized pregnancies.' [166]

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[163] Chinese Government official web portal http://english.gov.cn/, Population and Family Planning Law of the People's Republic of China, effective from 1 September 2002, UNHCR Country of Origin and Legal Information: China, http://english.gov.cn/laws/2005-10/11/content_75954.htm, date accessed 4 November 2013
[164] Chinese Government official web portal, Population and Family Planning Law of the People's Republic of China, effective from 1 September 2002, UNHCR Country of Origin and Legal Information: China, http://english.gov.cn/laws/2005-10/11/content_75954.htm, date accessed 4 November 2013
[165] Chinese Government official web portal, Population and Family Planning Law of the People's Republic of China, effective from 1 September 2002, UNHCR Country of Origin and Legal Information: China, http://english.gov.cn/laws/2005-10/11/content_75954.htm, date accessed 4 November 2013
[166] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 6 – Women), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013

10.13 The US Congressional-Executive Commission on China (US-CECC), Annual Report 2013, published 10 October 2013, stated:

'Chinese law prohibits official infringement upon the rights and interests of citizens while implementing population planning policies but does not define what constitutes a citizen's right or interest. Chinese law does not stipulate punishment for officials who demand or implement forced abortions. Provincial population planning regulations in at least 22 of China's 31 provinces explicitly endorse mandatory abortions, often referred to as a "remedial measure" (bujiu cuoshi), as an official policy instrument.' [167]

10.14 The Congressional Research Service (CRS) report, Human Rights in China and U.S. Policy: Issues for the 113th Congress, 19 June 2013, stated:

'China's 2002 Population and Family Planning Law does not explicitly condone abortion as a means of dealing with violations of the One-Child Policy, stating that "Family planning shall be practiced chiefly by means of contraception." However, the national law does authorize other penalties for violators of the policy, including heavy fines and job-related sanctions, as well as the denial of public health and education benefits to offspring beyond the first child. The policy has led to many human rights abuses by local level officials attempting to enforce the law, including forced contraception, sterilization, and abortion. According to the CECC [Congressional-Executive Commission on China], in the past year "authorities in a wide range of localities implemented population planning enforcement campaigns that employed coercive measures to prevent or terminate "'out-of plan' pregnancies".' [168]

Enforcement

10.15 The Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report, published in April 2013, stated that, 'The Chinese government continues to enforce family-planning policies, and has re-affirmed that it does not currently intend major reforms or abolition of these policies. There were continued reports of the illegal use of forced abortions and sterilisations in 2012.' [169]

10.16 The USSD Report 2012 noted that, 'The 2002 national population and family-planning law standardized the implementation of the government's birth-limitation policies; however, enforcement varied significantly.' [170]

10.17 The US Congressional-Executive Commission on China (US-CECC), Annual Report 2013, stated:

'Chinese law prohibits officials from infringing upon the rights and interests of citizens while implementing population planning policies but does not define what constitutes a citizen's right or interest. Chinese law reportedly does not stipulate punishment for officials who demand or implement forced abortion. Furthermore, provincial-level

[167] US CECC, Annual Report 2013, 10 October 2013, (p27 - Population Planning – Findings), http://www.cecc.gov/sites/chinacommission.house.gov/files/AR13DJ.PDF, date accessed 31 October 2013
[168] CRS, Human Rights in China and U.S. Policy: Issues for the 113th Congress, 19 June 2013, (p17 - China's Family Planning Policies), http://www.fas.org/sgp/crs/row/R43000.pdf, date accessed 2 September 2013
[169] Foreign & Commonwealth Office (FCO) https://www.gov.uk/, The Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report, April 2013, (p143 – China – Women's rights), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/186688/Cm_8593_Accessible_complete.pdf, date accessed 4 November 2013
[170] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 6 – Women), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, Date accessed 30 August 2013

population planning regulations in at least 22 of China's 31 provincial-level jurisdictions explicitly endorse the practice, often referred to as a "remedial measure" (bujiu cuoshi), as an official policy instrument. Officials also reportedly continue to use other coercive methods - including forced abortion under arbitrary detention, forced implantation of long-term birth control devices, and forced sterilization - to implement population planning policies.' [171]

10.18 The US-CECC's Annual Report 2013 added:

'Chinese authorities continued to use various methods of punishment and reward to manage citizens' compliance with population planning policies. In accordance with national measures, local governments direct officials to punish non-compliance with heavy fines, termed "social maintenance fees" (shehui fuyang fei), which force many couples to choose between undergoing an unwanted abortion and incurring a fine much greater than the average annual income of their locality. Furthermore, despite provisions in the PRC [People's Republic of China] Population and Family Planning Law that prohibit infringements on citizens' personal, property, and other rights, officials in some cases threatened or imposed job termination, expulsion from the Communist Party, and violence for family planning violations. In past years, reports have documented officials' use of methods such as destruction of personal property and arbitrary detention to punish couples who did not comply with population planning policies.' [172]

10.19 On 10 May 2011 the BBC reported that authorities in China were investigating reports that about 20 babies had been seized under the country's one-child-per-family policy and put up for international adoption. The article noted:

'Chinese media say family planning officials in Hunan province took the children from poor homes unable to pay fines for having more than one child. The children were allegedly listed as orphans and adopted by foreigners for fees of about $3,000 (£1,800) each. Xinhua news agency said some were now in the US, the Netherlands and Poland. The reports first appeared in Caixin magazine and caused such outrage that the Hunan provincial government has launched a formal investigation… Caixin reported that when some families in poorer parts of Hunan were unable to pay their fines, authorities would tear down their houses. Then - about 10 years ago - officials started confiscating their children, it is claimed.' [173]

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Forced abortion/sterilisation

10.20 The Freedom House (FH) report, Freedom in the World 2013, China, stated:

'Compulsory abortion and sterilization, though less common than in the past, still occur fairly frequently, and high-profile cases sparked public outrage during 2012. According to the Congressional-Executive Commission on China, regulations in 18 of 31

[171] US CECC, Annual Report 2013, 10 October 2013, (p100 - Population Planning - Coercive Implementation), http://www.cecc.gov/sites/chinacommission.house.gov/files/AR13DJ.PDF, date accessed 31 October 2013
[172] US CECC, Annual Report 2013, 10 October 2013, (p103 - Population Planning - Punishments for Non-Compliance), http://www.cecc.gov/sites/chinacommission.house.gov/files/AR13DJ.PDF, date accessed 31 October 2013
[173] BBC News http://www.bbc.co.uk/, Chinese babies "confiscated for overseas adoption", 10 May 2011, http://www.bbc.co.uk/news/world-asia-pacific-13350757, date accessed 4 November 2013

provincial-level administrative units explicitly endorse mandatory abortions as an enforcement tool. Officials who fail to meet birth and sterilization quotas risk disciplinary action, and relatives of unsterilized women or couples with unapproved pregnancies were subjected to high fines, job dismissal, and detention in 2012. These controls, combined with commercial ultrasound technology and cultural and economic pressures favoring boys, have led to sex-selective abortion and a general shortage of females, exacerbating the problem of human trafficking.' [174]

10.21 According to China's Health Ministry as reported by The Telegraph in March 2013, 'More than half a billion birth control procedures, including at least 336 million abortions, have been performed in the name of the one-child policy.' Furthermore, 'There are more than 13 million abortions a year, or 1,500 an hour, in China, according to government researchers, who blame the high figure on a lack of sex education.' [175]

10.22 On 4 October 2013 Sky News reported on a couple who were were physically forced into an abortion by the Chinese authorities, three months before their child was due to be born. Sky recorded that:

'At 4am last Friday, a group of 20 officials from the Shandong Province Family Planning Commission forced their way into the home of Zhou Guoqiang and his wife Liu Xinwen. The officials kicked down the door of the family's home. Mr Zhou was held down while his wife was pulled from her bed and taken away. Liu Xinwen, 33, was taken to the People's Hospital of Fangzi District in Weifang City where she was injected with an abortion-inducing drug. Her baby, which she would later discover was a boy, died a day later in her womb. It took a further day for the foetus to be delivered. Her husband was not told where she had been taken. It took him five hours to find her at the hospital. By then, the injection had been given.' [176]

10.23 Another case which was highly publisized in the media in June 2012, leading to online protests, was that of Feng Jianmei, who was reportedly forcibly subjected to a late-term abortion by local family-planning officials in Shaanxi province.[177] The BBC reported on this story, observing that:

'Feng Jiamei, from Shaanxi province, was made to undergo the procedure in the seventh month of pregnancy, local officials said after investigating. Ms Feng was forced into the abortion as she could not pay the fine for having a second child, US-based activists said…Unnamed local officials in Zhenping county - where the incident took place - denied forcing Ms Feng to have the abortion, local media reports say. But a preliminary investigation by the Shaanxi Provincial Population and Family Planning

[174] Freedom House, Freedom in the World 2013: China, January 2013, http://www.freedomhouse.org/report/freedom-world/2013/china, date accessed 2 September 2013
[175] The Telegraph http://www.telegraph.co.uk/, 336 million abortions under China's one-child policy, 15 March 2013, http://www.telegraph.co.uk/news/worldnews/asia/china/9933468/336-million-abortions-under-Chinas-one-child-policy.html, date accessed 5 November 2013
[176] Sky News http://news.sky.com/, China Couple Speak Of 'Forced Abortion', 4 October 2013, http://news.sky.com/story/1150016/china-couple-speak-of-forced-abortion, date accessed 5 November 2013
[177] Foreign & Commonwealth Office (FCO), The Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report, April 2013, (p143), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/186688/Cm_8593_Accessible_complete.pdf, date accessed 4 November 2013

Commission confirmed the forced abortion had taken place. Without naming Ms Feng, it said in a statement that the woman had been seven months pregnant.' [178]

10.24 As Radio Free Asia reported, 'Feng told RFA at the time that she had been forced to have the procedure by local family planning bureau officials after she failed to pay a 40,000 yuan (U.S. $6,300) fine for an "excess birth" under China's draconian population control policies.' [179]

10.25 Following the news of the abortion, Radio Free Asia reported that a '… rare official reaction over the recent forced abortion of a Shaanxi woman's seven-month-old f[o]etus is unlikely to herald any change in China's draconian family planning regime, where such practices have been the norm for nearly three decades, Chinese commentators said.' [180] Two top local family planning officials and the head of the township government were suspended over the case which attracted high media attention after graphic photos of the mother and her dead baby appeared on the internet.[181]

10.26 In a separate case, on 12 January 2012 Radio Free Asia reported that Family Planning officials in the southeastern Chinese province of Fujian had attempted to carry out a forced sterilization on a woman, but, according to the woman, the officials gave up the attempt after she struggled against them holding her down on the operating table. The article reported:

'Huang Yongchun, of Huyang village in Fujian's Shanghang county, said that officials from her local village first tried to insist she submit to a pregnancy test, before putting her onto an operating table at a local family planning clinic and holding her down. "They took me over there this morning, and about eight of them held me down on the operating table," said Huang, who has already given birth to two children, one more than is commonly allowed under China's draconian "one-child" policy, aimed at curbing rapid population growth among its 1.3 billion people. "There were men and women doing this." She said the doctor had eventually refused to carry out the procedure because of her state of agitation. "The doctor didn't want to do the operation because I was terrified," Huang said. "I was shuddering there on the operating table because I felt so helpless".' [182]

10.27 In December 2011 Chinese family planning officials detained a local woman and her baby son in the eastern Chinese province of Shandong for allegedly exceeding local birth quotas. Authorities demanded 40,000 yuan (U.S. $6,300), according to her husband. Radio Free Asia (RFA) reported:

'The authorities detained Wu Donghui last week, according to her husband Liu Zhi, from the city's Xiaolizhuang district.

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[178] BBC News, China forced abortion photo sparks outrage, 14 June 2012, http://www.bbc.co.uk/news/world-asia-china-18435126, date accessed 4 November 2013
[179] Radio Free Asia (RFA) http://www.rfa.org/, Late Forced Abortions "Standard", 21 June 2012, http://www.rfa.org/english/news/china/abortions-06212012092813.html, date accessed 4 November 2013
[180] RFA, Late Forced Abortions "Standard", 21 June 2012, http://www.rfa.org/english/news/china/abortions-06212012092813.html, date accessed 4 November 2013
[181] The Huffington Post http://www.huffingtonpost.com/, China Forced Abortion Case: Beijing Suspends 3 Officials In Controversial Case Of Feng Jianmei, 15 June 2012, http://www.huffingtonpost.com/2012/06/15/china-forced-abortion_n_1599485.html?utm_hp_ref=china, date accessed 4 November 2013
[182] RFA, Woman Flees Forced Sterilization, 12 January 2012, http://www.rfa.org/english/news/china/child-01122012145358.html?searchterm=None, date accessed 4 November 2013

'"Last Friday they managed to lure her into detention through false pretenses," Liu said. "They told me my wife was going to the family planning committee for a check-up, and then they took her away."

'Liu said the couple first fell foul of family planning restrictions in August 2010, when they had their second child, exceeding urban birth quotas.

'"Our second child, a boy, was born without permission or certification," he said. "But they never contacted us to tell us how we were to pay the fine".' [183]

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Penalties for non-compliance

10.28 Chapter VI, Article 41 of the Population and Family Planning Law (2002) states:

'Citizens who give birth to babies not in compliance with the provisions of Article 18 of this Law shall pay a social maintenance fee prescribed by law.

'Citizens who fails [sic] to pay the full amount of the said fees payable within the specified time limit shall have to pay an additional surcharge each in accordance with relevant State regulations, counting from the date each fails to pay the fees; with regard to ones who still fail to make the payment, the administrative department for family planning that makes the decision on collection of the fees shall, in accordance with law, apply to the People's Court for enforcement.' [184]

10.29 The US Congressional-Executive Commission on China (US-CECC), Annual Report 2013, published 10 October 2013, observed that, 'Chinese government officials continued to implement population planning policies that interfere with and control the reproductive lives of Chinese citizens, especially women. Officials employed various methods including fines, withholding of social benefits and permits, forced sterilization, forced abortion, and arbitrary detention to punish policy violators.' [185]

10.30 Reporting on Shanghai's policies on penalties for breaching the one-child rule, The Economist observed in June 2012 that:

'Parents in Shanghai pay between three and six times the city's average yearly income in what are called "social-maintenance fees" (SMF) for extra children. He Yafu, an independent scholar and critic of the one-child policy, estimates the government has collected over 2 trillion yuan ($314 billion) in SMFs since 1980…

[183] RFA, Officials Take Woman, Child Hostage, 16 December 2011, http://www.rfa.org/english/news/china/family-12162011135742.html?searchterm=None, date accessed 4 November 2013
[184] Chinese Government official web portal, Population and Family Planning Law of the People's Republic of China, effective from 1 September 2002, UNHCR Country of Origin and Legal Information: China, http://english.gov.cn/laws/2005-10/11/content_75954.htm, date accessed 4 November 2013
[185] US CECC, Annual Report 2013, 10 October 2013, (p79 – Planning Population - Findings), http://www.cecc.gov/sites/chinacommission.house.gov/files/AR13DJ.PDF, date accessed 31 October 2013

'Failure to pay the fine carries grave repercussions. The second "black child" cannot get a household registration, a hukou, which carries with it such basic rights as education. But backlash can be more severe.' [186]

10.31 In April 2011 The China Post reported:

'Fewer couples in China's capital city [Beijing] who violate the country's family planning policy by having a second child will be subject to fines, according to the municipal commission of population and family planning. Under the new guidelines, Beijing couples who have a second child will be fined only if both the mother is younger than 28 and the second child is born within four years of the birth of the first child. In the past, such couples had to pay a fifth of their annual income if they had a second child either when the mother was younger than 28 or did not wait at least four years after the birth of the first child. Not all couples, though, will be exempted from the policy. Those in which one partner has a sibling - or both partners do - will still be discouraged from having a second child. The change comes amid wide speculation that China is planning to relax its family planning policy. But some believe it will fail to satisfy the public's opes.' [187]

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Family planning regulations in Fujian

10.32 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.' [188]

10.33 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;

[186] The Economist http://www.economist.com/, Consequences of the one-child policy, Perils of motherhood, 16 June 2012, http://www.economist.com/blogs/analects/2012/06/consequences-one-child-policy, date accessed 5 November 2013
[187] The China Post http://www.chinapost.com.tw/, Beijing loosens one-child policy for some couples, 4 April 2011, http://www.chinapost.com.tw/china/national-news/2011/04/04/297235/Beijing-loosens.htm, date accessed 5 November 2013
[188] National Legislative Bodies http://www.unhcr.org/, Population and Family Planning Regulation of Fujian Province (unofficial translation), adopted 26 July 2002, effective from 1 September 2002, UNHCR Country of Origin and Legal Information: China, http://www.unhcr.org/refworld/country,,NATLEGBOD,,CHN,,4242b7394,0.html, date accessed 5 November 2013

'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.' [189]

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Family planning regulations in Guangdong

10.34 The Immigration and Refugee Board of Canada response on the 1 October 2012 stated:

'The Population and Family Planning Regulations of the Province of Guangdong, which entered into effect in January 2009, outlines eight situations in which a couple can apply to have a second child. For example, a second child may be permitted if:

- 'both spouses are single children and have only one child;
- 'The parents are rural residents and their first child is female, and neither parent is a state employee at the county level or above;
- 'if they belong to an ethnic minority and are rural residents of an autonomous ethnic minority county (Guangdong 2009, Art. 19, 20, 22)…

'The regulations also apply to births in Guangdong "that involve Chinese returning from overseas and their family members, or…citizens whose household registration is held within Guangdong but who reside outside the province, or…spouses who are residents of [Hong Kong, Macao, or Taiwan] or foreigners" (ibid., Art. 23).

'Social support fees range from three to six times the local average annual per capita disposable income (for urban residents) or net income (for rural residents), multiplied by the number of unauthorized ("'out-of-quota'") children (ibid., Art. 53). Fines for out-of-wedlock births are doubled for the first child, and between three and six times the standard fine for subsequent children, while a birth that is the result of an extramarital affair is between six and nine times the standard fine (ibid.). The regulations also apply to unauthorized adoptions (ibid.).

'The regulations stipulate that migrant workers of reproductive age who do not have proof of their reproductive status (a family planning certificate), or who do not use birth

[189] National Legislative Bodies, Population and Family Planning Regulation of Fujian Province (unofficial translation), adopted 26 July 2002, effective from 1 September 2002, UNHCR Country of Origin and Legal Information: China, http://www.unhcr.org/refworld/country,,NATLEGBOD,,CHN,,4242b7394,0.html, date accessed 5 November 2013

control or submit to pregnancy tests, are not permitted to work or rent accommodations and are liable to lose their job and housing (ibid., Art. 43, 46).' [190]

(See also subsection on Family planning in rural and urban areas)

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Ethnic minorities

10.35 With regards to Family Planning regulations in Tibet, a report published by Tibettruth, Coercive Birth Control In Occupied Tibet: An examination and exposé of China's coercive population program as operated inside occupied Tibet, January 2011, stated:

'A degree of confusion exists over precise descriptions of Chinese birth control policy in occupied Tibet, probably born of the fact that central policies may be modified at "province" and local level by local authorities. Thus the actualities of the policy may vary slightly from place to place…

'Whilst local policies vary slightly from region to region, they must all adhere to the central policy set down by the communist Chinese government. While responsibility is to at least some degree devolved to local officials acting through regional governments, the strength of central guidance on policy and practice is clearly detectable in the official statements of national and local governments. Regional birth control offices appear to control a number of local offices with the job of monitoring the population to ensure strict adherence to the policy and issuing permission for state sanctioned births.

'It appears that virtually ALL AREAS of Tibet are subject to birth quota policies. Tibetan officials seem to be either allowed or under considerable pressure to have only one child. Urban dwelling Tibetans appear to be allowed only two children with three being allowed in "special circumstances". Rural Tibetans appear to be allowed between two and four children. There appear to be age limits for birth, at least in some areas where women may have to be 25 or between 25 and 35 to bear children. Couples may have had to have been married for at least four years.

'Unmarried women appear to be universally denied the right to bear children. In addition to this, restrictions on the number of births in a year are imposed by the restricted issue of birth permits. Thus whilst couples may be eligible to have children, permission can be denied if the quota of birth permits to be issued for that region is already used.' [191]

[190] Immigration and Refugee Board of Canada (IRB) http://www.irb-cisr.gc.ca/ENG/Pages/index.aspx, China: Family planning laws, enforcement and exceptions in the provinces of Guangdong and Fujian; reports of forced abortions or sterilization of men and women; consequences to officials who force women to have an abortion; whether family planning authorities interact with the Public Security Bureau in enforcing their decisions (2010-September 2012), 1 October 2012, CHN104185.E, http://www.refworld.org/docid/50a9fb482.html, date accessed 5 November 2013

[191] Tibettruth http://tibettruth.com/, Coercive Birth Control In Occupied Tibet:J An examination and exposé of China's coercive population program as operated inside occupied Tibet, January 2011, (p3-4), http://www.crin.org/docs/cbcit.pdf, date accessed 4 November 2013

Family planning in rural and urban areas

10.36 The Freedom House (FH) report, Freedom in the World 2013, China, covering events in 2012 and published in January 2013, stated, 'Despite increasing discussion of potential reforms, China's population controls remain in place, and couples are required to obtain government permission before conceiving. In urban areas, only one child per couple is permitted, while many rural families are limited to two children. Compulsory abortion and sterilization, though less common than in the past, still occur fairly frequently, and high-profile cases sparked public outrage during 2012.' [192]

10.37 The USSD Report 2012 concurred, noting that the '… one-child limit was more strictly applied in urban areas, where only couples meeting certain conditions were permitted to have a second child (e.g., if each of the would-be parents was an only child). In most rural areas, the policy was more relaxed, with couples permitted to have a second child in cases where their first child was a girl. Ethnic minorities were subject to less stringent rules.' [193]

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11. Medical issues

Overview of availability of medical treatment and drugs

11.01 The Health Service Delivery Profile, China, 2012, developed in collaboration with The World Health Organization (WHO) and China National Health Development Research Centre, stated:

'Health services in China are mainly provided by the public system, which covers 90% of emergency and inpatient services. For outpatient care, the private sector has increased its market share in recent years, with concomitant increases in out-of pocket payments. China's health system is organised along four administrative levels: national, provincial, city and county. Government-owned county hospitals and rural community based clinics are usually directly managed by county's Health Bureau. Each administrative level has health supply system including Traditional Chinese Medicine and public health. The public health network has been established along the same four administrative levels, and includes institutions of diseases control and prevention, health education, infant and maternal care, health supervision and mental health, etc. The health institutions at different levels undertake different responsibilities. The community health facilities mainly provide services on prevention, medical care, health care, recurring services, health education and family planning. Township health centres and village clinics mainly focus on rural residents, and supply the medical care for common, prevalent diseases and primary public health services. County-level hospitals are responsible for acute care and basic health service and technical support for township- and country-level clinics. Township-level clinics are responsible for diagnosis and treatment of common diseases and technical and managerial support for country-level clinics.

[192] Freedom House http://www.freedomhouse.org/, Freedom in the World 2013: China, January 2013, http://www.freedomhouse.org/report/freedom-world/2013/china, date accessed 2 September 2013
[193] US State Department (USSD) http://www.state.gov/, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 6 – Women), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013

'The urban health system has community-level health service facilities as the basis, and is responsible for curative and rehabilitative services, exercising the duty of gatekeeper for residents' health. City hospitals support sustainable development of community-level health facilities by providing technical support and staff training. Large general hospitals at city, provincial and national level have responsibility for treatment emergent, serious and complicated diseases, along with medical education and scientific research.' [194]

11.02 The Government of the People's Republic of China and the World Health Organization (WHO) publication, China - WHO Country Cooperation Strategy (CCS) 2013 to 2015, published in February 2013, stated that as of 2011:

'China had a total of 954 389 health-care facilities. They include hospitals, primary care institutions, public health institutions and other facilities. In addition to hospitals, several categories of primary care institutions (district health centres and county hospitals) and public health institutions (maternal and child health centres) also provide inpatient medical care. Among the total of 5.16 million inpatient beds, about 30% was under those categories…

'The total number of the health workforce increased from 6.14 million in 1990 to 8.62 million in 2011. The number of doctors, including assistant doctors, per 1000 population increased from 1.56 in 1990 to 1.82 in 2011.35 However, the health workforce remains a constraint for equitable implementation of quality health services. Firstly, there are huge disparities of human resources across the different geographic regions and areas… Secondly, the number and quality of the public health workforce cannot meet people's increasing needs for preventive health care. The training, production and retention of general practitioners remain big problems.' [195]

11.03 The report further added, 'The national essential medicine system is seen as an important aspect of health reform. In August 2009, the National Essential Medicine List was launched. Effective management is used in selection, production, distribution, use, pricing, reimbursement, monitoring, evaluation and other aspects of essential medicines. Overall, the medicine supply system has been strengthened. Since July 2011, essential medicines have been used in the government-run primary health-care facilities with zeromarkup drug sales.' [196]

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Traditional medicine

11.04 The Health Service Delivery Profile, China, 2012, stated that, 'Traditional Chinese Medicine (TCM) is an integrated part of health service in China. Public TCM hospitals are arranged in three levels, national, provincial/city and county level. Most public

[194] The World Health Organization (WHO) http://www.wpro.who.int/, The Health Service Delivery Profile, China, 2012, (p5 - Service delivery model), http://www.wpro.who.int/health_services/service_delivery_profile_china.pdf, date accessed 8 November 2013

[195] WHO, The Government of the People's Republic of China and the World Health Organization (WHO), China—WHO Country Cooperation Strategy (CCS) 2013 to 2015, published February 2013, (p11-12), http://www.wpro.who.int/china/en_chinaccs13.pdf, date accessed 7 November 2013

[196] WHO, The Government of the People's Republic of China and the World Health Organization (WHO), China—WHO Country Cooperation Strategy (CCS) 2013 to 2015, published February 2013, (p12), http://www.wpro.who.int/china/en_chinaccs13.pdf, date accessed 7 November 2013

hospitals have departments of TCM. Some private health institutions also provide TCM services.' [197]

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HIV/AIDS

11.05 The US Congressional-Executive Commission on China's (US-CECC's) Annual Report 2013, published 10 October 2013, observed that, 'Discrimination in access to medical treatment for people living with HIV/AIDS (PLWHA) continues to be a challenge in China.' The report cited that:

'In October 2012, a Chinese NGO [non-governmental organisation] in Tianjin reported on a local man who had been denied treatment for lung cancer at several hospitals due to his HIVpositive status. In November 2012, the Ministry of Health (MOH) – reportedly at the behest of Premier Li Keqiang – issued a directive ordering hospitals to "take steps to guarantee the right to medical treatment" for PLWHA. Beijing Aizhixing Institute, a public health advocacy organization, however, raised a concern that the MOH directive lacked enforcement provisions, such as punishments for hospitals that refuse treatment to PLWHA.' [198]

11.06 The 2012 China AIDS Response Progress Report, by the Ministry of Health of the People's Republic of China, in association with a joint United Nations Programme on HIV/AIDS (UNAIDS), published in March 2012, stated:

'Case reporting data shows that from 2007 to 2011, the number of reported HIV and AIDS cases (including people living with HIV who have developed AIDS) has increased each year, with the figures for each year standing at 48,161, 60,081, 68,249, 82,437 and 92,940 respectively. The numbers of newly diagnosed cases and deaths also increased each year, with the figures standing at 10,742, 14,509, 20,056, 34,188 and 39,183, as well as 5,544, 9,748, 12,287, 18,987 and 21,234 respectively.' [199]

11.07 The website of the WHO Representative in China provided some key facts on HIV/STIs, noting that:

- 'In 2011, there were an estimated 780,000 people living with HIV in China, 48,000 new infections and 28,000 deaths.
- 'The national HIV prevalence was 0.058%. The HIV epidemic is concentrated in some provinces and among key affected population groups (former plasma donors, sex workers and their clients, people who inject drugs and men who have sex with men).
- 'The Government has displayed commendable leadership and funding for HIV/AIDS prevention and control. HIV testing and counselling services and

[197] WHO, The Health Service Delivery Profile, China, 2012, (p5 - Service delivery model), http://www.wpro.who.int/health_services/service_delivery_profile_china.pdf, date accessed 8 November 2013
[198] US Congressional-Executive Commission on China (CECC) http://www.cecc.gov/, Annual Report 2013, 10 October 2013, (p123), http://www.cecc.gov/sites/chinacommission.house.gov/files/AR13DJ.PDF, date accessed 31 October 2013
[199] UNAIDS http://www.unaids.org/, 2012 China AIDS Response Progress Report, March 2012, (p5-6 - II. Overview of the AIDS epidemic), http://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2012countries/ce_CN_Narrative_Report[1].pdf, date accessed 11 November 2013

facilities providing antiretroviral treatment have been scaled up significantly. At the end of 2011, 3,142 ART clinics were in place nationwide and a total of 126,448 people living with HIV were on antiretroviral treatment.

- 'However, in 2011, more than 50% of people living with HIV did not know yet their HIV status. Innovative strategies have to be scaled up to increase testing of those most at risk. These strategies include peer-based and outreach testing using rapid tests.' [200]

11.08 The 2012 China AIDS Response Progress Report further stated:

'In recent years, the proportion of reported cases accounted for by homosexual and heterosexual transmission has increased year on year. The proportion of cases resulting from sexual transmission increased from 33.1% in 2006 to 76.3% in 2011. The proportion arising from homosexual transmission increased from 2.5% in 2006 to 13.7% in 2011.

'Sentinel surveillance data show that while HIV prevalence amongst MSM [men who have sex with men] showed a clear increasing trend, the numbers of people who use drugs testing positive for HIV showed a falling trend after 2005. Amongst sex workers, men visiting STI [sexually transmitted infection] clinics and pregnant women, numbers testing positive for HIV remained at a relatively low level.

'Epidemic estimates show that at the end of 2011, the estimated number of PLHIV in China stood at 780,000 people. Of these, 28.6% were women; there were 154,000 cases of AIDS; overall prevalence stood at 0.058%. The estimated number of new infections in 2011 was 48,000 and the estimated number of deaths 28,000. Of the 780,000 people estimated to be living with HIV, 46.5% were infected through heterosexual transmission, 17.4% through homosexual transmission, 28.4% through injecting drug use, 6.6% were former blood donors or transfusion recipients, and 1.1% were infected through mother-to-child transmission.' [201]

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Anti-retroviral therapy

11.09 In August 2013, Xinhua news agency reported the introduction of a pilot project to provide free antiretroviral therapy for HIV/AIDS patients. The article stated:

'Authorities have set up a pilot project in 12 counties and cities in nine provincial-level regions to provide free one-stop antiretroviral therapy for HIV/AIDS patients, the Chinese Center for Disease Control and Prevention confirmed on Friday. Patients in areas where the trial is being conducted will receive rapid access to antiretroviral therapy if they are diagnosed with HIV, the center said. According to the center's AIDS treatment and care division, HIV/AIDS patients used to spend two months traveling between local disease control centers and hospitals to receive the therapy. Wu Zunyou, director of the division, said the project still faces challenges, as it needs more funding

[200] WHO, Western Pacific Region, WHO Representative in China, HIV/STIs Key facts, http://www.wpro.who.int/china/mediacentre/factsheets/hiv_sti/en/index.html, date accessed 11 November 2013
[201] UNAIDS, 2012 China AIDS Response Progress Report, March 2012, (p5-6 - II. Overview of the AIDS epidemic), http://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2012countries/ce_CN_Narrative_Report[1].pdf, date accessed 11 November 2013

and antiretroviral drugs, as well as more collaboration between health institutions and local governments.' [202]

11.10 The 2012 China AIDS Response Progress Report stated:

'At the end of 2011, there were a total of 3124 facilities providing antiretroviral treatment, based in 2082 counties (or districts) within 31 provinces (or autonomous regions, municipalities). Nationally, the cumulative total numbers of people ever having received treatment, and currently reciving [sic] treatment increased from 81,739 and 65,481 respectively in 2009 to 155,530 and 126,448 respectively in 2011.' [203]

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Discrimination against people with HIV/AIDS

11.11 The International Labour Organisation (ILO) and China's Centre for Disease Control and Prevention (CDC) jointly issued a report entitled 'HIV and AIDS Related Employment Discrimination in China', published 14 January 2011, which stated:

'Since 2004, both central and local governments have either introduced or revised several laws, regulations and rules against HIV and AIDS related discrimination. For example, the Law of the People's Republic of China on the Prevention and Treatment of Infectious Diseases was amended in 2004 to add the following passage: "Employers and individuals should not discriminate against patients of infectious diseases, carriers of pathogens or those suspected of carrying an infectious disease". In addition to this, the Regulation on the Prevention and Control of AIDS issued by the State council in 2006 provides that, "Employers and individuals should not discriminate against people living with HIV, AIDS patients or their family members. The rights and interests of people living with HIV, AIDS patients and their family members concerning their marriages, employment, healthcare and education are protected by law". Similarly, the Employment Promotion Law stipulates that "Employers should not deny employment for the reason that the applicant carries pathogens of infectious diseases". However, the law also states "Individuals should not do any jobs that may increase the communication of the disease and forbidden by laws, regulations and rules of health authorities, until they recover and the possibility of infection is dismissed".' [204]

11.12 A Voice of America (VOA) news report dated 30 November 2012 stated, however, that, 'the social stigma that the virus carries continues to be a major obstacle. Individuals who contract the virus not only face challenges in society, work and school, but in getting medical treatment as well.' [205]

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[202] Xinhua news agency http://news.xinhuanet.com/, Free antiretroviral therapy provided for HIV/AIDS patients, 2 August 2013, http://news.xinhuanet.com/english/china/2013-08/02/c_132597166.htm, date accessed 11 November 2013

[203] UNAIDS, 2012 China AIDS Response Progress Report, March 2012, (p41-42 - 2.2.2 Progress and achievements of treatment), http://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2012countries/ce_CN_Narrative_Report[1].pdf, date accessed 11 November 2013

[204] The International Labour Organisation (ILO) http://www.ilo.org/, HIV and AIDS Related Employment Discrimination in China, 14 January 2011, (p10-11 - Government laws, regulations and rules), http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_150386.pdf, Date accessed 12 November 2013

[205] Voice of America (VOA) http://www.voanews.com/, AIDS Patients Face Discrimination at China Hospitals, 30 November 2012, http://www.voanews.com/content/in-china-aids-patients-face-discrimination-rejection/1555870.html, date accessed 12 November 2013

11.13 The US State Department's 2012 Country Report on Human Rights Practices (USSD Report 2012), China, published on 19 April 2013, concurred, stating that:

'Despite provisions in the Employment Promotion Law, discrimination against persons with HIV/AIDS and hepatitis B carriers (including 20 million chronic carriers) remained widespread in many areas, and local governments sometimes tried to suppress their activities. In August a man who was refused employment after it was discovered he had hepatitis was awarded 8,000 RMB ($1,280) in damages by a Xi'an court. The man originally asked for 50,000 RMB ($8,020) in compensation.

'HIV/AIDS activist Wan Yanhai, founder and director of the Beijing-based NGO [non-governmental organisation] Aizhixing, remained overseas after leaving the country in May 2010. The organization continued to come under pressure from the government.

'Persons with HIV/AIDS were routinely denied admission to hospitals for medical care. The hospitals feared that, should the general population find out that they were treating HIV/AIDS patients, persons would choose to go to other hospitals. It was common practice for general hospitals to refer patients to specialty hospitals working with infectious diseases.

'International involvement in HIV/AIDS prevention, care, and treatment, as well as central government pressure on local governments to respond appropriately, brought improvements in many 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.

'In March [2012], Zhejiang Province eliminated its mandatory HIV testing for suspects arrested for drug charges. The move was seen as a step in protecting the privacy of the individuals.' [206]

11.14 The Human Rights Watch (HRW) World Report 2013: China, covering events of 2012, published 31 January 2013, stated:

'The government remains hostile towards claims for compensation stemming from the 1990s blood scandal in Henan province. On August 27 [2012], baton-wielding police beat several members of a group of 300 people with HIV-AIDS protesting outside headquarters of the Henan provincial government headquarters in Zhengzhou. The crowd was protesting the government's refusal to pay compensation to those infected with the virus via government-organized mass blood plasma sales in Henan province in the 1990s.' [207]

11.15 The International Gay & Lesbian Human Rights Commission (IGLHRC) Research Paper, China: The Legal Position and Status of Lesbian, Gay, Bisexual and Transgender People in the People's Republic of China, by Tom Mountford, published 24 March 2010, stated:

[206] US State Department (USSD), 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 6 - Other Societal Violence or Discrimination), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013
[207] Human Rights Watch (HRW) https://www.hrw.org/, World Report 2013 (Events of 2012), 31 January 2013, (p306), https://www.hrw.org/sites/default/files/wr2013_web.pdf, date accessed 30 August 2013

'LGBT people continue to have difficulty in accessing accurate information on HIV/AIDS. Sufferers of HIV have difficulty accessing adequate medical and personal support. HIV/AIDS has become associated with homosexuality in the public mind in China. Discrimination continues in many contexts of Chinese life against HIV/AIDS sufferers, despite the express prohibitions against discrimination in the Regulation on Aids Prevention and Treatment 2006. There is a general prohibition against the donation of blood by homosexual people of either sex in China.' [208]

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Discrimination against people with Hepatitis B

11.16 An article in the China Labour Bulletin, on 2 December 2009, reported:

'Despite government moves to eradicate employment discrimination against people with HBV, the virus that causes Hepatitis B, employers still routinely refuse to hire HBV-positive job candidates, and there is still a widespread fear and misunderstanding of the disease in Chinese society, according to a new research report by the HBV activist and support group…

'There are an estimated 130 million people living with HBV in China, the vast majority of whom keep their condition secret so as avoid social prejudice and discrimination at work and school. As many of those interviewed in Yirenping's report pointed out "the look on someone's face changes the instant you talk about hepatitis".'[209]

11.17 In October 2011 the China Labour Bulletin cited an incident of discrimination, reporting:

'A job applicant is suing a Chongqing subsidiary of Taiwanese electronics giant, Foxconn, after the company allegedly rescinded an offer of employment in its purchasing department when a medical test indicated the applicant had a tuberculosis infection. The Legal Daily said it is believed to be China's first case of employment discrimination based on tuberculosis.

'The applicant told the human resources department at Foxconn Hongfujin Precision Electronics that she had suffered from tuberculosis as a child but had fully recovered and that the calcification in her lung shown up in her medical check was simply a non-contagious residue or scaring from that disease. Regardless, she was refused employment by the company.

'On 21 September [2011], two months after she was denied employment, the plaintiff filed a lawsuit in the Shapingba District Court in Chongqing, alleging employment discrimination against Foxconn Hongfujin.'[210]

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[208] International Gay & Lesbian Human Rights Commission (IGLHRC) http://www.iglhrc.org/, China: The Legal Position and Status of Lesbian, Gay, Bisexual and Transgender People in the People's Republic of China, 24 March 2010, (p6 - Health and HIV/AIDS), http://www.iglhrc.org/binary-data/ATTACHMENT/file/000/000/395-1.pdf, date accessed 11 November 2013

[209] China Labour Bulletin http://www.china-labour.org.hk/, Hepatitis B activists publish major new research report highlighting employment discrimination in China, 2 December 2009, http://www.china-labour.org.hk/en/node/100623, date accessed 2 December 2013

[210] China Labour Bulletin, Foxconn accused of refusing employment to woman because of tuberculosis infection, 13 October 2011, http://www.clb.org.hk/en/node/101141, date accessed 2 December 2013

Mental health

11.18 The US Congressional-Executive Commission on China (US-CECC), Annual Report 2013, published 10 October 2013, noted that:

'China's first-ever Mental Health Law (MHL) was passed in October 2012 and became effective on May 1, 2013, and aims to "expand access to mental health services". Another key goal is to prevent cases of being "misidentified as mentally ill" (bei jingshen bing), a practice which has been used by Chinese law enforcement officials to involuntarily detain petitioners and others in psychiatric facilities. International and Chinese civil society organizations and rights advocates have identified problematic provisions in the new MHL that may continue human rights violations.' [211]

11.19 The World Organization (WHO) Mental Health Atlas-2011, country profile: China stated:

'Prescription regulations authorize primary health care doctors to prescribe and/or to continue prescription of psychotherapeutic medicines but with restrictions. The department of health does not authorize primary health care nurses to prescribe and/or to continue prescription of psychotherapeutic medicines.

'The majority of primary health care doctors and nurses have received official in-service training on mental health within the last five years. Officially approved manuals on the management and treatment of mental disorders are available in the majority of primary health care clinics. Official policy does not permit primary health care nurses to independently diagnose and treat mental disorders within the primary care system. Official referral procedures for referring persons from primary care to secondary/tertiary care as well as procedures from tertiary/secondary care to primary care exists (in 1/3 of the facilities).' [212]

11.20 Aljazeera news reported in February 2012 that a recent survey had revealed an estimated 173 million Chinese suffered from mental disorders; and only one in 12 of those in need of psychiatric care were ever seen by a professional. Very few received care due to lack of 'financing, practitioners and esteem'. The article added:

'China has little insurance coverage for psychiatric care, almost no care in rural communities, too few inpatient beds and a weak government mental health bureaucracy.

'Most Chinese psychiatrists lack a university degree in any subject, much less mental health, while chronic shortages of doctors and facilities is leading families to either lock up or abandon mentally ill relatives. The government has pledged to invest more in mental healthcare, pouring billions of dollars into new and renovated psychiatric hospitals, many of which are old and purposely located far from cities. Meanwhile, mental disorders are rising rapidly. Although some of the increase is from greater

[211] US Congressional-Executive Commission on China (CECC), Annual Report 2013, 10 October 2013, (p35), http://www.cecc.gov/sites/chinacommission.house.gov/files/AR13DJ.PDF, date accessed 31 October 2013
[212] The World Organization (WHO), Mental Health Atlas-2011, country profile: China, http://www.who.int/mental_health/evidence/atlas/profiles/chn_mh_profile.pdf, date accessed 12 November 2013

awareness and reporting, local experts argue that stress-disorders have shot up as Chinese society changes too fast for people to adapt.' [213]

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12. Freedom of movement

12.01 The law provided for the 'freedom of internal movement, foreign travel, emigration, and repatriation'. However, as reported in the USSD Report 2012, the government 'did not respect these rights in practice'. The Authorities restricted the movement of those they deemed a political threat ahead of key anniverseries or visits by foreign dignitaries. [214] Some scholars had been reportedly prevented from traveling abroad or placed under house arrest.[215] Restrictions on movement within the Tibetan Autonomous Region and other Tibetan occupied areas continued, with police checkpoints located throughout the region. [216]

Exit and entry

12.02 Article 13 of the The Exit and Entry Administration Law of the People's Republic of China, which came into force on 1 July 2013 states:

'Chinese citizens residing abroad who desire to return to China for permanent residence shall, prior to the entry, file applications with Chinese embassies or consulates or other institutions stationed abroad entrusted by the Ministry of Foreign Affairs. They may also file such applications to the overseas Chinese affairs departments under the local people's governments at or above the county level of the proposed places of permanent residence on their own or via their relatives in China.'[217]

23.03 The Exit and Entry Administration Law of the People's Republic of China sets out the full provisions for Chinese citizens and foreigners.[218]

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[213] Al Jazeera http://www.aljazeera.com/, China: Slipping through the cracks, 1 February 2012, http://www.aljazeera.com/programmes/101east/2011/03/201139153815866372.html, date accessed 12 November 2013
[214] US State Department (USSD) http://www.state.gov/, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 2d - Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013
[215] Freedom House http://www.freedomhouse.org/, Freedom in the World 2013: China, January 2013, http://www.freedomhouse.org/report/freedom-world/2013/china, date accessed 2 September 2013
[216] USSD, 2012 Country Report on Human Rights Practices: China, 19 April 2013, (Section 2d - Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons), http://www.state.gov/j/drl/rls/hrrpt/2012/eap/204193.htm, date accessed 30 August 2013
[217] Bureau of Exit and Entry Administration of the Ministry of Public Security http://www.mps.gov.cn/, The Exit and Entry Administration Law of the People's Republic of China, adopted at the 27th meeting of the Standing Committee of the Eleventh National People's Congress of the People's Republic of China on June 30, 2012, and is hereby promulgated and shall come into force as of July 1, 2013. Hu Jintao, President of the People's Republic of China, June 30, 2012, http://www.mps.gov.cn/n16/n84147/n84196/3837042.html, date accessed 9 December 2013
[218] Bureau of Exit and Entry Administration of the Ministry of Public Security, The Exit and Entry Administration Law of the People's Republic of China, adopted at the 27th meeting of the Standing Committee of the Eleventh National People's Congress of the People's Republic of China on June 30, 2012, and is hereby promulgated and shall come into force as of July 1, 2013. Hu Jintao, President of the People's Republic of China, June 30, 2012, http://www.mps.gov.cn/n16/n84147/n84196/3837042.html, date accessed 9 December 2013