CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

ANNUAL REPORT

2010

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

OCTOBER 10, 2010

Printed for the use of the Congressional-Executive Commission on China

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CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

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The Congressional-Executive Commission on China, established by the U.S.-China Relations Act of 2000 as China prepared to enter the World Trade Organization, is mandated by law to monitor human rights, including worker rights, and the development of the rule of law in China. The Commission by mandate also maintains a database of information on political prisoners in China—individuals who have been imprisoned by the Chinese government for exercising their civil and political rights under China's Constitution and laws or under China's international human rights obligations. All of the Commission's reporting and its Political Prisoner Database are available to the public online via the Commission's Web site, www.cecc.gov.

Preface

The findings of this Annual Report make clear that human rights conditions in China over the last year have deteriorated. This has occurred against the backdrop of China's accession to the World Trade Organization (WTO) in 2001, and the Chinese government's years of preparation for accession, which provided the impetus for many changes to Chinese law. Those changes, some of which have been significant, have yet to produce legal institutions in China that are consistently and reliably transparent, accessible, and predictable. This has had far-reaching implications for the protection of human rights and the development of the rule of law in China.

The Chinese people have achieved success on many fronts, for example in health, education, and in improved living standards for large segments of the population, and they are justifiably proud of their many successes. But the Chinese government now must lead in protecting fundamental freedoms and human rights, including the rights of workers, and in defending the integrity of China's legal institutions with no less skill and commitment than it displayed in implementing economic reforms that allowed the industriousness of the Chinese people to lift millions out of poverty.

Most importantly, the Chinese government must free its political prisoners, who include some of the country's most capable and socially committed citizens—scholar and writer Liu Xiaobo, HIV/AIDS advocate Hu Jia, prominent attorney Gao Zhisheng, journalist Gheyret Niyaz, Tibetan environmentalist Karma Samdrub, and many others named in this Annual Report and in the Commission's Political Prisoner Database. By engaging rather than repressing human rights advocates, the Chinese government would unleash constructive forces in Chinese society that are poised to address the very social problems with which the government and Party now find themselves overburdened: corruption, poor working

conditions, occupational safety and health, environmental degradation, and police abuse among them.

Stability in China is in the national interest of the United States. The Chinese government's full and firm commitment to openness, transparency, the rule of law, and the protection of human rights, including worker rights, marks a stability-preserving path forward for China. Anything less than the government's full and firm commitment to protect and enforce these rights undermines stability in China.

Overview

Over the Commission's 2010 reporting year, across the areas the Commission monitors, the following general themes emerged:

1. **New trends in political imprisonment** include an increasingly harsh crackdown on lawyers and those who have a track record of human rights advocacy, particularly those who make use of the Internet and those from areas of the country the government deems to be politically sensitive (e.g., Tibetan areas and Xinjiang).
2. **Nexus between human rights and commercial rule of law,** has become more evident particularly in connection with laws on state secrets, the Internet, and worker rights.
3. **Communist Party's intolerance of independent sources of influence** extends broadly across Chinese civil society, including with respect to organized labor.
4. **Chinese government's new rhetoric on compliance with international human rights norms** creates new challenges for U.S.-China dialogue and exchange.
5. **Global economic conditions have prompted the Chinese government to expand state economic and social control** in a manner that impedes the development of the rule of law.
6. **Misapplication of law as a means of control** has become more evident as the Communist Party has expanded and strengthened the capacity of law and regulation to serve as a means for the Party to control an increasing number of facets of daily life.
7. **Prospects for human rights and the rule of law in China** depend on decisions taken at the highest levels of the Communist Party.

New Trends in Political Imprisonment

The Chinese government appears to be engaged in an increasingly harsh crackdown on lawyers and human rights defenders. The tightening of control over criminal lawyers, human rights lawyers, and the legal profession more generally has led some of China's leading legal experts to state that the rule of law is in "full retreat" in China. Over the last two years, several lawyers involved in human rights advocacy work—including in legal cases involving house church members, public health advocates, Falun Gong practitioners, Tibetans, and others deemed by the government to threaten "social stability"—have been harassed and abused by the government based on who their clients are and the causes those clients represent.

The Internet appears to have given rise to a new category of political prisoners in China. Many citizens who criticize the govern-

ment on blogs and comment boards face no severe repercussions—at most their comments may be deleted. But individuals who have a track record of human rights advocacy, political activism, grassroots organizing, or opposition to the Communist Party, and some from areas of the country the government deems to be politically sensitive (e.g., Tibetan areas and Xinjiang), have been targeted systematically. Among the most common charges against these citizens are the crimes of "subverting state power" or "splittism," which carry a sentence of up to life imprisonment, and inciting subversion or "splittism," which carry a sentence of up to 15 years. Individuals, including lawyers, writers, scholars, and businesspeople, have been imprisoned on these charges for posting online essays critical of the government, for exposing corruption or environmental problems, or for trying to organize political opposition online, without advocating violence.

In the past year, government officials moved more aggressively to diminish or end the public influence of Tibetan civic and intellectual leaders, writers, and artists. Officials imprisoned such Tibetans in past years, but the frequency of using courts and the misapplication of criminal charges to remove such figures from society has increased. As of early September 2010, the Commission's Political Prisoner Database had recorded more than 840 cases of political detention of Tibetans on or after March 10, 2008, when Tibetan protests began in Lhasa and then swept across the Tibetan plateau. The true number of political detentions during the period is certain to be far higher.

In the year since the government suppression of a demonstration by Uyghurs and multi-ethnic riots in Xinjiang starting July 5, 2009, human rights conditions in this far western region of China have worsened, and cases of political imprisonment remain of critical concern. At the same time that authorities have punished people for violent crimes committed in July 2009, they also have continued to conflate the right to demonstrate peacefully or to express criticism over government policy with criminal activity. In the past year, authorities imprisoned Uyghur Webmasters and a Uyghur journalist in connection with articles critical of conditions in Xinjiang and in connection with Internet postings calling for the July 2009 demonstrations. In the aftermath of the July 2009 events, authorities also carried out broad security sweeps resulting in mass detentions of Uyghur men and boys, some of whom appear to have had no connection to events in July 2009. The whereabouts of many people detained since July 2009 remain unknown.

Nexus Between Human Rights and Commercial Rule of Law

Developments over the past year have shown how business disputes and commercial issues can have real human rights implications when the Communist Party perceives its interests to be threatened. Under Chinese law, information relating to "national economic development" may be deemed a "state secret." Furthermore, officials sometimes deem information a state secret ex post facto, that is, after an alleged "crime" of unauthorized disclosure, trafficking, or possession of a "state secret" has occurred. Many Chinese companies dealing with foreign businesses are state-owned enterprises (SOEs) with close links to the government, heightening

the possibility that such SOEs will press the government to classify commercial information as a state secret or that the government will use the charge of violating laws on state secrets to advantage Chinese commercial interests.

The crime of supplying a state secret to a foreign "organization" (a category that includes corporations) is punishable by up to life in prison. While it remains unclear whether this risk to foreign businesses has increased, high-profile cases in the last year illustrate that the risk remains real. Among such cases is that of Xue Feng, a geologist and U.S. citizen who helped his employer, an American firm, purchase commercially available information on oil wells and prospecting sites in China. The information was classified as a state secret after the purchase took place. A Chinese court then sentenced the geologist to eight years in prison. The case shows that the risk of being charged with violating laws on state secrets complicates the normal, legitimate gathering of commercial information. The imposition of such a risk whenever state ownership of industry is involved is contrary to standard international business practice and undermines the rule of law.

The controversy between the Chinese government and Google, Inc., over the last year highlighted the potential for Chinese censorship practices to interfere with the free flow of information among Chinese citizens and businesses, and between people and organizations in China and the rest of the world. The government appeared to single out Google in June 2009 during an anti-pornography campaign, saying Google was not doing enough to filter banned content (much of which is politically sensitive, not "pornographic"). In January 2010, Google announced that it had "detected a highly sophisticated and targeted attack on our corporate infrastructure originating from China" that it said had "resulted in the theft of intellectual property from Google." Google also said it had "evidence to suggest that a primary goal of the attackers was accessing the Gmail accounts of Chinese human rights activists." Google said that "[t]hese attacks and the surveillance they have uncovered—combined with attempts over the past year to further limit free speech on the web" led the company "to conclude that we should review the feasibility of our business operations in China." The Google controversy underscored what some business leaders have noted as the Chinese government's long-growing impatience with private companies that it perceives to have grown too large or become too successful, or whose branding attracts too much loyalty outside of government-approved parameters.

The nexus between human rights and commercial rule of law also has been evident in the area of worker rights. High-profile worker actions during this reporting year included strikes calling for better wages and formal channels to submit grievances. In a number of strikes at prominent foreign manufacturing facilities in China, workers called for existing All-China Federation of Trade Unions (ACFTU)-affiliated unions to behave more independently within the confines of Chinese law. Striking workers' demands for higher wages revealed that they may have been emboldened not only by protections for workers codified in labor laws that took effect in 2008, but also by a tighter labor market. However, they stopped short of calling for the formation of independent trade

unions. The limited demands of workers reflected in part the political constraints imposed on the labor movement in China. Workers in China still are not guaranteed, either by law or in practice, full worker rights in accordance with international standards, including the right to organize into independent unions. The ACFTU, the official union under the direction of the Party, is the only legal trade union organization in China. All lower level unions must be affiliated with the ACFTU and must align with its overarching political concerns of maintaining "social stability" and economic growth.

Communist Party's Intolerance of Independent Sources of Influence

The Communist Party's determination to rein in independent sources of influence remained evident across Chinese society during this reporting year. For example, the Chinese government denies workers the right to organize into independent unions in part because the Party continues to regard organized labor as it does citizen activism in other spheres of public concern: as a threat to the Party's hold on power and a potentially powerful competitor for allegiance. While legislative developments over the last three years now make collective bargaining a legal possibility in China, and efforts to develop collective labor contracting in some locales have progressed in limited respects (e.g., in Guangzhou and Shanghai), China's leaders have made clear they will not tolerate an independent trade union movement. They do not see such a development as potentially helping to relieve the government of the burden of social pressures.

Chinese citizens who sought to establish and operate civil society organizations that focused on other issues deemed by officials to be "sensitive," including public health advocacy, housing rights advocacy, and advocacy on behalf of petitioners, ethnic minorities, or adherents of religious and spiritual groups, faced intimidation, harassment, and punishment. The government continued to tighten its control over civil society groups through selective enforcement of regulations and through new regulations that make it difficult for some civil society organizations to accept tax deductible contributions or contributions from overseas donors.

The government also punished citizens who waged independent campaigns seeking greater government accountability. Activists who criticized the government for not doing enough to investigate the causes of school collapses in the May 2008 earthquake in Sichuan have been imprisoned. Tibetans engaged in environmental protection activities with Party and government encouragement found themselves facing imprisonment when their popularity soared and they criticized local officials for breaking laws that protect endangered animal species. Petitioners in many areas of China were mistreated, harassed, and detained for their involvement in advocating for housing rights and for organizing to protest forced evictions and relocations in which the government failed to meet its obligations to compensate residents fairly and in accordance with the law. Mistreatment of those advocating on behalf of individuals who suffered abuse at the hands of population planning officials continued.

Authorities also sought to tighten control over the Internet, the influence of which continues to grow, with more than 420 million users in China. Officials stepped up monitoring and control of blogging, news, video, and social networking sites; issued legal measures that could increase pressure on Internet companies to censor political content; and sought to impose greater legal requirements on those wishing to post or host content on the Internet that could lead to self-censorship of political content for fear of government retribution. The government also continued to quash attempts by Chinese media to test the boundaries of media independence, as illustrated, for example, when an editorial calling for reform of China's household registration system jointly published in 13 newspapers was removed from the Internet, and one of its co-authors was forced to resign his position as editor of one of the papers.

A further example of the Chinese leadership's determination to rein in independent sources of influence is the continuing ban on Falun Gong. Falun Gong is a spiritual movement established in China in the early 1990s based on Chinese meditative exercises called *qigong*. By 1999, the Falun Gong movement reportedly had grown to include an estimated 70 to 100 million followers (also called "practitioners"). The group flourished during the decade following the suppression of the Tiananmen democracy movement in June 1989, which many viewed as a hopeful development, showing that it was possible, even in the wake of the events of June 1989, to build a non-state-affiliated popular organization in China on a massive scale without state support. In 1999, however, the Party announced a total ban on Falun Gong, the implementation of which has resulted in the harassment, detention, and mental and physical abuse of large numbers of Falun Gong practitioners in official custody, and in some cases torture and death. The ban remains in force today, and authorities regularly intensify crackdowns on the Falun Gong movement around events the government deems to be sensitive, such as the Shanghai 2010 World Expo.

Chinese Government's New Rhetoric on Compliance With International Human Rights Norms

Chinese officials appear to have adopted a new rhetorical strategy with respect to China's compliance with international norms. In the past, Chinese officials often argued that it was necessary to carve out exceptions and waivers to the application of international norms to China. While stating their embrace of international norms in the abstract, for example, on free expression and the environment, they sought to make the case that, in practice, China deserved to be treated as an exception, due, for instance, to its status as a developing country. Now, however, official statements increasingly tend to declare the Chinese government's compliance with international norms, even in the face of documented noncompliance. For example, in June 2010, the State Council Information Office released a white paper presenting "the true situation of the development and regulation of the Internet in China" to Chinese citizens and the international community. The white paper claims the government "guarantees citizens' freedom of speech on the Internet" and that its model for regulating the Internet is "consistent with

international practices." One implication of this new rhetorical tactic is that it seemingly relieves Chinese officials of the burden of arguing from the outset for exceptions and waivers to the application of international norms to China. Simply declaring compliance shifts the burden of persuasion to those who point out the Chinese government's noncompliance, placing them in the position of critics of China, subject to accusations by Chinese officials of "finger-pointing," "China bashing," and "poisoning the atmosphere" for good relations with China. By adopting this new rhetorical approach, Chinese officials make respectful, open, and frank dialogue with China more difficult, and the approach itself underscores how important it is that Members of the U.S. Congress and Administration officials not uncritically accept Chinese officials' declarations of compliance.

Chinese officials in the last year also increasingly have sought to portray the "Chinese model" (*zhongguo moshi*) as consistent with international human rights standards. In an April 2010 speech before the National People's Congress Standing Committee, for example, State Council Information Office Director Wang Chen said the government is campaigning to gain global acceptance for its model of Internet control, having "engaged in dialogue and exchanges with more than 70 countries and international organizations," "countered Western enemy forces' smears against us, and enhanced the international community's acceptance and understanding of our model of managing the Internet." This new approach seeks to redefine the substance of international human rights standards in a manner that legitimizes the Chinese government's noncompliance. This new approach appears to be connected with debates going on now within China over whether China should sign on to, or try to change, the rules of the international system.

Global Economic Conditions and the Expansion of State Control

The Communist Party is motivated to deliver employment and prosperity to inland and rural areas, and not just to coastal regions that already have benefited disproportionately from economic development, in part in order to demonstrate the Party's ability to govern. The global economic downturn has dampened demand for Chinese exports, and that has made the delivery of employment and prosperity to inland and rural areas more challenging for the Party. In these areas, grievances over lax enforcement of health and safety standards and of environmental and worker rights protections have fueled discontent. The corruption and collusion between local businesses and local regulatory authorities that are associated with lax enforcement have undermined the reputation of the Party in these areas. In response, the leadership has resorted to expanded state economic and social control.

In the economic sphere, state-owned companies acquired private companies at a faster clip in the past year than previously. Flush with capital from an economic stimulus program of unprecedented magnitude and favored in the awarding of infrastructure projects, China's state-owned enterprises have expanded easily and squeezed out private firms in some sectors. The need to address corruption and collusion between private firms and local regulatory

officials, however, has allowed officials to cast expansion of state control as a method for improving accountability and the rule of law. In part because corruption and lax enforcement of health and safety standards and environmental and worker rights protections are the problems that fuel local discontent, Chinese citizens have not widely contested the Party's justification of expanded state control in these terms.

At the same time, many Chinese firms, especially state-owned enterprises, continue to benefit from the Chinese government's industrial policies that provide government subsidies, preferences, and other benefits. The government also has promoted "indigenous innovation," a massive government campaign to decrease reliance on foreign technology through industrial policies and to enhance China's economy and national security, with the stated purpose of enabling China to become a global leader in technology by mid-century. Such policies have further facilitated the expansion of state control of the economy.

In the social sphere, China's leaders over the last year sought to expand control by establishing or strengthening existing Party "branches" in non-governmental organizations, academic institutions, and residential communities. Local governments, charged with "maintaining social stability," established or strengthened existing "stability preservation offices" and established new "stability preservation funds" (*weiwen jijin*) from which they make payments to people with grievances in order to preempt their escalating disputes. Large numbers of petitioners availing themselves of China's *xinfang* ("letters and visits") system for filing grievances against the government were harassed, abused, detained illegally, and involuntarily committed to psychiatric hospitals or sent to "reeducation through labor" facilities. Officials continued to use license suspension and disbarment as methods to control human rights lawyers who sought to represent clients in cases deemed by authorities to be politically sensitive.

Misapplication of Law as a Means of Control

The Communist Party and Chinese government are expanding and strengthening the capacity of law and regulation to serve as a means to control an increasing number of facets of life in China. Officials this past year sought to increase monitoring of communication technologies—the Internet and cell phones—that play a significant role in the daily lives of large numbers of Chinese citizens. Officials sought to make it easier for the government to identify the source of online content, by barring anonymous commenting, for example, and passed legal measures that add pressure on Internet companies to police the Internet for state secrets and for content that authorities allege may "infringe on the rights of others." While such moves may be aimed partly at legitimate targets of concern, including spam and defamatory content, in the Chinese context they also provide opportunities and incentives for officials and private companies to censor politically sensitive content.

Authorities increasingly have used the Law on the Control of the Exit and Entry of Citizens to manage dissent. Article 8 of the law allows the government to ban "persons whose exit from the coun-

try, in the opinion of the competent department . . . [would] be harmful to state security or cause a major loss to national interest." During this reporting year, authorities increasingly cited this provision to prevent rights defenders and advocates who are critical of the government from leaving China.

The Party and government also continued to use law to entrench a policy framework of state control over religion, as well as to exclude some religious communities from the limited but important protections afforded to state-sanctioned religious groups. In the past year, authorities made use of laws concerning property and financial assets to restrict the religious freedom of unregistered religious groups. President Hu Jintao used the powerful Fifth Tibet Work Forum platform to emphasize the Party's role in controlling Tibetan Buddhism and the important role of law as a tool to enforce what the Party deems to be the "normal order" for the religion. The government and Party created increasing restraints on the exercise of freedom of religion for Tibetan Buddhists by strengthening the push to use policy and legal measures to shape and control the "normal order" for Tibetan Buddhism.

During this reporting year, China's security and judicial institutions' use of laws on "endangering state security"—a category of crimes that includes "subversion," "splittism," "leaking state secrets," and "inciting" subversion or splittism—infringed upon Chinese citizens' constitutionally protected freedoms of speech, religious belief, association, and assembly. For example, the government has used the law on splittism to punish Tibetans who criticized or peacefully protested government policies and then used the law on "leaking state secrets" to punish Tibetans who attempted to share with other Tibetans information about incidents of repression and punishment. Authorities also issued regulations in the past year in Xinjiang to impose state-defined notions of "ethnic unity" and to tighten controls over online speech. The imprisonment of Uyghur Webmasters and a Uyghur journalist on charges of endangering state security, in connection with online postings and articles critical of conditions in Xinjiang, underscored authorities' use of the Criminal Law to quell free expression. The imprisonment of Liu Xiaobo and other activists on inciting subversion and leaking state secrets charges after they peacefully criticized officials and the Party further underscored authorities' use of the Criminal Law to quell free expression.

Prospects for the Rule of Law in China

Prospects for human rights and the rule of law in China depend not only on decisions taken by officials responsible for implementing law and protecting rights at the grassroots, but also on decisions taken at the highest levels of the Communist Party. The Party, with over 75 million members (roughly 5.7 percent of China's total population), strives to maintain unchallenged rule over a country of more than 1.3 billion people. The Party stakes the legitimacy of its claim to rule China on its ability to provide both stability and prosperity to the Chinese people, and to "unify the country" (*tongyi guojia*). The Party leadership regards developments that could adversely affect China's one-party system as potential threats to stability, prosperity, or unity. The rule of law, if

implemented faithfully and fairly, should benefit not just those the Party favors. Some of China's leaders, therefore, regard implementation of the rule of law as potentially diminishing the capacity of the Party to maintain control.

Three decades ago, the challenge that reformers within the Party faced was to find a way to advance market-oriented reforms while ensuring that economic development still bore the imprimatur of the Party. They succeeded. The economy boomed, and the Party received enough of the credit to enable it to maintain its hold on power. The challenge that reformers within the Party perceive today is in finding a way to advance the rule of law in a manner that results in the law still bearing the imprimatur of the Party. Over the last year, senior leaders have reiterated positions emphasizing the leading role of the Party, the need to adhere to the Party's formulation of "socialist democracy," and the impossibility of implementing "Western-style" legal and political institutions.

Motivated by China's dependence on foreign investment, China's leaders have appeared to be more nimble in the commercial context to accept concepts and practices associated with so-called Western-style rule of law. Whether a decrease in China's reliance on foreign investment ultimately will be associated with change or continuity in this regard remains to be seen. The findings of this Annual Report suggest, however, as the Commission reported in its last Annual Report, that the Party still "rejects the notion that the imperative to uphold the rule of law should preempt the Party's role in guiding the functions of the state." Chinese leaders' actions over the coming months will shed light on whether their stated commitment to the rule of law is real. The Commission and those who pay close attention to these issues in China will watch developments carefully.

In 2009, the Chinese government issued the 2009–2010 National Human Rights Action Plan that uses the language of human rights to cast an ambitious program for promoting the rights of Chinese citizens. The Action Plan has been described by some human rights advocates as signifying "remarkable progress" because in it the Chinese government articulates a clearly defined time period (2009–2010) for implementing a number of commitments to civil and political rights. The findings of this Annual Report document how the Party thus far has prioritized strengthening its grip on society over the implementation of the commitments to human rights and the rule of law set forth in the Chinese government's own Action Plan. The Commission urges Members of the U.S. Congress and Administration officials to continue to inquire about the Chinese government's progress in translating words into action and in securing for its citizens the improvements it has set forth in its Action Plan. To that end, this Annual Report and the information available on the Commission's Web site may serve as useful resources.

I. Executive Summary

FINDINGS AND RECOMMENDATIONS

A summary of specific findings follows below for each section of this Annual Report, covering each area that the Commission monitors. In each area, the Commission has identified a set of issues that merit attention over the next year, and, in accordance with the Commission's legislative mandate, submits for each a set of recommendations to the President and the Congress for legislative or executive action.

FREEDOM OF EXPRESSION

Findings

- During the Commission's 2010 reporting year, Chinese authorities continued to maintain a wide range of restrictions that deny Chinese citizens their right to freedom of speech as guaranteed under China's Constitution. Chinese officials continued to justify such restrictions on grounds such as protecting state security, minors, or public order. They also asserted that freedom of expression is protected in China, and that restrictions on free expression imposed by the Chinese government meet international standards. In practice, however, authorities continued to misuse vague criminal laws intended to protect state security to instead target peaceful speech critical of the Communist Party or Chinese government. In December 2009, a Beijing court sentenced prominent intellectual Liu Xiaobo to 11 years in prison for "inciting subversion of state power," the longest known sentence for this crime. Liu's offenses were to publish essays online critical of the Communist Party and to help draft and circulate Charter 08, a treatise advocating political reform and human rights circulated online for signatures. Following demonstrations and riots in Urumqi, Xinjiang Uyghur Autonomous Region (XUAR), in 2009, authorities this past year used state security crimes to imprison a journalist and Web site administrators for expressing or failing to censor views critical of government policies in the region.
- While Chinese citizens now have unprecedented opportunities to express themselves through the Internet and other communication technologies, Chinese officials and private companies, as required by law, continued arbitrarily to remove or block political and religious content. They did so nontransparently and without clearly articulated standards. During the reporting year, Internet users and foreign media in China frequently found that politically sensitive news articles and discussions, including a domestic editorial cartoon that referred to the 1989 Tiananmen protests, had been removed or blocked from the Internet. Despite its noncompliance with international human rights standards, the Chinese government is waging a campaign to gain global acceptance for its model of Internet control.

- This past year, the controversy between the Chinese government and the U.S. company Google highlighted the potential for China's censorship requirements to serve as a trade barrier and to cause companies to stop providing services to Chinese citizens, further limiting the free flow of information.
- In the XUAR, China's maintenance of broad restrictions on the Internet, text messages, and international phone calls, put in place following the July 2009 demonstrations and riots in Urumqi and only gradually lifted starting in December 2009, illustrated the overbroad scope of China's restrictions on free expression.
- The Communist Party continued to view the news media as a tool to serve the Party's interests, in practice denying citizens their right to freedom of the press as guaranteed under China's Constitution. Throughout the reporting year, the Commission observed numerous instances of officials reportedly prohibiting news media from publishing certain stories, such as a local media interview with U.S. President Barack Obama during his November 2009 trip to China, or punishing news media for publishing certain stories, such as a Chinese domestic joint media editorial criticizing and calling for reform of China's household registration system.
- The government further strengthened its system of "prior restraints," by which the government may deny a person or group the use of a forum for expression in advance of the actual expression. Under this system, any person or group who wishes to publish a newspaper, host a Web site, or work as a journalist must receive permission from the government in the form of license or registration, and may also be required to meet other conditions, including political loyalty or financial requirements. In March 2010, an official announced the government would be tightening entry requirements for journalists by requiring them to pass a qualification exam for which knowledge of "Chinese Communist Party journalism" and "Marxist views" of news will be required.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- Raise concerns over the Chinese government's efforts to gain global acceptance for its model of Internet control and the Chinese government's blanket defense of restrictions on freedom of expression as being in line with international practice, without differentiating between restrictions for legitimate purposes, such as to protect minors, and restrictions for impermissible purposes, such as to silence dissent. Emphasize that such arguments undermine international human rights standards for free expression, particularly those contained in Article 19 of the International Covenant on Civil and Political Rights and Article 19 of the Universal Declaration of Human Rights.
- Engage in dialogue and exchanges with Chinese officials on the question of how governments can best ensure that restrictions on freedom of expression are not abused and do not ex-

ceed the scope necessary to protect state security, minors, and public order. Emphasize the importance of procedural protections such as public participation in formulation of restrictions on free expression, transparency regarding implementation of such restrictions, and independent judicial review of such restrictions. Reiterate Chinese officials' own calls for greater transparency and public participation in lawmaking. Such discussions may be part of a broader discussion on how both the U.S. and Chinese governments can work together to ensure the protection of common interests, including protecting minors, computer security, and privacy with regard to the Internet.

○ Support the research and development of technologies that enable Chinese citizens to access and share political and religious content that they are entitled to access and share under international human rights standards but that is blocked by Chinese officials. Support tools and practices that enable Chinese citizens to access and share such content in a way that ensures their security and privacy.

○ Call for the release of Liu Xiaobo and other political prisoners imprisoned on charges of endangering state security and other crimes but whose only offenses were to peacefully express support for political reform or criticism of government policies, including: Tan Zuoren (sentenced in February 2010 to five years in prison after using the Internet to organize an independent investigation into school collapses in an earthquake) and Huang Qi (sentenced in November 2009 to three years in prison for using his human rights Web site to advocate for parents of earthquake victims).

WORKER RIGHTS

Findings

• Workers in China still are not guaranteed, either by law or in practice, full worker rights in accordance with international standards, including the right to organize into independent unions. The All-China Federation of Trade Unions (ACFTU), the official union under the direction of the Communist Party, is the only legal trade union organization in China. All lower level unions must be affiliated with the ACFTU and must align with its overarching political concerns of maintaining "social stability" and economic growth.

• Labor disputes and officials' concern with maintaining "social stability" intensified over this reporting year as layoffs, wage arrears, and poor and unsafe working conditions persisted. Growing concern on the part of local governments to maintain economic growth and employment continued to prompt some localities to respond to labor laws that took effect in 2008 (the Labor Contract Law, Employment Promotion Law, and Labor Dispute Mediation and Arbitration Law) with local opinions and regulations of their own that weakened some employee-friendly aspects of these laws. Interpretation of these laws across localities has not been consistent, leading to their "regionalization" and "loopholization."

• During the spring and summer of 2010, Chinese and international media and non-governmental organizations reported on a spate of worker actions—from a succession of strikes to suicides at a factory compound—at various enterprises in China, mostly foreign invested, that garnered attention in China and around the world. Unofficial reports suggest that the striking workers' primary demand was higher wages. In a number of strikes workers called for existing All-China Federation of Trade Unions (ACFTU)-affiliated unions to behave more independently within the confines of Chinese law. Some of the strikes and demands for higher wages during 2010 may not be a sign of continued weakness on the part of workers vis-à-vis management. Rather, they may reveal that workers in some cases have been emboldened not only by worker rights codified in labor laws that took effect in 2008, but also by a tighter labor market.

• In response to collective labor action that was organized and large-scale, the Chinese government continued to redirect labor disputes away from the formal channels of arbitration and litigation toward more "flexible" and "grassroots-level" negotiation and mediation. These forms of dispute resolution often relied on coordination among levels of local government (e.g., provincial, city, town, etc.), involving local government and Party units, the official trade union, and the police and security apparatus.

• Backlogs in the handling of labor dispute cases continued to exceed time limits mandated by law. In addition to large increases in arbitrated cases, labor dispute cases also continued to deluge Chinese courts. In some cases, these disputes were the result of strong dissatisfaction with arbitration proceedings, as most arbitrated cases can be reviewed in a court if either side is dissatisfied. In other cases, the increase reflected the strong and growing rights consciousness of Chinese workers who turned to new protections offered in labor laws that took effect in 2008.

• Migrant workers continued to face discrimination in urban areas, and their children still faced difficulties accessing city schools. Employment discrimination more generally continued to be a serious problem, and plaintiffs brought a growing number of anti-discrimination suits under China's Employment Promotion Law.

• During the 2010 reporting year, enforcement of China's Labor Contract Law continued to be uneven or selective. Even as reported statistics show increases in the number of labor contracts signed, formal employment in China continues to erode, especially for unskilled urban workers and rural migrants. There have been reports of employers concluding multiple contracts per worker in order to avoid payment of overtime; replacing older workers with younger workers to avoid longer-term contracts; using contract expiration as a method for laying off formal employees during economic slowdowns; and refusing to hire employees who insist on exercising their right to conclude a labor contract. Studies by Chinese researchers suggest that substantial numbers of Chinese workers

report that their actual work hours are different from the hours specified in their labor contracts.

• The ACFTU during the reporting year has appeared to be more willing to address the issue of worker representation. One ACFTU official stated that, "in mitigating labour disputes, the fundamental issue is to establish a collective bargaining system that would allow labour disputes to be managed and resolved within the enterprise." Following worker strikes at a number of foreign-invested manufacturing facilities during this reporting year, officials in the southern Chinese province of Guangdong accelerated action on draft Regulations on Enterprise Democratic Management. In September, the Guangdong People's Congress Standing Committee reportedly delayed further deliberation of the draft. Heavy lobbying by members of the Hong Kong industrial community, many of whom own and operate factories in Southern China, reportedly played a role in the Standing Committee's decision. However, Guangdong's draft regulations are particularly noteworthy in that they specifically grant workers the right to demand the initiation of collective wage consultations—a right that typically has been reserved for unions. Guangdong and other localities, including Beijing, Hainan, and Tianjin, also have issued guidance notices and regulations specifying the legal rights of parties involved in collective consultations.

• The Chinese government's complicated and time-consuming work-related injury compensation procedure continued to be a major problem for China's injured workers. The process is further complicated for migrant workers who may already have left their jobs and moved to another location by the time clinical symptoms surface. Workers more generally also continued to face persistent occupational safety issues. Collusion between mine operators and local government officials reportedly remains widespread, leading to lax enforcement of health and safety standards. Prohibitions on independent organizing limit workers' ability to promote safer working conditions.

• China's new generation of migrant workers, unlike their parents, have higher expectations with regard to wages and labor rights. Younger workers, born in the 1980s and 1990s, reportedly were at the forefront of worker strikes that took place this past year across China. Together, they make up about 100 million of China's total pool of migrant workers. In an essay describing the characteristics of the new generation of migrant workers, China's Agricultural Minister Han Changfu pointed out that many of these young workers have never laid down roots, are better educated, are the only child in the family, and are more likely to "demand, like their urban peers, equal employment, equal access to social services, and even the obtainment of equal political rights."

• In 2010, the Commission followed several reports alleging that Chinese state-owned enterprises utilized prison labor sent from China at their overseas worksites. Chinese prisoners reportedly have worked on housing and other infrastructure projects such as ports and railroads outside of China. One report indicated that transporting workers from China is stand-

ard practice for some Chinese companies operating outside of China and sometimes includes prisoners and those who are on parole. China's Law on the Control of the Exit and Entry of Citizens states that "approval to exit from the country shall not be granted to . . . convicted persons serving their sentences."

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Support projects promoting legal reform intended to ensure that labor laws and regulations reflect internationally recognized labor principles. Prioritize projects that do not focus only on legislative drafting and regulatory development, but that analyze implementation and measure progress in terms of compliance with internationally recognized labor principles at the grassroots.

○ Support multi-year pilot projects that showcase the experience of collective bargaining in action for both Chinese workers and trade union officials; and identify local trade union offices found to be more open to collective bargaining and focus pilot projects in their locales. Where possible, prioritize programs that demonstrate the ability to conduct collective bargaining pilot projects even in factories that do not have an official union presence. Encourage the expansion of exchanges between Chinese labor rights advocates in NGOs, the bar, academia, and the official trade union, and U.S. collective bargaining practitioners. Prioritize exchanges that emphasize face-to-face meetings with hands-on practitioners and trainers.

○ Encourage research that identifies factors underlying inconsistency in enforcement of labor laws and regulations. This includes projects that prioritize the large-scale compilation and analysis of Chinese labor dispute litigation and arbitration cases, and guidance documents issued by and to courts at the provincial level and below, leading ultimately to the publication and dissemination of Chinese language casebooks that may be used as a common reference resource by workers, arbitrators, judges, lawyers, employers, union officials, and law schools in China.

○ Support capacity-building programs to strengthen Chinese labor and legal aid organizations involved in defending the rights of workers. Encourage Chinese officials at local levels to develop, maintain, and deepen relationships with labor organizations based in Hong Kong and elsewhere, and to invite these groups to increase the number of training programs on the mainland. Support programs that train workers in ways to identify problems at the factory floor level, equipping them with skills and problem-solving training so they can relate their concerns to employers effectively.

○ Where appropriate, share the United States' ongoing experience and efforts in protecting worker rights—via legal, regulatory, or non-governmental means—with Chinese officials. Facilitate site visits and other exchanges for Chinese officials to

observe and share ideas with U.S. labor rights groups, lawyers, the U.S. Department of Labor (USDOL), and other regulatory agencies at all levels of government that work on labor issues. Encourage discussion on the value of constructive interactions among labor non-governmental organizations, workers, employers, and government agencies; encourage exchanges that emphasize the importance of government transparency in developing stable labor relations and in ensuring full and fair enforcement of labor laws. Support USDOL's exchanges with China's Ministry of Human Resources and Social Security (MOHRSS) regarding setting and enforcing minimum wage standards, strengthening social insurance, improving employment statistics, and promoting social dialogue. Support the annual labor dialogue with China that USDOL started this year and plans for further progress in bilateral labor relations.

CRIMINAL JUSTICE

Findings

• During the Commission's 2010 reporting year, the Chinese government took steps to limit the prevalence of coerced confessions and illegally obtained evidence within the judicial system. In May 2010, five Chinese law enforcement agencies announced two new regulations that intend to limit the use of torture by police and prosecutors in criminal, particularly death penalty, cases. Over the 2010 reporting year, police torture and coerced confessions continued to be widely reported by international and domestic organizations.

• Citing concerns over social tensions, Chinese authorities have promoted local and nationwide anti-crime campaigns to stem reported rising crime rates. In June 2010, China launched the fourth round of its national "strike hard" campaign in a massive seven-month crackdown on violent crimes and escalating social conflicts. "Strike hard" campaigns and anti-crime crackdowns have been tied to unusually harsh law enforcement tactics, quick trials, and violations of China's own criminal procedure laws and regulations.

• During this reporting year, Chinese judicial officials contravened provisions in China's Criminal Procedure Law that require courts to provide access to criminal trials for any observer, regardless of citizenship, except where the law specifically prohibits an open trial.

• Harassment and intimidation of human rights advocates by Chinese government officials continued during this reporting year. Public security authorities and unofficial personnel unlawfully monitored rights defenders, petitioners, religious adherents, human rights lawyers, and their family members, and subjected them to periodic illegal home confinement. Such mistreatment and abuse was evident particularly in the leadup to sensitive dates and events, such as U.S. President Barack Obama's visit in November 2009 and the Shanghai 2010 World Expo.

• Chinese officials continued to use various forms of extralegal detention against Chinese citizens, including petitioners,

peaceful protesters, and other individuals considered to be "involved in issues deemed sensitive by authorities." Some of those arbitrarily detained were held in psychiatric hospitals or extralegal detention facilities, such as "black jails," and subjected to treatment inconsistent with international standards and protections found under China's Constitution and Criminal Procedure Law.

• Chinese criminal defense lawyers continue to confront obstacles to practicing law without judicial interference or fear of prosecution. In politically sensitive cases throughout China, criminal defense attorneys routinely faced harassment and abuse. Some suspects and defendants in sensitive cases were not able to have counsel of their own choosing; some were compelled to accept government-appointed defense counsel. Abuses of Article 306 of the Criminal Law, which assigns criminal liability to lawyers that force or induce a witness to change his or her testimony or falsify evidence, continue to hamper the effectiveness of criminal defense.

• In August 2010, the National People's Congress reviewed the first draft of the proposed eighth amendment to China's Criminal Law, which reportedly calls for reducing the current 68 crimes punishable by death to 55 crimes. The reduction would signal the first time the Chinese government has reduced the number of crimes punishable by capital punishment since the Criminal Law was enacted in 1979.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Press the Chinese government to adopt the recommendation of the UN Committee against Torture to investigate and disclose the existence of black jails and other secret detention facilities, as a first step toward abolishing such forms of extralegal detention. Ask the Chinese government to extend an invitation to the UN Working Group on Arbitrary Detention to visit China.

○ Call on the Chinese government to guarantee the rights of criminal suspects and defendants in accordance with international human rights standards and provide the international community with a specific timetable for its ratification of the International Covenant on Civil and Political Rights, which the Chinese government signed in 1998, but has not ratified. Press the Chinese government to adhere to protections for criminal suspects and defendants asserted in its 2009–2010 National Human Rights Action Plan, and encourage the publication and broad dissemination of fully detailed reports and updates on local government implementation of the Action Plan.

○ Urge the Chinese government to amend its Criminal Procedure Law to reflect the enhanced protections and rights for lawyers and detained suspects contained in the 2008 revision of the Lawyers Law. Encourage Chinese officials to commit to a specific timetable for revision and implementation of the revised Criminal Procedure Law.

○ Make clear that the international community regards as laudable the commitments to fair trial rights and detainee rights the Chinese government made in its 2009–2010 National Human Rights Action Plan. Request information on the formalization of those commitments into laws and regulations and on what further steps it will take to ensure their successful implementation, and support bilateral and multilateral cooperation and dialogue to support such efforts.

FREEDOM OF RELIGION

Findings

• China's Constitution guarantees "freedom of religious belief" but protects only "normal religious activities," and the government's restrictive framework toward religion continued in the past year to prevent Chinese citizens from exercising their right to freedom of religion in line with international human rights standards.
• Some Chinese citizens had space to practice their religion, but the Chinese government continued to exert tight control over the affairs of state-sanctioned religious communities and to repress religious and spiritual activities falling outside the scope of Communist Party-sanctioned practice. The government maintained requirements that religious organizations register with the government and submit to the leadership of "patriotic religious associations" created by the Party to lead China's five recognized religions: Buddhism, Catholicism, Taoism, Islam, and Protestantism.
• Unregistered groups risked harassment, detention, imprisonment, and other abuses, as did members of registered groups deemed to deviate from state-sanctioned activities. Variations in implementation allowed some unregistered groups to function in China, but such tolerance was arbitrary and did not amount to the full protection of these groups' rights.
• As leadership in the State Administration for Religious Affairs changed in the past year, authorities continued to affirm policies of control over religion. Despite articulating a "positive role" for religious communities in China, officials did not then use the notion of this "positive role" to promote religious freedom, but rather used the sentiment to bolster support for state economic and social goals.
• The government continued to use law to control religious practice rather than protect the religious freedom of all Chinese citizens. The government continued to pass legal measures that provide some legal protections for registered religious communities, but condition many activities on government oversight or approval and exclude unregistered groups from limited state protections.
• China's diverse religious communities faced various state controls over their affairs, and in some cases, harassment, detention, and other abuses. Authorities continued to control Buddhist institutions and practices and take steps to curb "unauthorized" Buddhist temples. The government and Party placed increasing restraints on the exercise of freedom of reli-

gion for Tibetan Buddhists and continued to punish Tibetan Buddhists for openly expressing their devotion to the Dalai Lama. The government and Party continued to deny members of the registered Catholic church the freedom to recognize the authority of the Holy See to select Chinese bishops, while authorities continued to harass and hold some unregistered priests and bishops under surveillance or in detention. Authorities across the country used the specter of "extremism" to bolster state interference in how Muslims interpreted and practiced their religion. Conditions for religious freedom for Muslims in the Xinjiang Uyghur Autonomous Region continued to worsen as authorities integrated controls over Muslims' religious freedom into far-reaching security crackdowns. Chinese authorities continued to impose state-defined interpretations of theology on registered Protestant communities and to harass and, in some cases, detain and imprison members of unregistered Protestant churches, while also razing church property. Authorities maintained controls over Taoist activities and took steps to curb "feudal superstitious activities."

• During this reporting year, the Chinese government maintained a "strike hard" campaign that it has carried out against Falun Gong practitioners for more than a decade, continuing its harassment and intimidation of Falun Gong practitioners and lawyers who defend Falun Gong clients. Local governments throughout the Shanghai municipal area and surrounding provinces reported mobilizing security forces to target Falun Gong practitioners in preparation for the Shanghai 2010 World Expo, and the 6–10 Office, whose activities continued to expand during this reporting year, spearheaded the Shanghai Expo crackdown.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Call on the Chinese government to guarantee to all citizens freedom of religion in accordance with Article 18 of the Universal Declaration of Human Rights and to remove its framework for recognizing only select religious communities for limited state protections. Stress to Chinese authorities that all citizens are entitled to enjoy freedom of religion as a fundamental human right, regardless of whether they practice religion in a way deemed to contribute to state economic and social goals.

○ Call for the release of Chinese citizens confined, detained, or imprisoned in retaliation for pursuing their right to freedom of religion (including the right to hold and exercise spiritual beliefs). Such prisoners include: Sonam Lhatso (Tibetan Buddhist nun sentenced in 2009 to 10 years' imprisonment after she and other nuns staged a protest calling for Tibetan independence and the Dalai Lama's long life and return to Tibet); Su Zhimin (an unregistered Catholic bishop who "disappeared" after being taken into police custody in 1996); Wang Zhiwen (Falun Gong practitioner serving a 16-year sentence for organizing peaceful

protests by Falun Gong practitioners in 1999); Yusufjan and Memetjan (university students who are members of a Muslim religious group and were detained in May 2009 when members of the group met on a university campus); Yang Rongli and Wang Xiaoguang (house church pastors sentenced to 7 and 3 years, respectively, in 2009 in connection to their activities leading an unregistered congregation), as well as other prisoners mentioned in this report and in the Commission's Political Prisoner Database.

○ Call on the Chinese government to end interference in the internal affairs of religious communities and stress to the Chinese government that freedom of religion includes: the freedom of Buddhists to carry out activities in temples independent of state controls over religion, and the freedom of Tibetan Buddhists to express openly their respect or devotion to Tibetan Buddhist teachers, including the Dalai Lama; the freedom of Catholics to recognize the authority of the Pope to make bishop appointments; the freedom of Taoists to interpret their faith free from state efforts to ban practices deemed as "feudal superstitions"; the right of Falun Gong practitioners to freely practice Falun Gong inside China; the right of Muslims to interpret theology free from state interference and not face curbs on their internationally protected right to freedom of religion in the name of upholding "stability"; and the right of Protestants to worship free from state controls over doctrine and to worship in unregistered house churches, free from harassment, detention, and other abuses.

○ Support initiatives to provide technical assistance to the Chinese government in drafting legal provisions that protect, rather than restrain, freedom of religion for all Chinese citizens. Support training classes for Chinese officials on international human rights standards for the protection of freedom of religion.

○ Support non-governmental organizations that collect information on conditions for religious freedom in China and that inform Chinese citizens of how to defend their right to freedom of religion against Chinese government abuses.

ETHNIC MINORITY RIGHTS

Findings

• Chinese law provides for a system of "regional ethnic autonomy" in designated areas with ethnic minority populations, but shortcomings in the substance and implementation of this system have prevented ethnic minorities from enjoying meaningful autonomy in practice. The Chinese government maintained policies in the past year that prevented ethnic minorities from "administering their internal affairs" as guaranteed in Chinese law and from enjoying their rights in line with international human rights standards. While the Chinese government maintained some protections in law and practice for ethnic minority rights, it continued to impose the fundamental terms upon which Chinese citizens could express their ethnicity and to prevent ethnic minorities from enjoying their cultures, religions,

and languages free from state interference, in violation of international human rights standards.

• Among the 55 groups the Chinese government designates as minority ethnic groups, state repression was harshest toward groups deemed to challenge state authority, especially in the Xinjiang Uyghur Autonomous Region, Inner Mongolia Autonomous Region, and Tibet Autonomous Region and other Tibetan autonomous areas.

• The Chinese government continued in the past year to assert the effectiveness of state laws and policies in upholding the rights of ethnic minorities, following domestic protests and international criticism of the government's treatment of ethnic minorities. The Chinese government and Communist Party strengthened "ethnic unity" campaigns as a vehicle for spreading state policy on ethnic issues throughout Chinese society and for imposing state-defined interpretations of the history, relations, and current conditions of ethnic groups in China.

• Chinese leaders pledged to refine and improve conditions for ethnic minorities, within the parameters of existing Party policy, issuing some policy documents in the past year which may bring mixed results in the protection of ethnic minorities' rights. The Chinese government's 2009–2010 National Human Rights Action Plan issued in April 2009 outlined measures to support ethnic minority populations in China.

• The Chinese government maintained economic development policies that prioritize state economic goals over the protection of ethnic minorities' rights. Despite bringing some benefits to ethnic minority areas and residents, such policies also have conflicted with ethnic minorities' rights to maintain traditional livelihoods, spurred migration to ethnic minority regions, promoted unequal allocation of resources favoring Han Chinese, intensified linguistic and assimilation pressures on local communities, and resulted in environmental damage.

• Authorities in the Inner Mongolia Autonomous Region continued in the past year to restrict independent expressions of ethnic identity among Mongols and to interfere with their preservation of traditional livelihoods, while enforcing campaigns to promote stability and ethnic unity.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Fund rule-of-law programs and exchange programs that raise awareness among Chinese leaders of different models for governance that protect ethnic minorities' rights and allow them to exercise meaningful autonomy over their affairs, in line with both domestic Chinese law and international human rights standards. Fund programs that promote models for sustainable development that draw on participation from ethnic minority communities.

○ Support non-governmental organizations that address human rights conditions for ethnic minorities in China to enable them to continue their research and develop programs to

help ethnic minorities increase their capacity to protect their rights. Encourage such organizations to develop training programs to promote sustainable development among ethnic minorities, programs to protect ethnic minority languages and cultures, and programs that research rights abuses in the Inner Mongolia Autonomous Region. Encourage broader human rights and rule-of-law programs that operate in China to develop programs to address issues affecting ethnic minorities in China.

○ Call on the Chinese government to release people detained or imprisoned for advocating for the rights of ethnic minority citizens, including Mongol rights advocate Hada (serving a 15-year sentence after pursuing activities to promote Mongols' rights and democracy) and other prisoners mentioned in this report and in the Commission's Political Prisoner Database.

○ Support organizations that can monitor the Chinese government's compliance with stated commitments to protect ethnic minorities' rights, including as articulated in the government's 2009–2010 National Human Rights Action Plan and in international law that the Chinese government is bound to uphold. Provide support for organizations that can provide assistance in implementing programs in a manner that draws on participation from communities involved and ensures the protection of their rights.

POPULATION PLANNING

Findings

• Chinese authorities continued to implement population planning policies that interfere with and control the reproductive lives of women, employing various methods including fines, cancellation of state benefits and permits, forced sterilization, forced abortion, arbitrary detention, and other abuses.

• Human rights abuses by officials charged with implementing population planning policies continue despite provisions in Chinese law that prohibit such abuses. China's 2002 Population and Family Planning Law (PFPL) states in Article 4 that officials "shall perform their administrative duties strictly in accordance with the law, and enforce the law in a civil manner, and they may not infringe upon the legitimate rights and interests of citizens." The PFPL also states in Article 39 that "any functionary of a State organ who commits one of the following acts in the work of family planning, if the act constitutes a crime, shall be investigated for criminal liability in accordance with the law; if it does not constitute a crime, he shall be given an administrative sanction with law; his unlawful gains, if any, shall be confiscated: (1) infringing on a citizen's personal rights, property rights, or other legitimate rights and interests; (2) abusing his power, neglecting his duty, or engaging in malpractices for personal gain . . . ."

• The Commission observed in 2010 a greater number of reports confirming its 2009 finding that some local governments are specifically targeting migrant workers for forced abortions.

• The Commission noted that increased public awareness of the demographic and social consequences of the Chinese government's population planning policy in the 2010 reporting year led to public debate among Chinese experts and government officials regarding the need for policy reform. However, top Communist Party and government leaders continue to publicly defend the policy and rule out reform in the near term.
• The Chinese government's population planning policies continue to exacerbate the country's highly skewed sex ratio. Reports in the last year, however, emphasized how population planning policies exacerbate other demographic challenges as well, including a rapidly aging population and a decline in working age population.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Urge the Chinese government to vigorously enforce provisions under Chinese law that provide for punishments of officials and other individuals who violate the rights of citizens when implementing population planning policies. Urge the Chinese government to establish penalties, including specific criminal and financial penalties, for officials and individuals found to commit abuses such as coercive abortion and coercive sterilization, which continue in China despite provisions under existing laws and regulations intended to prohibit them.
○ Urge Chinese officials to cease coercive methods of enforcing birth control quotas. Urge the Chinese government to dismantle coercive population controls and provide greater reproductive freedom and privacy for women.
○ Call on Chinese officials to permit greater public discussion and debate concerning population planning policies and to demonstrate greater responsiveness to public concerns. Support the development of programs and international cooperation on legal aid and training programs that help citizens pursue compensation under China's newly amended State Compensation Law, and other remedies against the state for injury suffered as a result of official abuse related to China's population planning policies.

Freedom of Residence and Movement

Findings

• The Chinese government's household registration (*hukou*) system, first implemented in the 1950s, continues to limit the right of Chinese citizens formally to establish their permanent place of residence. Implementation and enforcement of some *hukou* measures resulted in discrimination against rural *hukou* holders who migrate to urban areas. Most frequently, *hukou* is used to deny social benefits such as education and subsidized healthcare to migrant workers in cities. The discriminatory effects are especially prominent in the area of education.

• Authorities continued during the Commission's 2010 reporting period to relax some *hukou* restrictions consistent with earlier reforms. Guangzhou municipality instituted reforms to unify rural and urban *hukou* into a single residential *hukou.* Chongqing municipality initiated gradual voluntary *hukou* reforms aimed at increasing the percentage of urban *hukou* holders. The effects of these reforms are unclear pending ongoing implementation.
• The Chinese government and Communist Party exercised strict control over public debate on *hukou* reforms during the 2010 reporting year. Authorities removed from the Internet a joint editorial published by 13 newspapers that decried the *hukou* system as corrupt and in need of speedy reform. A coauthor of the piece was forced to resign his position as deputy editor of a major newspaper.
• The Chinese government continued to impose restrictions on Chinese citizens' right to travel in a manner that is inconsistent with international human rights standards. During the Commission's 2010 reporting year, Chinese government authorities arbitrarily barred rights defenders, advocates, and critics from entering and leaving China. Officials refused to renew passports to rights advocates and subsequently cited invalid passports as grounds to prevent entry. In some instances, no reasons for the travel ban were provided.
• The Chinese government continued to use coercive measures to restrict Chinese advocates', rights defenders', and dissidents' liberty of movement within China, especially during politically sensitive periods, including the months leading up to the Shanghai 2010 World Expo. Authorities used measures such as surveillance, police presence outside of one's home, "invitations" to tea with police, forced trips, detention, removal from one's home, reeducation through labor, and imprisonment.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Support programs, organizations, and exchanges with Chinese policymakers and academic institutions engaged in research and outreach to migrant workers that provide legal assistance to migrant workers and encourage policy debates on the *hukou* system.
○ Encourage U.S. academic and public policy institutions and experts to consult with the Commission on avenues for outreach to Chinese academic and public policy figures engaged in policy debates on reform of the *hukou* system.
○ Stress to Chinese government officials that the Chinese government's noncompliance with international standards regarding freedom of movement inside China negatively impacts confidence outside China in the Chinese government's commitment to international standards more generally.
○ Raise specifically Chinese authorities' restriction on the liberty of movement of rights defenders, advocates, and critics including writer Liao Yiwu, advocate Feng Zhenghu, economist

Ilham Tohti, professor Cui Weiping, writer Liu Xia (wife of imprisoned intellectual Liu Xiaobo), and democracy advocates Ding Zilin, Qi Zhiyong, and Li Hai.

STATUS OF WOMEN

Findings

- Chinese officials continued to promote existing laws that aim to protect women's rights, including the amended Law on the Protection of Women's Rights and Interests and the amended Marriage Law; however, inconsistent interpretation, selective implementation, and selective enforcement of these laws across localities limit progress on concrete protections of women's rights.
- Recent statistics show increases in women holding positions at the central, provincial, and municipal levels of government.
- Female political representation at the village level remains low, due in part to the traditional patriarchal system still in play in parts of rural China. Villages typically have a high rate of "self-governance" with regard to issues such as land contracts, profit distribution from collectives, and land requisition compensation, and with limited decisionmaking power in village committees, women's interests are less likely to be represented in village rules and regulations, as well as in land disputes.
- The Chinese government is committed under Article 7 of the International Covenant on Economic, Social and Cultural Rights and Article 11 of the Convention on the Elimination of All Forms of Discrimination Against Women to ensuring gender equality in employment. While China's existing laws such as the Labor Law, amended Law on the Protection of Women's Rights and Interests, and Employment Promotion Law prohibit gender discrimination, they lack clear definitions and enforcement mechanisms, which weakens their effectiveness. Women continue to experience widespread discrimination in areas including recruitment, wages, and retirement. The Shenzhen Municipal Women's Federation announced draft regulations during the Commission's 2010 reporting year to promote gender equality in employment in the Shenzhen Special Economic Zone.
- Sexual harassment remains prevalent in China, and victims of sexual harassment face several legislative, cultural, and social obstacles in protecting their rights. China's amended Law on the Protection of Women's Rights and Interests (LPWRI) prohibits sexual harassment and provides an avenue of recourse for victims through either administrative punishment for offenders or civil action in the people's court system; however, the LPWRI does not provide a clear definition of sexual harassment or specific standards and procedures for prevention and punishment.
- Domestic violence remains pervasive, affecting nearly one-third of China's 270 million families. Advocates continue to call for comprehensive national-level legislation that clearly defines domestic violence, assigns responsibilities to government and

civil society organizations to address it, and outlines punishments for offenders. The All-China Women's Federation proposed draft national legislation this year, but it remains to be seen whether this or other such drafts are entered into the legislative agenda.

• China's increasingly skewed sex ratio, which some researchers attribute to government-imposed birth limits and a traditional cultural bias for sons, may lead to continued or increased forced prostitution, forced marriages, and human trafficking.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Support programs in China that increase awareness of judicial and law enforcement personnel regarding domestic violence and sexual harassment and increase women's leadership training through U.S.-China exchanges and international conferences.

○ Support legal programs that promote women's land rights, especially in rural areas, and urge higher levels of government to increase supervision over village committees to ensure that village rules and regulations are in accordance with national-level laws and policies and to ensure adequate protection of women's rights and interests.

○ Urge the Chinese government to further revise the Law on the Protection of Women's Rights and Interests or enact new comprehensive national-level legislation to provide a clear definition of sexual harassment and specific standards and procedures for prevention and punishment. Inquire into whether officials in the Shenzhen Special Economic Zone have placed gender equality regulations on the legislative plan, whether they intend to make drafts available for public comment, and if so, how long the public comment period will be and to whom will they make drafts available for comment.

○ Urge the Chinese government to enact comprehensive national-level legislation that clearly defines domestic violence, assigns responsibilities of government and civil society organizations in addressing it, and outlines punishments for offenders. Call for the release of such legislation in draft form for public comment.

○ Urge the Chinese government to establish an enforcement mechanism for implementation of provisions in China's Labor Law, amended Law on the Protection of Women's Rights and Interests, and Employment Promotion Law that prohibit gender discrimination. Urge Chinese officials to specifically address gender discrimination in recruitment, wages, and retirement.

HUMAN TRAFFICKING

Findings

- The Chinese government voted to accede to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN TIP Protocol) in December 2009, after several years of stating its intent to do so.
- The legal definition of trafficking under Chinese law does not conform to international standards. Article 240 of China's Criminal Law defines the trafficking of persons as "abducting, kidnapping, buying, trafficking in, fetching, sending, or transferring a woman or child, for the purpose of selling the victim." Because this definition is narrower in scope than the definition provided in Article 3 of the UN TIP Protocol, it imposes limits on the Chinese government's prosecution of traffickers, protection of victims, and funding of anti-trafficking programs.
- China remains a country of origin, transit, and destination for human trafficking and abductions. The majority of trafficking cases are domestic and involve trafficking for sexual exploitation, forced labor, and forced marriage.
- The Chinese government continues to deport North Korean refugees under the classification of "economic migrants," without legal alternatives for victims of trafficking.
- The Chinese government made some efforts to eliminate trafficking and comply with trafficking-related international human rights standards during the Commission's 2010 reporting period. Authorities investigated, prosecuted, and prevented some trafficking crimes, especially domestic trafficking cases, and those involving the abduction of women for forced marriage or commercial sexual exploitation.
- In April 2010, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Justice, and the Ministry of Public Security jointly issued the Opinion on Lawful Punishment for the Crime of Abducting and Selling Women and Children. The guideline may improve investigation and filing of cases involving the trafficking of women under 18 years of age.
- Officials continued to take steps to increase collaboration with other countries, regions, and international organizations on victim identification, repatriation, and criminal prosecution. For example, some local governments in Yunnan province and Guangxi Zhuang Autonomous Region set up liaison offices with the governments of bordering countries including Laos, Vietnam, and Cambodia to cooperate on anti-trafficking efforts.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- ○ Urge the Chinese government to abide by its commitment under the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, revise the government's definition of trafficking, and enact comprehensive

anti-trafficking legislation to align with international standards.

○ Call on the Chinese government to provide more services for trafficking victims, particularly for Chinese citizens trafficked for labor exploitation and trafficked abroad.

○ Urge the Chinese government to abide by its international obligations with regard to North Korean trafficking victims who are deported without legal alternatives to repatriation.

○ Support international and cross-border mechanisms that can help enhance the Chinese government's collaboration with other countries, regions, and international organizations on victim identification, repatriation, and criminal prosecution.

○ Support legal assistance programs that advocate on behalf of both foreign and Chinese trafficking victims.

NORTH KOREAN REFUGEES IN CHINA

Findings

• During the Commission's 2010 reporting year, central and local authorities sustained efforts to locate and forcibly repatriate North Korean refugees in China. The 1951 Convention and its Protocol obligates the Chinese government to refrain from repatriating North Koreans in China who left the DPRK for fear of persecution, or who fear persecution upon return to the DPRK.

• North Korean women along the Chinese border continue to be trafficked into forced marriage and the sex industry. The Chinese government's repatriation of trafficked North Korean women contravenes the 1951 Convention relating to the Status of Refugees (1951 Convention) and its 1967 Protocol (Protocol), as well as Article 7 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN TIP Protocol). The government's failure to take adequate measures to prevent North Korean women from being trafficked contravenes its obligations under Article 9 of the UN TIP Protocol and Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

• Chinese local authorities near the border with the Democratic People's Republic of Korea (DPRK) continued to deny household registration (*hukou*) to the children of North Korean women married to Chinese citizens. Without household registration, these children live in a stateless limbo and cannot access education and other social benefits.

• Famine conditions in the DPRK have worsened since late 2009, and food shortages during the Commission's 2010 reporting year have been compared to the food crisis of the 1990s.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Establish a task force to examine and support the efforts of the UN High Commissioner for Refugees (UNHCR) to gain un-

fettered access to North Korean refugees in China, beginning with North Korean minors, and to recommend a strategy for creating incentives for China to honor its obligations under the 1951 Convention and its Protocol to immediately cease detaining and repatriating North Koreans in China.

○ Urge central and local Chinese government officials to abide by their obligations under the UN TIP Protocol (Article 9) to prosecute human traffickers in northeastern China and along the border with the DPRK.

○ Urge Chinese officials to grant residency status and related social benefits to North Korean women married to Chinese citizens and their children. In particular, urge local Chinese officials to allow these children to receive an education in accordance with the PRC Nationality Law (Article 4) and the PRC Compulsory Education Law (Article 5).

PUBLIC HEALTH

Findings

• Authorities are beginning to implement goals outlined in the January 2009 10-year medical reform plan—such as initiating a pilot public hospital reform project in 16 cities and establishing a basic medicine system with an official list of approved pharmaceuticals—however, challenges remain in implementation.

• Rural areas continue to lack adequate healthcare resources with which to serve local residents.

• Residents of urban areas tend to have greater access to healthcare benefits; however, the growing population of migrant workers and their families who live in these areas but do not possess an urban *hukou* (household registration) still face difficulties in accessing basic health services.

• Some children may go without household registration (*hukou*) in China because they are born "out of plan," that is, not in compliance with birth limits imposed by population planning policies, and their parents do not pay the required fines. Lack of a valid *hukou* raises barriers to access to social benefits typically linked to the *hukou,* including subsidized healthcare and public education.

• Discrimination and social stigma against people living with medical conditions such as infectious disease, physical disability, and mental illness remain commonplace.

• Chinese non-governmental organizations and individual advocates continue to play a significant role in raising awareness about health concerns; however, Chinese authorities continue to suppress some forms of public health advocacy.

• The Chinese government has committed to take steps to prevent, treat, and control infectious disease, but reports indicate that curtailing the spread of infectious diseases, especially in rural areas, has continued to present a significant challenge.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Urge the Chinese central government to work with local governments to ensure effective implementation of the healthcare reform plan. Local government cooperation is critical in achieving the projected goal of healthcare access for the entire population by the year 2020.

○ Urge the Chinese government to encourage local governments to adopt and enforce measures and regulations that prohibit discrimination against migrant workers and provide equal access to social services.

○ Call on the Chinese government to ease repression of public health advocates and provide more support to U.S. organizations that address public health issues in China.

○ Urge Chinese officials to focus attention on effective implementation of China's Employment Promotion Law and related regulations that prohibit discrimination against persons living with HIV/AIDS, Hepatitis B virus, and other illnesses in hiring and in the workplace.

CLIMATE CHANGE AND THE ENVIRONMENT

Findings

• Chinese leaders signed the United Nations Copenhagen Accord, "with provisions for international consultations and analysis under clearly defined guidelines that will ensure that national sovereignty is respected," and then in a separate action, they agreed to voluntarily "endeavor to lower its carbon dioxide emissions per unit of GDP by 40–45 percent by 2020 compared to the 2005 level . . ." among other actions. China emphasized that its "autonomous domestic mitigation actions are voluntary in nature." However, top Chinese leaders explained that they would include related binding targets in China's 12th Five-Year Plan (2010–2015).

• Chinese leaders continued to emphasize China's reliance on domestic monitoring, reporting, and verification of its greenhouse gas emissions and reductions; nevertheless, Chinese leaders have signaled a willingness to discuss greater transparency.

• China has made domestic regulatory and institutional efforts, as well as engaged in bilateral and multilateral cooperative programs to improve the measurement, collection, analysis, and reporting of energy and greenhouse gas data. However, the reliability and transparency of China's energy and greenhouse gas emission data are still in question.

• Without adequate procedural protections, implementation of climate change mitigation policy may place the rights of vulnerable groups, including the rural poor and ethnic minorities, especially resettled citizens, at risk. Hydroelectric dam construction has been accompanied by lack of attention to environmental impact assessment processes mandated by law, and by reports of the infringement upon the fundamental rights of

local populations. Planned rapid acceleration of the pace of development of nuclear and hydroelectric projects heightens these concerns going forward.

• China incorporated language related to climate change and the environment in its 2009–2010 National Human Rights Action Plan (HRAP), including one overarching principle touching upon the broad themes of sustainable development and guaranteeing the "public's environmental rights." The HRAP does not detail the nature of these rights. In addition, the HRAP contains several specific pollution and climate change action objectives that are similar to some of the goals stipulated in China's previous national economic development, renewable energy, and climate change plans.

• A report released by the Ministry of Environmental Protection (MEP) in February 2010 on a national pollution source census conducted in China, which for the first time included data from agricultural and other sources of pollution, revealed some discrepancies with past official figures for several pollutants. The census figure for Chemical Oxygen Demand, for example, was nearly double the amount that was previously reported.

• Limitations on citizen access to information, including pollution and related data, hinder efforts to raise environmental awareness, promote public participation, and develop incentives for compliance. Limits on access to remedies for environmental harms and selective or arbitrary enforcement weaken environmental compliance efforts.

• Limited public participation in decisionmaking processes and selective suppression of citizen demands for a cleaner environment also weaken compliance efforts and contribute to citizen dissatisfaction. In several incidents, authorities harassed, detained, or sentenced citizens for their environmental activism, for allegedly organizing antipollution demonstrations, or for "illegally" gathering environmental information. In one notable case, officials ordered Jigme Namgyal, a citizen living in the Tibet Autonomous Region, to serve one year and nine months' reeducation through labor for "harming national security" by illegally gathering information and video material on the local environment, by collecting "propaganda" material "from the Dalai Clique," and for allegedly organizing local residents to conduct "irregular petitioning" of authorities, among other charges.

• Numerous other factors, including the priority attached to economic development, have led to compliance challenges that hinder the realization of some of the government's environmental protection goals. Lack of accountability, corruption, local governmental protectionism, and malfeasance impede implementation and enforcement.

• During the Commission's 2010 reporting year, a quasi-non-governmental organization overseen by the MEP brought the first environmental administrative public interest lawsuit by such a group to a special environmental court, opening the door to the possibility that other non-governmental groups

could bring such lawsuits in an effort to improve compliance with environmental laws.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Support U.S. Government cooperation with the Chinese government and other educational programs geared toward raising awareness among Chinese officials of how to implement climate change mitigation and adaptation strategies and environmental protection policies effectively without transgressing on fundamental rights.

○ Support U.S. Government engagement with relevant ministries in developing China's capacity to reliably measure, report, publicize, and verify emission reduction strategies and techniques. Encourage Chinese officials to make government and expert research reports regarding climate change and its impacts in China public and easily accessible.

○ Call upon the Chinese government to cease punishing citizens, such as Jigme Namgyal, Wu Lihong, and Sun Xiaodi, for their grassroots environmental activism, or for utilizing official and institutionalized channels to voice their environmental grievances or to protect their rights.

○ Support efforts in China by those working to strengthen environmental complaint and dispute resolution mechanisms and support bilateral cooperation in this area. Strengthen cooperation regarding environmental health. Include environmental issues in the Bilateral Human Rights Dialogue and expand cooperation on rule of law education with specific focus on issues pertaining to the environment.

○ Invite U.S. domestic environmental civil society organizations and urge the Chinese government to invite Chinese environmental civil society organizations as participants or observers in bilateral climate change and environmental protection projects and dialogues. Invite Chinese local-level leaders, including those from counties, townships, and villages, to the United States to observe U.S. public policy practices and approaches to problem solving.

○ Engage local leaders in their efforts to reconcile development and environmental protection goals. Call upon U.S. cities with sister-city relationships in China to incorporate environmental awareness and advocacy, environmental protection, and climate change components into their programs. When making arrangements for travel to China, request meetings with officials from central and local levels of the Chinese government to discuss environmental governance and best practices.

○ Support multilateral exchanges regarding environmental enforcement and compliance tools including environmental insurance, market mechanisms, criminal prosecution of serious environmental infringements, and public interest litigation mechanisms. Encourage Chinese leaders to strengthen environmental impact assessment processes and citizen participation in those processes. Engage Chinese officials in devising a real-

istic and fair compensation system for people harmed by pollution.

○ Establish a Working Group on Climate Change Policy, the Rule of Law and Human Rights in accordance with Section II(B) of the Memorandum of Understanding to Enhance Cooperation on Climate Change, Energy and Environment between the Government of the United States of America and the Government of the People's Republic of China (the MOU) signed during the U.S.-China Strategic and Economic Dialogue held in July 2009. (Section II(B) of the MOU states that, "[t]he Participants may establish working groups or task forces involving relevant ministries as necessary to support the objectives of the Climate Change Policy Dialogue and Cooperation.")

CIVIL SOCIETY

Findings

• During the Commission's 2010 reporting year, the number of civil society organizations (CSOs)—including organizational forms that most nearly correspond to the Western concept of non-governmental organizations (NGOs)—participating in legal and policymaking activities in areas that are not politically sensitive continued to increase gradually. At the same time, organizations and individuals who worked on politically sensitive issues continued to face challenges.

• NGOs continued to face challenges fulfilling complicated and cumbersome registration requirements. In order to operate legally, an organization is required to obtain sponsorship agreement from a public administration department in a relevant "trade, scientific or other professional area" at the appropriate level of government before registering with the Ministry of Civil Affairs (MCA). Sponsorship agreements are sometimes difficult to obtain because local sponsors are sometimes reluctant to take on the burdens of supervisory responsibilities. NGOs that do not fulfill these "dual management" requirements are not protected under the law and are prohibited from receiving outside donations. In part to circumvent the burdens of fulfilling dual management requirements, some NGOs opt to register as commercial entities, though such actions could also subject them to targeted or selective oversight from the government as well as higher tax rates.

• Some Chinese citizens who sought to establish and operate NGOs that focus on issues deemed by officials to be sensitive faced intimidation, harassment, and punishment from government authorities. During this reporting year, for example, Chinese officials repeatedly harassed and interfered with the operations of Aizhixing Institute of Health Education, a Beijing-based public health advocacy organization that Wan Yanhai—a public health researcher and advocate—founded in 1994. Authorities reportedly canceled the group's seminar marking the International Sex Worker Rights Day, conducted an unannounced investigation into the group's tax records, and sent fire department officials to carry out random and unannounced safety inspections. Wan ultimately left China for the

United States in May 2010, saying that he had concerns for his personal safety.

• During this reporting year, the Chinese government continued to tighten its control over "sensitive" civil society groups through selective enforcement of regulations. In March 2010, China's State Administration of Foreign Exchange (SAFE) put into effect a circular concerning "foreign exchange donated to or by domestic institutions," which made it difficult for some Chinese organizations, including NGOs, to accept overseas donations. The circular required organizations, when applying to receive foreign donations through SAFE, to also submit their business licenses, notarized donation agreements, and certificates of registration of the overseas donating organizations. One member of the Chinese NGO community explained that the problem is not primarily a matter of how social groups actually collect their funding, but rather the authorities' selective enforcement of the rules, depending on what the group does.

• Despite an overall trend of tighter control, at least one case of limited localized reform took place: In Shenzhen, the MCA signed an agreement with the local government to explore the establishment of a system allowing CSOs to apply and register directly with the MCA. The reforms could potentially lead to a system where the MCA will supervise and regulate organizations alone, without sponsoring organizations, making it possible for future individuals wishing to form organizations, including NGOs, to have a relatively less complicated one-stop shop process rather than the existing "dual management" setup.

• The Chinese government in July 2009 issued "working guidelines" for social organizations (*shehui tuanti*) seeking eligibility to receive tax-deductible donations. Social organizations are one of the three main types of CSOs in China. The other two primary types of CSOs in China are foundations (*jijinhui*) and private nonenterprise organizations (*minban fei qiye danwei*). The working guidelines issued last July further clarified the standards for determining the eligibility of social organizations for tax-deductible donations. At the same time, they continued to limit the number of eligible social organizations. The working guidelines also did not alter existing regulations requiring all CSOs to register with the government.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Encourage the Chinese government to broaden the recent reforms relating to registration of non-governmental organizations (NGOs) and other aspects of civil affairs in Guangdong province and to make them applicable to other parts of the country through national legislation and regulatory development.

○ Ask the Chinese government to refrain from applying uneven or selective enforcement of regulations to intimidate groups that they consider to be handling sensitive work. Re-

quest the Chinese government revisit the recently issued State Administration of Foreign Exchange circular concerning overseas donations to Chinese organizations. Emphasize that NGOs are actually a way for citizens to channel their grievances and find redress, and in turn contribute to the maintenance of a stable society. Conversely, stricter controls over civil society organizations could remove a potentially useful social "safety valve," thereby increasing the sources of instability. During discussions with Chinese officials, mention the Tsinghua University report that made the same findings: that even as the government increased spending on public security and tightened its control over civil society, social conflicts are happening with greater regularity.

○ Take measures to facilitate the participation of Chinese citizens who work in the NGO sector in relevant international conferences and forums, and support training opportunities in the United States to build their leadership capacity in nonprofit management, public policy advocacy, strategic planning, and media relations.

INSTITUTIONS OF DEMOCRATIC GOVERNANCE

Findings

• The Communist Party exercises control over political affairs, government, and society through networks of Party committees or branches that exist at all administrative levels within governmental, legislative, judicial, and security organizations; major social groups (including unions); enterprises (both domestic and foreign-invested); most residential communities; and the People's Liberation Army. During the Commission's 2010 reporting year, Chinese leaders emphasized expanding and strengthening the Party, focusing in part on establishing or strengthening Party branches at the local level and in nongovernment organizations, the military, and academic institutions.

• During the 2010 reporting year, isolated experiments with intraparty democracy took place around the country. In some of these experiments, Party officials used the "open recommendation, direct election" method, whereby Party officials elicit comments from the public on specific candidates, but only Party members, not the general public, cast ballots for the Party committee, Party branch, and residents' committee members and leaders already approved by Party officials at the next highest administrative level. Party authorities in various locations experimented with election monitoring systems during intraparty elections for residents' committee members and leaders.

• During this reporting year, Party and central government leaders continued activities to strengthen some controls over society and to "safeguard stability." Local governments charged with the work of "maintaining social stability" continued to establish specialized institutions including "stability preservation offices" and "comprehensive governance offices." Officials reportedly continued to expand networks of informants to pin-

point potential "social instability" and to establish "stability preservation funds" (*weiwen jijin*) from which they make payments to people with grievances ostensibly in order to preempt their escalating disputes.

• Chinese leaders made public statements emphasizing the leading role of the Party, the need to adhere to China's unique style of "socialist democracy," and the impossibility of implementing "Western-style" democracy with a separation of powers and competing political parties. Direct elections for local people's congress representatives are held only at the county level and direct elections for "village committees" are held only at the village level, and leaders emphasized that direct elections would not be held at higher administrative levels.

• Some citizens and social groups demanded that the Party and government undertake democratic reforms and human rights protections. Some of these requests were met with official reprisal, including harassment, detention, and, in some cases, harsh prison sentences. Chinese authorities continued to have no tolerance for, arrested, and imposed sentences on individuals involved in political parties not sanctioned by the Communist Party. For example, a court in Jiangsu province sentenced Guo Quan, formerly a university professor, to 10 years in prison for "subversion of state power." The court found that Guo used the Internet to organize an "illegal" political party called the "China New Democracy Party," among other charges.

• The National People's Congress (NPC) Standing Committee conducted two reviews of proposed draft revisions to China's Organic Law on Villagers' Committees. Proposed amendments could potentially resolve the difficulties villagers have in removing village committee members, make it easier to convene villager meetings, and strengthen villager oversight of village affairs. In addition, they could also strengthen Party control at the village level.

• Local areas continued to experiment with village committee election procedures, although implementation problems with village elections persisted. During this reporting year, Chinese authorities developed plans to improve governance in "difficult villages," which are villages where, among other problems, leaders do not support or have delayed holding village committee elections for a long time, where there have been longstanding tensions between leaders and villagers, or where citizens have taken their grievances to higher level officials.

• The Chairman of the NPC Standing Committee, Wu Bangguo, mentioned that the NPC and NPC Standing Committee would increase supervision over governmental affairs through "inquiry and question" procedures, which, though in the past have been used rarely, focused this year on "issues of broad concern to NPC delegates" and the oversight of economic policy. The NPC and NPC Standing Committee "will invite responsible cadres from the State Council and related departments to attend meetings and listen to suggestions, respond to inquiries, and answer questions." The NPC Standing Committee passed the revised Electoral Law in March 2010, which

now awards the same proportion of NPC deputies per population to both rural and urban areas. In the past, urban residents enjoyed greater representation. One county in Sichuan province piloted experiments with full-time professional local people's congress deputies.

• Chinese officials describe China's political system as a "socialist democracy" with "multi-party cooperation" and "political consultation" under the leadership of the Communist Party. Consultation reportedly takes place at both the national and the local levels. During this reporting year, authorities in Guangzhou municipality issued new rules that provide for political consultation between the municipal Party committee and members of the local people's political consultative conference and local branches of the eight "approved" political parties regarding laws, regulations, and some policies of broad public interest.

• During this reporting year, authorities pledged in the 2009–2010 National Human Rights Action Plan (HRAP) to more stringently implement anticorruption measures. Central and local Party and government entities also issued new or revised corruption prevention measures, some focusing on strengthening and expanding the system of reporting officials' personal finances. Chinese authorities have taken additional steps to encourage reporting of corruption. Whistleblower protections, however, remain inadequate.

• Citizens and groups are increasingly able to access various channels such as public hearings, expert meetings, roundtables, and the Internet to express opinions regarding proposed policies and regulatory instruments. Authorities reportedly have made 67 administrative legal measures available for public comment since 2004. However, citizens still have little direct access to political decisionmaking processes above the village level (village elections) and the county level (people's congress representative elections).

• During this reporting year, at least some cities implemented a national directive issued in 2008 stipulating that cities and counties expand the scope of public hearings to solicit citizen opinions regarding laws, regulations, provisions, and major government administrative policies that are relevant to the interests of citizens. Citizens and the media continue to express concerns regarding the implementation and impact of public hearings. Questions remain regarding the depth and breadth of participation, and the processes for compiling, assessing, and incorporating public suggestions are still not transparent.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Support programs that aim to reduce corruption in people's congress and village committee elections, including expansion of domestic election monitoring systems and training of domestic election monitors.

○ Support exchanges between Members of the U.S. Congress and members of the National People's Congress and the Chinese People's Political Consultative Conference, especially in relation to Congressional oversight processes.
○ Support projects that seek to work with local governments in their efforts to improve transparency and accountability, especially efforts to expand and improve China's open government information initiatives. Such projects might include joint efforts to better publicize the Open Government Information (OGI) Regulations at local levels and train citizens and groups in how to submit OGI requests.
○ Support projects that assist local governments, academics, and the nonprofit sector in expanding and making more transparent the use of public hearings and other channels for citizens to incorporate their input in the policymaking process. Such projects might include an exchange program component, whereby Chinese local government officials and non-governmental organization representatives would travel together to the United States to attend town hall or public meetings that address significant issues. Such projects might also include pilot projects in China that make the processes through which citizens submit suggestions to authorities about draft laws, regulations, or policies more transparent, by making the suggestions submitted to authorities available to the public.
○ Call on the Chinese government to release people detained or imprisoned for exercising their right to call for political reform within China, including Liu Xiaobo (signer of Charter 08 who was sentenced to 11 years in prison in December 2009 for "inciting subversion of state power"), Guo Quan, and other people mentioned in this report and in the Commission's Political Prisoner Database.

COMMERCIAL RULE OF LAW

Findings

• The Chinese government has increasingly relied on industrial policies rather than the market to direct economic growth. These industrial policies are comprehensive frameworks for development in key sectors of the Chinese economy, providing for subsidies and other benefits, plans for restructuring the state-owned companies in the relevant sector, and export goals. Benefits outlined under the policies may discriminate against foreign-invested companies to the benefit of China's state-owned enterprises. In some cases, provisions of the policies have been found not to comply with World Trade Organization (WTO) requirements, such as provisions in the auto industrial plan concerning import of auto parts, which a WTO dispute panel found to violate the WTO rules in a case decided in 2008. The Chinese government revised the policy, effective September 2009. China's use of industrial policies has been coupled with increasing protectionism by the Chinese government.
• The Chinese government has promoted "indigenous innovation" as a massive government campaign utilizing industrial policies and government procurement to decrease reliance on

foreign technology, and to enhance China's economy and national security, with the stated purpose of enabling China to become a global leader in technology by mid-century. In November 2009, three government departments issued the Circular on Launching 2009 National Indigenous Innovation Accreditation Work. Products that satisfy the standards set forth in the circular may be entitled to certain preferences in government procurement. The initial draft of the circular provided that, in order to qualify for these preferences, products (1) must be produced by an enterprise in China that owns the intellectual property; (2) must be covered by a trademark that was first registered in China by a Chinese company; (3) must be innovative and internationally competitive; and (4) must meet Chinese technical standards. In April 2010, the Ministry of Science and Technology issued a revised version of the circular relaxing the requirements for Chinese ownership of intellectual property rights, and allowing products based on technology and trademarks licensed to a licensee in China to qualify. Questions remain concerning the implementation of the revised circular, however, including the resolution of conflicts between national- and local-level decisions on indigenous innovation.

• The Chinese government has encouraged indigenous innovation for several years. Indigenous innovation is one of the "guiding principles" of China's National Medium- and Long-Term Program for Science and Technology Development (2006–2020), and China explicitly called for indigenous innovation in government procurement in the 2007 Administrative Measures for Government Procurement of Imported Parts, which provide that procurement of imported parts should facilitate indigenous innovation by bringing into China technologies that China then can assimilate. In some cases, industrial policies call for indigenous innovation, such as the 2004 Auto Industrial Policy, which calls for indigenous innovation in the auto sector.

• Chinese government departments in charge of implementing China's Antimonopoly Law (AML), which took effect in August 2008, have continued to flesh out the regulatory regime. The Ministry of Commerce (MOFCOM) passed two sets of measures on mergers, which came into effect in January 2010. In May 2010, the State Administration for Industry and Commerce (SAIC) issued for comment three drafts concerning (1) monopoly agreements, or uncompetitive agreements, (2) abuse of dominance, and (3) administrative monopoly, or anticompetitive behavior by government authorities. The MOFCOM measures cover reporting of proposed concentrations, and investigations. The drafts issued by the SAIC expand on provisions of the AML and provide guidance on the regulators' methodology.

• Although one of the purposes of the AML is to protect fair competition in the Chinese market, this may conflict with China's industrial policies encouraging the mergers of large state-owned enterprises into larger enterprise groups and the protection of state-owned enterprises in general. For example, the Auto Industrial Policy calls for the development of large

auto enterprise groups, and the 2009 Program for the Adjustment and Rejuvenation of the Auto Industry calls for the formation of two to three large auto groups and four to five smaller ones, through a process of takeovers and reorganization. In the period since the AML came into effect in August 2008 to the end of 2009, MOFCOM has completed 60 merger reviews, 6 of which MOFCOM approved with conditions, and 1 of which MOFCOM blocked. MOFCOM only publishes rulings on mergers that it rejects or approves with conditions, so it is difficult to tell whether the parties to unconditionally approved mergers are state-owned enterprises or non-Chinese companies. Of the published cases, however, six involved mergers between non-Chinese parties.

• During the Commission's last (2009) reporting year, China passed the Food Safety Law and implementing legislation. The law called for the creation of a National Food Safety Commission to coordinate the work of government departments with responsibility for food safety. During this reporting year, in February 2010, the State Council established this commission, with Vice Premier Li Keqiang as chairman and high-level members of relevant departments as commission members. The government also continued to issue regulations on food safety, including regulations on food additives and catering. China passed a Tort Liability Law in December 2009, which came into effect in July 2010. The Tort Liability Law covers product liability and product recalls, and, if implemented faithfully and effectively, may provide tools for victims of food safety violations to seek redress.

• China's economic development has led to increased need for land, and income from land sales has been an important source of revenue for local governments. In some cases, these factors have been associated with abuse by local governments and property developers, including widespread demolitions and forced evictions. Forced evictions are contrary to Article 11(1) of the International Covenant on Economic, Social and Cultural Rights, which covenant China has ratified. Some property owners who refuse to leave their homes have been beaten, harassed, or illegally detained.

• In some cases, property rights owners receive poor procedural protection and inadequate compensation when their land is expropriated. There is evidence of collusion in some cases between property developers and local governments, which may receive as much as 60 percent of their revenue from land sales, to seize land from its occupants for sale to the developers. Furthermore, though China's 2007 Property Law and China's 2004 Law on Administration of Urban Real Property both provide that local governments should only expropriate land in the "public interest," this term is not defined in law. Currently, the 2001 Regulations on Government Housing Demolition in Urban Areas, which govern land requisitions, do not include any requirement that expropriations of land be in the public interest, and lack sufficient procedural protections for property rights owners. In December 2009, five Peking University law professors sent an open letter to the National People's Con-

gress calling for the repeal or amendment of the 2001 regulations, which the professors said violated China's Constitution and Property Law. In January 2010, the State Council Legal Affairs Office published for public comment draft Regulations for Expropriation and Compensation of Residential Buildings on State-Owned Land, which require that, in most cases, expropriation must be in the public interest, and offer some guidance as to what constitutes "public interest." The draft regulations, which have not yet been finalized, fall short in that they allow some expropriations that are not in the public interest, and do not offer any protection to rural land dwellers.

• Rural land is owned by collectives, and farmers legally can enter into 30-year contracts with their collectives for use of collectively owned land. However, there is little protection for farmers. In some cases, the collectives take back land and "reallocate" it to others. In other cases, village leaders, developers, and local governments conspire to take the land and change it into what is characterized as "urban land," which the local government can then sell. Although the farmers are legally entitled to compensation, procedures are not clearly spelled out; in some cases, very little of the compensation may reach them and they are left destitute. The draft Regulations for Expropriation and Compensation of Residential Buildings on State-Owned Land do not cover collectively owned land, and at least one of the Peking University professors who called for repeal or amendment of the 2001 regulations has warned that this is a problem. Nonetheless, Chinese authorities have not proposed similar legislation to protect rural land dwellers.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Develop and support a project surveying the role of China's industrial policies in the Chinese economy from the perspective of WTO requirements, including how the development of these policies and the role they play in directing China's economy, impact the development of transparency and rule of law and China's compliance with its international legal commitments.

○ Make a formal request to the Chinese government through bilateral meetings such as the Joint Commission on Commerce and Trade or the Strategic and Economic Dialogue, or through the inquiry points of the Chinese government departments responsible for indigenous innovation policy, for details of plans, policies, regulations, measures, and other legislation relating to indigenous innovation, and explanations as to how these have been or will be implemented. This information will facilitate understanding of the full impact of China's indigenous innovation policy on China's legal system and government procurement practices.

○ Request through the Open Government Information office at the Ministry of Commerce, or through bilateral dialogues between the U.S. Department of Justice and Federal Trade Commission and their Chinese counterparts, details on merger

applications reviewed since the Antimonopoly Law came into effect, including the number of applications involving non-Chinese companies, the number involving state-owned enterprises, and the results of each of the merger reviews.

○ Arrange meetings under the auspices of legal exchanges such as the U.S. Legal Exchange under the Joint Commission on Commerce and Trade, or through the American Bar Association, between U.S. tort lawyers and Chinese lawyers on consumer rights and compensation for victims of substandard food products, and the U.S. system of redress through the courts and government departments in cases of food quality problems.

○ Urge the Chinese government in meetings and correspondence to (1) revise the draft Regulations for Expropriation and Compensation of Residential Buildings on State-Owned Land to clarify that expropriation is allowed only in the public interest, (2) issue the final version and put it into effect immediately, and (3) ensure that the draft regulations are amended to provide comparable protection for rural land dwellers, or draft equivalent legislation to protect the rights of rural land dwellers. Property owners whose land was expropriated in the period between the date the draft was published and the effective date of the regulations and any comparable legislation for rural land should be given an opportunity to challenge the expropriation.

○ Arrange and support a program of technical assistance for Chinese government departments responsible for land management, concerning U.S. procedures and standards for taking property by eminent domain. Such assistance would highlight the meaning under U.S. law of takings in the "public interest," and could be organized by U.S. municipal governments working with their sister cities in China.

○ Urge the Chinese government to put in place comprehensive legislation to clarify rural land titles and to provide legal assistance at the grassroots or through pro bono programs at law firms, to rural land dwellers to help them protect their rights to collectively owned land. Working through organizations such as the American Bar Association, encourage the All China Lawyers Association to develop a comprehensive and independent legal aid program to address rural land issues.

○ Help the Chinese government address issues with rural land rights and land transfer by developing and supporting a program under which U.S. local or state governments responsible for land titles participate in face-to-face meetings and exchanges with local authorities in China. This training would cover title registration, transfer, and dispute settlement.

ACCESS TO JUSTICE

Findings

• Public security officials and those working under their direction used abductions, physical violence, or threats of physical violence to harass and intimidate human rights lawyers during the Commission's 2010 reporting year. Chinese government officials continued to use license suspension and disbarment as

a means to control and repress human rights lawyers who work on politically sensitive issues.

• Amendments to the State Compensation Law, if implemented faithfully, may expand channels whereby individuals who have been subjected to the abuse of administrative authority may obtain compensation. Amendments to the Administrative Supervision Law, if implemented faithfully, may improve protections for whistleblowers. Other proposed administrative law reforms may, if passed and implemented faithfully, provide greater oversight of state agencies, improved protection of citizen interests, and enhanced supervision of government employees.

• During the 2010 reporting year, large numbers of petitioners, i.e., individuals availing themselves of China's *xinfang* ("letters and visits") system—an alternative to courts whereby citizens may seek redress for grievances by submitting petitions to government authorities were harassed, abused, put in illegal "black jails," locked up in psychiatric hospitals, or sent to reeducation through labor centers.

• Chinese officials limited Chinese citizens' and foreign visitors' lawful access to justice in sensitive cases. In July 2010, a Beijing court sentenced American geologist Xue Feng to eight years in prison for helping the American company he worked for purchase commercial information on oil wells in China. Although the court claimed the information constituted a state secret and endangered national security, officials reportedly did not declare the information a state secret until after the transaction had occurred. During the more than two-year period of Xue's detention, Chinese officials attempted to coerce him into confessing to the crime by allegedly torturing him and committed several violations of China's Criminal Procedure Law.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Object to the continued harassment of human rights lawyers and defenders. Call for the release of lawyers, activists, and others who are incarcerated, subject to unlawful home confinement, or who have disappeared for their activities to defend and promote the rights of Chinese citizens, including Gao Zhisheng, Hu Jia, and Zheng Enchong, as well as other prisoners mentioned in this report and in the Commission's Political Prisoner Database.

○ Support the U.S. State Department's International Visitors Leadership Program and other similar bilateral exchange programs that bring Chinese human rights lawyers, advocates, and scholars to the United States for study and dialogue. Support similar programs in the non-governmental organization (NGO) and academic sectors that partner with China's human rights lawyers and nonprofit legal organizations.

○ Support research and technical exchange programs designed to improve implementation of administrative law reforms,

prioritizing those that will provide greater oversight of government agencies and grant more protections to Chinese citizens. Support NGOs with programming to build capacity among petitioners. Support research and exchanges that examine incentive structures that can lead to the punishment of whistleblowers and the stifling of citizen expressions of legitimate grievances.

○ Communicate concerns about possible official political abuse of psychiatric treatment and politically motivated commitment of petitioners to psychiatric hospitals in China to the American Psychiatric Association, the Geneva Initiative on Psychiatry, and the World Medical Association. Urge Chinese officials to adopt a national mental health law that will specifically clarify the process of involuntary commitment and protect individuals from being hospitalized by public security officials.

○ Call on the Chinese government to release Xue Feng and permit him to return to the United States. Call on the Chinese government, in the interim, to ensure that U.S. officials are permitted to meet with him on a regular basis.

XINJIANG

Findings

• Human rights conditions in the Xinjiang Uyghur Autonomous Region (XUAR) worsened during the Commission's 2010 reporting year. Following government suppression of a demonstration by Uyghurs and riots in the XUAR in July 2009, authorities instituted unprecedented levels of control over the free flow of information, denying XUAR residents and the outside world news about conditions in the region and increasing the government's capacity to manipulate information. Amid this information blackout, authorities strengthened security measures and campaigns to promote "ethnic unity," using them to quell free speech, curb independent religious activity, and impose intrusive controls over the lives of XUAR residents.

• Authorities singled out Uyghurs in particular in security campaigns, and the whereabouts of some Uyghurs detained in the aftermath of the July 2009 demonstrations and riots remain unknown. Trials connected to events in July have been marked by a lack of transparency and violations of due process. Authorities detained, and in some cases, imprisoned, Uyghur Web site workers and a journalist in connection to free speech about the events and about broader conditions in the XUAR.

• Central government and Communist Party authorities inaugurated a "central work forum" on the XUAR in May 2010 that sets central government and Party objectives for the region's economic and political development, intensifying a trend of top-down initiatives that prioritize state economic and political goals over the promotion of regional autonomy and broader protections of XUAR residents' rights.

• The government enforced other policies and measures that also fueled worsening human rights conditions in the region, including measures aimed at quelling dissent, promoting assimilation, and repressing independent expressions of ethnic

and religious identity, especially among the Uyghurs. The XUAR government intensified steps to promote Mandarin Chinese and marginalize the use of the Uyghur language in XUAR schools, in violation of Chinese law. As in past years, some population planning policies in the region singled out non-Han ethnic groups. The government continued work to transfer Uyghur and other non-Han workers to jobs in the interior of China, through programs reportedly marked, in some cases, by coercion and abusive practices. Uyghurs and other groups within the XUAR remained subject to hiring practices that have allowed widespread discrimination against non-Han groups. Ongoing work to "reconstruct" the historic Old City section of Kashgar continued to undermine Uyghurs' right to preserve their cultural heritage. Repression of Islam in the XUAR worsened. [For more information on conditions for religious freedom in the XUAR, see Findings and Recommendations on Freedom of Religion in this section.]

• Uyghurs seeking asylum outside China continued to face barriers to accessing asylum proceedings and risk of refoulement under the sway of China's influence in neighboring countries and its disregard for international law, as illustrated by the Cambodian government's deportation of 20 Uyghur asylum seekers to China in December 2009, following Chinese government intervention.

• Repressive government controls throughout the region, especially those targeting Uyghurs, illustrated the status of the XUAR as a government-designated ethnic autonomous region that lacks true autonomy, particularly for the group in whose name it was established. Despite guarantees in Chinese law for measures of autonomy in governance and protections for ethnic minority rights, central and local government authorities exert control at a level antithetical to local residents' meaningful control over their own affairs and to the protection of their rights. Chinese government actions violate not only Chinese law but also international human rights law that the Chinese government is bound to uphold.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Support legislation that expands U.S. Government resources for raising awareness of human rights conditions in the Xinjiang Uyghur Autonomous Region (XUAR), for protecting Uyghur culture, and for increasing avenues for Uyghurs to protect their human rights.

○ Raise concern about human rights conditions in the XUAR to Chinese officials and condemn the use of information blackouts and security campaigns to suppress human rights. Call on the Chinese government to release people imprisoned for advocating for their rights or for their personal connection to rights advocates, including Nurmemet Yasin (sentenced in 2005 to 10 years in prison for allegedly "inciting racial hatred or discrimination" or "inciting splittism" after writing a short story); Alim

and Ablikim Abdureyim (adult children of activist Rebiya Kadeer, sentenced in 2006 and 2007 to 7 and 9 years in prison, respectively, for alleged economic and "splittist" crimes); and other prisoners mentioned in this report and in the Commission's Political Prisoner Database.

○ Call on the Chinese government to provide details about each person detained, charged, tried, or sentenced in connection with demonstrations and riots in the XUAR in July 2009, including each person's name, the charges (if any) against each person, the name and location of the prosecuting office (i.e., procuratorate), the court handling each case, and the name of each facility where a person is detained or imprisoned. Encourage people who have been wrongfully detained to file for compensation. Call on the Chinese government to ensure people suspected of crimes in connection to events in July 2009 are able to hire a lawyer and exercise their right to employ legal defense in accordance with Articles 33 and 96 of China's Criminal Procedure Law, and to ensure suspects can employ legal defense of their own choosing. Call on the Chinese government to announce the judgments in all trials connected to events in July 2009, as required under Article 163 of China's Criminal Procedure Law. Call on the government to allow independent experts to conduct independent examinations into the demonstrations and riots and to allow them access to the trials connected to these events.

○ Support U.S. government funding for non-governmental organizations that address human rights issues in the XUAR to enable them to continue to gather information on conditions in the region and develop programs to help Uyghurs increase their capacity to preserve their rights and protect their culture, language, and heritage. Support funding for media outlets devoted to broadcasting news to the XUAR and gathering news from the region to expand their capacity to report on the region and provide uncensored information to XUAR residents.

○ Call on the Chinese government to support development policies in the XUAR that promote the broad protection of XUAR residents' rights and allow the XUAR government to exercise its powers of regional autonomy in making development decisions. Call on central and XUAR authorities to ensure equitable development that not only promotes economic growth but also respects the broad civil and political rights of XUAR residents and engages these communities in participatory decisionmaking. Ensure development projects take into account the particular needs and input of non-Han ethnic groups, who have faced unique challenges protecting their rights in the face of top-down development policies and who have not been full beneficiaries of economic growth in the region.

○ Raise the issue of Uyghur refugees with Chinese officials and with officials from international refugee agencies and from transit or destination countries for Uyghur refugees. Call on Chinese officials and officials from transit or destination countries to respect the asylum seeker and refugee designations of the UN High Commissioner for Refugees and the refugee and citizenship designations of other countries. Call on transit and

destination countries to abide by requirements in the 1951 Convention on the Status of Refugees and the Convention against Torture on refoulement.

TIBET

Findings

• During the Commission's 2010 reporting year, the Chinese government and Communist Party pressed the "core interest" policy that seeks to isolate the Dalai Lama internationally and diminish or end his international influence. The policy is based on Chinese assertions that "Tibet" is one of China's two "core interests" ("Taiwan" is the other); the Dalai Lama is a separatist; and other governments therefore should not permit the Dalai Lama to enter their countries and thereby threaten China's "territorial integrity." The policy operates in tandem with the Party's domestic campaign to isolate Tibetans in China from the Dalai Lama. The results of such government policies could include further increases of human rights abuses of Tibetans concurrent with a decrease in the ability of the international community to detect, document, and respond to such abuses.

• The 25-member Party Political Bureau (Politburo) met in January to formulate a "new general strategy for governing Tibet" based on the notion of "four adherences" that emphasizes the high degree of subordination imposed on local ethnic autonomous governments established under China's Constitution and Regional Ethnic Autonomy Law. One "adherence" reaffirms the Party's intention to continue the policy of creating a Tibet where the fundamental objectives are Chinese but where some "Tibetan traits" will remain. Formulation of a "new" Tibetan governance strategy by a body made up of the highest ranking representatives of central Party and government power, and lacking Tibetan representation, demonstrates the poor implementation of "ethnic autonomy" in the Tibetan autonomous areas of China.

• The Politburo Standing Committee presided in January over the Fifth Tibet Work Forum (Fifth Forum), applying the highest imprimatur of political power to achieving sweeping economic, social, and cultural policy objectives for the Tibetan areas of China by 2020. The Fifth Forum expanded the Party's Tibet policy purview beyond the Tibet Autonomous Region (TAR) to include the Tibetan autonomous areas in Qinghai, Gansu, Sichuan, and Yunnan provinces. The policy change more than doubles the number of Tibetans who live within the forum's contiguous target area, and nearly doubles the area subject to central-level policy coordination. Party General Secretary and President of China Hu Jintao outlined goals that prioritize changes to rural Tibetan areas, where most Tibetans live. Heightened emphasis on the link between rural development and regional stability follows Tibetan farmers' and herders' participation in the wave of protests (and some rioting) that began in March 2008.

• The Dalai Lama's envoys arrived in China for the ninth round of formal dialogue with Party officials in January 2010, less than one week after the Fifth Forum concluded. The 15-month interval between the eighth and ninth rounds of dialogue was the longest since such contacts resumed in 2002. Neither side reported substantive progress, both sides reiterated key positions, and the Party added more preconditions on the Dalai Lama, but dialogue participants referred to certain developments in a positive manner. A senior Party official praised the "better attitude" of the Dalai Lama's Special Envoy, and the Special Envoy referred favorably to the Fifth Forum decision to consider development issues throughout all Tibetan autonomous areas.

• The Dalai Lama expressed deepening alarm about the outlook for Tibetan Buddhism in China, saying in March that "monasteries function more like museums and are intended to deliberately annihilate [Tibetan] Buddhism." A senior TAR official said in March that Gedun Choekyi Nyima, the then-five-year-old boy who disappeared after the Dalai Lama recognized him as the Panchen Lama in 1995, is in the TAR living a "very good life" as "an ordinary citizen" with his family, and that he and his family are "reluctant to be disturbed." The Karmapa, the spiritual head of the Kagyu tradition of Tibetan Buddhism, stated publicly in January that he fled his religious seat in the TAR at the end of 1999 and escaped to India because he feared the government would have assigned him "political duties" when he was older.

• The government and Party created increasing restraints on the exercise of freedom of religion for Tibetan Buddhists by strengthening the push to use policy and legal measures to shape and control what officials refer to as the "normal order" for Tibetan Buddhism. At the Fifth Forum, Party General Secretary and President Hu Jintao used the Marxist premise of "special contradiction" to reinforce the Party campaign against the Dalai Lama and seek to end his influence among Tibetans in China. Legal measures requiring nationwide re-registration of "professional religious personnel," underway during 2010, could result in substantial losses to the Tibetan monastic community if authorities apply re-registration in a manner intended to weed out monks and nuns whom authorities suspect of holding religious views that the government does not deem to be "legal." Such views include religious devotion toward the Dalai Lama and support of the Dalai Lama's recognition in 1995 of Gedun Choekyi Nyima as the Panchen Lama.

• Government and Party economic development objectives for 2010 to 2020 principally focus on accelerating and strengthening a development model that subordinates respecting and protecting Tibetan culture to Party and government priorities. Party General Secretary and President Hu Jintao outlined Fifth Forum objectives that included building major infrastructure projects, increasing natural resource exploitation, and continuing to push forward the construction of a "socialist new countryside" (compulsory settlement of nomadic herders and resettlement of farmers). China's state-run media provided in-

formation showing that, by the end of 2009, more than 1.33 million TAR nomadic herders and farmers (a figure equal to about half the TAR Tibetan population) will have been settled in new housing, and that by 2020 officials plan for the mining industry share of TAR GDP to increase from about 3 percent currently to between 30 percent and 50 percent. Reports during this reporting year disclosed limited progress on Tibetan railway construction.

• Government security and judicial institutions' use of laws on "splittism" and "leaking state secrets" during this reporting year infringed upon China's constitutionally protected freedoms of speech, religion, association, and assembly—first by using the law on "splittism" to punish Tibetans who criticize or peacefully protest against government policies, and then by using the law on "leaking state secrets" to punish Tibetans who attempt to share with other Tibetans information about incidents of repression and punishment. Reports of Tibetan political protest and detention declined during this reporting year based on Commission monitoring as of September 2010. The apparent decline may suggest that Tibetans generally are not risking the consequences of political protest in the presence of the ongoing security crackdown. Courts sentenced Tibetans to imprisonment for using cultural or entertainment media to articulate their views.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Urge the Chinese government to engage in substantive dialogue with the Dalai Lama or his representatives on protecting the Tibetan culture, language, religion, and heritage within the Tibet Autonomous Region (TAR) and the Tibetan autonomous prefectures and counties in Qinghai, Gansu, Sichuan, and Yunnan provinces—a geographic area that both sides identify as the focus of their Tibet policies. A Chinese government decision to engage in such dialogue can result in a durable and mutually beneficial outcome for Chinese and Tibetans, and improve the outlook for local and regional security in coming decades.

○ Convey to the Chinese government the urgent importance of refraining from using legal measures to infringe upon and repress Tibetan Buddhists' right to the freedom of religion. Such measures include: aggressive campaigns of "patriotic education" that compel Tibetans to endorse state antagonism toward the Dalai Lama; preventing Tibetan Buddhists from identifying and educating religious teachers in a manner consistent with Tibetan preferences and traditions; and enacting laws and issuing regulations that remold Tibetan Buddhism to suit the state.

○ Request that the Chinese government follow up on the March 2010 statement by the Chairman of the TAR government that Gedun Choekyi Nyima, the Panchen Lama whom the Dalai Lama recognized in 1995, is living in the TAR as an

"ordinary citizen" along with his family. Urge the government to invite a representative of an international organization to meet with Gedun Choekyi Nyima so that he can express his wishes with respect to privacy, photograph the international representative and Gedun Choekyi Nyima together, and publish Gedun Choekyi Nyima's statement and the photograph.

○ Encourage the Chinese government to maximize benefits to Tibetans resulting from the Fifth Tibet Work Forum by fully taking into account the views and preferences of Tibetans when planning infrastructure and natural resource development projects in Tibetan areas of China. Encourage the Chinese government to engage appropriate experts in assessing the impact of infrastructure and natural resource development projects, and in advising the government on the implementation, progress, and impact of such projects.

○ Increase support for U.S. non-governmental organizations to develop programs that can assist Tibetans to increase their capacity to peacefully protect and develop their culture, language, and heritage; that can help to improve education, economic, health, and environmental conservation conditions of ethnic Tibetans living in Tibetan areas of China; and that create sustainable benefits without encouraging an influx of non-Tibetans into these areas.

○ Continue to convey to the Chinese government the importance of honoring reference to the freedoms of speech, religion, association, and assembly in China's Constitution, and refraining from using the security establishment, courts, and law to infringe upon and repress Tibetans' exercise of such rights. Continue to convey to the Chinese government the importance of distinguishing between peaceful Tibetan protesters and rioters, and request the Chinese government to provide complete details about Tibetans detained, charged, or sentenced with protest-related crimes.

○ Continue to raise in meetings and correspondence with Chinese officials the cases of Tibetans who are imprisoned as punishment for the peaceful exercise of human rights. Representative examples include: former Tibetan monk Jigme Gyatso (now serving an extended 18-year sentence for printing leaflets, distributing posters, and later shouting pro-Dalai Lama slogans in prison); monk Choeying Khedrub (sentenced to life imprisonment for printing leaflets); Bangri Chogtrul (regarded by Tibetans as a reincarnated teacher; serving a sentence of 18 years commuted from life imprisonment for "inciting splittism"); and nomad Ronggye Adrag (sentenced to 8 years' imprisonment for shouting political slogans at a public festival).

DEVELOPMENTS IN HONG KONG AND MACAU

Findings

• In November 2009, the Hong Kong government issued a consultation document on election of the Legislative Council (Legco) and of the chief executive in Hong Kong's 2012 elections, and in April 2010, submitted its final proposals on elec-

tions. The document and proposals increased from 800 to 1200 the number of members of an election committee that chooses the chief executive, and increased the number of Legco members from 60 to 70, but otherwise did not increase the proportion of Legco seats returned by direct election. A 2007 decision of China's National People's Congress Standing Committee, which prohibited the people of Hong Kong from directly electing both the chief executive and all members of the Legislative Council by universal suffrage in the 2012 elections, had limited the scope and form of the Hong Kong government's proposal.
• In July 2009, the election committee in Macau selected a new chief executive in an uncontested election, and 29 members of the Legislative Assembly, with 12 selected by direct election.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Make every effort to visit Hong Kong when traveling to mainland China. Members of the U.S. Congress and Administration officials should meet with their counterparts in the Hong Kong Legislative Council, and with members of the Hong Kong government administration. Such meetings would show U.S. support for a high degree of autonomy in Hong Kong under the system of "one country, two systems."

○ Urge Chinese government officials to allow the people of Hong Kong to make their own determination as to constitutional reform, without interference from the central government either through decisions of the National People's Congress or informally, and to allow the introduction of universal suffrage with one person, one vote, if this is the wish of the people of Hong Kong.

The Commission adopted this report by a vote of 17 to 0 with one abstention.†

POLITICAL PRISONER DATABASE

Recommendations

When composing correspondence advocating on behalf of a political or religious prisoner, or preparing for official travel to China, Members of Congress and Administration officials are encouraged to:

- Check the Political Prisoner Database (PPD) (*http://ppd.cecc.gov*) for reliable, up-to-date information on a prisoner or groups of prisoners. Consult a prisoner's database record for more detailed information about the prisoner's case, including his or her alleged crime, specific human rights that officials have violated, stage in the legal process, and location of detention or imprisonment, if known.
- Advise official and private delegations traveling to China to present Chinese officials with lists of political and religious prisoners compiled from database records.
- Urge U.S. state and local officials and private citizens involved in sister-state and sister-city relationships with China to explore the database, and to advocate for the release of political and religious prisoners in China.

A MORE POWERFUL RESOURCE FOR ADVOCACY

The Commission's 2010 Annual Report provides information about Chinese political and religious prisoners[1] in the context of specific human rights and rule of law abuses. Many of the abuses result from the Communist Party's and government's application of policies and laws. The Commission relies on the Political Prisoner Database (PPD), a publicly available online database maintained by the Commission, for its own advocacy and research work, including the preparation of the Annual Report, and routinely uses the database to prepare summaries of information about political and religious prisoners for Members of Congress and Administration officials.

On July 29, 2010, the Commission announced the availability of a PPD upgrade that doubles the number of types of information available to the public and enables faster and easier methods of finding and downloading information about political and religious prisoners. The Commission invites the public to read about issue-specific Chinese political imprisonment in sections of this Annual Report, and to access and make use of the upgraded PPD at *http://ppd.cecc.gov*. (Information on how to use the PPD is available at: *http://www.cecc.gov/pages/victims/index.php.)*

The PPD received approximately 34,400 online requests for prisoner information during the 12-month period ending August 31, 2010. During the entire period of PPD operation beginning in late 2004, approximately 29 percent of the requests for information have originated from U.S. Government (.gov) Internet domains, 15 percent from commercial (.com) domains, 15 percent from network (.net) domains, 12 percent from international (e.g., .fr, .de, .ca) domains, 3 percent from nonprofit organization (.org) domains, 2 percent from education (.edu) domains, 2 percent from Arpanet (.arpa) domains, and 1 percent from international treaty organization (.int)

domains. Approximately 19 percent of the requests have been from numerical Internet addresses that do not provide information about the name of the registrant or the type of domain.

POLITICAL PRISONERS

The PPD seeks to provide users with prisoner information that is reliable and up to date. Commission staff members work to maintain and update political prisoner records based on their areas of expertise. The staff seeks to provide objective analysis of information about individual prisoners and about events and trends that drive political and religious imprisonment in China.

As of September 3, 2010, the PPD contained information on 5,608 cases of political or religious imprisonment in China. Of those, 1,426 are cases of political and religious prisoners currently known or believed to be detained or imprisoned, and 4,182 are cases of prisoners who are known or believed to have been released or executed, who died while imprisoned or soon after release, or who escaped. The Commission notes that there are considerably more than 1,426 cases of current political and religious imprisonment in China. The Commission staff works on an ongoing basis to add cases of political and religious imprisonment to the PPD.

The Dui Hua Foundation, based in San Francisco, and the former Tibet Information Network, based in London, shared their extensive experience and data on political and religious prisoners in China with the Commission to help establish the database. The Dui Hua Foundation continues to do so. The Commission also relies on its own staff research for prisoner information, as well as on information provided by non-governmental organizations (NGOs), other groups that specialize in promoting human rights and opposing political and religious imprisonment, and other public sources of information.

MORE POWERFUL DATABASE TECHNOLOGY

The PPD has served since its launch in November 2004 as a unique and powerful resource for the U.S. Congress and Administration, other governments, NGOs, educational institutions, and individuals who research political and religious imprisonment in China or who advocate on behalf of such prisoners. The July 2010 PPD upgrade significantly leverages the capacity of the Commission's information and technology resources to support such research, reporting, and advocacy. [See New Political Prisoner Database Features in this section.]

The PPD aims to provide a technology with sufficient power to cope with the scope and complexity of political imprisonment in China. The most important feature of the PPD is that it is structured as a genuine database and uses a powerful query engine. Each prisoner's record describes the type of human rights violation by Chinese authorities that led to his or her detention. These types include violations of the right to peaceful assembly, freedom of religion, freedom of association, and free expression, including the freedom to advocate peaceful social or political change and to criticize government policy or government officials. Users may search for a prisoner by name, using either the Latin alphabet or Chinese characters. The PPD allows users to construct queries that include

one or more types of information. [For a list of types of information, see box titled Congressional-Executive Commission on China Political Prisoner Database: Previous and Additional Data Fields in this section.]

The design of the PPD allows anyone with access to the Internet to query the database and download prisoner data without providing personal information to the Commission, and without the PPD downloading any software or Web cookies to a user's computer. Users have the option to create a user account, which allows them to save, edit, and reuse queries, but the PPD does not require a user to provide any personal information to set up such an account. The PPD does not download software or a Web cookie to a user's computer as a result of setting up such an account. Saved queries are not stored on a user's computer. A user-specified ID (which can be a nickname) and password are the only information required to set up a user account.

New Political Prisoner Database Features

Some of the new PPD features that will strengthen reporting on political and religious imprisonment in China and advocacy on behalf of Chinese political prisoners are listed below.

- An easy-to-use Welcome Page search box for a prisoner's name.
- An increase in the number of types of information (fields) from 19 to 40. Several of the additional fields are on the judicial process—for example, court names and dates and articles of China's Criminal Law. All 40 of the PPD fields may be queried separately or in any combination.
- A full-text search that applies to all 40 fields in a PPD record.
- A one-click download of all of the field data for all of the records in the PPD as a Microsoft Excel spreadsheet.
- An Excel spreadsheet download of the data for every PPD record that satisfies a query or a full-text search that a user creates.
- Opening a PPD record from another Web site, blog, document, or email by using the PPD record's Web link. The link will open the current state of the database record, not a stored Web page.
- Opening reports, articles, and texts of Chinese laws that are available on the Commission's Web site or on another Web site by clicking links in a PPD record's short summary. (Many PPD records contain a short summary of the case that includes basic details about the political or religious imprisonment and the legal process leading to imprisonment.)
- Exporting a PPD record to a single-page Adobe PDF document that contains all of the available record data, including the short summary.

CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA POLITICAL PRISONER DATABASE: PREVIOUS AND ADDITIONAL DATA FIELDS

PPD Fields Added in the July 2010 Upgrade (21)	PPD Fields Available Prior to Upgrade (19)
Affiliation	CECC record number
Residence (province)	Detention status
Residence (prefecture)	Issue category
Residence (county)	Main name
Formal arrest date	Chinese characters (main name)
Trial date	Other (or lay) name
Trial court	Alternate name(s)
Sentence date	Pinyin name (for non-Han)
Sentence court	Ethnic group
Appeal date	Sex
Appeal court	Age at detention
Appeal ruling date	Religion
Appeal ruling court	Occupation
Sentence ends per PRC	Date of detention
Actual date released	Province where imprisoned
Charge (statute)	Current prison
Sentence length (months)	Sentence length (years)
Sentence length (weeks)	Legal process
Sentence length (days)	Short summary
Prefecture where imprisoned	
County where imprisoned	

II. Human Rights

Freedom of Expression

Introduction

The Chinese government and Communist Party's system of restrictions on free expression consists of two core components: content prohibitions and prior restraints. Content prohibitions are based on vague and broadly worded criminal and administrative provisions covering a wide range of media. These provisions prohibit Chinese citizens from expressing or accessing content the Party or government deems to "incite subversion of state power," "spread rumors," or "attack the Chinese Communist Party," among other things.[1] Such provisions continued to serve as the basis for punishing peaceful critics of the Party this past year. The Commission's 2009 Annual Report noted the arrest of prominent intellectual Liu Xiaobo as part of a crackdown on citizens who supported Charter 08, a treatise advocating political reform and human rights circulated online.[2] In December 2009, a Beijing court sentenced Liu to 11 years in prison for inciting subversion, the longest known sentence for that crime.[3] Officials also moved forward with cases against Tan Zuoren and Huang Qi, the activists who criticized authorities for not doing enough to investigate school collapses in the May 2008 Sichuan earthquake.[4] Courts in Sichuan province sentenced Tan to five years' imprisonment for inciting subversion and Huang to three years' imprisonment for leaking state secrets. These cases reflect officials' heightened concern about the Internet, as Liu, Tan, and Huang had peacefully used that medium for rights advocacy and political expression. Officials continued to censor political expression across a wide range of media, from the Internet to print publications. In March 2010, after 13 Chinese newspapers published a joint editorial criticizing and calling for reform of China's household registration system, officials disciplined editors at the Economic Observer and ordered the editorial removed from Web sites.[5]

The second core component of China's system of restrictions, prior restraints, refers to a system by which the government controls, through a licensing requirement for example, who may use a forum for expression. In China, prior restraints are extensive. Any person or group wishing to publish a newspaper, magazine, or book;[6] host a Web site;[7] or work as a journalist[8] must first obtain a license from or register with the government. Reflecting heightened concern over the Internet, the government during the Commission's 2010 reporting year sought to tighten prior restraints on those applying for domain names for Web sites, to curb anonymity on the Internet, and to crack down on unlicensed video Web sites. In the Xinjiang Uyghur Autonomous Region, the government shut down Internet, text messaging, and international phone call service altogether following demonstrations and riots in July 2009, and only gradually began lifting restrictions in December. Officials also sought to tighten control over the news industry nationwide, announcing in March 2010 a qualification exam for journalists that would require knowledge of "Chinese Communist Party journalism"

and warning against unlicensed citizen journalists sharing news on the Internet.

INTERNATIONAL STANDARDS FOR FREE EXPRESSION

The Chinese government's content restrictions and prior restraints aimed at controlling political and religious content are inconsistent with international human rights standards and also with the rights to free speech and the press enumerated in China's Constitution.[9] Chinese officials, however, continue to insist that these rights are protected.[10] Under international human rights standards, a restriction on free expression is permitted so long as it is (1) for the purpose of respecting the rights or reputations of others or protecting national security, public order, public health or morals, or the general welfare; (2) set forth in law; and (3) narrowly tailored.[11] The vagueness of the Chinese government's content prohibitions provides Chinese officials with broad discretion to apply prohibitions for purposes impermissible under international human rights standards, such as to target criticism of the Communist Party.[12] The vagueness with which prohibitions are set forth in law also leaves citizens with no clear guidance on the boundaries of free speech.[13] The government's prior restraints on various speech activities also are not narrowly tailored, allowing officials the discretion to suppress unlicensed expression that they find politically disagreeable.[14] Moreover, officials apply restrictions on expression with little transparency[15] and without sufficient judicial oversight.[16]

Abuse of Vague Criminal Law Provisions

CRIME OF SUBVERSION

During this reporting year, Chinese officials continued to label peacefully expressed criticism of the government or the Party as a threat to state security, relying in some cases on Article 105 of China's Criminal Law. Article 105 provides for sentences of up to life imprisonment for attempts to subvert state power or up to 15 years for inciting such subversion.[17] Chinese courts make little assessment of whether the speech in question poses an actual threat to state security.[18] Chinese lawyers have noted that courts can apply Article 105 arbitrarily because no legislative or judicial interpretation defines the specific boundaries between free expression and state security.[19] In June 2010, Joshua Rosenzweig of the Dui Hua Foundation, a human rights organization, said, "There's little doubt that . . . the intent of the law against inciting subversion is the silencing of political speech."[20]

This past year, courts continued to punish alleged subversion in trials marred by procedural abuses and in which the defendants' online activity figured prominently. The Beijing No. 1 Intermediate People's Court levied what is reportedly the longest known sentence for inciting subversion, 11 years, against the prominent intellectual Liu Xiaobo in December 2009.[21] [See box titled Liu Xiaobo below.] In February 2010, a court in Chengdu city sentenced the activist Tan Zuoren to five years in prison for inciting subversion.[22] The court cited online essays Tan wrote criticizing the government's handling of the 1989 Tiananmen protests, Tan's efforts to

commemorate the 20th anniversary of the protests, and interviews he gave to foreign media in which he criticized the government's response to the May 2008 Sichuan earthquake.[23] Tan was detained while conducting an investigation into school collapses in the quake. During Tan's trial, the judge refused to allow Tan's lawyers to call witnesses or to show evidence, frequently cut his lawyers off, and barred reporters from the courtroom.[24] In October 2009, a court in Jiangsu province sentenced former professor Guo Quan to 10 years in prison for subversion for using the Internet to organize an "illegal" political party and publishing "reactionary" articles online.[25] [See Section III—Institutions of Democratic Governance.]

Liu Xiaobo

On December 25, 2009, the Beijing No. 1 Intermediate People's Court sentenced the prominent intellectual Liu Xiaobo to 11 years in prison for inciting subversion.[26] The court cited six essays Liu had written and posted on the Internet as well as his work on Charter 08, a treatise advocating political reform and human rights circulated online for signatures.[27] The essays, with titles such as "The Chinese Communist Party's Dictatorial Patriotism" and "Can It Be That the Chinese People Are Only Suited To Accepting 'Party-Ruled Democracy'?", criticize the Communist Party's governance of China but do not advocate violence.[28] The court noted how Liu had taken advantage of the Internet's "rapid transmission of information, broad reach, great social influence, and high degree of public attention."[29] Liu's case was marred by official abuses. When police first took Liu into custody in December 2008, they kept him under residential surveillance at a secret location instead of his home in Beijing and did so beyond the legal six-month limit.[30] At trial, the judge limited Liu's defense lawyers to less than 20 minutes to present their arguments and prevented Liu from finishing his remarks.[31] In February 2010, the Beijing High People's Court affirmed the lower court judgment and rejected Liu's argument that his residential surveillance amounted to de facto detention and should be counted toward time served.[32] In March, officials in Shanghai municipality ordered Shanghai petitioner Mao Hengfeng to serve 18 months of reeducation through labor for shouting slogans outside Liu's trial in December 2009.[33]

OTHER CRIMES: SPLITTISM, STATE SECRETS, AND SLANDER

This past year authorities used legal provisions criminalizing slander and acts of endangering state security—"splittism" (separatism) and possessing or trafficking state secrets—to punish persons who criticized officials or who dealt with commercial information.

- *Gheyret Niyaz.* In July 2010, a court in Urumqi, Xinjiang Uyghur Autonomous Region (XUAR), sentenced Gheyret Niyaz, a Uyghur journalist and Web editor, to 15 years' imprisonment for "leaking state secrets." Prosecutors cited essays by Gheyret Niyaz addressing economic and social problems affecting Uyghurs; sources also connected the prison sentence to interviews Gheyret Niyaz gave to foreign media that criticized aspects of government policy in the XUAR.[34] [For information on other Uyghur cases, see box titled Free Expression Punished in Xinjiang in Section IV—Xinjiang.]

- *Xue Feng.* In July 2010, a Beijing court sentenced Xue Feng, a naturalized American citizen and geologist, to eight years in prison for trafficking state secrets.[35] Xue had helped an American company purchase information on oil wells in China.[36] Officials reportedly did not declare the information a state secret until after the purchase took place and allegedly tortured Xue.[37] Xue's lengthy detention and trial violated China's Criminal Procedure Law, while officials violated China's consular treaty with the United States by delaying notification of the case and access to Xue by U.S. officials.[38]
- *Tagyal (Shogdung).* In May 2010, authorities in Qinghai province arrested the Tibetan writer known as Shogdung, whose real name is Tagyal, on the charge of inciting splittism.[39] The writer had signed an open letter suggesting that people avoid sending donations for the April 2010 Yushu earthquake in Qinghai through official channels, citing corruption concerns, and had written a book about the March 2008 Tibetan protests.[40] [For information on other Tibetan cases, see box titled Imprisonment for Sharing Information, Cultural Expression in Section V—Tibet.]
- *Fan Yanqiong, Wu Huaying, and You Jingyou.* In April, a court in Fujian province sentenced Fan Yanqiong to two years in prison and Wu Huaying and You Jingyou each to one year in prison for the crime of slander (Article 246 of China's Criminal Law) after they wrote essays and created a video documenting a mother's claim that her daughter was gang-raped and murdered by people with ties to local police.[41] The court claimed the allegations were fabricated and had caused a stir on the Internet.[42] Authorities reportedly suspended the license of Wu's lawyer before the trial.[43] The Commission's 2009 Annual Report noted rising official abuse of Article 246 to retaliate against Internet whistleblowers.[44]
- *Huang Qi.* In November 2009, a court in Chengdu city, Sichuan province, sentenced the rights activist Huang Qi to three years in prison for illegal possession of state secrets.[45] Huang's human rights Web site advocated on behalf of grieving parents after the May 2008 Sichuan earthquake. Authorities have considerable discretion to declare almost any matter of public concern a state secret. [See box titled Open Government Information and the Amended State Secrets Law below.] Huang's lawyer said the "state secrets" were rules for government agencies on dealing with citizen petitions.[46]

[For information on authorities' use of extralegal tactics and restrictions on freedom of movement to punish free expression, see Section II—Criminal Justice—Abuse of Police Powers: Suppression of Dissent and Section II—Freedom of Residence and Movement.]

Open Government Information and the Amended State Secrets Law

China's 2009–2010 National Human Rights Action Plan emphasizes citizens' "right to be informed" and says the "Chinese government will make more efforts to keep the public informed of government affairs, and improve relevant laws and regulations, so as to guarantee citizens' right of information."[47] Effective in May 2008, the Regulations on Open Government Information require governments to disclose information involving the vital interests of citizens and give citizens the right to request information.[48] One barrier to transparency, however, is a state secrets framework that gives officials wide latitude to declare almost any matter of public concern a state secret, from death penalty statistics to the state's reeducation through labor policy, and to deny requests for information.[49] The Commission's 2009 Annual Report noted that Chinese officials were considering proposed changes to the state secrets law in effect since 1989,[50] and in April 2010, the National People's Congress Standing Committee passed the amended Law on the Protection of State Secrets, which took effect on October 1, 2010.[51] The definition of "state secrets" in the 2010 law, however, remains vague and broad. According to Article 9, a state secret may relate to major policy decisions on state affairs, national economic and social development, and science and technology, or other matters as determined by officials.[52] Like the previous law, the amended law does not provide for any judicial review of a state agency's determination that information is a state secret. It remains to be seen whether other provisions in the amended law, including one that places time limits on state secrets, reduce the number of state secrets.[53]

Internet and Other Electronic Media

CHINA'S INTERNET POLICY

As the Commission has documented in recent annual reports,[54] the Chinese government continued to encourage the Internet for economic development while maintaining political control over the medium. According to a white paper on the Internet released by the State Council Information Office (SCIO) in June 2010, the government plans to increase the percentage of Internet users from 28.9 percent of the population to 45 percent in five years.[55] According to official statistics, there were 420 million Internet users in China as of the end of June 2010, an increase of 82 million over the previous year.[56] The white paper noted the government's investments in Internet infrastructure and the role the Internet has played in driving China's economy.[57] The white paper also repeated the government's argument that increased access to the Internet, as evidenced by the large number of blogs in China and the presence of lively exchanges on China's Internet, shows that China "guarantees citizens' freedom of speech on the Internet."[58] This past year, Chinese citizens continued to use communication technologies to advocate for rights and to criticize government policies. In early summer 2010, for example, workers in China used the Internet and cell phones to organize and document strikes.[59] Such phenomena, however, are insufficient evidence that China guaran-

tees free speech, in light of the continued political censorship documented below.

While greater Internet access has afforded Chinese citizens unprecedented opportunities for expression, it has not signified Chinese officials' willingness to loosen political control. In an April 2010 speech before the National People's Congress Standing Committee, SCIO Director Wang Chen said the government is using the Internet to promote "positive propaganda"; "guide public opinion" (citing guidance of the Internet following unrest in Tibetan and Uyghur areas of China in 2008 and 2009); enhance China's "soft power"; and "balance the hegemony of the Western media."[60] Wang also said the government is campaigning to gain global acceptance for its model of Internet control:

> Our nation has successively engaged in dialogue and exchanges with more than 70 countries and international organizations. We have explained our Internet management policy, introduced the achievements of our Internet construction . . . countered Western enemy forces' smears against us, and enhanced the international community's acceptance and understanding of our model of managing the Internet.[61]

Officials remained concerned about citizens' use of the Internet to network socially and post commentary. In mid-July 2010, Chinese and foreign media reported that officials were behind service disruptions at major microblogging sites, the removal of the blogs of well-known activists and lawyers, and increased monitoring of journalists' blogs.[62] In April 2010, the New York Times reported that the SCIO had established a new bureau to monitor social networking sites, which have grown in popularity in China.[63] The Chinese government continued to employ paid agents to issue pro-government comments online.[64] In his April speech, Wang said officials would "strengthen the blocking of harmful information from outside [China's] borders."[65] In December 2009, Minister of Public Security Meng Jianzhu published an essay saying the Internet had become an important tool for "anti-China forces" and "a new challenge for public security forces safeguarding state security and social stability."[66]

CENSORSHIP OF POLITICAL CONTENT

Scope of Censorship

Censorship of political content on the Internet remained pervasive this reporting year. The Chinese government readily acknowledges the blocking of some online content, such as content it considers to be pornographic,[67] but it provides few details about how it determines other content to block, including what political content it censors.[68] The scope of content the Chinese government requires authorities and private actors to censor remains ill-defined, and therefore allows officials to target political and religious content arbitrarily.[69] OpenNet Initiative, an Internet research organization, noted in a 2009 report that censors primarily target Chinese-language content, including content dealing with the 1989 Tiananmen protests, Tibetan rights, and Falun Gong, as well as "human rights, political reform, sovereignty issues, and circumvention tools."[70]

The following are select examples of censored political content from the past year, as reported by Chinese Internet users and foreign media in China.

- News items were removed from Web sites, including an article examining the role of the Internet in mass incidents in China;[71] a transcript of U.S. President Barack Obama's November 2009 town hall meeting in Shanghai, where he called for a free Internet;[72] and a Chinese editorial cartoon that appeared to refer to the government suppression of the 1989 Tiananmen protests.[73]
- In October 2009, the organizers of an overseas Web site inviting visitors to comment on the fall of the Berlin Wall reported the site was blocked in China.[74]
- In March 2010, the Chinese government reportedly instructed Web sites to limit online discussion of the controversy between the U.S. technology company, Google, and the Chinese government.[75]
- In April 2010, Internet users reportedly were unable to search the word "carrot" on the Internet because it shares the same Chinese character as "Hu" in President Hu Jintao's name.[76]
- In May 2010, several popular Uyghur Web sites remained shut down after authorities restored Internet access to the XUAR.[77]

China's Internet Censors and the Rule of Law

Both Chinese officials and Internet companies in China have a responsibility under China's laws and regulations to censor content. Chinese officials block or filter access to foreign Web sites through control of the gateway connection between China and the global Internet.[78] Chinese authorities continue to block social media sites based overseas, such as Facebook, YouTube, Twitter, and Flickr.[79] According to Xiao Qiang, an expert on China's Internet based at the University of California at Berkeley, "There is an Internet monitoring and surveillance unit in every city, wherever you have an Internet connection."[80] Chinese Internet regulations provide lists of prohibited categories of content including content that "harms the honor or interests of the nation," "destroys ethnic unity," "spreads rumors," or "disrupts national policies on religion."[81] These vague and broadly worded categories provide little guidance to Internet users or Internet companies in China,[82] the latter of which are required by Chinese regulations to censor content and to monitor and report customer activity to authorities.[83] [See box titled Chinese Media Article Exposes Problems With China's Internet Censorship below.] In January 2010, Chinese cell phone users complained about unclear standards during a crackdown on text messages containing pornography or "unhealthy" information.[84] Vague content prohibitions also apply to other electronic media, such as television.[85]

Chinese Media Article Exposes Problems With China's Internet Censorship

The Global Times, which operates under the official People's Daily, issued a rare article in February 2010 on the subject of Internet censorship in China that highlighted a number of problems, including lack of transparency and clear standards and the absence of adequate procedural protections.[86] According to a professor of Internet politics at Nanjing University cited in the article, the 14 regulations dealing with online content in China are all vague and lack detailed provisions.[87] The professor also noted that content bans were becoming increasingly unpredictable and that affected Internet users receive no explanation or opportunity to appeal.[88] The article noted how these factors led Internet users to practice self-censorship and placed pressure on Internet companies, especially those without government connections, who feared being closed down for any misstep.[89]

This past year, the government introduced measures that could increase the pressure on Internet companies to censor politically sensitive content. In April 2010, the National People's Congress Standing Committee passed an amended state secrets law, effective October 1, 2010.[90] [For more information, see the box titled Open Government Information and the Amended State Secrets Law above.] The law retains the vague definition of state secrets that allows officials to declare almost any matter of public concern a state secret.[91] In addition, the amended law adds a new provision, Article 28, which requires Internet and other telecommunication companies to cooperate with authorities' investigation of state secret leaks and, upon discovering a leak, to stop transmission of the secret, preserve any relevant records, and notify officials.[92] This provision further codifies in law a requirement that appears in existing administrative regulations.[93] Internet companies that violate Article 28 will face punishment from police, state security officers, or government officials.[94] In December 2009, the National People's Congress Standing Committee issued the Tort Liability Law, effective July 1, 2010, which includes a provision (Article 36) exposing Internet service providers (ISPs) to liability for failing to remove content that infringes upon the rights of others, to the extent the ISP is aware of or is informed of such content.[95] A state-controlled media article noted that the liability provision could pressure ISPs to be overzealous in removing content, including politically sensitive content.[96] Furthermore, the article said it is unclear to what extent the "aware" clause requires ISPs to actively search the Internet for prohibited content.[97]

The pressure to censor politically sensitive content affects foreign companies in China in ways that may have an impact on trade and may further limit the free flow of information, as the controversy between the Chinese government and the U.S. company Google this past year clearly illustrated. In January 2010, Google announced that partly because of "attempts over the past year to further limit free speech on the web" in China, the company was "no longer willing to continue censoring" search results on Google.cn, its search engine for China.[98] In explaining the problems Google faced in China, a Google representative told the Commission at a

March 2010 hearing that Chinese government censorship requests put Google in a "terribly difficult position" because "there's not very much transparency at all about what's being requested, and whether it's being requested of everybody."[99] Google's stated refusal to censor the search engine it created for the Chinese market raised the possibility that it would be forced to shut down this service. Some Chinese citizens supported Google's position but worried about losing access to a source of information that censored less than domestic alternatives.[100] In February, Nature magazine released a survey of 784 Chinese scientists, 84 percent of whom said that blocked access to Google would "somewhat or significantly" hinder their research.[101] Google announced in March that it would automatically redirect mainland users to its less censored Hong Kong site, but in June modified this practice out of fear that the Chinese government would not renew Google's Internet content license.[102]

PRIOR RESTRAINTS AND BROAD RESTRICTIONS ON INTERNET ACCESS

This past year, officials sought to tighten broad prior restraints on citizens' ability to post content on the Internet. All Web sites hosted in China are required either to be licensed by or registered with the government, and sites providing news content or audio and video services require an additional license or registration.[103] In December 2009, the state-run domain name registrar announced rules barring individuals from registering for the Chinese domain name ".cn" for their Web sites, limiting registrations to only entities with business licenses.[104] Although officials and domestic and foreign media cited pornography and online fraud concerns with ".cn" sites, some in China questioned the reasonableness of banning all individual registrations.[105] In February 2010, the government rescinded the ban, but added a new requirement that applicants must submit a photo and meet in person with the Internet service provider assisting people with Web site registration, which could have a chilling effect given China's restrictions on political content.[106] In its 2009 Annual Report, the Commission also reported that the government had issued a secret directive requiring Internet users in China to provide their real name and identification number before posting a comment on major news Web sites.[107] This past year, Wang Chen, the State Council Information Office Director, confirmed the existence of the requirement and said the government was exploring a real name identification system for comment services generally.[108]

The government continued its periodic crackdown on illegal Web sites, often couched as anti-pornography campaigns. A February 2010 report by the government news agency Xinhua indicated, however, that only 12 percent of the 136,000 Web sites targeted in a government crackdown were shut down for having pornography, while most had failed to register.[109] Officials continued to target sites devoted to posting news or videos. In November 2009, officials shut down Yeeyan, a site that published translations of English and Chinese articles, for failing to have a license to provide news.[110] To obtain a license to provide online news in China, an applicant must have at least five full-time news editors with at least three years of experience in journalism, as well as registered

capital of no less than 10 million yuan (US$1.48 million).[111] Yeeyan reportedly came back online 39 days later, after removing all "political news" from the site.[112] As the Commission reported in its 2008 Annual Report, a 2008 regulation requires audio and video Web sites to be wholly state-owned or state-controlled in order to obtain a license.[113] In December 2009, officials in a crackdown on unlicensed audio and video sites shut down BTChina, a popular video-sharing site, which they also accused of hosting pornography.[114] The owner denied the pornography charge and said that government regulations prevented him from obtaining a license.[115] A September 2009 government notice stated that beginning in March 2010, officials nationwide would need to inspect their jurisdictions for audio and video Web sites operating without a license.[116]

In the Xinjiang Uyghur Autonomous Region (XUAR), authorities maintained blanket restrictions on the Internet, international phone calls, and text messages, put in place following demonstrations and riots in Urumqi starting July 2009, and gradually began lifting them only after almost half a year had passed.[117] It was not until May 2010 that officials restored more complete Internet access.[118] Authorities claimed that overseas elements had directed the violence[119] and that restrictions were imposed to prevent further violence.[120] The actual role the communication devices played in violent rioting (as opposed to demonstrations) was unclear,[121] however, and the wide-reaching restrictions—affecting all Internet, SMS, and international phone content and lasting for months after the July 2009 events—exceeded permissible boundaries allowable under international human rights standards. [See International Standards for Free Expression in this section.] The press freedom organization Reporters Without Borders noted in October 2009 that the restrictions were overbroad and prevented XUAR residents from sharing information about the ensuing government crackdown.[122] [For more information, see Section IV—Xinjiang—Controls Over Free Expression.]

Freedom of the Press

STATE POLICY

While China's Constitution guarantees freedom of the press, in practice Communist Party and government control and regulation of Chinese news media and publishing continued to violate international standards. [See International Standards for Free Expression in this section.] International standards prohibit restrictions on free expression for political control, but in China the official policy is that the media is subordinate to the Party's interests. In a November 2009 speech, top Party official Li Changchun marked Journalists' Day in China by telling journalists to "persist in strengthening and improving the Party's leadership over news propaganda work."[123] This policy continued to be reflected in media coverage of major events. Following the April 2010 Yushu earthquake in Qinghai province, Li said that propaganda reporting had been effectively utilized to "create a good public opinion atmosphere" for disaster relief work and told Chinese media to reflect the "good(ness)" of the Communist Party and ethnic groups "uniting"

in disaster relief.[124] The government also continued with state-led expansion of the media industry in order to spread China's influence globally. In July 2010, the central government's news agency Xinhua launched a global English-language television channel.[125]

NEWS MEDIA

Censorship and Guidance of News

This past year, the Commission observed numerous reports of officials continuing to direct media coverage of topics they deemed politically sensitive. The Party, primarily through the Central Propaganda Department, issues frequent directives to Chinese news media informing them about the stories they can and cannot cover or how to cover a story, including requiring them to run only Xinhua reports.[126] The following table indicates some of the publicly known directives over the past year, as well as other instances where officials sought to control news coverage:

Restricted Topic	Restriction
November 2009—Southern Weekend's interview with U.S. President Barack Obama.	Ban on reprinting of interview and posting on the Internet.[127]
January 2010—Lunar New Year Holiday in February.	CCTV (national television station) ordered to avoid negative news.[128]
March 2010—Dispute between Google and Chinese government over Internet censorship.	News Web sites ordered not to report information released by Google, to play down Chinese citizens' displays of support for Google, and to publish only stories by central government media.[129]
March 2010—Annual meetings of National People's Congress and Chinese People's Political Consultative Conference.[130]	Ban on negative news on front pages and in headlines.[131]
April 2010—Coal mine disaster in Shanxi province.	Local officials reportedly ordered journalists to leave the area and reduce coverage.[132]
April 2010—Yushu earthquake in Qinghai province.	Officials attempted to ban non-local journalists from covering quake. Media later ordered to reduce coverage and focus on Shanghai 2010 World Expo.[133]
April 2010—Shanghai 2010 World Expo.	Officials ordered news media to adhere to only central media reports when activities of central officials are concerned.[134]

Political Loyalty and Prior Restraints

The Chinese government claims that government licensing and supervision of journalists is needed to prevent corruption and protect journalists.[135] Journalists continue to be subject, however, to political requirements unrelated to corruption or protecting journalists. In March 2010, a high-level official at the General Administration of Press and Publication (GAPP), the Chinese government's main regulator of the press, said that journalists in China would be required to pass a new qualification exam that will test them on their knowledge of "Chinese Communist Party journalism" and Marxist views of news.[136] In November, the All-China Journalists Association issued a revised ethics code that maintains political requirements, including to "be loyal to the Party," "persist in correct guidance of public opinion . . . giving first place to positive propaganda," and "abide by the Party's discipline for news workers."[137] Government warnings against unlicensed journalistic activity also appear intended to ensure centralized control over the news. In a February 2010 People's Daily interview, a GAPP official noted that commercial Web sites and unlicensed "Internet journalists" are not allowed to independently report news on the Internet.[138] The official said that the only news Web sites that are allowed to conduct their own reporting are "traditional media" already licensed by the government, naming as examples People.com.cn (of the Party's flagship newspaper People's Daily) and Xinhuanet.com (of the central government's news agency).[139] The close ties between some media and the state may exacerbate corruption among journalists. According to one foreign news organization, "[w]hen journalists from China's top news agencies approach a bureaucrat or businessmen, they have not only market power behind them but something even more formidable, the power of the state."[140]

Punishment of Journalists and Newspapers

Chinese journalists and newspapers continued to face official pressure and punishment for reporting on issues authorities deemed to be sensitive. In November 2009, General Administration of Press and Publication (GAPP) officials "severely punished" four newspapers for publishing what they deemed to be "false" reports claiming that much of China's wealth is held by a small percentage of the population.[141] In May 2010, GAPP officials ordered Business Watch to halt publication for one month because it had published an article on a major state power company's alleged monopolistic activities.[142] The story was published during the annual meetings of the National People's Congress and Chinese People's Political Consultative Conference in March 2010 and prompted some delegates to criticize the power company.[143] Authorities reportedly cited Business Watch for "violating propaganda discipline" and creating a "negative influence."[144] In early March, the Central Propaganda Department reportedly issued a warning to top editors at the Economic Observer, after it and 12 other newspapers jointly published an editorial criticizing and calling for reform of China's household registration system.[145] Zhang Hong, an editor and co-author of the editorial, reportedly was removed from his position. [For more information, see Section II—Freedom of Residence and Movement—Significant Household Registration (Hukou) Policies and

Regulatory Developments in 2010—The Joint Editorial on Hukou Reform]. In May 2010, an editor of the China Economic Times was reportedly removed from his position after the paper reported that poorly handled vaccinations in Shanxi province led to deaths and sickening of children.[146] [For more information, see Section II—Public Health.]

Foreign and Hong Kong Journalists

Credentialed journalists reporting for foreign news organizations in China are subject to fewer restrictions than their domestic counterparts but continued to face harassment. As a result of China hosting the Olympics in 2008, since January 2007, foreign journalists allowed into China technically may report without additional government permission, with the notable exception of permission being required to enter restricted areas such as the Tibet Autonomous Region.[147] At the World Media Summit held in Beijing in October 2009, President Hu Jintao promised that the government would "guarantee the legitimate rights and interests of foreign news organizations and reporters, and facilitate coverage and reporting by foreign media in China according to relevant laws and regulations."[148] The Foreign Correspondents' Club of China, however, reported several cases of harassment this past year when reporters tried to cover sensitive events or geographic areas. In November 2009, police and local foreign affairs officers in Kashgar city, Xinjiang Uyghur Autonomous Region (XUAR), reportedly harassed Italian and American journalists after finding out their occupation.[149] In February 2010, police in Chengdu city, Sichuan province, forced nine Hong Kong reporters into a holding room under the pretext that they wanted to check the journalists' credentials.[150] The reporters were attempting to cover the trial of activist Tan Zuoren. The police released the reporters only after the verdict was announced. The reporters encountered further harassment outside the court as they tried to interview Tan's lawyer.[151]

Chinese authorities continued to harass Chinese citizens working with foreign journalists and to prevent citizens from speaking to foreign journalists. In late April 2010, authorities threatened a Chinese employee with loss of work after he helped a German journalist film video of a migrant school slated for demolition in Beijing.[152] Police accused the assistant of conducting "independent" reporting.[153] In June 2010, public security officials in the XUAR reportedly ordered people not to speak to foreign journalists without authorization in the wake of the one-year anniversary of the July 2009 demonstrations and riots in Urumqi.[154]

PUBLICATIONS

Prior Restraints and Political Publications Considered Illegal

The Chinese government continued to engage in campaigns to root out unlicensed publications and publications containing what officials deemed to be "illegal" political content. All newspapers and publications must be licensed by the government, have a government sponsor, and meet certain financial requirements.[155] Chinese regulations include vague and sweeping prohibitions on the publication of materials that "destroy ethnic unity, or infringe upon eth-

nic customs and habits," "propagate evil cults or superstition," or "harm the honor or interests of the nation."[156] The non-governmental organization Chinese Human Rights Defenders reported in March 2010 that the government Web site of Jilin city, Jilin province, posted an article on how the city's local press and publications bureau was targeting 38 different kinds of "illegal political publications," including those "attacking the Party and the country's leaders," "attacking the Party's policies," and "inciting ethnic splittism." Banned publications included those about China's present and former leaders, Charter 08 (a political reform and human rights treatise), the XUAR and Tibetan protests and riots of the last two years, and the Dalai Lama.[157] In July 2010, the writer Yu Jie said police threatened him with imprisonment if he published a book critical of China's Premier Wen Jiabao.[158]

Officials waged campaigns against "illegal" publications around politically sensitive events or areas. Following the April 2010 Yushu earthquake in Qinghai province, the Qinghai "Sweep Away Pornography and Strike Down Illegal Publications" Office issued a notice calling on officials to strengthen supervision of the "cultural market" to ensure it "remains stable and orderly."[159] The Ministry of Culture, from April to June 2010, waged a campaign against "illegal" political publications and cultural products centered on major tourist sites, ethnic minority areas, and Shanghai, host of the 2010 World Expo.[160] In May, the official newspaper China Daily reported that local authorities in Lhasa city, Tibet Autonomous Region (TAR), passed a rule requiring anyone wishing to make photocopies to supply their ID and have their ID numbers registered. The article cited a police official's claim that "separatists" hand out banners and pamphlets with illegal content in the TAR.[161]

WORKER RIGHTS

Introduction

Workers in China still are not guaranteed, either by law or in practice, full worker rights in accordance with international standards, including the right to organize into independent unions. The All-China Federation of Trade Unions (ACFTU), the official union under the direction of the Communist Party, is the only legal trade union organization in China. All lower level unions must be affiliated with the ACFTU, and must align with its overarching political concerns of maintaining "social stability" and economic growth.

Labor disputes and officials' concern with maintaining "social stability" intensified over this reporting year as layoffs, wage arrears, and poor and unsafe working conditions persisted. Growing concern on the part of local governments to maintain economic growth and employment continued to prompt some localities to respond to labor laws that took effect in 2008 (the Labor Contract Law, Employment Promotion Law, and Labor Dispute Mediation and Arbitration Law) with local opinions and regulations of their own that weakened some employee-friendly aspects of these laws. In response to collective labor action that was organized and large scale, the Chinese government continued to redirect labor disputes away from the formal channels of arbitration and litigation toward more "flexible" and "grassroots-level" negotiation and mediation. Strikes and demands for higher wages during 2010 revealed that workers, in some cases, have been emboldened not only by protections for workers codified in labor laws that took effect in 2008, but also by a tighter labor market. Backlogs in the handling of labor dispute cases continued to exceed time limits mandated by law. Migrant workers continued to face discrimination in urban areas, and their children still faced difficulties accessing city schools.[1] Employment discrimination more generally continued to be a serious problem, and plaintiffs brought a growing number of antidiscrimination suits under China's Employment Promotion Law.

Labor Dispute Settlement

China's Labor Dispute Mediation and Arbitration Law (LDMAL) provides a specific timeframe within which disputes must be resolved, requiring arbitral tribunals to rule on cases "within 45 days of the acceptance of the arbitration application by the labor dispute arbitration commission."[2] If an extension is necessary for complex cases, it must be approved by the dispute commission and, in any case, may not exceed 15 days.[3] If no decision is made within the timeframe set forth in the LDMAL, then parties may pursue litigation in courts.[4] An ACFTU report indicated that, by the first half of 2010, some localities saw dramatic increases in the number of labor dispute cases.[5] The hearing of labor disputes in many cases now takes far longer than the stipulated 45- to 60-day legal requirement.[6]

To adjust to the pressure of a rapidly rising caseload and address dissatisfaction with long delays between case filings and hearings, some local governments pushed disputes down to lower levels for resolution, encouraging, even coercing, disputants to resolve

disputes through negotiation or grassroots mediation, often led by low-level officials.[7] This emphasis on mediation and extrajudicial resolution has not been limited to local governments, but also has been reflected in national- and provincial-level regulations and circulars.[8]

In addition to large increases in arbitrated cases, labor dispute cases also continued to deluge Chinese courts. In some cases, these disputes were the result of strong dissatisfaction with arbitration proceedings, as most arbitrated cases can be reviewed in a court if either side is dissatisfied.[9] In other cases, the increase reflected the strong and growing rights consciousness of Chinese workers who turned to new protections offered in labor laws that took effect in 2008. The Supreme People's Court reported that civil courts throughout China accepted 280,000 cases in 2008 (a 94 percent increase from the previous year) and 319,000 in 2009; during the first eight months of 2010, the number of cases totaled 207,400.[10] As workers turn to strikes and protests, some officials believe that the government has an incentive to proactively address disagreements at worksites before they add to the case backlog or threaten "social stability."[11] In Guangzhou city, Guangdong province, for example, a new rule allows the government to fine employers up to 20,000 yuan (US$2,968) if they refuse to conduct collective negotiations with workers to resolve wage arrears issues.[12]

While employment discrimination continued to be a serious problem during this reporting year, legal scholars noted that there appeared to be a growing number of cases brought by plaintiffs under China's Employment Promotion Law alleging discrimination in hiring. The law, which took effect in 2008, prohibits discrimination based on ethnicity, race, sex, religion, residency, infectious disease, and disability.[13] One study indicated that civil society organizations have contributed to a greater awareness of employment discrimination and have helped bring cases to the courts.[14] In some widely reported cases, plaintiffs have prevailed, suggesting that "courts have taken a favorable view of the law" and that the "long-discussed implementation deficit of Chinese law is shrinking, slightly."[15]

China's Labor Contract Law, which also took effect in 2008, continues to be subject to interpretation at the local level. Interpretations over this reporting year have been inconsistent across some localities. For example, Article 14 of the law states that if a "worker has worked for an uninterrupted term of 10 years for the employer" and if the worker "proposes or agrees to renew or conclude a labor contract," then the worker is entitled to an open-ended contract, that is, "a labor contract without a fixed period."[16] Addressing this provision, the Jiangsu High Court's Guiding Opinion on the Handling of Employment Disputes ruled in December 2009 that an employee may be entitled to an open-ended contract even if the employee's 10 years include leave from work due to pregnancy or other conditions allowed by the statute.[17] A March 2010 opinion by the Shanghai High People's Court, however, construes the law more strictly, indicating that judges should deny employees' requests for open-ended contracts in such situations.[18] Such variance in interpretation across locales potentially lays the

groundwork for disputes leading ultimately to calls for further national-level clarification of ambiguity in the law's provisions.

Recent Worker Actions

Widespread reports of strikes and demonstrations continued during this reporting year, especially in manufacturing centers in southern China. Strikes were often prompted by factory slowdowns, closures, and nonpayment of wages or overtime.[19] In these cases, trade unions often appeared during the period of negotiation and settlement of the strike as subordinate to the government.[20] During the spring and summer of 2010, Chinese and international media and non-governmental organizations reported on a spate of worker actions—from a succession of strikes to suicides at a factory compound—at various enterprises in China, mostly foreign-owned, that garnered attention in China and around the world.[21] Unofficial reports suggest that the striking workers' primary demand was higher wages. These reports also indicate that many of the workers decided to participate in the strikes after hearing coworkers who had worked at other factories recount similar situations at their previous places of employment—namely, low wage levels and subsequent successful attempts to force employers to raise wages through work stoppages. In other words, the spread of the strikes seemed to have resulted from a "copy-cat chain" of events inspired by previous successes rather than an organized labor movement.[22] Journalists, commentators, and academics in China and abroad have also pointed to changing attitudes of a new generation of workers, migrant workers' difficulties in adjusting to urban factory life, and the denial of the right to free association as factors contributing to worker actions.[23]

Freedom of Association and Collective Bargaining

The Chinese government prevents workers in China from exercising the constitutionally protected freedom of association.[24] Trade union activity in China is organized under the All-China Federation of Trade Unions (ACFTU), a quasi-governmental organization under the direction of the Communist Party.[25] Leading trade union officials hold concurrent high-ranking positions in the Party. The ACFTU Constitution and the Trade Union Law of 1992 both highlight the dual nature of the ACFTU to protect the legal rights and interests of workers while supporting the leadership of the Party and the broader goals and interests of the Chinese government.[26] The ACFTU monopolizes many worker rights issues in China, such as shopfloor organizing and "formalistic" collective contract negotiations, but it does not consistently or uniformly advance the rights of workers.[27]

In recent years, the central government has shown support for an enlarged trade union role in collective contracting, and in union organizing in private firms in China, including multinational companies.[28] These changes are less a sign of opening up and liberalization than they are a collection of strategies to improve the standing and legitimacy of the ACFTU in workers' eyes. The government's strategy appears to be based on its expectation that a more vibrant and engaged ACFTU may limit demands for inde-

pendent union organization and spontaneous collective action by aggrieved workers.

At the shopfloor level, the ACFTU's unions remain weak and marginalized. While the ACFTU and its affiliated unions at lower administrative levels sometimes may play an important role in legislative and regulatory development, this role is not matched with power at the enterprise level. Generally speaking, firm-level union branches are weak, nondemocratic, and subordinate to management.[29] Despite an increase in legislation and administrative regulations that gives the ACFTU more power at the firm level to resolve disputes, the structural weaknesses of the trade union branches make improvements in trade union autonomy and worker advocacy difficult and slow.[30]

In its last Annual Report, the Commission noted that during 2009, with the impact of the global economic crisis and increased government fear of social instability related to rising unemployment, the trade union's role focused on assisting the government in resolving labor disputes and conflicts. This was reflected in the renewed emphasis on mediation and local-level dispute resolution contained in local regulations and measures. During 2010 it was no longer clear that the global economic crisis still was the main driver of the increase in labor disputes, as it appeared to be during 2009. The Chinese economy showed some signs of recovery, and the migrant labor shortage first reported in 2004 began to reappear.[31] Some of the strikes and demands for higher wages during 2010 may not be a sign of continued weakness on the part of workers vis-a-vis management.[32] Rather, they may reveal that workers in some cases have been emboldened not only by protections for workers codified in labor laws that took effect in 2008, but also by a tighter labor market.[33]

Most workers who participated in recent strikes reportedly were not calling for the formation of independent trade unions per se, but rather were calling for unions to act more independently and democratically within the confines of Chinese law. A June 18, 2010, China Daily commentary noted that Chinese workers' demands for genuine union representation was not the same as a push for alternative unions.[34] While acknowledging that the government-run ACFTU "has a herculean task ahead if it wants to fulfill its assigned role of representing workers," the article, written by a prominent Australia-based expert on Chinese labor, states that Chinese workers "are willing to become members of the ACFTU," but that the ACFTU should:[35]

> Do away with the "fake unions" . . . [the ones] assigned by the local governments, whose paramount interest is to attract foreign investment . . . . These governments now rent out land to companies and appoint a few local union-ignorant people to run the trade union offices . . . . The local trade union offices should be put under the jurisdiction of the upper-level union instead of local governments. The ACFTU should allow workers to elect their representatives to their workplace union committees, too, as has happened in a very modest number of firms. Only then can the union branches demonstrably represent workers' inter-

ests rather [than] . . . employers' or governments' [interests].[36]

The lack of genuine labor representation is well documented. A representative of the Hong Kong-based labor organization China Labour Bulletin told the Toronto Star in a June 8 article that China's state-run labor unions "will rarely, if ever, stand four-square with workers."[37] In the past reporting year, however, Chinese officials have appeared to be more willing to address the issue of more genuine worker representation. As the global economic crisis deepened and the number of labor disputes continued to increase at an alarming rate, there has been greater emphasis on encouraging mutual cooperation and agreement between employers and workers. A key notion in recent regulatory development was that protection of both workers' rights and employers' lawful rights and interests was essential to maintain stable labor relations and to continue with industrial and economic development.[38]

China's Labor Dispute Mediation and Arbitration Law, which went into effect in 2008, underlined the requirement first to exhaust all consultation, negotiation, and mediation avenues to resolve labor disputes. The law suggests that arbitration and litigation should be used only when the other alternatives failed.[39] It also indicates the importance of the tripartite system of coordination between labor bureaus, trade unions, and enterprise representatives to solve labor dispute cases together.[40] Earlier local interpretations echoed and encouraged the use of this structure,[41] and in some instances, they also suggested major collaboration and involvement from local governments and other relevant departments and organizations.[42]

With the explosion of labor conflict cases in arbitration committees and courts, however, the central government has been trying to redirect these labor conflicts to other channels at lower levels, and to encourage more mediation in general and negotiation within enterprises.[43] Local governments are encouraged to strengthen and provide better guidance to improve the competence of labor dispute mediation organizations,[44] and there is emphasis on the communication and exchange of information between the relevant bodies.[45] Thus, the government continues to seek inter-organizational collaboration, where arbitration committees, courts, mediation committees, trade unions, and enterprises research and work together to resolve labor disputes.[46] In Jiangsu province, for example, the Human Resources and Social Security Office issued a circular calling for the establishment of a "Five in One" mechanism to resolve labor disputes, outlining the respective responsibilities of judicial administrative departments, the human resources and social security department, the people's courts, arbitration committees, and trade unions to first utilize mediation before proceeding to the arbitration and judicial stages.[47] A Chongqing municipality notice also highlights the primary responsibilities of mediation committees, while delineating the rights of disputants and the procedures for all parties to follow in dispute cases.[48]

The Supreme People's Court issued a judicial interpretation in September 2010—its third since 2008—in an attempt to clarify the courts' responsibilities to "properly [hear] labor dispute cases," the vast majority of which had failed to result in satisfactory outcomes

during the mediation and arbitration stages.[49] The interpretation specifies the types of dispute cases deemed to be acceptable by the courts, noting that people's courts shall accept, among others, cases concerning disputes arising out of the restructuring of enterprises,[50] the failure of employers to pay wages as stipulated in labor contracts,[51] and when employees are unable to obtain insurance benefits due to their employers' failure to properly handle the required social insurance application procedures.[52]

COLLECTIVE CONTRACTING

Collective contracts and some process of collective consultation and negotiation have been part of Chinese labor relations since the 1990s when state enterprise reform deepened and labor conflict began to increase rapidly, especially in the private sector. The ACFTU has championed collective contracts and collective negotiations as important foundations for trade union work at the enterprise level. In recent years, the collective contract system has received more Chinese government and Communist Party support as part of an attempt to institutionalize a tripartite system of labor relations at the local level between the government, the ACFTU, and the employer associations.[53] Nonetheless, the collective contract and consultation system remains weak and formalistic because enterprise-level trade union leaders are not positioned to serve the interests of their workers. Many collective contracts merely reflect the basic legal standards in the locality and often are the result of concerted government or Party work to encourage the enterprise to enter into formalistic contracts rather than the result of genuine bargaining between management and the enterprise trade union.[54]

In December 2009, Zhang Jianguo, Director of the ACFTU's Collective Contracts Department, stated that "in mitigating labour disputes, the fundamental issue is to establish a collective bargaining system that would allow labour disputes to be managed and resolved within the enterprise. From this point of view, collective bargaining is the route we must take in defusing conflict and developing harmonious labour relations."[55] Han Dongfang, a well-known Chinese labor activist and founder of the China Labour Bulletin, made this point in a more succinct way:

> The long-term trend is clear. The only way the government can prevent greater social conflict is by giving more power to the workers not less. If workers have the right to negotiate as equals with the boss the chances of disputes turning violent will be greatly reduced. If on the other hand, the government ignores workers' rights and gives the boss free rein, the consequences will be very serious.[56]

In July 2010, Chinese media reports indicated that drafters of Guangdong province's Regulations on the Democratic Management of Enterprises (Regulations) began seeking opinions from relevant government departments, workers, state-owned and non-state-owned enterprises.[57] One labor advocacy group argued that these "regulations . . . could, if implemented, finally open the door to genuine worker participation in collective bargaining in China."[58] Article 38 of the draft Regulations states that if less than one-third

of workers request wage consultations with management, they must notify the enterprise union, and the union may consult with management on the workers' behalf, and report the results to workers.[59] However, if one-third or more of workers demand collective consultations, the union must demand collective consultations with the enterprise's management.[60]

The Guangdong government's decision to advance and demand faster action on the drafting process appeared to be a response to the recent worker actions in the spring and summer of 2010.[61] The original draft of the Regulations initially was submitted to the Guangdong Province People's Congress Standing Committee in July 2008. However, with the onset of the global financial crisis in the fall of 2008, officials reportedly delayed further action on the draft.[62] In July 2010, when worker actions revealed a "sharpened concern over [the] problem of representation," officials recognized that, given that the "changes in labor supply and demand" have enabled workers to gradually gain more leverage in their relationships with management, the absence of genuine representation can easily turn common labor strife into a "hard landing" with "intensified contradictions."[63] Thus, by focusing on the right of workers to carry out collective actions as well as the representativeness and trustworthiness of unions, the draft Regulations reportedly reflects an attempt to defuse potential collective labor disputes by preemptively bringing workers into formal legal and regulatory channels.[64]

While some labor activists appeared to be optimistic about the draft's potential impact, an expert on Chinese labor relations at the University of Michigan cautioned that "without significant institutional reforms to the trade union itself, including the system of leadership selection, compensation and job security of trade union leaders within the enterprise, and better support and training from higher level unions, these reforms are unlikely to succeed."[65] Still, in recent years at least eight other provincial, city, and autonomous regional governments have also enacted or put forth for consideration their own regulations on enterprise democratic management and collective consultations, including the provinces of Guizhou,[66] Hubei,[67] Jiangsu,[68] Shanxi,[69] and Zhejiang,[70] as well as the cities of Jinan[71] and Tianjin.[72] Shanghai reportedly is advancing similar regulations as well.[73] However, Guandong's draft Regulations are particularly noteworthy in that they specifically grant workers the right to demand the initiation of collective wage consultations—a right that typically has been reserved for unions. In addition, some localities, including Beijing,[74] Guangdong,[75] Hainan,[76] and Tianjin,[77] also have issued guidance notices and regulations highlighting collective consultations' potential in fostering "harmonious" labor relations and specifying the legal rights of parties involved in collective consultations. In mid-September 2010, however, media reports indicated that the Guangdong Province People's Congress Standing Committee delayed further deliberation of Guangdong's draft Regulations. Heavy lobbying by some members of the Hong Kong industrial community, many of whom operate factories in southern China, reportedly played a role in the Standing Committee's decision.[78]

Migrant Workers

The Chinese government characterizes as migrants rural residents who have left their place of residence to seek non-agricultural jobs in Chinese cities, sometimes in the same province and sometimes far from home. China had more than 229 million migrant workers at the end of 2009, an increase of almost 2 percent from the year before.[79] Official Chinese government statistics break down the total number of migrants into those who spent less than half the year as migrants, i.e., those who spent less than six months during the year away from their place of legal residence (85 million in 2009), and those who spent more than half the year as migrants (144 million in 2009).[80] The Chinese household registration (*hukou*) system places restrictions on migration between rural and urban areas in China. Therefore, migrant workers may work in a city for many years but remain unable to qualify for city residency. Without city residency, authorities may deny them many basic public benefits, such as inclusion in social insurance programs, education for their children, and healthcare.[81] As a marginalized urban group, migrant workers are often abused or exploited by employers who take advantage of their insecure social position and lower levels of education.[82] While the central government has allowed the *hukou* system to relax over time, this system of institutionalized discrimination continues to affect adversely the social, civil, and political rights of migrants.[83]

During the global economic crisis, wage arrears problems increased dramatically as factories shut their doors.[84] Moreover, even though wages for migrant workers have been on the rise, they continued to work longer hours for less pay than local residents.[85] Many localities have expanded efforts to include migrants in social insurance coverage. However, there are still significant problems in terms of participation (for both employers and employees), coverage, and portability between rural and urban areas and even within urban areas. Migrant workers generally are able to withdraw monies only from their individual accounts, losing the larger percentage of their pensions that is paid by their employers. With migrant workers facing uncertainty about whether they would return to the same locale to look for new work, and with the portability of pension accounts highly restricted, they chose to withdraw their pensions.

Migrant Workers—Continued

A Beijing Federation of Trade Unions survey of workers in Beijing reportedly found that the percentage of migrant workers surveyed who had signed formal employment contracts with their employers was significantly lower than the percentage of workers with a Beijing urban *hukou* who had done so.[86] In February 2010, over 10,000 children of migrant workers reportedly were unable to resume classes after the Chinese New Year's holiday in some districts within Beijing as dozens of schools faced forced demolitions.[87] These students have few alternatives—in Beijing, for example, state-run and legal private schools can accommodate only half of all admissions demand.[88] Adding to the problem, many parents prefer to enroll their children in state-run schools, since these institutions are cheaper and safer and have a lower turnover of teachers.[89] In an attempt to curb rising crime rates, officials in Daxing, a Beijing suburb, are planning to carry out a "sealed management" system (*fengbi guanli*) and build fences around 16 migrant communities, putting migrants behind "tall metal fences and high walls" while "newly-installed closed-circuit cameras sweep the area for suspicious activity."[90]

A recent ACFTU study found that China's new generation of migrant workers, unlike their parents, have higher expectations with regard to wages and labor rights as they struggle to transition into urban life.[91] China's Minister of Agriculture, Han Changfu, observes the several characteristics that set post-1990s workers apart from the previous generations, pointing out that many of them have never put down roots, are better educated, are the only child in the family, and are more likely to demand equal access to employment and social services—and even equal political rights—in the cities.[92] Some reports indicate that the so-called "post-1980s" and "post-1990s" new generation of migrant workers is at the forefront of the recent strikes; in all, there are about 100 million young workers in China's total pool of migrant workers.[93] As a Chinese demographer explained, the young workers have "the greatest intention to become urban residents and their problems can only be solved by making them such."[94] The Ministry of Human Resources and Social Security announced in March 2010 that it would provide job training to about 600,000 migrant workers each year,[95] and high-level central government officials have called for reforming the household registration system.[96] [See also Section II—Freedom of Residence and Movement.]

Working Conditions

There is increasing evidence of deteriorating working conditions for many Chinese workers and increasing bifurcation of the workforce as highly skilled workers still are in high demand while lower level workers bear the brunt of the global economic downturn. The trend of informalization also disadvantages the lower rungs of the labor market more severely as employers seek to retain highly sought technical workers and managers while reducing the size of the less skilled labor force.[97] Academic experts define informal employment as employment that is not stable or secure, that lacks a written agreement or contract, and that does not provide social insurance or benefits.[98] Since the mid-1990s, when China's economic

reforms quickened, there has been a "rapid and unprecedented rise" in informal employment.[99] Economists estimate that 45 percent of urban employment in China is now informal. Of workers in the state or collective sectors, 22 percent are employed informally, while the percentage rises to 84 percent for workers in the private sector. Informal employment is also more likely for women, for the very young and the very old, and among less educated workers.[100]

Workplace abuses also contributed to poor working conditions. During the first five months of 2010, 10 workers committed suicide at a Shenzhen factory compound owned by the Taipei-based Foxconn Technology Group, which manufactures electronic products for several foreign companies. Yang Jianchang, a member of the Shenzhen People's Congress, blamed authorities for failing to intervene, saying that "the union and officials . . . actually understand little about what the youths really want and their sufferings."[101] Nine labor advocates embedded themselves in the factory as workers and later published a report detailing that Foxconn "uses military style management," that its "managers always scold workers," and that the company sometimes forces workers to sign contracts against their will.[102] In response to the worker suicides and criticism from Chinese and foreign media as well as non-governmental labor organizations that Foxconn's factory "remains a typical sweatshop . . . that overlook[s] the basic needs of their workers for the sake of profit," the company in late May 2010 agreed to double workers' wages to 2,000 yuan (US$294) per month.[103]

Wages

During the Commission's 2010 reporting year, minimum wages rose in 11 provincial-level areas across China. Shanghai, Guangdong, and Zhejiang have monthly minimum wage levels above the 1,000 yuan mark (US$148).[104] Reports indicate that some cities proceeded to raise minimum wages because they struggled to compete for workers.[105] A labor non-governmental organization also attributed the rise in wages to the sudden jump in prices at the end of 2009, when China's consumer price index increased 1.9 percent, year on year, in December.[106]

China's 1994 Labor Law guarantees minimum wages for workers and requires local governments to set wage standards for each region.[107] China's Labor Contract Law (LCL) improves formal monitoring requirements by tasking local labor bureaus to monitor labor practices to ensure rates adhere to minimum wage standards.[108] The law also imposes legal liability on employers who pay rates below minimum wage.[109] In addition, the law guarantees minimum hourly wages for part-time workers.[110]

Illegal labor practices, however, continue to undermine minimum wage guarantees. Wage arrears remain a serious problem, especially for migrant workers. Subcontracting practices within industry exacerbate the problem of wage arrearages. When investors and developers default on their payments to construction companies, workers at the end of the chain of labor subcontractors lack the means to recover wages from the original defaulters. Some subcontractors neglect their own duties to pay laborers and leave workers without any direct avenue to demand their salaries.

Kang Houming, a delegate representing migrants at the National People's Congress from Chongqing municipality, told a Hong Kong magazine that, as of March 2010, there has yet to be a "fundamental solution to the wage arrears problems."[111] The key concern is not only whether governments will raise minimum wages, but also whether local governments will enforce new wage levels even as enterprises complain that the increased costs make them less competitive, and as some local interests take abusive action against migrant workers who demand back wages.[112] In February 2010, in a case reflective of the general problem, a group of migrant workers at a power plant in Chongqing municipality's Wuxi county went to the Sinohydro Foundation Engineering Company, which oversaw the operations at the Wuxi plant, to demand their back wages after their supervisor "went missing" during the Spring Festival.[113] The workers, who staffed two 12-hour shifts daily without written contracts, reportedly were later beaten by a gang of people wielding knives and sticks.[114]

Working Hours

China's Labor Law mandates a maximum 8-hour workday and 44-hour average workweek.[115] Forced overtime and workdays much longer than the legally mandated maximum are not uncommon, especially in export sectors, where some employers avoid paying overtime rates by compensating workers on a piece-rate basis with quotas high enough to avoid requirements to pay overtime wages.[116] According to a report, suppliers in China avoid exposing themselves to claims of requiring illegal long hours by hiring firms that help them set up double booking systems for foreign importers who aim to adhere to Chinese rules and regulations. Such firms not only help suppliers prepare books to pass audits, but also coach managers and employees on how to respond to auditors' questions.[117]

Disputes over working hour abuses continued to be a major reason for labor disputes, especially disputes involving overtime or wage arrears related to past abuses and to struggling enterprises avoiding legal responsibilities to cut costs.[118] China's Labor Dispute Mediation and Arbitration Law lengthened the time allowed to file a dispute and also put more evidentiary responsibility on the employer to demonstrate that overtime abuses had not occurred, which also resulted in an increase in the number of workers seeking compensation.[119] Many workplaces reduced hours and salaries in the wake of the global economic crisis, which led to workers' complaints over minimum wage violations.[120]

Occupational Safety

LEGAL FRAMEWORK AND DEVELOPMENTS

China's Law on Safe Production, which took effect in 2002, delineates a set of guidelines to prevent "accidents due to lack of work safety" and to keep "their occurrence at a lower level, ensuring the safety of people's lives and property and promoting the development of the economy."[121] Specifically, the law charges principal leading members of production and business units to educate workers on safety issues and formulate rules of operation;[122] protects

workers' right to speak up and address work safety issues;[123] sets forth trade unions' right to pursue workers' complaints over safety issues;[124] tasks local governments to inspect, examine, and handle violations and potential dangers in a timely manner;[125] and lays out the consequences for noncompliance.[126]

In 2009, there were 2,631 reported deaths in Chinese mines, representing a decrease from a high of 6,995 in 2002.[127] Workers in China, however, continued to face persistent occupational safety issues during this reporting year. Miners are limited in their ability to promote safer working conditions in part due to legal obstacles to independent organizing. Collusion between mine operators and local government officials reportedly remains widespread. As one Hong Kong-based labor advocacy group explained to Time Magazine, "[T]he people who are tasked with doing the investigations [of mine accidents] are the same people who have financial interests in the mines themselves."[128] The China Daily reported that even though the "heaviest fine specified by the national safety laws amounts to 2 million yuan (US$294,117) . . . not a single coal mine in China has ever incurred such a heavy fine for safety violations," and "fines of 1 million yuan (US$147,058), which have been seen in some areas, are regarded as harsh enough."[129] During this reporting year, the Chinese government continued to control media coverage of workplace accidents.

WORKERS COMPENSATION

One major problem facing injured workers or their family members pushing to receive timely compensation is China's "complicated and incredibly time consuming" work-related injury compensation procedure; in some instances, cases can last for decades.[130] It is difficult to determine the total number of cases in part because many cases never are reported due to the convoluted nature of the compensation process.[131] Moreover, Chinese courts and doctors do not routinely recognize some occupational diseases; while traumatic work injuries and deaths have been widely recognized and reported, experts on workers compensation litigation in China report failures to diagnose diseases like silicosis, and failure to recognize that the condition may be caused by exposure at work.[132] As a result, the extent of work-related diseases like silicosis remains difficult to measure and report and, therefore, in many cases goes largely unrecognized.

A Chinese worker stricken with an occupational illness or injury must undergo a "diagnosis . . . conducted by medical and health institutions approved by the public health administration departments of the people's governments at or above the provincial level."[133] The worker, or a close relative, must then apply to the local human resources and social security bureau within one year after the issuance of the diagnosis in order to receive an official certification of work-related injury/disability.[134] This certification, the "key document" that enables "official classification of incapacity," allows the worker to apply for benefits, which is also a complicated process.[135] If the worker's application is rejected, he or she must appeal to the labor dispute arbitration committee, though its rulings are nonbinding. Only if the committee makes a decision that is unfavorable can the worker proceed with civil litigation.[136]

The process becomes even more problematic given the reality "faced by migrant workers, most of whom will have already left their jobs and moved back home by the time clinical symptoms of the disease become apparent." [137]

Central government directives encourage local governments to pressure bereaved families into signing compensation agreements and to condition out-of-court compensation settlements on forfeiture by bereaved families of their rights to seek further compensation through the court system.[138] There have been reports of local officials preempting class actions by prohibiting contact among members of bereaved families in order to forestall coordination.[139] In December 2009, Li Liang, a 26-year-old engineer, collapsed on a factory bus and died in Suzhou city "amid a spate of workers falling seriously ill from chemical poisoning." [140] The factory, which produces electronic touch screens for several foreign companies, reportedly assigned workers to clean the screens with the toxic solvent n-hexane "in violation of local codes and without proper safety equipment." [141] After Li's death, 2,000 workers went on strike to demonstrate their concerns over prolonged exposure to the chemical. Officially, management told other employees that Li had died of a heart attack. Authorities were never able to determine Li's cause of death, since management persuaded the victim's father to have the body cremated before the family received medical expenses and humanitarian aid from the company, some of which came from Li's coworkers.[142]

Child Labor

Child labor remained a persistent problem during this reporting year.[143] As a member of the International Labour Organization (ILO), China has ratified the two core conventions on the elimination of child labor.[144] China's Labor Law and related legislation prohibit the employment of minors under 16 years old,[145] and both national and local legal provisions prohibiting child labor stipulate a series of fines for employing children.[146] Under China's Criminal Law, employers and supervisors face prison sentences of up to seven years for forcing children to work under conditions of extreme danger.[147] Systemic problems in enforcement, however, have dulled the effects of these legal measures. The overall extent of child labor in China is unclear in part because the government classifies data on the matter as "highly secret." [148]

Child laborers reportedly work in low-skill service sectors as well as small workshops and businesses, including textile, toy, and shoe manufacturing enterprises.[149] Many underage laborers reportedly are in their teens, typically ranging from 13 to 15 years old, a phenomenon exacerbated by problems in the education system and labor shortages of adult workers.[150] In April 2010, the National Labor Committee, a New York-based nonprofit that focuses on U.S. companies' treatment of foreign workers, alleged that two factories in Dongguan city, Guangdong province that manufacture products for Microsoft recruited "hundreds—even up to 1,000—'work study students' 16 and 17 years of age, who work 15-hour shifts, six and seven days a week." [151] They were required to produce 2,000 computer mice per shift and are "prohibited from talking, listening to

music or using the bathroom during working hours."[152] The report also found that:

> These hours and conditions are blatantly illegal. Under China's laws, 14- and 15-year-olds may not work, while 16- and 17-year-olds are classified as "non-adult" workers, who cannot work more than eight hours a day.[153]

Investigators working for Dongguan's Human Resources Bureau told the Associated Press that factories are allowed to hire workers between 16 and 18 years of age as long as management registers them with the authorities.[154] However, KYE factories reportedly hired 385 such workers, of which 326 were not "properly registered."[155] A company representative reportedly acknowledged management's failure to register these workers, and reportedly said they "would now fix the problem."[156]

The Chinese government, which has condemned the use of child labor and pledged to take stronger measures to combat it,[157] permits "work-study" programs and activities that in practical terms perpetuate the practice of child labor, and are tantamount to official endorsement of it.[158] National provisions prohibiting child labor provide that "education practice labor" and vocational skills training labor organized by schools and other educational and vocational institutes do not constitute use of child labor when such activities do not adversely affect the safety and health of the students.[159] The Education Law supports schools that establish work-study and other programs, provided that the programs do not negatively affect normal studies.[160] These provisions contravene China's obligations as a Member State to ILO conventions prohibiting child labor.[161] In 2006, the ILO's Committee of Experts on the Applications of Conventions and Recommendations "expresse[d] . . . concern at the situation of children under 18 years performing forced labor not only in the framework of re-educational and reformative measures, but also in regular work programs at school."[162]

Prison Labor

During this reporting year, the Commission monitored reports on prison labor in China.[163] The export of prison products from China reportedly continues despite China's Provisions Reiterating the Prohibition on the Export of Products Made by Prisoners Undergoing Reeducation Through Labor, which prohibit the export of such products.[164] Media reports during the reporting year also have described the alleged export of prison labor from China to worksites in other countries operated by Chinese state-owned enterprises. Chinese prisoners reportedly have worked on housing and other infrastructure projects such as ports and railroads in Sri Lanka and the Maldives, among other places.[165] China's Law on the Control of Exit and Entry of Citizens states that "approval to exit from the country shall not be granted to . . . convicted persons serving their sentences."[166] Despite the existing law, however, and despite Chinese officials' encouragement for companies to increase the number of local residents that they hire and train in foreign countries, one academic who follows the issue wrote that it is the operating practice of some Chinese companies on overseas projects

to "keep the number of local workers to a bare minimum and to bring in much of the work force from China, including convicts 'freed' on parole . . . ." [167] A Ministry of Commerce official dismissed such allegations made in media reports, telling People's Daily that, based on China's own laws and regulations, "enterprises engaged in foreign contracted projects . . . must . . . assign employees who . . . have no misconduct record or criminal record to work overseas." [168]

China's International Commitments to Worker Rights

As a member of the International Labour Organization (ILO), China is obligated to respect a basic set of internationally recognized labor rights for workers, including freedom of association and the "effective recognition" of the right to collective bargaining.[169] China is also a permanent member of the ILO's governing body.[170] The ILO's Declaration on the Fundamental Principles and Rights at Work (1998 Declaration) commits ILO members "to respect, to promote and to realize" these fundamental rights based on "the very fact of [ILO] membership." [171]

The ILO's eight core conventions articulate the scope of worker rights and principles enumerated in the 1998 Declaration. Each member is committed to respect the fundamental right or principle addressed in each core convention, even if that member state has not ratified the convention. China has ratified four of the eight ILO core conventions, including two core conventions on the abolition of child labor (No. 138 and No. 182) and two on non-discrimination in employment and occupation (No. 100 and No. 111).[172] The ILO has reported that the Chinese government is preparing to ratify the two core conventions on forced labor (No. 29 and No. 105).[173] On its face, Chinese labor law appears to incorporate some of the basic obligations of the ILO's eight core conventions, but, in practice, many of these obligations remain unfulfilled.[174] Importantly, Chinese labor law does not incorporate basic obligations of the ILO's provisions relating to the freedom of association and the right to collective bargaining.

The Chinese government is a state party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), which guarantees the right of workers to strike, the right of workers to organize independent unions, the right of trade unions to function freely, the right of trade unions to establish national federations or confederations, and the right of the latter to form or join international trade union organizations.[175] In ratifying the ICESCR, the Chinese government made a reservation to Article 8(1)(a), which guarantees workers the right to form free trade unions. The government asserts that application of the article should be consistent with Chinese law, which does not allow for the creation of independent trade unions.[176]

CRIMINAL JUSTICE

Introduction

During the Commission's 2010 reporting year, international and Chinese domestic media have documented a range of new as well as ongoing problems within China's justice system, including detention abuses, coerced confessions, and police torture. Closed trial proceedings and trial procedures that unfairly disadvantage criminal suspects and defendants continue to contravene protections in both Chinese and international law. Public security administrative powers remain unchecked despite growing media coverage and public controversy.

Chinese and international media reported on various criminal justice policy developments during this reporting year, including reforms to stem the use of coerced confessions, to limit the number of executions, and to address public dissatisfaction with public security authorities.[1] While there were some potentially positive developments, the Chinese criminal justice system in practice consistently contravened domestic legal protections and continued to fall short of upholding international human rights standards. The Chinese government adopted legislation and regulations that signal new challenges for human rights advocates and reformers within the justice system. The National People's Congress, for instance, passed new amendments to tighten controls over communications under its state secrets law and increased restrictions on lawyers and law firms that work on politically sensitive cases or cases involving mass incidents.[2] The rights of criminal suspects and defendants continued to fall far short of the rights guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as rights provided for under China's Criminal Procedure Law and Constitution.[3] Although China's 2009–2010 National Human Rights Action Plan (HRAP), released in April 2009, signaled the Chinese government's commitment to improving the "process of law enforcement and judicial work," Chinese authorities have not implemented criminal justice provisions in the HRAP consistently.[4]

Abuse of Police Powers: Suppression of Dissent

Chinese authorities' targeting of human rights advocates and defenders in the leadup to sensitive dates and events in 2009 continued through the 2010 reporting year. In the period surrounding sensitive events, such as the 60th anniversary of the founding of the People's Republic of China in October 2009, U.S. President Barack Obama's visit to China in November 2009, the annual meetings of the National People's Congress and the Chinese People's Political Consultative Conference (Two Sessions) in March 2010, the 21st anniversary of the 1989 Tiananmen protests, and the Shanghai 2010 World Expo, public security officers and unidentified personnel continued to use detention measures against human rights advocates, petitioners, and their families.

Public security officers continued to engage in extralegal tactics such as harassment, assault, kidnappings, and illegal detention in order to punish Chinese citizens who expressed dissent or sought

to defend their rights and the rights of others. Such arbitrary restrictions on personal liberty, freedom of expression, and freedom of peaceful assembly and association contravene the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as China's Constitution.[5] In September 2009, for example, prominent activist Qi Zhiyong said Chinese authorities placed him under home confinement and told him to leave Beijing prior to China's National Day parade.[6] In the leadup to President Obama's visit to China in November 2009, Chinese law enforcement officials reportedly detained dozens of rights defenders and reform advocates.[7] On November 13, 2009, public security officers took away Zhao Lianhai, the head of an advocacy group for parents of children sickened by melamine-tainted milk, searched his house, and confiscated personal property. When Zhao refused to comply with the public security officers because the summons did not specify a charge, the police officers added "provoking an incident" to the summons.[8] In February 2010, before the Two Sessions, Beijing and Shanghai police forcefully removed Mao Hengfeng, a longtime Shanghai petitioner, from her Beijing hotel room; subsequently, the Shanghai Municipal Reeducation Through Labor Committee ordered her to serve 18 months of reeducation through labor for her involvement in a protest that occurred outside a Beijing court in December 2009.[9] [See box titled Liu Xiaobo in Section II—Freedom of Expression.] During the Two Sessions in early March 2010, the non-governmental organization Chinese Human Rights Defenders reported that public security officers detained more than 20 petitioners.[10] Chinese police similarly acted to limit free speech and activism in the period before and during the Shanghai Expo. Shanghai public security officers reportedly detained, threatened, and placed under surveillance housing petitioners that sought to exercise their constitutional right to petition. [For more information on the Shanghai Expo, see Section III—Access to Justice—Abuse of Petitioners.] In early April 2010, Shanghai police sent human rights advocates notices warning them not to go near the Shanghai Expo.[11] In June 2010, Human Rights in China, a U.S.-based non-governmental organization, reported that police authorities detained and abused members of the Guizhou Human Rights Symposium for planning to commemorate the 21st anniversary of the Tiananmen protests.[12] Later in June 2010, state security officers reportedly abducted Beijing-based human rights advocate Liu Dejun and took him to the outskirts of Beijing, where he was beaten and threatened before being left on the side of the road.[13]

Lawyers and rights defenders who took on "sensitive" cases or who became involved with "sensitive" issues during the past year were harassed, abducted, or beaten by public security officers or unidentified personnel working under the direction of, or with the knowledge of, the public security bureau. In November 2009, public security officers detained Jiang Tianyong, a prominent human rights lawyer, for more than 13 hours, after he and other activists gathered outside the U.S. Embassy for a possible meeting with President Obama.[14] In January 2010, Chinese lawyers met with imprisoned human rights lawyer Wang Yonghang who defended Falun Gong prisoners and verified reports that authorities beat Wang on three occasions following his kidnapping by plainclothes

police officers.[15] Prominent human rights lawyer Gao Zhisheng resurfaced in late March after "disappearing" into what experts on the case describe as official custody for more than a year, but news outlets reported that Gao once again "disappeared" in late April.[16] [For more information, see Section III—Access to Justice—Human Rights Lawyers and Defenders.]

Pretrial Detention and Prisons: Torture and Abuse in Custody

Although China officially claims to have outlawed torture in 1996 with amendments to the Criminal Procedure Law and the Criminal Law, torture and abuse by law enforcement officers remain widespread. In November 2008, the UN Committee against Torture (UNCAT) stated it "remains deeply concerned about the continued allegations . . . of routine and widespread use of torture and ill-treatment of suspects in police custody, especially to extract confessions or information to be used in criminal proceedings."[17] While the Chinese government objected to the UNCAT report's findings in its November 2009 followup report, over this reporting year, the Commission observed cases of alleged torture during pretrial detention and the continued reporting of suspicious deaths in detention centers.[18]

Despite the government's public efforts to combat the practice of torture, international media, domestic news sites, and non-governmental organizations have documented ongoing problems of police torture and other forms of police mistreatment. Public security officers have allegedly employed various torture measures, including beatings, electric shock, cigarette burnings, and sleep deprivation.[19] In December 2009, the Yancheng Evening News reported that 19 out of 26 suspects in Chongqing municipality's "anticrime" crackdown alleged that police used torture to extract confessions.[20] In February 2010, a Dahe Net article (reprinted in the Global Times, which operates under the official People's Daily) reported that the Mengzhou Municipal People's Court sentenced three police officers to varying periods of fixed-term imprisonment or to suspended sentences for using torture to extract a confession after the officers ruptured a suspect's bladder with tear gas canisters.[21] In May 2010, environmental activist Wu Lihong described his mistreatment in prison to international reporters: "They used tree branches to whip my head, burned my hands with cigarettes and kicked and beat me until my arms and legs were swollen and my head was spinning."[22] [For more information, see Section II—Climate Change and the Environment.] In a related case, Zhu Mingyong, a lawyer for alleged Chongqing criminal syndicate boss Fan Qihang, made public secret recordings of his client detailing numerous forms of torture in July 2010, after submitting recordings and pictures documenting Fan's torture to the Supreme People's Court for review.[23]

During this reporting year, an earlier case of torture emerged, sparking national interest in the justice system's overreliance on confessions in criminal trials. In May, the China Daily reported that officials in Shangqiu city, Henan province, admitted police officers had tortured criminal suspect Zhao Zuohai into confessing to a murder.[24] Zhao, who spent 11 years in prison before being released after the supposed victim reappeared in late April, was re-

portedly beaten and forced "to stay awake for more than 30 days" during the interrogation process.[25] Days after his release, the Henan High People's Court acquitted Zhao in a retrial, and the Shangqiu Intermediate People's Court awarded Zhao 650,000 yuan (US$96,000) in compensation. In June, the Procuratorial Daily reported that the "wrongful case of Zhao Zuohai" had sparked a "great amount of public concern," particularly over the causes behind such an injustice.[26] A May 2010 China Daily editorial advocated for greater oversight to prevent future abuses, stating, "The police ought to police themselves to rid its [sic] reputation of such taints."[27]

Chinese print and online media outlets have continued reporting on several instances of "bizarre" or "unnatural" detention deaths over the year, which, according to the China Daily, have reportedly "sparked nationwide discussion about inmates' human rights and the proper management of detention houses."[28] In news reports and online forums, the detention deaths received high-profile monikers, following the widely reported "hide-and-seek" death of detainee Li Qiaoming in February 2009.[29] During this reporting year, the Chinese media reported on unnatural death cases and official explanations that reportedly captured public attention, including deaths linked to "taking a shower," "drinking hot water," "falling in the bathroom," "hanging by shoelaces," and "having a nightmare."[30] According to a June Zhejiang Daily report, "the naming convention[s]" related to these official explanations that have emerged are a "glib poke at the official line that time and again accompanies these tragedies, a line that clumsily obfuscates the most commonly suspected cause of the deaths, which is abuse at the hands of detention center personnel." The reports of unnatural deaths have shaken public confidence in China's judicial system, according to various media reports.[31] In March 2010, Minister of Public Security Meng Jianzhu addressed the controversy, urging reform and stating that the unnatural deaths have "seriously harmed the public's confidence in law enforcement by police authorities."[32]

During this reporting year, Chinese authorities announced new measures intended to limit inmate abuse and police torture by improving the criminal justice system. At the end of May, the Supreme People's Court, the Supreme People's Procuratorate, and the Ministries of Public Security, State Security, and Justice released two evidence guidelines that prohibit the use of illegally obtained evidence to convict defendants.[33] In May, the Ministries of Public Security, Supervision, and Human Resources and Social Security jointly issued the first police discipline regulation, which went into effect in June 2010 and details punishments for 76 types of misconduct including sanctioning inmates to mistreat suspects.[34] The amended State Compensation Law, which enters into effect in December 2010, stipulates that when a detainee dies or is incapacitated, the authorities shall be required to provide evidence proving they are not responsible.[35]

Arrest and Trial Procedure Issues

ACCESS TO COUNSEL

The right to legal counsel in criminal trials is not a guaranteed legal right for all defendants in China, even though China's Criminal Procedure Law (CPL) and Lawyers Law provide guidelines for legal representation in criminal trials.[36] Many criminal defendants reportedly do not have access to legal assistance. This is counter to provisions under Article 14(3)(d) of the International Covenant on Civil and Political Rights, which China signed in 1998 but has not yet ratified.[37]

Most Chinese defendants confront the criminal process without the assistance of an attorney.[38] According to a survey reported on Qianlong Web, lawyers participated in criminal defense in approximately 30 percent of criminal cases nationally, and in Beijing, the rate of legal representation was less than 10 percent.[39] In March 2010, All China Lawyers Association (ACLA) President Yu Ning told China Newsweek that criminal defense may be in decline since many Chinese lawyers seek more profitable legal fields and hope to avoid the risks associated with criminal law.[40]

Chinese criminal lawyers continue to confront obstacles in handling cases, most notably in managing the "three difficulties" (*san nan*) of criminal defense—gaining access to detained clients, reviewing the prosecutors' case files, and collecting evidence.[41] Although authorities amended the 2008 Lawyers Law to address these longstanding issues, ACLA Vice President Wang Junfeng said in December 2009 that, based on national ACLA surveys conducted in late 2009, the amended Lawyers Law had not "fundamentally resolved" the "three difficulties" and that some lawyers expressed concerns that the amended Lawyers Law posed new difficulties for the legal profession.[42] Many lawyers in the survey expressed frustration with justice officials for failing to honor new rights under the Lawyers Law, due to incongruence between the CPL and the revised Lawyers Law.[43] A senior lawyer with the ACLA, Li Guifang, told the China Daily in June 2010 that it is "almost impossible" for criminal defense attorneys to meet with their clients within the first 48 hours of detention—a period he characterized as "a crucial time in getting to grips with a case and vital for warning a suspect of his legal rights and responsibilities."[44]

Chinese lawyers also remain vulnerable to prosecution under controversial Article 306 of China's Criminal Law (commonly referred to as the "lawyer-perjury" statute), a legal provision on evidence fabrication that specifically targets defense attorneys.[45] Because of the risks presented by Article 306, most defense attorneys reportedly engage in passive defense: they focus on finding flaws and weaknesses in the prosecutors' evidence rather than actively conducting their own investigations.[46] Human rights groups and Chinese legal experts estimate that more than 100 defense attorneys have been charged with evidence fabrication under Article 306 and suspect the statute has had a "chilling effect for defense lawyers, who may decide to defend clients less forcefully than they otherwise would for fear of displeasing the prosecution."[47] According to a March Legal Daily article, Article 306 may be responsible for declining rates of criminal representation: "Because of Article

306, an increasing number of lawyers are leaning toward non-criminal procedure professions, which has led to an increasing decline in the rate of criminal defense."[48]

In late 2009 and early 2010, the case against prominent Beijing-based lawyer Li Zhuang and its handling figured prominently in national Chinese news and in ongoing debates over Article 306.[49] In early February 2010, the Chongqing No. 1 Intermediate People's Court sentenced Li to a prison term of one year and six months for falsifying evidence and inciting others to bear false witness (under Article 306) in what reportedly was widely regarded as political targeting.[50]

FAIRNESS OF CRIMINAL TRIALS

Chinese lawyers and criminal defendants continue to face numerous obstacles in defending the right to a fair trial. Closed trials, political influence, and a lack of transparency in judicial decision-making remain commonplace within the justice system. Although China has signed and committed to ratify the International Covenant on Civil and Political Rights (ICCPR), Chinese officials routinely sentence defendants in trials that fall far short of fair trial standards set forth in the ICCPR.

During this reporting year, the Commission has observed several notable cases in which Chinese judicial authorities failed to uphold defendants' right to a fair trial in accordance with domestic and international law.

- In November 2009, the Wuhou District People's Court in Chengdu city, Sichuan province, sentenced veteran activist Huang Qi, whose human rights Web site advocated on behalf of grieving parents after the May 12 Sichuan earthquake, to three years' imprisonment for violating China's broad and vague "state secrets" legal framework.[51] Throughout the legal process, owing to the broad definition of state secrets, authorities granted Huang's lawyers, witnesses, and associates limited access to evidence.[52] [For more information see Section II—Freedom of Expression—Abuse of Vague Criminal Law Provisions—Other Crimes: Splittism, State Secrets, and Slander.]
- On December 25, 2009, a Beijing court sentenced prominent intellectual Liu Xiaobo to 11 years in prison for "inciting subversion of state power" for his role in organizing Charter 08, a treatise advocating political reform and human rights, and publishing six articles online.[53] Among various procedural violations, Liu was denied the right to hire the attorney of his choice. Liu's defense attorneys were also denied the right to present their opinions, as required by law, to prosecutors before the indictment was issued and were not given adequate time to prepare for trial.[54] [For more information see box titled Liu Xiaobo in Section II—Freedom of Expression.]
- In June 2010, the Yanqi County People's Court, located in Bayinguoleng (Bayangol) Mongol Autonomous Prefecture, Xinjiang Uyghur Autonomous Region, sentenced Karma Samdrub, a Tibetan environmentalist, to 15 years' imprisonment for "illegally excavating and robbing cultural sites or ancient tombs," charges that were initially dropped in 1998.[55] Karma Samdrub's lawyer, Pu Zhiqiang, called the trial a "mis-

> carriage of justice" due to a number of procedural irregularities: "evidence was tampered with, inadequate translation was provided and the judge refused to look into [Karma Samdrub's] claims of beatings and sleep deprivation while in custody."[56] [For more information see Section V—Tibet—Political Imprisonment of Tibetans: Law as a Tool of Repression.]

Arbitrary Detention

Arbitrary detention in China takes many forms and continues to be used widely by Chinese authorities to quell local petitioners, government critics, and rights advocates. Arbitrary detention includes various forms of extralegal detention, such as "black jails" (*hei jianyu*); "soft detention" (*ruanjin*), a form of unlawful home confinement; reeducation through labor, an administrative detention of up to four years for minor crimes; and forcible detention in psychiatric hospitals for nonmedical reasons. Another form of extralegal detention—*shuanggui* (often translated as "double regulation" or "double designation")—is used by the Communist Party for investigation of Party members, most often officials in cases of suspected corruption.

The UN Working Group on Arbitrary Detention defines the deprivation of personal liberty to be "arbitrary" if it meets one of the following criteria: (1) there is clearly no legal basis for the deprivation of liberty; (2) an individual is deprived of his liberty for having exercised rights guaranteed under the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights (ICCPR); or (3) there is grave noncompliance with fair trial standards set forth in the UDHR and other international human rights instruments.[57] In addition, many forms of arbitrary detention also violate China's own laws.[58]

"SOFT DETENTION" AND CONTROL

During the Commission's 2010 reporting year, the Commission noted various reports of law enforcement authorities using "soft detention" and surveillance measures to control and intimidate Chinese citizens. The "soft detention" that numerous human rights defenders, advocates, and their family members are subjected to has no basis in Chinese law and constitutes arbitrary detention under international human rights standards. In late April 2010, for example, public security officers held housing rights advocates and victims of forced evictions under "soft detention" at their homes in order to prevent them from drawing attention away from the Shanghai 2010 World Expo.[59] In June, the South China Morning Post reported on New York University Law School Professor Jerome Cohen's visit with criminal lawyer Zheng Enchong, who has remained under "soft detention" since June 2006.[60] In Cohen and Yu-Jie Chen's South China Morning Post editorial on the meeting, the authors described the circumstances behind Zheng's house arrest:

> Around the clock, 12 guards, including uniformed police, plain-clothes public security officials and their hired hands, take turns manning the outer gate, building entrance and hallway outside Zheng's apartment. Strategi-

> cally posted surveillance cameras ensure that no one in the vicinity can escape police eyes. Zheng, who is 60, only leaves when summoned by police and has been summoned at least 77 times since 2006 for interrogations that are intimidating and occasionally physically abusive. His home has been searched 11 times, and five computers have been confiscated. He generally has no Internet access, and his phone is monitored when not disconnected.[61]

Petitioners and activists across China continue to face the threat of police surveillance and home confinement for criticizing government policies, challenging officials, and advocating for human rights. Huang Yuqin, a Shanghai resident whose home was demolished on March 2, 2010, was placed under "soft detention" and prevented from leaving her home on at least one occasion.[62] Public security officers placed Beijing activists Cha Jianguo and Gao Hongming, founders of the China Democracy Party, under "soft detention" in late January 2010. Although police stationed at Cha and Gao's apartment blocks did permit them to leave their homes, the police directed Cha and Gao to travel in police vehicles.[63] In July 2010, authorities placed a number of civil society activists under "soft detention" during German Chancellor Angela Merkel's visit to Beijing. Those who reportedly faced harassment or restrictions on movement included Yang Jing, Qi Zhiyong, Wang Debang, and Xu Yonghai.[64]

REEDUCATION THROUGH LABOR

Public security officers continue to use the reeducation through labor (RTL) system to silence critics and to circumvent the criminal procedure process. RTL is an administrative measure that allows Chinese law enforcement officials to order Chinese citizens, without legal proceedings or due process, to serve a period of administrative detention of up to three years, with the possibility of up to one-year extension.[65] While Chinese sources maintain that the RTL system has been established "to maintain public order, to prevent and reduce crime, and to provide compulsory educational reform to minor offenders," RTL is used frequently to punish, among others, dissidents, drug addicts, petitioners, Falun Gong adherents, and religious practitioners who belong to religious groups not approved by the government.[66]

During this reporting year, the Commission observed numerous accounts of RTL orders violating the legal rights of Chinese citizens, specifically their rights to a fair trial and to be protected from arbitrary detention.[67] In October 2009, the non-governmental organization Chinese Human Rights Defenders reported that the Shenyang RTL Committee ordered democracy advocate Sun Fuquan to serve one year and nine months of RTL in February 2009 for "inciting subversion of state power" and "splittist speech" by posting information online about the violent suppression of the 1989 Tiananmen protests.[68] In March 2010, the Shanghai RTL Committee ordered Shanghai petitioner Mao Hengfeng to serve one year and six months of RTL for "disturbing social order" after she shouted slogans outside a Beijing court on December 25, 2009. On April 13, 2010, the Shanghai RTL Committee ordered Shanghai petitioner Chen Jianfang to serve one year and three months of RTL

for committing "acts disruptive to social order," after he participated in a peaceful protest outside of Peking University on April 17, 2009.[69]

Human rights advocates and legal experts within China have been calling for an end to RTL for decades. In 2008, another public call to end RTL came in the treatise Charter 08, which was signed initially by 303 Chinese intellectuals, human rights advocates, and others. The Charter states: "All persons should be free from unlawful arrest, detention, summons, interrogation, and punishment. The system of reeducation through labor should be abolished."[70] In March 2010, the Chairman of the National People's Congress Standing Committee, Wu Bangguo, announced that the Illegal Behavior Correction Law, which in recent years has been discussed as possibly replacing the RTL regulations, had been included in the 2010 legislative agenda.[71] In 2010, two prominent Chinese legal scholars publicly debated abolishing and reforming the reeducation through labor system in a series of public opinion editorials.[72]

"BLACK JAILS": SECRET DETENTION SITES

During this reporting year, Chinese authorities continued to use "black jails" (*hei jianyu*), secret detention sites established by local officials, to detain and punish petitioners who travel to Beijing and provincial capitals to voice complaints and seek redress for injustices. Inside the black jails, detainees are denied access to legal counsel and in most cases, contact with family and friends. A November 2009 Human Rights Watch (HRW) report detailed conditions at the black jails: "Detainees are kept under constant surveillance, and subject to often arbitrary physical and psychological abuse including beatings, sexual violence, threats and intimidation."[73]

The Chinese government continues to deny the existence of black jails. In November 2009, Foreign Ministry spokesperson Qin Gang told reporters: "I can assure you there are no so-called black jails in China. We put people first, and we are an administration for the people."[74] Still, the existence of black jails of various forms throughout China is well documented by international organizations and, increasingly, domestic media. Black jails arose as a substitute for the dismantled "custody and repatriation" (*shourong qiansong*) centers that had been used to detain petitioners and undocumented migrants until the centers were abolished in 2003.[75] Law professor and human rights defender Xu Zhiyong defines black jails as:

> places used by provincial governments to illegally imprison petitioners; we call them black jails because, first, they are just like prisons—established by the government to restrict people's freedom—and, second, they are "black" because they have no basis in any laws or regulations and are totally illegal.[76]

According to the HRW report on black jails, guards at the detention centers "routinely subject [the] detainees to abuses including physical violence, theft, extortion, threats, intimidation, and deprivation of food, sleep, and medical care."[77]

During this reporting year, the Commission observed reports by international and domestic Chinese media organizations on black jails, as well as on the network of personnel that intercept and abuse petitioners.[78] In one prominent example of domestic reporting, a Southern Weekly article reported in August 2009 on the case of 21-year-old Li Ruirui from Anhui province.[79] According to the report, a black jail security guard publicly raped Li after she had been detained for several days in a black jail in the Juyuan Hotel in Beijing. In December, a court in Beijing ordered the guard Xu Jian to serve eight years in prison and pay 2,300 yuan (US$337) in compensation.[80] In late November, China's Oriental Outlook Magazine, published by the official Xinhua news agency, provided an investigative report on the network of black jails, stating that they "seriously damage the government's image."[81] The report noted that, at certain times of the year, local governments employ over 10,000 black jail "retrievers" to abduct citizens and pay fees from 100 to 200 yuan (between US$15 and US$30) per person per day of detention. The Oriental Outlook report stated there were at least 73 black jails in Beijing alone. Chinese human rights observers stated that this was the first time an official, high-level magazine acknowledged the existence of black jails; however, the article did not appear to influence official statements on the existence of black jails or prompt official calls to abolish the detention centers.[82]

SHUANGGUI: EXTRALEGAL INVESTIGATORY DETENTION OF PARTY MEMBERS

During this reporting year, the Chinese media reported on the Communist Party's use of *shuanggui* (often translated as "double regulation" or "double designation"), a form of extralegal detention that involves summoning Communist Party members under investigation to appear at a designated place at a designated time. *Shuanggui* investigations often precede formal Party disciplinary sanctions or the transfer of suspects to law enforcement agencies, if there has been a violation of the criminal law. Although those under investigation are reportedly held under conditions preferable to police detention, in 2006, Professor Jerome Cohen pointed out that the suspects are "generally held incommunicado and denied some of the protections to which criminal suspects are entitled at least in principle."[83] *Shuanggui* has no basis in Chinese law and violates protections found in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.[84]

Communist Party discipline inspection commissions continued to use *shuanggui* during the past year to detain high-ranking officials in the Communist Party's ongoing battle against corruption. In October 2009, for example, Ou Shaoxuan, a former top-level official of the Guangxi Zhuang Autonomous Region High People's Court, was put under *shuanggui* for alleged corruption in a property dispute.[85] The China Daily reported in late April 2009 that Chinese authorities had placed six officials from the State Food and Drug Administration, the agency responsible for issuing production licenses for biological products and supervising drug safety, under *shuanggui* for allegedly accepting bribes from drug companies.[86]

"Strike Hard" and "Anticrime" Campaigns

With official sources reporting an increase in violent crime and escalating social tensions with high-profile school attacks, Chinese officials launched anticrime campaigns across China during the reporting year.[87] In June 2010, the Ministry of Public Security announced the launch of the fourth round of its national "strike hard" campaign (to take place between July 2010 and February 2011) aimed at violent crime.[88] In June, the Vice Minister of Public Security Zhang Xinfeng told a national meeting that "China, during a process of social and economic transformation, is facing emerging social conflicts and new problems in social security."[89] Traditionally, "strike hard" campaigns have been intense national crackdowns of fixed duration associated with unusually harsh law enforcement tactics, quick trials, and violations of criminal procedure. In addition to the national "strike hard" campaign, provincial, municipal, and lower level governments also undertook anticrime and anticorruption campaigns. In the most high-profile example, the southwestern municipality of Chongqing continued a massive, public "anticrime" sweep (known in Chinese as "striking organized crime and uprooting evil" [*dahei chu'e*]) of criminal syndicates and corrupt officials that resulted in thousands of arrests and raised various concerns about judicial independence and procedural rights.

Launched in June 2009, the Chongqing anticrime campaign continued to capture national publicity and lead to numerous high-profile trials and arrests. By April 2010, Chongqing authorities had arrested 14 high-ranking officials and more than 3,000 others in the crackdown.[90] In February 2010, in one of the more publicized cases, the Chongqing No. 1 Intermediate People's Court sentenced Li Zhuang, a prominent Beijing lawyer who represented alleged Chongqing organized crime figure Gong Gangmo, to one year and six months in prison for fabricating evidence and interfering with witness testimony. While officials alleged that Li urged his client to make false claims of torture by police and directed a lawyer to make claims in support of the allegations, various Chinese lawyers have asserted "that the prosecution of Li is a political vendetta because he, unlike most of the other defense lawyers, fought hard for his client."[91] In May 2010, the Chongqing High People's Court upheld an April death sentence for former Director of the Chongqing Municipal Judicial Bureau Wen Qiang for his role in "accepting bribes, shielding criminal gangs, rape, and failing to account for his cash and assets."[92] In his May appeal, Wen confessed to "85 percent" of the charges, but maintained that the first trial "inaccurately" determined certain established crimes, which had led to a "more severe penalty."[93]

At the same time, however, Chinese scholars and lawyers have expressed concern that efforts to satisfy public resentment and meet anticrime targets have led to procedural inconsistencies and wrongful convictions. Jiang Ping, former President of the China University of Politics and Law, strongly criticized the handling of the Li Zhuang case in an essay widely circulated online, stating "[n]o matter what you think about it, from the most basic level, procedural justice was violated."[94] According to the July 1, 2010,

Oriental Outlook article, some Chinese legal scholars have criticized the "strike hard" campaigns, whose "severity and speed" have led to criminal procedure violations. The article states "the procedural rights of criminal suspects and defendants to a certain extent are deprived—which is not consistent with the spirit of the rule of law."[95]

Medical Parole

During this reporting year, Chinese authorities denied medical parole and adequate medical treatment to those within the prison system, particularly human rights advocates. The U.S. State Department observed in its report on China's human rights situation for 2009 that "adequate, timely medical care for prisoners remained a serious problem, despite official assurances that prisoners have the right to prompt medical treatment."[96] Chinese authorities reportedly denied legal advocate and rights defender Chen Guangcheng adequate medical treatment while he was imprisoned.[97] [For additional discussion on Chen Guangcheng, see box titled Case Update: Chen Guangcheng—Human Rights Defender in Section II—Population Planning.] In April 2010, imprisoned activist Hu Jia, who had been sentenced to three years and six months in April 2008, was denied early release from prison despite a reportedly rapidly deteriorating medical condition and possible liver cancer.[98] In June 2010, Chinese authorities released Zhang Jianhong, also known by his pen name Li Hong, who had been serving a six-year sentence and suffers from advanced-stage Amyotrophic Lateral Sclerosis, or Lou Gehrig's disease. Authorities first diagnosed Zhang with advanced-stage muscular dystrophy in 2007, after determining that he was "suffering from muscle contractions and spasms of the hands and feet, and gradual weakening of his entire body."[99] Despite the 2007 diagnosis, which qualified him for medical parole, prison authorities rejected "requests from Zhang's family and lawyers for medical parole."[100]

Capital Punishment

In March 2010, Supreme People's Court President Wang Shengjun emphasized the state policy of "strictly controlling and carefully applying the death penalty" in his annual report to the National People's Congress.[101] Despite claims that fewer executions occur, however, the Chinese government maintained its policy of not releasing details on the thousands reportedly executed annually and continues to keep information on the death penalty a "closely guarded state secret," according to a March 2010 Amnesty International report.[102] In August 2010, the National People's Congress reviewed the first draft of the proposed eighth amendment to the Criminal Law, which reportedly calls for reducing the current 68 crimes punishable by death to 55 crimes.[103] The reduction would signal the first time the Chinese government has reduced the number of crimes subject to the death penalty since the Criminal Law was enacted in 1979.

In December 2009, China gained international attention for executing British defendant Akmal Shaikh, the first EU national to be executed in China since 1951, after refusing to allow Shaikh to be

examined by a doctor.[104] Despite multiple appeals by the British government based on Shaikh's "serious mental health problems," China executed Shaikh on December 29, 2009.[105] According to an international media report, Chinese authorities maintained that evidence of Shaikh's mental illness was "insufficient," and that the case was handled according to Chinese law.[106] China's Foreign Ministry spokesperson Jiang Yu defended the execution, stating, "The Chinese judiciary's right to treat cases according to the rule of law should be respected and there's nobody who has the right to make improper comments on China's judicial sovereignty."[107] International organizations and critics have claimed the execution contravened the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, adopted in 1984 by the UN Economic and Social Council, which states that executions shall not be carried out on persons who suffer from mental illness.[108]

During the Commission's 2010 reporting year, China moved to adopt lethal injection as the primary form of execution. Lethal injection was legalized in China as an alternative to execution by firing squad in the 1996 Criminal Procedure Law. In December 2009, Liaoning province became the first province to adopt lethal injections as the sole form of execution.[109] In 2010, Beijing municipality also moved to implement lethal injections for all executions.[110]

FREEDOM OF RELIGION

Introduction

China's Constitution guarantees "freedom of religious belief" but protects only "normal religious activities," and the government's restrictive framework toward religion continued in the past year to prevent Chinese citizens from exercising their right to freedom of religion in line with international human rights standards.[1] Some Chinese citizens had space to practice their religion, but the Chinese government continued to exert tight control over the affairs of state-sanctioned religious communities and to repress religious and spiritual activities falling outside the scope of Communist Party-sanctioned practice. During the Commission's 2010 reporting year, the government maintained requirements that religious organizations register with the government and submit to the leadership of "patriotic religious associations" created by the Party to lead China's five recognized religions: Buddhism, Catholicism, Islam, Protestantism, and Taoism. Unregistered groups risked harassment, detention, imprisonment, and other abuses, as did members of registered groups deemed to deviate from state-sanctioned activities. Variations in implementation allowed some unregistered groups to function in China,[2] but such toleration was arbitrary and did not amount to the full protection of these groups' rights.

As leadership in the State Administration for Religious Affairs (SARA) changed in the past year,[3] authorities continued to affirm policies of control over religion. Despite articulating a "positive role" for religious communities in China, officials did not then use the notion of this "positive role" to promote religious freedom, but rather used the sentiment to bolster support for state economic and social goals.[4] According to Wang Zuo'an, the new head of SARA, "The starting point and stopping point of work on religion is to unite and mobilize, to the greatest degree, the religious masses' zeal, to build socialism with Chinese characteristics."[5]

The government continued to use law to control religious practice rather than protect the religious freedom of all Chinese citizens. In April 2010, authorities marked the fifth-year anniversary of implementation of the State Council Regulation on Religious Affairs (RRA), which codifies the government's and Party's restrictive framework for religion.[6] While the RRA also provides some legal protections for registered religious communities, it conditions many activities on government oversight or approval.[7] The RRA excludes unregistered groups from limited state protections, leaving them especially vulnerable to official harassment.[8] In late 2009, Hubei and Hainan provinces each implemented new provincial-level legislation that, compared to older legislation they replace, provides more explicit protections for registered religious communities, in line with the RRA, but that also articulates more detailed state oversight of religious activities. Both include, for example, limits on the activities of clergy and other religious workers that were absent from the earlier provincial legal measures they replace.[9] In January, SARA issued new trial measures on the financial affairs of venues for religious activities,[10] subjecting the venues to more clearly specified state oversight, as well as specifying some protection for their property and income.[11] The new measures apply only

to registered religious venues, leaving unregistered venues both outside this system of oversight and outside the limited protections afforded by the measures.[12] The State Administration of Foreign Exchange issued a circular, effective March 1, 2010, concerning foreign exchange donated to or by domestic institutions that imposes unique requirements on religious organizations to receive approval to accept one-time donations over 1 million yuan (US$147,000).[13] [See Section III—Civil Society for more information.]

Buddhism

The Chinese government and Communist Party exercise control over the doctrine and religious practices of Han Buddhists in non-Tibetan areas in much the same manner as they do for other religious communities.[14] During the Commission's 2010 reporting year, the government and Party continued to control Buddhist doctrine, as well as monitor and control unregistered Buddhist groups and activities. [For more information on conditions for Tibetan Buddhists, see Section V—Tibet.]

CONTROLS OVER BUDDHIST DOCTRINE

During this reporting year, the government continued to control the institutions and religious practices of Buddhists in an effort to bring them into conformity with Party goals and policies. The government requires Buddhist groups and religious personnel to register with the Buddhist Association of China (BAC)[15] in order to practice their religion and hold religious services legally,[16] and authorities tend to allow a wider scope of activities for Buddhist groups that work more closely with them.[17] During this reporting year, authorities continued to emphasize the BAC's role in promoting the government's and Party's goals. For example, Wang Zuo'an—Director of the State Administration for Religious Affairs (SARA)—said in a February 2010 speech that the BAC "received the Party and government's approval"[18] for, among other things, "raising high the banner of loving the country and loving religion, as well as the banner of solidarity and progress . . ., spurring economic development, social harmony, ethnic solidarity, [and] unification of the motherland . . . ."[19]

MONITORING AND CONTROL OF UNREGISTERED BUDDHIST GROUPS AND ACTIVITIES

Local authorities continued to monitor and control unregistered Buddhist groups and activities during this reporting year, labeling certain groups "cult organizations" and characterizing unapproved religious practices as inconsistent with legal measures. For example, the government continued to enforce a ban against at least one Buddhist group that it has designated a "cult organization": a Taiwan-based sect known as the Quan Yin Method (Guanyin Famen).[20] A 2000 circular from the Ministry of Public Security that explains the background of the Party's ban of the Quan Yin Method cites criticism of the Party by the sect's founder, Supreme Master Ching Hai.[21] In addition, reports from local governments throughout China in late 2009 and early 2010 focused on the construction of unregistered Buddhist temples or statues,[22] often characterizing

these practices as "illegal"[23] or "indiscriminate."[24] Echoing the language from these reports, a September 2009 article from the People's Daily cited the "indiscriminate construction" of temples and religious statues as a problem.[25] Some of these government reports claimed that local authorities stopped a "resurgence of the indiscriminate construction" of temples during this reporting year.[26] An October 19, 2009, manual posted on the Web site of the Wuxi City Ethnic and Religious Affairs Bureau, Jiangsu province offered four methods of dealing with unauthorized temples: "transform," "demolish," "change," or "co-opt"; demolition and transformation are identified as the primary two methods.[27]

Catholicism

During the Commission's 2010 reporting year, the Chinese government continued to interfere in the religious activities of Chinese Catholics who did not accept the full authority of the state-controlled church, including members of the state-controlled church community and the unregistered, or "underground," Catholic community. In addition, the government continued to harass or detain some members of both communities, which are estimated to equal between 4 million and 12 million believers.[28] Authorities also placed restrictions on pilgrimages to the Sheshan Marian shrine during the period surrounding the Shanghai 2010 World Expo.

RELATIONS WITH THE HOLY SEE AND INTERFERENCE WITH RELIGIOUS ACTIVITIES

Chinese authorities continued to restrict the scope of religious activities of some Chinese Catholics, both registered and underground, who did not accept the full authority of China's state-controlled church. For example, since the 1950s, the Chinese Government has denied members of the Chinese official church the freedom to recognize the authority of the Holy See to select Chinese bishops.[29] The Catholic Patriotic Association (CPA)—a state-controlled entity that monitors and controls Catholic doctrine, practices, property, and personnel—exercises influence over the ordination of bishops for the registered church in China, including through coercion of bishops to officiate ordinations.[30] In some cases, the CPA has allowed discreet Holy See approval of some bishops also approved by the CPA,[31] and the CPA continued this practice during this reporting year.[32] However, the government continued to insist that the Chinese Catholic church be independent, and the government interfered in the religious activities of Chinese Catholics who did not accept the full authority of the state-controlled church. In January 2010, CPA Vice Chair Liu Bainian called on Chinese Catholics to "continue to raise high the banner of loving the country and loving religion, [and] insist that the independent, autonomous, self-managing church be unwavering. . . ."[33] Various local government reports carried similar language,[34] while some instructed officials to monitor "infiltration by" or "contact with" foreign religious groups with reference to Catholics.[35] In April 2010, the CPA insisted that Bishop Du Jiang of the Bameng diocese in the Inner Mongolia Autonomous Region (IMAR) attend his official installation ceremony together with Ma Yinglin,

whom the state-controlled church ordained in 2006 without approval from the Holy See.[36] Du stated publicly that he was forced to attend the ceremony with Ma, and authorities subsequently placed Du under home confinement.[37] During the January 2010 funeral of underground bishop Yao Liang—an octogenarian released from detention less than a year before his death[38]—authorities prevented displays of official bishop's insignia, prohibited the publication of obituaries, and only allowed three bishops to attend.[39] Authorities had implemented similar restrictions during the October 2009 funeral of underground bishop Lin Xili.[40]

HARASSMENT AND DETENTION

During the past year, the government continued to harass and detain arbitrarily Catholics who were not registered with the Catholic Patriotic Association (CPA), as well as those who were registered but ran afoul of the Party's policies. At least 40 unregistered Chinese bishops are in detention, home confinement, or surveillance, are in hiding, or have disappeared under suspicious circumstances.[41] Some have been missing for years, such as underground bishops Su Zhimin and Shi Enxiang, whom public security officials took into custody in 1996 and 2001, respectively, and whose whereabouts are unknown.[42] Authorities targeted other underground bishops more recently, as government and Party documents from late 2009 and early 2010 called on authorities to "educate and transform"[43] underground Catholic communities to maintain "stability"[44] and stop "illegal religious activities,"[45] as well as to "insist on maintaining secrecy . . . especially with regard to underground Catholic forces . . . ."[46] In March 2010, authorities detained underground priests Luo Wen and Liu Maochun after they organized youth camps for university students.[47] Authorities released Luo on March 18.[48] The Commission has observed no reports that Liu has been released. After public security officials held underground bishop An Shuxin in custody for 10 years, he joined the CPA in July 2009.[49] He asserted that he made the decision "for the good of the diocese and the urgent need to evangelize,"[50] despite facing resentment from some members of the underground Catholic church.[51] Even after An joined the CPA, however, public security officials placed him under surveillance.[52] Authorities officially installed An on August 7, 2010.[53] In July 2010, authorities in Hebei province released unregistered Catholic bishop Jia Zhiguo after detaining him in an unknown location for one year and three months.[54] Jia's detention was reportedly linked to his cooperation with officially recognized bishop Jiang Taoran; local authorities told Jia that the "unity" between Jia and Jiang is "bad because it is desired by a foreign power like the Vatican. If there must be unity, it must come through the government and the [CPA]."[55] On June 8, 2010, over 100 public security officials and unidentified persons demolished the only Catholic church in Ordos municipality, Inner Mongolia Autonomous Region and detained two priests for over 20 hours.[56] The church was registered,[57] but according to media reports, the local government intended to build a new road on the land where the church was located.[58]

RESTRICTIONS ON PILGRIMAGES TO THE SHESHAN MARIAN SHRINE

Authorities restricted the freedom of Catholics to visit the Sheshan Marian shrine, in Shanghai municipality, during the period surrounding the Shanghai 2010 World Expo.[59] Large numbers of Catholic pilgrims travel to Marian shrines around the world in the month of May, and the Sheshan Marian shrine has special significance to Catholics in China.[60] A 2007 letter from Pope Benedict XVI mentions the shrine specifically: "[May 24] is dedicated to the liturgical memory of Our Lady, Help of Christians, who is venerated with great devotion at the Marian Shrine of Sheshan in Shanghai."[61] In 2010, May 24 fell during the Shanghai Expo, and local governments in the Shanghai municipal area and other localities ordered security forces to ensure "stability" in anticipation of Catholic pilgrims traveling to the shrine.[62] According to media reports, the CPA issued directives during this reporting year instructing Catholics not to travel from other localities to visit the shrine,[63] and some Catholics in China reported being prevented from traveling to the shrine during the Shanghai Expo.[64]

Falun Gong

During the Commission's 2010 reporting year, the Communist Party and Chinese government maintained the "strike hard" campaign that they have carried out against Falun Gong practitioners for more than a decade.[65] Falun Gong is a spiritual movement based on the teachings of its founder, Li Hongzhi, and Chinese meditative exercises called *qigong*.[66] The Party designated Falun Gong an illegal "cult organization" in 1999 following a peaceful demonstration held by its practitioners near the Communist Party leadership compound in Beijing.[67] It is difficult to ascertain the number of practitioners in China today because the movement has been forced underground, but official Chinese sources and Falun Gong sources estimate that tens of millions of Chinese citizens practiced Falun Gong in the 1990s.[68]

The Shanghai 2010 World Expo, held from May to October 2010, became the latest in a series of events that the Chinese government has seized upon as justification for ongoing "security" crackdowns that aim to ferret out and punish Falun Gong practitioners. In the lead up to and during the Shanghai Expo, authorities conducted propaganda campaigns deriding Falun Gong, carried out strict surveillance of practitioners, detained and imprisoned large numbers of practitioners, and subjected some who refused to disavow Falun Gong to torture and other abuses in prison and reeducation through labor facilities.[69] In May 2010, Falun Gong sources based in the United States published information on 127 documented cases of Chinese authorities detaining practitioners in the Shanghai area in connection with the pre-Shanghai Expo crackdown; 26 of the 127 are known to be serving sentences in prison or reeducation through labor facilities.[70]

Authorities also continued to arbitrarily imprison Falun Gong practitioners in cases unrelated to the Shanghai Expo. In January 2010, after Zhang Binglan had reportedly given Falun Gong fliers to her daughter, the Tancheng County People's Court in Linyi city, Shandong province sentenced Zhang and her husband Sun Dejian

to eight years and six months in prison and three years in prison, respectively, for "using a cult organization to undermine the implementation of the law."[71] Other Falun Gong political prisoners remain in prison on similar charges, such as artist Xu Na, whom the Beijing Chongwen District People's Court sentenced to three years in prison in 2008.[72]

The government has not ceased its harassment and intimidation of lawyers who defend Falun Gong clients in the Chinese judicial system, which the Commission first reported in its 2009 report.[73] In November 2009, the Shahekou District People's Court in Dalian city, Liaoning province, sentenced human rights lawyer Wang Yonghang, who had defended several Falun Gong clients over a three-year period, to seven years in prison on the charge that is most commonly leveled against Falun Gong practitioners: "using a cult organization to undermine the implementation of the law."[74] In May 2010, the Beijing Municipal Bureau of Justice permanently revoked the licenses of attorneys Tang Jitian and Liu Wei, which Tang believed was retaliation for their defense of Yang Ming, a Falun Gong practitioner in Sichuan province.[75] Chinese security forces continue to detain Gao Zhisheng, a prominent human rights lawyer whom the government targeted in part because of his work on behalf of Falun Gong practitioners.[76] Gao was forcibly "disappeared" from February 2009 until late March 2010, at which time he briefly reappeared before vanishing again at the end of April.[77]

SHANGHAI 2010 WORLD EXPO

Local governments throughout the Shanghai municipal area reported mobilizing security forces to target Falun Gong practitioners in preparation for the Shanghai 2010 World Expo. In January 2010, residential committees in Shanghai's Pudong district conducted "one-by-one inspections of unstable elements" in which officials were told to report swiftly Falun Gong "reactionary posters and other activities" to higher authorities and warned that they "absolutely must not allow Falun Gong to take root, germinate, and spread."[78] In February, Xu Lin, the Pudong Party Secretary, warned security forces that they must "adopt necessary management and control measures" and "must absolutely never lose control [of Falun Gong]."[79] Shanghai Expo-related propaganda campaigns in the greater Shanghai area portrayed "cults" like Falun Gong as "dangers" to society that "wreck families" and "poison the minds of youth" and stressed the need to "transform" practitioners.[80] Party authorities made clear that participation in "anti-cult" propaganda campaigns was mandatory, and insisted that local officials utilize these campaigns to organize residents to "vigorously struggle" and "win the tough battle against cults."[81] At least four Shanghai Expo-related government reports stressed the importance of "transformation through reeducation," a coercive process carried out during detention that has been used to force Falun Gong practitioners to renounce their beliefs.[82]

The crackdown against Falun Gong carried out in the name of providing security for the Shanghai Expo extended well beyond the Shanghai municipal area into surrounding provinces hundreds of miles away from the Expo site. In April 2010, officials in Fuzhou

city, the capital of Fujian province, announced a "large dragnet investigation" during the period of the Shanghai Expo that would "strengthen monitoring and control of Falun Gong practitioners" and "ensure that they do not have contact with people from the outside."[83] In March 2010, Shicheng county authorities in Jiangxi province—approximately 700 miles from Shanghai—announced measures to "guard against" possible "interference and sabotage" of the Shanghai Expo by Falun Gong.[84]

THE 6–10 OFFICE

The 6–10 Office—an extralegal, Party-run security apparatus created in June 1999 to implement the ban against Falun Gong—spearheaded the Shanghai Expo crackdown against Falun Gong.[85] In February 2010, 6–10 Office agents visited village and residential committees in Shanghai's Minhang district to persuade community leaders to sign "special 610 work responsibility agreements."[86] In its 2010 work plan for "comprehensive management of social order," a township in Pudong district designated "perfecting the 610 prevention and control system" as a priority for its security services and required specific measures to be taken such as "24-hour monitoring and control" of Falun Gong practitioners during "sensitive periods" to "ensure that there is no danger of anything going wrong."[87]

Beyond the Shanghai Expo crackdown, government reports from elsewhere in China indicate that the 6–10 Office continues to expand its activities to punish Falun Gong practitioners, whom authorities sometimes describe as "diehard"[88] or "obsessed,"[89] and close potential openings for the movement to grow. The Ministry of Commerce reported in November 2009 that a county-level commerce bureau in Hunan province had established an internal "610 work leading group" that feeds intelligence reports to the 6–10 Office and "stability maintenance office" (*weiwenban*).[90] Assessing the results of 10 years of the "strike hard" campaign against Falun Gong, a December 2009 report from the director of a district-level 6–10 Office in Beijing listed the decline in "registered" Falun Gong practitioners living in the district from a number in the thousands (the actual number was removed) in 1999 to a number in the hundreds in 2009 as a factor in the office's "significant victory" over Falun Gong.[91]

Islam

Chinese authorities maintained tight controls over Islam in China. Authorities across the country used the specter of "extremism" to bolster state interference in how Muslims interpreted and practiced their religion. The state-controlled Islamic Association of China (IAC) continued to align aspects of Islamic practice with government and Party policy through its work to train religious leaders, interpret theology, draft sermons, and lead overseas pilgrimages. During the Commission's 2010 reporting year, the IAC published its fourth collection of sermons as part of an ongoing project that one government official described as putting forth "authentic interpretations" of Islam that placed Muslims on the "road to adapting to socialism" and led them to uphold the state-defined goals of "uni-

fication of the country, ethnic unity, and social stability."[92] One sermon published in the past year called on Muslims to "unite love of country with love of Islam" and "believe in the Communist Party and government" instead of "rumors" deemed to spark unrest.[93]

Throughout the year, government officials in some localities reported strengthening oversight of Muslim communities and blocking religious activities, groups, and venues they deemed "illegal." Various government sources described steps to stop religious "infiltration" and "illegal" outreach and preaching activities.[94] A report from the Ningxia Hui Autonomous Region also described "improving and rectifying" Arabic schools and scripture classes, as part of steps to "resist religious infiltration." A Communist Party report from Wulan county in Qinghai province noted the county had strengthened steps to deal with illegal sites of worship in recent years and had banned two privately established mosques.[95]

ISLAM IN THE XINJIANG UYGHUR AUTONOMOUS REGION

Conditions for religious freedom for Muslims in the Xinjiang Uyghur Autonomous Region (XUAR) continued to worsen. XUAR authorities increased repressive security campaigns in the region in the aftermath of demonstrations and riots in July 2009 and continued to identify "religious extremism" as one source of the unrest, as well as an ongoing threat to the region's stability.[96] As in the past, authorities singled out aspects of Islam in particular in campaigns targeting "religious extremism" and "illegal religious activities." They defined such terms to encompass religious practices, group affiliations, and viewpoints protected under international human rights guarantees for freedom of religion, expression, and association that the Chinese government is bound to uphold.[97] In the aftermath of the demonstrations and riots, XUAR government chairperson Nur Bekri called for strengthening management of religion and "bringing into full play the special role of patriotic religious figures in maintaining ethnic unity."[98] Authorities carried out a new cycle of training for religious leaders in the past year, calling on them to raise their "consciousness and firmness" in the "battle against extremism."[99] The region's 2009 work report called for strengthening management of religion through measures including preventing "religious forces" from "infiltrating schools," punishing underground religious schools, and increasing management of pilgrimages.[100]

Authorities in the XUAR implemented various campaigns in the past year to restrict religious practice, singling out aspects of Islam and tightening controls in some cases. The Party-controlled XUAR Women's Federation carried out a wide-scale campaign in 2009 to "weaken religious consciousness" among women[101] and campaigns to dissuade Muslim women from wearing veils.[102] One Women's Federation report described veiling as a form of "extreme religion" and "an expression of a type of ignorant and backward way of thinking."[103] Following a proposal in early 2009 to draw Muslim women religious specialists known as *büwi* under government and Party management,[104] the XUAR Women's Federation also reported increasing oversight of these women.[105] The XUAR government targeted "illegal religious materials" in 2009 censorship campaigns and reportedly issued multiple directives singling out

"illegal" religious and political materials.[106] In March 2010, state media reported confiscating 13 tons of "illegally printed religious books" and detaining a Uyghur man who had received the shipment of books from another province.[107]

Local governments at the prefectural level and below reported taking a range of steps to restrict religious freedom. The Aqsu municipal government, Aqsu district, reported in January on strengthening implementation of and refining its "two systems" program of maintaining regular government contact with mosques and religious figures. Steps taken include formulating measures to preexamine sermons and monitoring conditions at religious venues daily.[108] The Ili Kazakh Autonomous Prefecture government formulated a set of measures to manage Muslim women religious specialists (*büwi*).[109] A Communist Party office in Kashgar district reported it would increase oversight of groups including *büwi,* people who have gone on unauthorized pilgrimages, and people dismissed from their posts as religious personnel, as part of work to "safeguard stability."[110] In line with XUAR government direction, various local authorities pledged to continue curbing unauthorized religious pilgrimages.[111] Government offices in Turpan district and Shule (Qeshqer Yengisheher) county, Kashgar district, posted job advertisements that required that candidates "not believe in a religion" or "participate in religious activities."[112]

Government authorities in the XUAR continued to restrict children's freedom of religion. Authorities adopted a new regulation on the protection of minors, effective December 2009, that restricts children's religious activities.[113] While the regulation excludes a previously codified ban (now void) on parents "permitting children to engage in religious activities,"[114] it broadens an earlier provision to prohibit people from "luring or forcing minors to participate in religious activities."[115] The regulation lacks criteria for determining what acts constitute "luring" or "forcing," leaving wide latitude to interpret the terms in a manner that constrains children's exercise of freedom of religion and parents' right to impart a religious education. The provisions on children's religious activities appear to remain the most detailed in China and to lack a clear basis in Chinese law.[116] Authorities in Nilka county, Ili Kazakh Autonomous Prefecture, launched a campaign in March to spread government policies including the "six forbiddens": forbidding students from believing in religion, participating in religious activities, fasting, wearing clothes with a "religious hue," viewing or listening to audio-video products with "reactionary content," and disseminating "separatist thought."[117]

Amid government calls to curb "illegal" religious activities, overseas media reported in the past year on cases of Muslims detained for practicing their religion. Radio Free Asia reported in May on a series of religion-related detentions in July 2009 in one township in Yining (Ghulja) county, Ili Kazakh Autonomous Prefecture, involving 10 people in two sets of cases. According to sources cited in the RFA reports, the people were detained for teaching unauthorized classes on religion and reading certain religious publications.[118] Most of those detained reportedly remained in detention, with details of charges against them unknown.[119] Authorities reportedly detained 32 women in a Quran study group in Bachu

(Maralbéshi) county, Kashgar district, around early June. Authorities said the women were engaged in illegal religious activities and formally detained two of them, releasing the others after levying fines.[120]

Protestantism

The Chinese government and Communist Party continued to restrict the religious activities and doctrine of Chinese Protestants who worship in the state-controlled church, a network of at least 20 million citizens and 50,000 churches.[121] In addition, they continued to arbitrarily harass, intimidate, detain, or imprison some of the estimated 50 to 70 million Chinese Protestants who worship in China's unregistered congregations (house churches),[122] communities that have been growing larger and more conspicuous over the past few decades.[123] The government made strong efforts to interfere with the internal affairs of some unregistered congregations through such means as the arbitrary detention of religious leaders, violent raids, destruction of worship sites, attempts to prevent members from gathering, and the labeling of some Protestant organizations as "cults."

PATRIOTIC RELIGIOUS ORGANIZATIONS AND THEOLOGICAL RECONSTRUCTION

China's state-controlled Protestant church continued to dictate the terms by which it allowed Protestants to interpret doctrine and theology, in an effort to eliminate elements of the Christian faith that the Party regards as incompatible with its goals and ideology. The government and Party call this process "theological reconstruction."[124] The Three-Self Patriotic Movement (TSPM) and the China Christian Council (CCC) are the official organizations that manage registered Protestants,[125] and government and Party officials continued to emphasize the role of those organizations in promoting Party policies. For example, during an early February 2010 meeting with the TSPM and CCC, top Party and government leaders commended the two organizations for their "positive function in safeguarding social harmony and stability while maintaining smooth, relatively rapid economic development";[126] for "resolutely resisting various forms of foreign religious infiltration activities";[127] and for "achieving positive results through continuing to promote theological reconstruction, strengthening the building of their organizations, and vigorously launching trainings [for pastors]."[128] In February 2010, Jia Qinglin, the fourth-highest ranking member of the Politburo Standing Committee, called on the patriotic religious organizations to "diligently train a corps of qualified religious personnel who are politically reliable . . . ."[129] In line with these sentiments, government entities from localities across the country stressed the importance of theological reconstruction and political training for pastors in various government meetings and work reports.[130]

MAJOR CASES OF HARASSMENT, DETENTION, AND INTERFERENCE WITH PLACES OF WORSHIP

During the Commission's 2010 reporting year, authorities continued to harass and detain arbitrarily members of house churches throughout China and interfere with their places of worship.[131] Local government reports throughout China called on authorities to monitor and control house churches,[132] and authorities targeted several prominent house church leaders and large house church congregations that had already lost their indoor meeting spaces, which some reports suggest may have been a result of government pressure on their landlords.[133] For example, on November 8, 2009, authorities prevented pastor Jin Tianming of the Shouwang Church in Beijing from leaving his home to attend worship and then prevented the congregation from gathering in a park to worship.[134] On November 22, 2009, authorities detained four members of the clergy and two other members of the Wanbang Church in Shanghai[135] as members of the congregation were planning to meet outdoors to worship.[136] Wanbang pastor Cui Quan said that police accused the church of being "illegal," questioned those detained about its operations, and then released all six later that day.[137] On May 8, 2010, authorities put pastor Wang Dao—a participant in the 1989 Tiananmen protests and leader of the Liangren Church in Guangzhou—under criminal detention and dispersed the congregation as they attempted to worship in a park.[138] Wang was released on bail on June 13 to await his trial.[139] On August 13, authorities in Guangzhou summoned him to a police station in Panyu district in Guangzhou, attempted to pressure him to join the state-controlled church, and released him on the same day.[140] On June 13, authorities detained pastor Zhang Mingxuan and his wife in a hotel in Zhengzhou city, Henan province for two days. Authorities questioned them about their connection with a U.S. citizen who is a Christian in Beijing and a church in Yancheng city, Jiangsu province that local authorities had scheduled for demolition.[141]

In some cases, authorities levied criminal penalties or used violence against members of house churches. In the early morning hours of September 13, 2009, over 400 public security officers conducted a violent raid against the Linfen-Fushan Church, an unregistered Protestant church in Fushan county, Linfen municipality, Shanxi province.[142] Two bulldozers reduced the building to rubble,[143] and public security officers wounded at least 100 church members,[144] striking some with blunt objects such as bricks, iron bars, and garden hoes.[145] The congregation site was located inside a shoe and clothing factory,[146] and Linfen municipal officials characterized the raid as an effort to "ban illegal buildings."[147] Two official reports posted in August 2009 on the Web site of the Linfen Municipal People's Government foreshadowed the crackdown against unregistered churches, as the reports featured statements from top Communist Party leaders calling for tighter control of religious activities. According to one of the reports, dated August 18, Ding Wenlu, the local head of the Party's United Front Work Department, inspected the municipality's religious affairs work on June 16 and urged officials to recognize the "high degree of political sensitivity" surrounding their work.[148] Ding issued a "clear de-

mand" that officials must "pay close attention to . . . and promptly dispose of . . . illegal religious activities according to the law."[149] At a government meeting on "safeguarding stability" held in Linfen on June 25, reported in an August 18 article, Xie Hai, the Secretary of the Municipal Party Committee, emphasized the need to "strengthen management of religious and ethnic affairs work," which he characterized as "having extraordinarily important significance for safeguarding the overall stability of the entire city."[150] Xie called for officials to "go a step further to strengthen punishment of illegal religious activities and strike hard against those who wear the cloak of religion and use religion to conduct various divisive sabotage activities."[151]

On September 25, 2009, authorities detained Linfen pastors Wang Xiaoguang and Yang Rongli, along with three other church leaders, as they attempted to petition central government authorities for redress.[152] On October 11, public security officials also detained an additional 10 Linfen-Fushan Church members[153] and, on November 30, ordered five church members to serve two years of reeducation through labor.[154] On November 25, the Yaodu District People's Court variously convicted the five church leaders of "illegally occupying farm land" and "gathering a crowd to disturb transportation order"[155] in a trial that was reportedly marked by procedural irregularities that restricted the defense counsel's access to evidence.[156] Yang received the longest prison sentence: seven years.[157] Authorities also interfered with the efforts of Chinese Academy of Social Sciences (CASS) researcher Fan Yafeng and Beijing lawyer Zhang Kai to provide legal assistance to members of the church. In November 2009, after Fan attempted to provide legal assistance to the church, the Party Secretary at CASS reportedly told Fan that he would not be permitted to continue working at CASS.[158] In July 2010, police barred Zhang from entering a Linfen court as he attempted to file an administrative lawsuit on behalf of the convicted church leaders.[159] [See Section III—Access to Justice for more information.]

Alimjan Yimit (Himit)—a Protestant house church leader in the Xinjiang Uyghur Autonomous Region (XUAR) whom the Kashgar Intermediate People's Court convicted of "leaking state secrets to overseas organizations" in October 2009[160]—was moved from the Kashgar Municipal Detention Center to a prison in Urumqi after the XUAR People's High Court upheld his 15-year sentence on appeal on March 16, 2010.[161] According to his lawyer, Li Baiguang, the charges against Alimjan Yimit stemmed from his talking with visiting Christians from the United States,[162] and Li reported that, in his view, the court's decision did not successfully prove that Alimjan Yimit supplied state secrets to people overseas.[163] Alimjan Yimit had previously worked for a foreign-owned company that was shut down for "illegal religious infiltration activities"[164] after public security officials accused the company of preaching Christianity to Uyghurs in 2007.[165]

BANNED PROTESTANT GROUPS AND THE DESIGNATION OF GROUPS AS "CULTS"

The government and Party continued to prohibit categorically some Protestant groups from exercising religious freedom by crim-

inalizing their communities as "cult organizations."[166] The government has banned at least 18 Protestant groups with adherents in multiple provinces, as well as many more congregations and movements that are active in only one province.[167] Examples of groups that have been banned in previous years include the South China Church (SCC);[168] the Local Church, a group that officials refer to as the "Shouters";[169] and the Disciples Association.[170] Two weeks after the September 13, 2009, raid on the Shanxi Linfen-Fushan Christian Church,[171] officials met to discuss whether or not to classify the Linfen-Fushan Church as a "cult" organization.[172] According to a ChinaAid report, the officials decided not to label the church a "cult" organization but resolved not to allow what they characterized as the "abuses and legal violations of Pastor Yang Rongli and her 'foolish and misguided followers.'"[173] In another case, after a November 18, 2009, raid on a Protestant house church congregation in Shuozhou city, Shanxi province, authorities detained six church members,[174] five of whom were formally arrested on charges of "cult" involvement.[175] On August 2, 2010, the Weidu District Court of Xuchang city, Henan province reportedly refused to hear an administrative lawsuit filed by Gao Jianli and Liu Yunhua, two members of a Henan house church that authorities in Shangqiu municipality had deemed a "cult" on the basis of an internal document, thereby effectively upholding an administrative punishment of one year of reeducation through labor (RTL) for each of the two men.[176] The court had previously upheld the RTL order in July on the basis of a prior administrative lawsuit that Gao and Liu filed against the Shangqiu Municipal Reeducation Through Labor Committee.[177]

Taoism

During the Commission's 2010 reporting year, the Chinese government and Communist Party continued to exercise control over the scope of Taoist[178] religious activities in much the same way that they do for other religious communities in China. The government requires Taoist groups and religious personnel to register with the state-controlled Chinese Taoist Association (CTA) in order to legally perform ritual services and hold Taoist ceremonies,[179] and authorities tend to allow a wider scope of activities for Taoist groups that work more closely with them.[180] Authorities also continued to exercise control over the scope of religious freedom for Taoists by emphasizing the role of the CTA in promoting government and Party policy. For example, the CTA's official Web site described the theme of the June 21, 2010, Eighth National Conference of the CTA in the following way:

> [R]aising high the banner of loving the country and loving religion, as well as the banner of solidarity and progress, deeply implementing the scientific development concept, implementing the Party's basic policy on religious work, vigorously strengthening self-construction, [and] making efforts to play a positive role in advancing social harmony and economic and social development . . . .[181]

In addition, various government reports throughout China called on local officials to monitor and control the "indiscriminate" con-

struction of temples and statues,[182] as well as "feudal, superstitious" Taoist activities.[183] One April 2010 report from the Wuxi Municipal Park Administration specifically called on local authorities to strengthen the management of Taoist sites and prevent Taoists from engaging in various forms of fortunetelling and other "feudal, superstitious" activities during the Shanghai 2010 World Expo.[184]

Other Religious Communities

The Chinese government maintained its framework for recognizing only select religious communities and did not enlarge this framework to recognize additional groups. Legal regulations allowed foreign religious communities, including communities not recognized as domestic religions by the government, to hold services for expatriates, but forbade Chinese citizens from participating.[185] In August, leaders of the Church of Jesus Christ of Latter-day Saints reported holding meetings with a high-level Chinese official and said church leaders "established a relationship" that they "expect will lead to regularizing the activities of The Church of Jesus Christ of Latter-day Saints in China."[186] Some local governments recognized the Orthodox church within local legislation.[187] Chinese citizens reportedly were unable to attend Orthodox services in Beijing, however, because the services were set up for foreigners, and seminary graduates reportedly have been unable to work as religious leaders.[188] The State Administration for Religious Affairs has engaged in talks with officials from the Orthodox church in recent years and met with Russian Orthodox Church officials in November 2009.[189] In recent years, some local governments have issued measures to register venues for folk belief activities.[190] No national legal measures govern folk belief activities in China.

Ethnic Minority Rights

Chinese law provides for a system of "regional ethnic autonomy" in designated areas with ethnic minority populations,[1] but shortcomings in the substance and implementation of this system have prevented these groups from enjoying meaningful autonomy in practice. The Chinese government maintained policies during the Commission's 2010 reporting year that prevented ethnic minorities from "administering their internal affairs" as guaranteed in Chinese law[2] and from enjoying their rights in line with international human rights standards.[3] International human rights standards stipulate that ethnic, religious, and linguistic minorities within a state "shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."[4] While the government maintained some protections in law and practice for minority rights, it continued to impose the fundamental terms upon which Chinese citizens could express their ethnicity and to prevent ethnic minorities from enjoying their cultures, religions, and languages free from state interference.[5] Among the 55 groups designated as minority "nationalities" or "ethnicities" (*shaoshu minzu*[6]), state repression was harshest toward groups deemed to challenge state authority, especially in the Xinjiang Uyghur Autonomous Region, Inner Mongolia Autonomous Region, and Tibet Autonomous Region and other Tibetan autonomous areas.

State Policies and Ethnic Unity Campaigns

The Chinese government continued in the past year to assert the effectiveness of state laws and policies in upholding the rights of ethnic minorities, following domestic protests and international criticism of the government's treatment of ethnic minorities. A September 2009 State Council Information Office white paper on the topic described state policy as the "correct" approach "in keeping with . . . the common interests of all ethnic groups" and guiding Chinese citizens to "[safeguard] national unification, social stability and ethnic unity."[7] Authorities defended state policy in the aftermath of demonstrations and riots in Tibetan areas in 2008 and in the Xinjiang Uyghur Autonomous Region in 2009 that highlighted deep tensions in ethnic minority areas and citizen grievances toward government policy. Authorities denied the events had domestic political roots and instead attributed conflict to factors such as interference from outside forces and "contradictions" among the people.[8] Some academics affiliated with state universities or think tanks, along with some lower level officials, openly criticized government policy toward ethnic issues in the past year.[9] Although the ultimate impact of such criticism is unknown, it may signal growing room for debate and reconsideration of aspects of government policy in this area.

The government and Communist Party strengthened "ethnic unity" campaigns as a vehicle for spreading state ethnic policy throughout Chinese society and for imposing state-defined interpretations of the history, relations, and current conditions of ethnic groups in China. The State Council Information Office white paper stressed the importance of ethnic unity in meeting state political

goals such as social stability and development, and described "ethnic unity education" as part of "the whole process of socialist cultural and ideological construction."[10] Following steps in 2008 and 2009 to strengthen ethnic unity education,[11] central government and Party offices issued plans in the past year to expand the reach of ethnic unity education.[12] Provincial and local governments also reported strengthening ethnic unity campaigns.[13]

2009–2010 National Human Rights Action Plan

Chinese leaders pledged to refine laws and improve conditions for ethnic minorities, within the parameters of existing Party policy, issuing some policy documents in the past year which may bring mixed results in the protection of ethnic minorities' rights. The government's 2009–2010 National Human Rights Action Plan (HRAP) issued in April 2009 outlined measures to support legislation, governance, education, personnel training and employment, language use, and cultural and economic development among ethnic minorities.[14] The government's December 2009 review of the HRAP provided limited information on the plan's progress, noting work in the areas of cultural and economic development.[15] Following that date, government offices issued an opinion in May and a plan in July that state more support for ethnic minority languages and for education among ethnic minorities, respectively, including support in both documents for "bilingual education."[16] The two documents also state support for ethnic minorities' right to use their own languages,[17] but "bilingual education" as implemented in some parts of China has marginalized the role of ethnic minority languages, in contravention of Chinese law.[18]

Economic Development

The government maintained economic development policies that prioritize state economic goals over the protection of ethnic minorities' rights. Despite bringing some benefits to ethnic minority areas and residents, such policies also have conflicted with ethnic minorities' rights to maintain traditional livelihoods, spurred migration to ethnic minority regions, promoted unequal allocation of resources favoring Han Chinese, intensified linguistic and assimilation pressures on local communities, and resulted in environmental damage.[19] In the past year, the government marked the 10th anniversary of the Great Western Development project—which is directed at a number of provinces and regions with large populations of non-Han ethnic groups—and announced plans to continue western development in the coming decade.[20] Authorities also stressed enhancing development work in the Xinjiang Uyghur Autonomous Region and Tibetan areas of China, where development initiatives have been closely tied to central government-led political controls and campaigns to "uphold stability" and suppress dissent. [See Section IV—Xinjiang and Section V—Tibet.]

Human Rights in the Inner Mongolia Autonomous Region

Authorities in the Inner Mongolia Autonomous Region (IMAR) continued in the past year to restrict independent expressions of ethnic identity among Mongols and to interfere with traditional

livelihoods, while enforcing campaigns to promote stability and ethnic unity. In a December 2009 interview, the head of the IMAR Public Security Department likened the region's public security situation to that in the autonomous Tibetan areas of China and Xinjiang Uyghur Autonomous Region, stating "enemy forces" from Western countries aimed to split the region.[21] In September 2009, the IMAR Department of Education issued a detailed plan for strengthening ethnic unity education in IMAR schools.[22] Authorities strengthened "ecological migration" policies that have required herders to resettle from pasture land and abandon traditional livelihoods,[23] while outside observers and some domestic scholars have questioned the effectiveness of these government policies in ameliorating environmental degradation.[24] Mongols continued to face the risk of repercussions for peacefully defending their rights or aiming to preserve their culture. In a case also illustrating China's influence outside its borders and contravention of protections for asylum seekers, on October 3, 2009, Chinese security officials inside the country of Mongolia reportedly joined Mongolian security officials in detaining Batzangaa, an ethnic Mongol from China. The detention occurred outside the UN High Commissioner for Refugees office in Ulaanbaatar, where Batzangaa had applied for refugee status. Authorities returned him to China and held him in detention. Batzangaa ran a traditional Mongolian medicine school in Ordos municipality, IMAR, that reportedly had come under official scrutiny for its popularity and activities with Mongols and Tibetans, and he was also involved in a land dispute with local authorities.[25] On April 18, 2010, officials at the Beijing Capital International Airport detained rights advocate Sodmongol as he was waiting to board a flight to the United States to attend the UN Permanent Forum on Indigenous Issues. Sodmongol had organized events and led two Web sites—now shut down—that promoted the protection of Mongols' rights. His current whereabouts remain unknown.[26]

POPULATION PLANNING

Introduction

During the Commission's 2010 reporting year, central and local authorities continued to interfere with and control the reproductive lives of Chinese women through an all-encompassing system of population planning regulations. Population planning policies limit most women in urban areas to bearing one child, while permitting slightly more than half of Chinese women—located in many rural areas—to bear a second child if their first child is female.[1] The Commission notes the emergence of a growing debate in the Chinese media about possible reform of these policies, but has not yet seen government action to introduce national reform measures.[2]

Local officials continue to monitor the reproductive cycles of Chinese women in order to prevent unauthorized births.[3] The Chinese government requires married couples to obtain a birth permit before they can lawfully bear a child and forces them to employ contraceptive methods at other times.[4] Although Chinese law prohibits officials from infringing upon the rights and interests of citizens while promoting compliance with population planning policies,[5] reports from recent years indicate that abuses continue. Violators of the policy are routinely punished with fines, and in some cases, subjected to forced sterilization, forced abortion, arbitrary detention, and torture.[6] In some cases surgical sterilization may be required of Chinese women following the birth of their second child.[7] Mandatory abortion, which is often referred to as "remedial measures" (*bujiu cuoshi*) in government reports, is endorsed explicitly as an official policy instrument in the regulations of 18 of China's 31 provincial-level jurisdictions.[8] In 2010, the Commission found that local officials continued to coerce women with unauthorized pregnancies to undergo abortions in both urban and rural areas across China's major regions.[9]

China's population planning policies in both their nature and implementation violate international human rights standards. Although implementation tends to vary across localities, the government's population planning law and regulations contravene international human rights standards by limiting the number of children that women may bear and by coercing compliance with population targets through heavy fines.[10] For example, China's Population and Family Planning Law is not consistent with the standards set by the 1995 Beijing Declaration and the 1994 Programme of Action of the Cairo International Conference on Population and Development.[11] Controls imposed on Chinese women and their families and additional abuses engendered by the system, from forced abortion to discriminatory policies against "out-of-plan" children, also violate standards in the Convention on the Elimination of All Forms of Discrimination against Women,[12] the Convention on the Rights of the Child,[13] and the International Covenant on Economic, Social, and Cultural Rights.[14] China is a state party to these treaties and is bound to uphold their terms.

Coercive Abortion and Fines

China's 2002 Population and Family Planning Law (PFPL) states in Article 4 that officials "shall perform their administrative duties strictly in accordance with the law, and enforce the law in a civil manner, and they may not infringe upon the legitimate rights and interests of citizens."[15] The PFPL also states in Article 39 that "any functionary of a State organ who commits one of the following acts in the work of family planning, if the act constitutes a crime, shall be investigated for criminal liability in accordance with the law; if it does not constitute a crime, he shall be given an administrative sanction with law; his unlawful gains, if any, shall be confiscated: (1) infringing on a citizen's personal rights, property rights, or other legitimate rights and interests; (2) abusing his power, neglecting his duty, or engaging in malpractices for personal gain . . . ."[16] Despite these provisions, abuses continue. The Commission has reported on a number of cases of violence against women in connection with officials' enforcement of population planning policies.[17] During this reporting year, the use of violence to coerce compliance with the PFPL was illustrated by family planning officials in Changfeng county, Anhui province. According to Chinese Human Rights Defenders (CHRD), on July 15, 2010, Changfeng family planning officials kidnapped 23-year-old Li Hongmei and her three-week-old daughter and took them to a local hospital where they reportedly held Li's baby hostage until she signed her consent to undergo sterilization. According to CHRD, Li remained hospitalized for at least a month after the procedure due to illness.[18]

In 2010, authorities across a wide range of Chinese localities launched population planning enforcement campaigns—often dubbed "spring family planning service activities" (*chunji jisheng fuwu xingdong*)[19]—that employed coercive measures to terminate "out-of-plan" pregnancies. In February, the Jiangxi provincial government reported that one such campaign had commenced in Anyi county where officials vowed to engage in a "100-day battle" in which they would "insist without wavering on the principle of IUD [intrauterine device] insertion after the first child, surgical sterilization after the second child, and abortion of out-of-plan pregnancies."[20] In March 2010, a local official in Ezhou city, Hubei province, instructed cadres preparing for a spring campaign to "immediately adopt remedial measures against those with out-of-plan pregnancies, follow procedures to terminate the pregnancy . . . and forcefully ensure implementation in order to reduce the birth rate."[21] Regulations published in 2009 in Zhanjiang city in Guangdong province spell out penalties for violators of the policy and explicitly call for officials to "force" (*qiangxing*) abortion of "extra births":

> Strictly prohibit out-of-plan second births or multiple births; those who have out-of-plan pregnancies must adopt abortion measures, force those who exceed birth limits to have an abortion. Out-of-plan children will not be allowed to enjoy benefits for villagers; for a period of 15 years, parents of out-of-plan children will not be allowed to enjoy

benefits for villagers, gain employment at a village-run enterprise, or be granted documents.[22]

In 2010, the Commission analyzed government reports from nine provinces that used the phrase "by all means necessary" (*qian fang bai ji*) to signify intensified enforcement measures and less restraint on officials who oversee coerced abortions.[23] Between January and March 2010, city and county governments in at least four provinces (Henan, Hubei, Guangdong, and Jiangsu) and at least one provincial-level government (Jiangxi) vowed to "by all means necessary, stabilize the low birth level."[24] In March, Panjin municipal authorities in Liaoning province expressed their resolve to crack down on population planning violations "in order to stabilize a low birth rate . . . continuously strengthen measures . . . [and] by all means necessary, drive population and family planning work into the 'fast lane.'"[25] In addition to mandating abortion of pregnancies that exceed fertility limits, all pregnancies that occur without an official permit, including first pregnancies, are regarded by the government as "out-of-plan" and subject to "remedial measures." In Jiangxi province, a Xingzi county official highlighted this point in responding to an anonymous citizen's online inquiry in March 2010. Noting that there are 10 circumstances in which a couple may apply for a permit to have a second child in Jiangxi, the official told the citizen that "even if you conform to some of the stipulated conditions, you must first obtain a 'repeat birth permit,' then you may remove the IUD and become pregnant; otherwise, it would be considered an out-of-plan pregnancy."[26] For women who give birth to an out-of-plan child before authorities discover the pregnancy, the government imposes penalties known as "social compensation fees" (*shehui fuyang fei*). For certain couples, these fines pose a dilemma between undergoing an unwanted abortion and incurring potentially overwhelming financial costs.[27] In some cases, authorities not only levy fines against violators, but also punish them through job dismissal and other penalties.[28] Some children may go without household registration (*hukou*) in China because they are born out of plan and their parents do not pay the necessary fines.[29] Lack of a valid *hukou* raises barriers to access to social benefits typically linked to the *hukou,* including subsidized healthcare and public education.[30] [For additional discussion of China's *hukou* system, see Section II—Freedom of Residence and Movement.]

The U.S. State Department, reporting on China's "high female suicide rate" in its 2009 Human Rights Report noted that "(m)any observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, birth-limitation policies, and other societal factors contributed to the high female suicide rate. Women in rural areas, where the suicide rate for women was three to four times higher than for men, were especially vulnerable."[31]

Targeting Migrant Workers

The Commission observed during its 2010 reporting year a greater number of reports confirming its 2009 finding that some local governments are specifically targeting migrant workers for forced

abortions.[32] [For more information on discrimination against migrant workers, see Section II—Freedom of Residence and Movement.] In April 2010, the National Population and Family Planning Commission released an "implementation plan" for enforcing population planning regulations for migrant workers within a 10-province region called the Bohai Rim.[33] This plan calls for governments where migrant workers reside to "persuade and educate" those with out-of-plan pregnancies to "promptly adopt remedial measures." If a migrant worker refuses, local authorities are instructed to coordinate with the migrant's home government (place of household registration) to "launch unified enforcement work."[34] Strengthening family planning enforcement through coordination between governments where migrants work and where their households are registered, as described in the Bohai plan, was also the chief goal behind a cooperation agreement that 10 district and county-level governments in Shanghai and Fuzhou municipalities signed in March 2010.[35] In the migrant-rich factory city of Kunshan on the outskirts of Shanghai, the government launched a "special rectification operation" for the "floating population" in December 2009 that set "raising the implementation rate of remedial measures for out-of-plan pregnancies" as one of its primary objectives.[36] Anhui provincial family planning measures for migrant workers require officials to "mobilize pregnant migrant workers without a birth permit to adopt remedial measures."[37] Those who initially refuse are fined repeatedly until they terminate the pregnancy, or if they fail to abort within a designated period of time, officials are required to "order them to adopt remedial measures on the spot."[38]

Coercive Sterilization

When women reach the state-imposed limit on number of births, local authorities often mandate surgical sterilization to prevent "out-of-plan" pregnancies. In February 2010, the Qiaojia county government in Yunnan province issued a directive that urged officials to "by all means necessary, raise the rate of surgical sterilization after the second birth and IUD insertion after the first birth."[39] The directive also warns that the government will "stop salary payments without exception" for government workers who fail to adopt contraception measures within a specified time period.[40] In March 2010, the Qianxi county government in Guizhou province issued a similar directive authorizing "special rectification activities" to sterilize women with two children.[41] Qianxi officials face a penalty of 1,000 yuan (US$147) for each woman with two children that they fail to sterilize, and conversely, they are promised a reward of the same amount for each tubal ligation that they see through to completion.[42]

In some areas, coerced sterilization is accomplished through punitive action taken against the family members of targeted women, which can include extended periods of detention. In April 2010, the Puning city government in Guangdong province launched a "special operation to sterilize women with two children" in which officials were authorized to "adopt measures that exceed conventional practices."[43] The impetus for the operation came from Guangdong provincial authorities who identified Puning as a problematic area

that "lagged behind" other localities in meeting population planning goals.[44] Puning authorities indicated that the operation's initial sweep, conducted from April 7 to April 26, resulted in 5,601 surgical sterilizations.[45] The government reportedly set 9,559 tubal ligations as its target to achieve before the end of April.[46] As of April 12, Puning authorities had detained 1,377 people—many of whom were elderly relatives of unsterilized women—in extralegal "study classes" in order to force women who had left Puning for work purposes to return and undergo sterilization.[47] In addition to detentions, Puning authorities employed a series of other "measures that exceed conventional practice" such as nullification of household registration (*hukou*) for unsterilized women, refusal to grant household registration to their children, and punitive actions taken against their relatives such as cancellation of state benefits and permits.[48] As of April 12, 63 officials who failed to adopt these measures were reportedly subjected to disciplinary action, including one township Communist Party secretary who was suspended.[49] Puning is not exceptional in its use of coercive "measures that exceed conventional practices," as the Commission analyzed official government reports containing the same phrase in provinces such as Jiangxi, Jiangsu, Anhui, Gansu, and the Guangxi Zhuang Autonomous Region.[50]

Prospects for Policy Reform

Growing awareness of the demographic and social consequences of China's population planning policy is giving rise to public discussion of the need for policy reform. In 2010, Chinese experts and officials engaged in a relatively open exchange in the state-run media about how to address demographic trends that are expected to detrimentally impact China's future development.[51] The Beijing News reported in January that the municipal government would soon allow all couples to have two children, but within hours, the Beijing Population and Family Planning Commission denied the earlier report.[52] The central government reportedly commissioned feasibility studies in 2009 to assess the possible effects of a change in policy.[53] Top Party and government leaders, however, continue to publicly defend the policy and rule out reform in the near-term.[54]

Demographic Consequences

Chinese society is aging at a rapid pace and is expected to undergo a challenging demographic transformation in the next two decades. In 2008, China had 169 million citizens over the age of 60, constituting 13 percent of the total population and surpassing the UN's threshold for classification as an "aging society."[55] By 2030, some Western demographers estimate that the number of elderly Chinese could soar to as high as 350 million and account for 25 percent of the population.[56] An economist with the Asian Development Bank projects that one in five urban Chinese will be over 65 years of age by 2025.[57]

China's total fertility rate has dropped from 6.1 births per woman in 1949 to an estimated 1.5 births per woman in 2010.[58] Premier Wen Jiabao and Vice Premier Li Keqiang called on separate occasions in 2010 for officials to maintain China's low birth

rate for the foreseeable future.[59] Cai Fang, the Director of the Institute of Population and Labor Economics at the Chinese Academy of Social Sciences (CASS), characterizes this decline in the working-age population as the "greatest threat to China's economic prosperity" and predicts labor shortages in China as soon as 2013.[60]

An imbalanced sex ratio remains one of China's major demographic challenges and recent data indicate that it is worsening. In response to government-imposed birth limits and in keeping with a traditional cultural bias for sons, Chinese parents often engage in sex-selective abortion, especially rural couples whose first child is a girl.[61] In January 2010, CASS published a comprehensive study that placed the male-to-female sex ratio for the infant-to-four-year-old age group in China at 123.26 males for every 100 females.[62] Some provinces have ratios exceeding 130.[63] This is far above the global norm of roughly 103 to 105 males for every 100 females and represents growth of nearly two and a half points from the 2000 census ratio.[64] CASS estimates that, by 2020, the number of Chinese males of marriageable age will exceed the number of Chinese females of marriageable age by 30 to 40 million.[65] [For additional discussion of China's imbalanced sex ratio, see Section II—Status of Women.]

Case Update: Chen Guangcheng—Human Rights Defender

Authorities in Linyi city, Shandong province, released rights defender Chen Guangcheng from prison on September 9, 2010, after he completed a four-year, three-month sentence for exposing widespread abuses by local officials responsible for implementing China's one-child policy.[66] During the period of his imprisonment, authorities reportedly denied Chen Guangcheng, who is blind, adequate medical treatment despite his reported deteriorating health.[67] Authorities also repeatedly denied requests filed by both Chen and his wife, Yuan Weijing, on his behalf for his medical parole.[68]

According to several media and non-governmental organization reports, Chen returned home under police escort on the morning of September 9, 2010, to heightened police surveillance, including a number of plainclothes and uniformed guards around Chen's home and at the entrance to his village,[69] disconnection of the family's telephone and cell phone service,[70] and newly installed 24-hour closed-circuit surveillance cameras by which security agents monitor his and his family's activities.[71]

Case Update: Chen Guangcheng—Human Rights Defender—Continued

In 1996, Mr. Chen began defending the rights of disabled peasants and providing legal advice as a self-trained legal advocate focusing on antidiscrimination.[72] Over the next decade, his legal advocacy was recognized in China and internationally.[73] In 2005, Mr. Chen's rights defense work drew international news media attention to population planning abuses in Linyi city, Shandong province.[74] Local authorities placed Chen under house arrest in September 2005 and formally arrested him on June 21, 2006.[75] On the eve of his August 18, 2006, trial, three of his defense lawyers were taken into custody.[76] The Yinan County People's Court first tried and sentenced Chen on August 24, 2006, to four years and three months in prison for "intentional destruction of property" and "organizing a group of people to disturb traffic order."[77] Li Jinsong, lead counsel on Chen's criminal defense team, filed an appeal in September 2006 arguing that at trial, the court had illegally deprived Chen of the right to be represented by criminal defense lawyers of his own choosing.[78] On October 31, 2006, the Linyi Intermediate People's Court vacated the original trial court judgment and remanded the case for a retrial.[79] The retrial took place on November 27, 2006,[80] and on December 1, 2006, the Yinan court handed down the same judgment as before,[81] which the appeals court affirmed on January 12, 2007.[82] Chen's retrial prompted repeated criticism for its criminal procedure violations.[83] In June 2007, Chen reportedly informed his wife and brother that he had been beaten by fellow inmates.[84]

In August 2007, Chen received the Ramon Magsaysay Award for "his irrepressible passion for justice in leading ordinary Chinese citizens to assert their legitimate rights under the law."[85] His wife, Yuan Weijing, attempted to travel to the Philippines to accept the award on behalf of Chen, but Chinese authorities intercepted her before leaving the country and reportedly forcibly returned her to her village.[86] At other times during Chen's imprisonment, authorities also repeatedly subjected Yuan and their two children to harassment, home confinement, surveillance, and other abuses,[87] including reportedly preventing the children from enrolling in school.[88] The Commission will continue to monitor and report on the conditions surrounding Chen Guangcheng and his family in the coming year.

Freedom of Residence and Movement

Freedom of Residence

The Chinese government continued to enforce the household registration (*hukou*) system it first established in the 1950s.[1] *Hukou* regulations limit the right of Chinese citizens formally to establish their permanent place of residence. Initially used to control migration of the rural population to China's cities, "[t]oday it is one of the most important mechanisms determining entitlement to public welfare, urban services and, more broadly, full citizenship."[2] The *hukou* regulations classify Chinese citizens as either rural or urban *hukou* holders and local governments restrict access to some social services based on the classification. The implementation of these regulations discriminates against rural *hukou* holders who migrate to urban areas by imposing significant constraints on rural *hukou* holders' ability to obtain healthcare benefits, education, and other social services in urban locations where they reside but lack legal residency status. The *hukou* regulations appear to contradict the freedoms guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which include "the right to liberty of movement and freedom to choose his residence."[3]

The discriminatory effect is especially prominent in the area of education. In many cases, migrant children, who live in urban areas but lack urban *hukous,* cannot attend local public schools. The estimated number of migrant children affected by *hukou* regulations ranges from 14 million to 19 million.[4] Chinese law and regulations call for nine years of compulsory education and equal treatment of all children.[5] In practice, however, many migrant children are systematically excluded from urban public schools, where resources are more abundant than in urban private schools or rural schools.[6] Many resort to substandard, often unlicensed but relatively affordable urban private schools, those with more means offer a special "donation" to public schools in order to gain access, and some send their children back to their place of rural *hukou,* relying on relatives to raise their children.[7] Some migrant children who have gained access to urban public school systems report unequal treatment. According to a 16-year-old middle school graduate, migrant and local students "from the two sides of the school never communicate . . . . Class starting time, lunch time and dismissal time are different for students of the two parts. The eastern part's [local] students are going to visit the expo site, but the western part [migrant students] doesn't have the chance."[8] Most migrant students are "housed in a separate school building, wear an alternative uniform and have different teachers and textbooks."[9] School teachers tell the local children to "stay clear of the migrant children" because they are "wild, lacking in manners and poor."[10] In addition, migrant children cannot attend high school or sit for the crucial college entrance exam in the cities where they reside, but in which they do not possess a valid *hukou.*[11] Instead, they generally are required to return to their *hukou* locations where they may experience significant alienation or have little knowledge of the local academic culture.[12]

In recent years, local governments have instituted a series of policies intended to reform the *hukou* system. While details vary by location, the key provisions of these reforms allow people to transfer *hukou* from rural to urban status based on certain criteria.[13] These criteria usually include income, education, and special skills aimed at attracting elite rural *hukou* holders with wealth and education.[14] The vast majority of China's over 200 million migrant workers fall outside the scope of these reforms.[15]

Because the problems the *hukou* system creates are complex, any large-scale reform likely will carry sweeping implications.[16] *Hukou* transfer is managed at the local level, and typically each local government sets its own standard of admission for rural-to-urban *hukou* transfers.[17] Furthermore, rural *hukou* holders confront disparate interests. For example, those with easy access to urban centers may actually prefer rural *hukous* over urban *hukous* due to benefits tied to land ownership and a higher birth allowance rate.[18] In addition, *hukou* reforms often lack support from the urban *hukou* class as the current status quo tips in its favor.[19]

During the Commission's 2010 reporting year, authorities continued to relax certain *hukou* restrictions consistent with earlier reform efforts.[20] Several high-level officials acknowledged and publicized the need for *hukou* reforms.[21] The Development Research Center of the State Council published an essay that advocated for a more inclusive approach to *hukou* reform in order to achieve "substantive equality of rights."[22] The efficacy of these policies remains unclear.[23]

The government and the Communist Party exercised strict control over public debate on *hukou* reforms during this reporting year. Authorities retracted a joint editorial published by 13 newspapers that decried the *hukou* system as corrupt and in need of speedy reforms. One of the editorial's co-authors, a deputy editor at one of the newspapers, was forced to resign.[24]

Significant Household Registration (Hukou) Policies and Regulatory Developments in 2010

GUANGZHOU MUNICIPALITY

In May 2010, the Guangzhou Public Security Bureau in Guangdong province directed district- and county-level Party committees and governments to gradually transform its *hukou* system into one that will identify residents as holders of Guangzhou's residential *hukou*.[25] The impact of the reform remains unclear. One key issue associated with the reform is the interpretation of its language. A noted *hukou* scholar interpreting similar reforms has argued that the impact of a unified residential *hukou* system is negligible on migrant workers. This is because the reform can be interpreted to include only a small percentage of rural *hukou* holders who are already eligible for social benefits,[26] rendering the reform efforts pro forma at best. According to one source, the Guangzhou experiment is likely to have a limited impact on its large migrant population.[27]

CHONGQING MUNICIPALITY

In July 2010, Chongqing municipality initiated gradual voluntary *hukou* reforms aimed at increasing the percentage of urban *hukou* holders in the municipality.[28] By 2020, the reform efforts are intended to gradually turn at least 10 million rural *hukou* holders into urban *hukou* holders, thus potentially allowing them greater access to social services in exchange for their land allocations.[29] An unusual feature of the reform allows rural *hukou* holders to retain their land contracting and use rights (*cheng bao*), among other provisions, for up to three years after transitioning to urban *hukou* status.[30] It is unclear whether rural *hukou* holders can choose to retain their land rights and their rural *hukou* status at the end of the three-year transition period should they wish to do so. If successful, the Chongqing *hukou* reforms could significantly remedy a shortage of urban land for construction and development in the municipality.[31]

THE JOINT EDITORIAL ON HUKOU REFORM

On March 1, 2010, 13 mainland newspapers published a joint editorial four days before the annual meetings of the National People's Congress and the Chinese People's Political Consultative Conference convened in Beijing.[32] The joint editorial demanded a clear timetable for *hukou* reforms, stating that freedom of movement is "an inseparable part of human rights and personal freedom."[33] Furthermore, it decried the *hukou* system as a breeding ground for corruption and urged the delegates to abolish the system.[34] Just one day after its publication, the editorial was removed from many Web sites and the deputy editor of one of the newspapers was forced to resign.[35]

Freedom of Movement

There can be little doubt that there is greater freedom of movement for those Chinese citizens who shun political engagement outside of government-approved parameters. Unlike 30 years ago, there are many opportunities for travel. Yet, Chinese rights defenders and advocates who venture beyond government-sanctioned parameters face frequent restrictions on their liberty of movement. The Chinese government continues to impose restrictions on Chinese citizens' liberty of movement that contravene international standards.[36]

CHINESE CITIZENS BARRED FROM ENTERING AND LEAVING MAINLAND CHINA

Chinese authorities arbitrarily barred rights defenders, advocates, and critics from entering and leaving China. China's Passport Law delineates the legal framework for regulating travel abroad. While providing some procedural safeguards, the law provides no mechanism for redress. Article 2 of the Passport Law requires Chinese citizens to have a valid passport to enter China while Article 13 gives officials the discretion to refuse the issuance of a passport where "the competent organs of the State Council believe that [the applicant's] leaving China will do harm to the state security or result in serious losses to the benefits of the state."[37]

With respect to entering China, authorities refuse to renew the passports of rights advocates and subsequently cite passport expiration as grounds to prevent entry. Such arbitrary practices appear to contravene the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.[38]

There are numerous cases of concern. The following is a representative sample:

- Between June 7, 2009, and February 12, 2010, on at least eight separate occasions, the Chinese government prevented Feng Zhenghu, a Shanghai-based human rights advocate and Chinese citizen, from returning to China after a temporary visit to Japan. He spent at least 90 days at Narita Airport, Tokyo's main airport, before he was allowed to reenter mainland China.[39] Since Feng's return to Shanghai in mid-February, the Chinese government has subjected him to an array of control measures including surveillance, confiscation of property, detention, and home confinement due to his intended publication of 12 instances of injustice to coincide with the Shanghai 2010 World Expo.[40]
- During the week of March 22, 2010, Chinese professor Cui Weiping was banned from leaving China to travel to the United States, where she planned to attend an academic conference hosted by the Association for Asian Studies in Philadelphia and to give lectures at Harvard University and other schools.[41] Cui's travel ban is likely related to a series of Twitter messages she posted about Liu Xiaobo's 11-year prison sentence and to her comments commemorating the 1989 Tiananmen protests.[42]
- On at least two separate occasions, Chinese authorities prevented poet, writer, and musician Liao Yiwu from leaving China. Liao was imprisoned for four years for reciting his poem "Massacre" about the Tiananmen protests.[43] In October 2009, authorities banned Liao from going to the Frankfurt Book Fair, where China was the "honored guest."[44] On March 2, 2010, Liao was again banned from attending Germany's largest literary festival, Lit.Cologne. Authorities removed him from a plane en route to Germany and placed him under house confinement.[45]
- In April 2010, the Chinese government banned Ilham Tohti, a prominent Uyghur economist, from traveling to Turkey to attend an academic conference.[46] Ilham Tohti is a professor at Minzu University of China who also writes an online blog addressing Uyghur social issues.[47] Chinese authorities warned Ilham Tohti against attending the conference and took him on a "vacation" days before the event.[48] The ban is one of eight instances where Ilham Tohti was prevented from traveling abroad since the July 2009 demonstrations and riots in Urumqi, Xinjiang Uyghur Autonomous Region.[49] At the time of the April travel ban, Ilham Tohti held a valid Chinese passport and had already received a Turkish visa to attend the conference.[50]
- Macau customs officials banned "Long Hair" Leung Kwok-hung, a member of the Legislative Council of Hong Kong, from entering Macau in December 2009.[51] "Long Hair" Leung, along

with other democracy activists, had planned to press President Hu Jintao on the issue of universal suffrage in Hong Kong while Hu was in Macau to attend commemorative ceremonies of Macau's return to China.[52] Macau customs authorities cited Macau's Internal Security Law as grounds for Leung's ban.[53] An outspoken lawmaker, "Long Hair" Leung had been prevented from entering Macau on previous occasions.[54]

HOME CONFINEMENT AND SURVEILLANCE OF CHINESE CITIZENS DURING POLITICALLY SENSITIVE PERIODS

The Chinese government continued to detain, harass, and restrict the movement of political dissidents and rights defenders inside China. Restrictions on liberty of movement within China were especially prominent during politically sensitive periods. The Commission's 2010 reporting year coincided with several anniversaries and events: the Shanghai 2010 World Expo, the U.S.-China Strategic and Economic Dialogue, the 60th anniversary of the founding of the People's Republic of China (National Day), and the 21st anniversary of the 1989 Tiananmen protests.

The Chinese government employs a spectrum of measures to restrict the movement of dissidents, advocates, and rights defenders who act outside of approved parameters. During this reporting year, authorities used methods including surveillance, police presence outside of one's home, "invitation" to tea with police, forced trips during politically sensitive periods, detention, removal from one's home, reeducation through labor, and imprisonment.

There are numerous cases of concern. Representative examples follow.

- **In connection with October 1, 2009 (National Day),** several dozen activists, dissidents, and rights defenders saw increased state intrusion in connection with the 60th anniversary of the founding of the People's Republic of China. Examples include the following incidents:
  - Li Hai, a former Tiananmen protest student leader, disappeared from Beijing for 22 days in mid-September 2009 after having been "invited" by the police to go on a trip. Li's whereabouts remained unknown as of October 9, 2009.[55]
  - Domestic security protection personnel forced Qi Zhiyong to travel to an area outside of Beijing. Qi is a Beijing activist who is disabled from the 1989 Tiananmen protest.[56] He was allowed to return to Beijing to attend to his daughter but was placed under residential surveillance and denied access to foreign media.[57]
  - Ding Zilin, the leader of the Tiananmen Mothers, and Liu Xia, wife of imprisoned intellectual Liu Xiaobo, received orders to leave Beijing.[58]
- **In connection with the 21st anniversary of the 1989 Tiananmen protests in June 2010,** activists, dissidents, and rights defenders saw heightened official intrusion during this period. The following list highlights the extent and methods employed:

○ On May 28, 2010, Guiyang Public Security Bureau personnel in Guizhou province surveyed, intercepted, and detained a gathering of Guiyang Human Rights members discussing the commemoration of the 21st anniversary of the Tiananmen protests.[59]

○ On May 24, 2010, domestic security protection personnel warned Beijing lawyer Li Xiongbing "not to leave his home in the coming days,"[60] and stationed police outside of his home.[61]

○ On May 26 and 28, 2010, in Xi'an city, Shaanxi province, domestic security protection personnel summoned rights defenders Yang Hai and Zhang Jiankang to "tea" and told them that they would be forced to travel during the Tiananmen protest anniversary period.[62]

○ Several supporters of Internet writer Chen Yang went missing. Their whereabouts remained unknown as of June 7. In 2009, Chen was ordered to serve reeducation through labor for his Twitter messages mobilizing others to commemorate the anniversary of the Tiananmen protests.[63]

STATUS OF WOMEN

Introduction

During the Commission's 2010 reporting year, Chinese officials continued to promote existing laws and policies that aim to protect women's rights in accordance with international human rights norms. Inconsistent interpretation, implementation, and enforcement of these laws across localities, however, limit progress on concrete protections of women's rights. Recent statistics on female representation in government show increases in women holding positions at the central, provincial, and municipal levels of government; however, female political representation at the village level remains low and may contribute to continued violations of women's land rights in rural areas. Domestic violence remained widespread, highlighting a need for national-level legislation that provides a clear definition of domestic violence and standards for prevention and punishment. Like many countries, China lacks national legislation that clearly defines sexual harassment and gives guidance on appropriate measures for prevention and punishment of offenses. Sex-selective abortion and infanticide continue, despite Chinese government regulations which aim to deter such practices, and have contributed to a severely imbalanced gender ratio, according to a 2010 UN Development Programme report. Gender discrimination with respect to wages, recruitment, and retirement age continues; however, authorities promoted women's employment and took concrete steps to eliminate gender discrimination in the workplace.

Gender Equality

In its domestic laws and policy initiatives [1] and through its ratification of the Convention on the Elimination of All Forms of Discrimination against Women [2] (CEDAW), the Chinese government has committed to ensuring female representation in government on equal terms with men. According to a March 2010 Southern Daily report, factors including the costs of giving birth, family conflict, and even a woman's clothing and makeup prevent many Chinese women from breaking through the "glass ceiling." [3] Official statistics reported in March 2010 show that female representation in official positions has increased at central, provincial, and municipal levels of government,[4] but according to the Southern Daily report, "compared with women's political participation internationally, China's progress in this area is very limited." [5] The report notes that China's international ranking with regard to female political participation dropped from 12th place in 1994 to 52nd in 2009,[6] and that although women now make up 21.3 percent of National People's Congress representatives, this is still far short of the 30 percent standard set by the UN Commission on the Status of Women in 1990.[7]

Female political representation at the village level also remains low and may contribute to continued violations of women's land rights in rural areas. Chen Zhili, Chair of the All-China Women's Federation, reported in March 2010 that women make up over 60 percent of the rural workforce, but only just over 10 percent of vil-

lage committee members.[8] In most rural areas of China, villages have a high rate of "self-governance" with regard to issues such as land contracts, profit distribution from collectives, and land requisition compensation.[9] With limited decisionmaking power in village committees, women's interests are less likely to be represented in village rules and regulations.[10] According to a 2008 report by the non-governmental organization Women's Watch-China, "villages deny land rights of women who married . . . in other villages and the women's sons and daughters in a variety of ways. Yet, the grassroots government often holds an equivocal attitude towards land rights disputes." [11]

Gender-Based Employment Discrimination

Gender-based employment discrimination with respect to issues such as wages, recruitment, and retirement age remains widespread in China, despite government efforts to eliminate it and promote women's employment. The Chinese government is committed under Article 7 of the International Covenant of Economic, Social and Cultural Rights to ensuring "the right of everyone to the enjoyment of just and favourable conditions of work," including "equal pay for equal work," and "equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence." [12] Several domestic laws also prohibit gender discrimination and promote gender equality in the workplace, but lack an enforcement mechanism, thus providing limited protection and support for those facing discrimination.[13] Examples of reports and surveys on gender discrimination in employment from the 2010 reporting year include:

- According to a September 2009 All-China Women's Federation survey, over 90 percent of the female college students interviewed felt they had experienced gender discrimination in their job searches.[14]
- According to a survey cited in a February 2010 Women's Watch-China report, 15 percent of the companies surveyed pay higher wages to male employees than to their female counterparts for the same work.[15] Another survey released in March 2010 by an educational consulting firm reportedly revealed that, of the students who found jobs, males earned an average of 361 yuan (US$53) per month more than females.[16]
- According to a China University of Political Science and Law survey report released in July 2010, employment discrimination occurs at a high frequency in 60.7 percent of state-operated enterprises, 43.44 percent of government agencies, and 38.61 percent of public institutions.[17]
- Several job postings mentioned in a May 2010 investigative report on employment discrimination in the Shenzhen Special Economic Zone revealed trends in the differences between recruitment of male and female employees. Job postings specifically recruiting women often were for lower level, administrative, or auxiliary positions, or positions that required "a woman's meticulous and patient nature" (for example a teacher or an accountant).[18] Meanwhile, job postings recruiting men

often were for positions at one of two extremes: either low-level positions such as security personnel, drivers, or warehouse staff, or high-level positions such as managers, engineers, and supervisors.[19] Some job descriptions listed in the report also demonstrated an interest in female applicants' marital status, proof of birth control, and childbearing history.[20]

• Mandatory retirement ages for women in China continue to be five years earlier than those for men.[21] In June 2010, the Enforcement Investigation Group of the National People's Congress Standing Committee issued a report on its investigation of the implementation of China's Law on the Protection of Women's Rights and Interests.[22] According to a China Youth Daily report on the group's findings, retirement policies for female senior intellectuals and some female cadre have not been well executed in certain central and local state organs and institutions, leading women to retire too early, and impacting their economic rights and interests as well as their opportunities for promotion and development.[23]

Shenzhen Women's Federation Proposes Draft Gender Equality Regulations

In December 2009, the Shenzhen Municipal Women's Federation announced draft regulations to promote gender equality in the workplace.[24] If adopted, the Shenzhen Special Economic Zone Gender Equality Promotion Regulations (Shenzhen regulations) would be the first legislation of its kind in China to specifically focus on gender equality.[25] According to a January report by the non-governmental organization Women's Watch-China (WWC), Shenzhen authorities have integrated the draft into the Shenzhen Municipal People's Congress 2010 legislative plan.[26] While domestic and international reports revealed some details of the Shenzhen regulations in late January 2010,[27] the draft is still under review and not yet publicly available.[28]

Highlights of the draft include:

• **Definition of gender discrimination.** Currently, China's legislative framework for gender equality—namely the Law on the Protection of Women's Rights and Interests and the Employment Promotion Law—does not provide a definition for gender discrimination. According to the WWC report, the Shenzhen regulations would clearly define both direct and indirect gender discrimination.[29]

• **Compensation for pension disparity between men and women.** Chinese law currently requires women to retire at age 55 and men at 60. Because women retire earlier, they typically have smaller pensions than men.[30]

• **Establishment of a gender budgeting system, regular gender audits, and statistical reviews.** With these mechanisms in place, governments will be able to ensure that public finances are allocated more fairly based on gender,[31] develop appropriate gender-specific facilities (such as restrooms),[32] and analyze the status of gender equality in education and employment.[33]

Shenzhen Women's Federation Proposes Draft Gender Equality Regulations—Continued

- **Establishment of a protection order system.** Under the draft Shenzhen regulations, an individual would be able to apply for a protection order from the court following abuse or the threat of abuse. In addition, if an individual reports abuse to the police, police have the right to detain and charge the offender.[34]
- **Paternity leave.** The Shenzhen regulations would provide a legislative basis for paternity leave of 30 days "on-demand" for fathers of newborns.[35] If implemented, this would provide greater protection for males' rights and interests[36] and could encourage a larger male role in the care of the newborn and mother, according to some assessments.[37]

[For more information on legal developments related to workplace discrimination, see Section II—Worker Rights.]

Violence Against Women

DOMESTIC VIOLENCE

The amended Law on the Protection of Women's Rights and Interests (LPWRI) and the amended Marriage Law prohibit domestic violence,[38] and individuals charged with the crime of domestic violence are punishable under China's Criminal Law.[39] The problem of domestic violence remains widespread, affecting nearly one-third of China's 270 million families, according to a November 2009 People's Daily report.[40] Current national-level legal provisions regarding domestic violence leave many victims unprotected as they do not clearly define domestic violence, assign clear and concrete legal responsibilities, or outline the roles of government departments and social organizations in prevention, punishment, and treatment.[41]

During the Commission's 2010 reporting year, Chinese advocates expressed concern regarding the growing problem of domestic violence and called for national legislation on domestic violence that clarifies the aforementioned shortcomings.[42] The Communist Party-controlled All-China Women's Federation announced on November 25, 2009, that it had drafted proposed legislation on preventing and curbing domestic violence.[43] The proposal reportedly attempts to provide a clear definition of domestic violence, a clear assignment of government responsibility in domestic violence prevention and treatment, and "breakthroughs in legal responsibility," among other improvements, according to another November 2009 People's Daily report.[44] It remains to be seen whether this or other such drafts are entered into the legislative agenda.

SEXUAL HARASSMENT

Victims of sexual harassment in China face several legislative, cultural, and social obstacles in protecting their rights, despite China's international commitments and domestic legislation on this subject. The Chinese government is committed under Article 11 of the Convention on the Elimination of All Forms of Discrimination against Women to taking "all appropriate measures to eliminate

discrimination against women in the field of employment,"[45] and introduced the concept of sexual harassment into legislation with the 2005 amendment to the LPWRI.[46] The amended LPWRI prohibits sexual harassment and provides an avenue of recourse for victims through either administrative punishment for offenders or civil action in the people's court system, but it does not provide a clear definition of sexual harassment or specific standards and procedures for prevention and punishment.[47] In addition, public awareness regarding sexual harassment in the workplace is generally lacking, and traditional views toward gender roles in society continue to limit momentum toward progress.[48]

Sexual harassment remains prevalent in China, and those who choose to pursue sexual harassment claims face potential social and economic risks. According to a May 2010 survey published by the Qian Qian law firm, 17.2 percent of the women surveyed reported experiencing sexual harassment from their bosses, 28.7 percent reported experiencing sexual harassment from their colleagues, and 54.1 percent expressed that they had experienced sexual harassment from people other than their bosses or colleagues, such as clients, patients, and others with whom they must interact for work purposes.[49] According to one expert on women's rights protection in China, "those who take action against sexual harassment offenders simply risk losing more than they will gain."[50] In one such example in March 2009, a woman sued her company and the specific employer who sexually harassed her, seeking damages of 400,000 yuan (US$58,573) and a written apology. She "won" the lawsuit in November (the court granted her 3,000 yuan, or US$439, for psychological recovery),[51] but the corporation had already dismissed her from her job.[52] Observers note that she may face difficulty seeking employment elsewhere due to the significant media exposure of her case.[53]

As reported in the Commission's 2009 Annual Report, in February 2009 a study group led by three Chinese researchers submitted a draft proposal to the National People's Congress for a law aimed at preventing sexual harassment in the workplace.[54] The proposed law would hold both the government and employers responsible for the prevention and punishment of sexual harassment offenses. The Commission has not found indicators of progress on this or similar national-level legislation during the 2010 reporting year.

SEX-SELECTIVE ELIMINATION

Violence and bias against women and girls continues in the form of sex-selective abortion,[55] as well as infanticide, neglect, and abandonment of female babies and children, despite the government's legislative efforts to deter such practices.[56] According to a UN Development Programme report released on International Women's Day 2010, Asia is currently "missing" nearly 100 million women due to "discriminatory treatment in health care, nutrition access or pure neglect—or because they were never born in the first place."[57] China's "missing" women constitute over 40 percent of that figure.[58] In response to government-imposed birth limits and in keeping with a traditional cultural bias for sons, Chinese parents often engage in sex-selective abortion, especially rural couples whose

first child is a girl.[59] The government issued national regulations in 2003 banning prenatal gender determination and sex-selective abortion.[60] According to experts cited in an April 2010 Xinhua report, however, "more effective action" may be needed to address China's skewed sex ratio.[61] The Chinese Academy of Social Sciences (CASS) published a comprehensive study in January 2010 that placed the male-female sex ratio for the infant-to-four-year-old age group in China at 123.26 males for every 100 females.[62] Some provinces have ratios exceeding 130.[63] The 123.26 figure is far above the global norm of roughly 103 to 105 males for every 100 females and represents growth of more than two boys per 100 girls from the 2000 census ratio.[64] CASS estimates that, by 2020, the number of Chinese males of marriageable age will exceed the number of Chinese females of marriageable age by 30 to 40 million.[65] According to an April 2009 British Medical Journal study, China's sex ratio has steadily increased since ultrasound technology—through which pregnant parents can determine the sex of the fetus—became available in the 1980s. The study suggests that sex-selective abortion contributes largely to the country's significantly skewed sex ratio.[66] A March 2010 SOS Children's Village report alleged that in addition to sex-selective abortion, "China suffers high rates of female infanticide . . . as well as widespread abandonment and human trafficking of the girl-child."[67] Some scholars have expressed concern that the continued devaluation of women and the resulting skewed sex ratio may lead to continued or increased forced prostitution, forced marriages, and human trafficking.[68] [For more information regarding China's increasingly skewed sex ratio, see Section II—Population Planning.]

HUMAN TRAFFICKING

Introduction

The Chinese government took steps to combat human trafficking during the Commission's 2010 reporting year, but longstanding challenges remain. Officials in the past year continued to focus on the abduction and sale of women and children.[1] Other pervasive forms of trafficking—including labor trafficking and trafficking for commercial sexual exploitation—did not receive as much attention from authorities. The trafficking situation in China appears to be uniquely affected by the government's one-child policy, the resulting gender imbalance, the current economic crisis, and migrant mobility, among other factors. After years of stating its intent to do so,[2] the Chinese government voted to accede to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN TIP Protocol) in December 2009,[3] but has not yet enacted legislation to implement it fully.[4] The UN TIP Protocol contains the first global definition of trafficking and obligates state parties to criminalize conduct described in the protocol. China's Criminal Law defines the trafficking of persons as "abducting, kidnapping, buying, trafficking in, fetching, sending, or transferring a woman or child, for the purpose of selling the victim."[5] This definition is narrower than that provided in the UN TIP Protocol in that it does not automatically prohibit forms of trafficking such as forced adult and child labor, commercial sex trade of minors over 14 years old, or trafficking of men.[6] From 2008 to 2010, a number of provincial governments, central government agencies, and Communist Party organizations issued regulations, plans, or opinions to implement the Chinese government's National Plan of Action on Combating Trafficking in Women and Children (2008–2012).[7] In addition, some local governments established liaison offices with governments of bordering countries to facilitate cooperation in combating cross-border human trafficking. Individuals and organizations not associated with the government have also been active in the effort to combat human trafficking, but some have reported government pressure in response to their actions.

Prevalence

China remains a country of origin, transit, and destination for the trafficking of men, women, and children.[8] The majority of trafficking cases are domestic;[9] however, human traffickers continue to traffic Chinese women and children from China to other regions, such as Africa, other parts of Asia, Europe, Latin America, the Middle East, and North America.[10] Women and girls from countries including North Korea, Russia, Mongolia, Vietnam, Laos, Cambodia, and Burma are also trafficked into China and forced into marriages, employment, and sexual exploitation.[11] One May 2010 news article notes that women may currently make up approximately 80 percent of an estimated 50,000 to 100,000 North Korean refugees in China, and of these women, an estimated 90 percent become victims of trafficking.[12] As the U.S. State Department 2010 Trafficking in Persons Report (2010 TIP Report) notes, however, a lack of reliable statistics makes it difficult to assess how

many of the North Korean women in China have been trafficked.[13] [For more information on North Korean refugees in China, see Section II—North Korean Refugees in China.] Forced labor, especially forced child labor, reportedly continues to be a pressing problem.[14] [For more information on child labor, see Section II—Worker Rights.] According to the UN TIP Protocol, forced labor of any person under 18 years of age constitutes "trafficking in persons."[15]

Factors Driving Trafficking

Experts link the reported growth[16] of trafficking in China to several political, demographic, economic, and social factors. Against the backdrop of the Chinese government's one-child policy, Chinese families' preference for sons, and the growing gender imbalance, increasing numbers of male children are trafficked for adoption,[17] and women and girls are trafficked for forced marriages and commercial sexual exploitation.[18] In addition, parents who cannot keep their "out-of-plan" children—those children born in violation of population planning policies and requirements—are vulnerable to persuasion or coercion to relinquish or sell them.[19] Domestic and international observers link the growing trafficking market to the economic crisis,[20] the lack of awareness and education on trafficking prevention for vulnerable women and parents,[21] poverty and instability in bordering countries such as North Korea and Burma,[22] a thriving international adoption market,[23] and the growing number of migrant workers whose children experts identify as an "at-risk" population for abduction.[24] Using the narrower definition of human trafficking under Chinese law, authorities reportedly convicted 2,413 defendants in trafficking cases and resolved more than 7,000 trafficking cases involving over 7,300 women and 3,400 children in 2009.[25]

Representative Human Trafficking and Abduction Cases This Year
• According to the 2010 TIP Report, in November 2009, Macau officials convicted a Macanese man of trafficking two local women to Japan in 2008 and sentenced him to over seven years in prison. This reportedly was the Macau government's first trafficking conviction under its anti-trafficking law.[26] • Also in November 2009, 12 children were injured and 1 was killed as a result of an explosion that occurred while they were making fireworks in a workshop in the Guangxi Zhuang Autonomous Region, according to a Southern Metropolitan Daily report. The children ranged in age from 7 to 15 years old.[27] According to a Xinhua report on the same incident, the children were all "left behind children," or children whose parents worked as migrant workers away from home.[28]

Representative Human Trafficking and Abduction Cases This Year—Continued

- According to a January 2010 China Peace Net report, officials exposed a trafficking ring in Harbin city, Heilongjiang province, in which one suspect was a doctor and the chair of the obstetrics and gynecology department at a local hospital. According to the report, the doctor "exploited the convenience of her position" and worked with her daughter and son-in-law to arrange the purchase of a newborn for 10,000 yuan (US$1,476) from parents at the hospital. Officials criminally detained the three suspects and, as of January 7, were still investigating the case.[29]
- On March 4, 2010, Hong Kong's Wanchai District Court convicted[30] a Filipino club owner and an employee of human trafficking.[31] According to a report by the Commission on Filipinos Overseas, they had forced two Filipina women to work as entertainers and prostitutes in their club after a relative of the women initially lured them with the promise of waitressing positions in Macau.[32]
- Domestic news sources reported at least two cases this year of parents selling their children in order to reap material benefit. In one case, an unemployed couple sold their healthy six-day-old infant son for 2,500 yuan (US$368) and then reportedly used the money to purchase a cell phone, among other items.[33] In another case, a couple reportedly fond of gambling sold their two children for 9,000 yuan (US$1,328) and 25,800 yuan (US$3,807).[34]

Anti-Trafficking Efforts

The Chinese government and civil society continued with efforts to combat human trafficking during the Commission's 2010 reporting year. In December 2009, the National People's Congress Standing Committee voted to accede to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.[35] The Ministry of Public Security conducted a nine-month campaign to combat the abduction and sale of women and children beginning in April 2009, using a national DNA database for matching children with parents and a Web site for increased publicity regarding the children's plight.[36] As of September 2010, at least 6 of the 60 posted rescued children were successfully matched with their parents through these resources.[37]

In April 2010, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Justice, and the Ministry of Public Security jointly issued the Opinion on Lawful Punishment for the Crime of Abducting and Selling Women and Children.[38] According to the China Daily, "[T]he guideline will speed up the investigation and filing of cases involving girls between 14 and 18 [years of age]," a demographic that has historically fallen through the cracks in authorities' anti-trafficking efforts under current Chinese legislation.[39]

From 2008 to 2010, a number of provincial governments, central government agencies, and Communist Party organizations issued regulations, plans, or opinions to implement the Chinese government's National Plan of Action on Combating Trafficking in Women and Children (2008–2012) (National Plan of Action).[40] In addition,

some local governments in Yunnan province and the Guangxi Zhuang Autonomous Region set up liaison offices with the governments of bordering countries including Laos, Vietnam, and Cambodia to facilitate cooperation in the effort to combat human trafficking across borders.[41]

Local authorities, in cooperation with non-governmental organizations (NGOs) and international organizations, took steps to improve trafficking victim protection services and care, but continued to focus such efforts only on women and children identified as victims through the government's limited definition of trafficking.[42] According to the U.S. State Department 2010 Trafficking in Persons Report (2010 TIP Report), China has an estimated 1,400 shelters nationwide, with 5 specifically devoted to assisting "trafficking victims." Shelters nationwide aided 12,000 trafficking victims in 2009.[43] Individuals and organizations not associated with the government have also been active in the effort to combat human trafficking. While some NGOs have successfully cooperated with officials to raise public awareness and provide training and victim assistance,[44] several media reports indicate that individuals, especially parents of trafficked children seeking to informally organize and raise awareness about trafficking cases, face government pressure including silencing of protests and petitions,[45] official threats, home confinement,[46] and police surveillance.[47]

Anti-Trafficking Challenges

Several hurdles remain in the Chinese government's fight against human trafficking. Although the Chinese government voted to accede to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN TIP Protocol) in December 2009,[48] it has not revised current domestic legislation or the National Plan of Action to bring them into compliance with the UN TIP Protocol. Article 240 of China's Criminal Law defines the trafficking of persons as "abducting, kidnapping, buying, trafficking in, fetching, sending, or transferring a woman or child, for the purpose of selling the victim."[49] This definition does not automatically prohibit forms of trafficking such as forced adult and child labor, commercial sex trade of minors over 14 years old, or trafficking of men, which are covered under Article 3 of the UN TIP Protocol.[50] The Chinese government's narrower definition of human trafficking has negative implications for anti-trafficking work in China, including imposing limits on the Chinese government's prosecution efforts, protection of victims, funding of programs, and victim services.[51] Officials continue to conflate human trafficking with human smuggling and therefore treat some victims of trafficking as criminals.[52] This is because, as noted in the 2010 TIP Report, officials consider that a victim's crossing of the border without documentation constitutes involvement in "human smuggling," which, unlike human trafficking, gives less consideration to the role exploitation may have played in the border crossing. As the 2010 TIP Report noted, officials continue to fine or criminally penalize some victims of trafficking for crossing borders illegally.[53] In addition, the Chinese government continues to deport all undocumented North Koreans as illegal "economic migrants," without providing legal alternatives to repatriation for identified victims of

trafficking.[54] The U.S. State Department placed China on its Tier 2 Watch List for the sixth consecutive year in 2010,[55] saying that, among other areas needing improvement, the Chinese government "did not make significant efforts to investigate and prosecute labor trafficking offenses and convict offenders of labor trafficking" and "did not sufficiently address corruption in trafficking by government officials."[56]

North Korean Refugees in China

Introduction

During the Commission's 2010 reporting year, the Chinese government persisted in repatriating North Korean refugees to the Democratic People's Republic of Korea (DPRK), especially in the months before October 1, 2009, the 60th anniversary of the founding of the People's Republic of China.[1] Beginning in July 2009, the Chinese government reportedly increased the presence of public security officials in northeastern China and repatriated more North Koreans than it had in the earlier part of 2009.[2] The Chinese government's repatriation of North Korean refugees, or those who leave the DPRK for fear of persecution, contravenes its obligations under the 1951 UN Convention Relating to the Status of Refugees (1951 Convention) and its 1967 Protocol (Protocol).[3] The Chinese government maintains that North Korean refugees in China are illegal economic migrants and not refugees.[4] The North Korean government's imprisonment and torture of repatriated North Koreans, however, renders those North Koreans in China who did not leave the DPRK for fear of persecution "refugees sur place" under international law, or those who fear persecution upon return.[5] Under the 1951 Convention and its Protocol, the Chinese government is also obligated to refrain from repatriating refugees sur place.[6]

Unlawful Repatriation

In 2009, the Chinese government continued to repatriate North Korean refugees to the DPRK and stepped up its repatriation of North Korean refugees before October 1, 2009.[7] In October 2009, one overseas news organization reported that Chinese authorities were conducting weekly visits to every house along the Chinese-North Korean border to locate North Koreans in hiding.[8] In July 2009, Chinese authorities detained a North Korean woman who had lived in China for over 10 years while her 10-year-old son looked on, according to Radio Free Asia.[9] In September 2009, Chinese authorities detained five North Korean defectors attempting to travel to Vietnam to seek asylum.[10] Their current status remains unknown. In late 2009, 20 women from the same county in the DPRK were repatriated and subsequently imprisoned.[11] In January 2010, Chinese authorities repatriated one North Korean woman two days after she entered China. Upon return to the DPRK, North Korean authorities punished her together with more than 40 repatriated refugees from the same town.[12] In March 2010, one overseas media source reported that 50 North Korean defectors had taken refuge in South Korean diplomatic missions in China, which they were unwilling to leave for fear of being detained and repatriated to the DPRK by Chinese authorities. About 30 of the refugees had been confined to the diplomatic missions for more than one year, as the Chinese government had intentionally delayed negotiations with South Korea for their departure.[13] The Chinese government continues to deny the UN High Commissioner for Refugees (UNHCR) access to North Koreans seeking asylum.[14]

Chinese authorities offer bounties to Chinese citizens who turn in North Koreans[15] and fine,[16] detain,[17] or imprison those who

provide the refugees with humanitarian assistance. In August 2009, the Erlianhaote City People's Court in the Inner Mongolia Autonomous Region sentenced Zhang Yonghu and Li Mingshun to 7 and 10 years' imprisonment, respectively, for crimes of "human smuggling." Zhang and Li were assisting 61 North Korean refugees to cross the Chinese border into Mongolia to seek asylum.[18] While the Chinese government prosecutes those who assist North Korean refugees in seeking asylum, traffickers traffic an estimated 90 percent of the North Korean women in China.[19] [See Trafficking and Denial of Education in this section.]

Punishment in North Korea

North Koreans repatriated by the Chinese government face the threat of imprisonment, torture, and capital punishment in the DPRK.[20] Under the DPRK's Penal Code, border crossers can receive sentences of up to two years' imprisonment in a labor training center.[21] North Korean authorities assign harsher punishment, including long sentences and public execution, to repatriated North Koreans deemed to have committed "political" crimes, which include attempted defection, conversion to Christianity, and having had extensive contact with religious groups, South Koreans, or Americans.[22] Many repatriated North Koreans are vulnerable to severe punishment on one of these "political" grounds. A significant number of the non-governmental organizations (NGOs) and humanitarian workers assisting North Koreans in China and helping them seek asylum are Christians, South Koreans, or Americans.[23] In March 2008, the Peterson Institute for International Economics (PIIE) published a large-scale survey of North Koreans in China in which 99 percent of those interviewed stated that they did not want to return to the DPRK, but wanted to permanently resettle in another country.[24] Also in March 2008, the U.S. Commission on International Religious Freedom reported that after Chinese authorities repatriated a group of North Koreans to the DPRK, North Korean authorities executed all 60 of them for trying to defect to South Korea.[25] According to the PIIE survey, 67 percent of North Koreans in China suffering from severe psychological distress named "arrest" as the primary cause of their anxiety.[26] Conditions in North Korean detention facilities are harsh, and torture, beatings, and inhumane treatment are common.[27] NGOs and the UNHCR report that North Korean security officials have assaulted repatriated women carrying babies of mixed Chinese-Korean ancestry to force them to have abortions.[28]

Trafficking and Denial of Access to Education

The Chinese government's policy of repatriating North Korean refugees and denying them legal status increases their vulnerability to trafficking, mistreatment, and exploitation in China. North Korean women, in particular, often fall victim to inhumane treatment and indentured servitude.[29] One February 2009 National Geographic report estimates 75 percent of North Koreans in China are women.[30] According to an NGO, approximately 90 percent of these North Korean women are trafficked into China.[31] Traffickers, many of whom operate in organized networks, use false promises

to lure North Korean women into China and abduct those entering China on their own.[32] In many cases, traffickers reportedly sell the women into forced "marriages" with Chinese nationals for amounts ranging from 2,000 to 20,000 yuan (US$294 to US$2,934).[33] There is a high demand for "brides" in northeastern China where men outnumber women in some areas by as much as 14 to 1,[34] and where poor, disabled, or elderly men have difficulty finding wives.[35] In other cases, North Korean women are trafficked into the sex industry, where they are forced to work as prostitutes in brothels or in Internet sex operations.[36] Some women reportedly have been sold and resold up to seven or eight times,[37] and trafficked North Korean women have testified to being beaten, sexually abused, and locked up to prevent escape.[38] The Chinese government's repatriation of trafficked North Korean women contravenes the 1951 Convention and its Protocol, and the Chinese government is obligated under Article 7 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (TIP Protocol) to "consider adopting legislative or other appropriate measures that permit victims of trafficking to remain in its territory, temporarily or permanently . . . giving appropriate consideration to humanitarian and compassionate factors."[39] The Chinese government's failure to prevent trafficking of North Korean women and protect them from revictimization also contravenes its obligations under Article 9 of the TIP Protocol and Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women.[40] Although the central government has taken some minor steps to combat trafficking and protect trafficking victims along its borders with Vietnam and Burma[41] [see Section II—Human Trafficking], traffickers continue to traffic an estimated 90 percent of the North Korean women living in China,[42] and the Chinese government refuses to provide these victims with legal alternatives to repatriation.[43]

Another problem that stems from China's unlawful repatriation policy is the denial of education and other public benefits for the children of North Korean women married to Chinese citizens. There are anywhere from several thousand to several tens of thousands of these stateless children in China,[44] and their numbers continue to rise.[45] China's Nationality Law guarantees citizenship and, by extension, household registration (*hukou*) to all children born in China to at least one parent of Chinese nationality.[46] China's Compulsory Education Law, moreover, provides that all children age six years and older shall receive nine years of free and compulsory education, regardless of race or nationality.[47] Some local governments refuse to register Chinese-North Korean children without seeing documentation that the mother is a citizen, has been repatriated, or has run away.[48] Local authorities contravene Chinese law and the Chinese government's commitments under international law when they refuse these children the *hukou* they need to attend school and obtain healthcare.[49] Denial of *hukou* forces these children to live in a stateless limbo. Moreover, when their North Korean mothers are repatriated, a significant number of these children also become orphaned, as the fathers are unwilling or unable to take care of them.[50]

Reemergence of Famine Conditions

The Chinese government's repatriation of North Korean refugees continued as famine conditions in the DPRK have worsened since late 2009. In April and June 2010, international NGO and overseas media reports compared food shortages in the DPRK to the food crisis of the 1990s,[51] which killed an estimated 1 million North Koreans.[52] Existing food shortages in late 2009 were exacerbated by a failed DPRK government devaluation of the North Korean currency in November 2009.[53] In June 2010, the New York Times interviewed eight North Koreans who had left the DPRK not long before and reported that half of them planned on defecting to South Korea.[54] While many North Koreans may enter China in pursuit of food and basic necessities for survival,[55] the Chinese government contravenes its commitments under international law when it makes the blanket assertion that North Korean refugees in China are illegal economic migrants and not refugees.[56] The North Korean government's imprisonment and torture of repatriated North Koreans renders those North Koreans in China who did not leave the DPRK for fear of persecution "refugees sur place" under international law, or those who fear persecution upon return.[57] Thus, whether North Koreans in China left the DPRK for fear of persecution or fear persecution upon return to the DPRK, the 1951 Convention and its Protocol obligate the Chinese government to refrain from repatriating them.[58] In 2009 and 2010, however, the Chinese government continued to repatriate North Korean refugees and reportedly stepped up its efforts to do so before the 60th anniversary of the founding of the People's Republic of China.[59]

PUBLIC HEALTH

Introduction

China has committed to ensuring all its citizens the right to "the highest attainable standard of physical and mental health"[1] and has taken steps toward this goal. The rising cost of healthcare and limited access to quality services, however, remain top concerns for many living in both urban and rural areas of China.[2] Authorities at the central[3] and local[4] levels took steps to launch initiatives in 2009 to address healthcare challenges, but distribution of medical services continued to vary widely by location.[5] During the Commission's 2010 reporting year, the State Administration of Foreign Exchange issued new regulations on foreign funding that have led to increased restrictions on the activities of public health non-governmental organizations (NGOs). Authorities also have heightened targeted harassment of certain public health NGOs and individual advocates in the past year. Official corruption and lack of transparency continued to hinder the prevention of infectious disease outbreaks, posing the potential risk of further spread of infectious disease domestically as well as globally. A government circular issued in December 2009 improved the outlook for Hepatitis B virus carriers to enjoy equal treatment in employment and education, but specific cases this year continued to highlight a need for consistent enforcement of existing laws and regulations prohibiting health-based discrimination.

Healthcare Reform

The Chinese government considers unrestricted access to basic healthcare a universal right,[6] and in the 2010 reporting year, officials echoed calls for its realization[7] and took steps to implement related policies. In an effort to close the wide gap in access to basic healthcare as well as deal with issues of corruption within the healthcare system, the State Council passed a large-scale medical reform plan in January 2009 and a corresponding three-year implementation plan in April 2009.[8] Central and local authorities have begun to implement some goals outlined in the plan, such as initiating a pilot public hospital reform project in 16 cities,[9] establishing a basic medicine system with a national official list of approved pharmaceuticals,[10] initiating a plan to train 60,000 general practitioners in the next three years and 300,000 by 2020,[11] and increasing aid for children suffering from serious illnesses.[12]

Despite these initial steps toward healthcare reform, health inequities persist between urban and rural regions in China. According to an April 2010 study on urban/rural differences in China's public health sector, "[p]eople living in urban areas have an advantage in life and health compared with those in rural areas, and there is no exception to this pattern in all the 31 provincial-level administrative units."[13] While the majority of urban residents tend to enjoy greater healthcare benefits, including more widespread medical insurance coverage[14] and higher quality of facilities and care,[15] the growing population of migrant workers and their families who live in urban areas but do not possess an urban *hukou* (household registration) still faces difficulties in accessing basic

health services.[16] In addition, some children may not have a *hukou* in China because they are born "out of plan," that is, not in compliance with birth limits imposed by population planning policies, and their parents do not pay the required fines.[17] [For additional discussion of China's population planning policies, see Section II—Population Planning.] Lack of a valid *hukou* raises barriers to access to social benefits typically linked to the *hukou,* including subsidized healthcare and public education.[18] [For additional discussion of China's *hukou* system see, Section II—Freedom of Residence and Movement.]

Rural areas continue to lack the necessary resources to provide adequate healthcare to local residents.[19] As noted in the Commission's 2009 Annual Report, access to healthcare in these areas remains dependent on local authorities' interpretation, implementation, and management of healthcare initiatives.[20] The Rural Cooperative Medical System—a cooperative medical care program in which farmers are reimbursed for their medical expenses from a fund to which farmers and local and central government entities contribute [21]—reportedly expanded in certain areas.[22] Nevertheless, reports in previous years have pointed to problems with this system, including forced participation in some areas,[23] as well as a significant fiscal burden on local governments [24] and an insufficient number of administrative personnel.[25]

Infectious Disease

The Chinese government has committed to taking steps to prevent, treat, and control infectious diseases,[26] but curtailing the spread of infectious disease remained a challenge this year.[27] Infectious diseases highlighted in domestic and international news reports this reporting year included hand-foot-mouth disease,[28] syphilis,[29] viral hepatitis,[30] HIV/AIDS,[31] and tuberculosis.[32] Resources in many rural areas are insufficient to prevent and control the spread of infectious disease effectively,[33] and problems with government transparency continue to hinder the effectiveness of existing measures.[34] For example, in March 2010, China Daily reported that tainted vaccines in Shanxi province led to the deaths of four children and sickened dozens more between 2006 and 2008.[35] According to the report, whistleblower Chen Tao'an, who had worked for the provincial center for disease control and prevention, attributed the deaths and sickening of children to "abuse of power and corruption by local health authorities." [36] A May 2010 Human Rights Watch article reported that local health officials did not investigate the case but rather denied the story as "basically untrue." [37] Chen Tao'an was also demoted, according to the report.[38] According to an October 2009 study in the Lancet, an international medical journal, China's domestic vulnerability to the spread of infectious disease has a significant impact on global public health.[39]

Mental Health

In 2001, China ratified the International Covenant on Economic, Social and Cultural Rights [40] and in doing so committed itself to ensuring "the right of everyone to the enjoyment of the highest at-

tainable standard of physical and mental health."[41] Mental illness continues to increase in prevalence, however, and the rate of treatment remains low, incubating what one report calls "a quiet crisis in China."[42] The World Health Organization now considers mental illness the greatest burden on the country's healthcare system, over heart disease and cancer, according to an April 2010 Telegraph report.[43] According to a July 2010 study in the Lancet, "mental ill-health" affects more than 100 million people in China, of which "serious [mental] illnesses" affect 16 million.[44] Several news articles attribute China's increase in cases of mental illness to recent social changes and resulting social problems.[45] Against the backdrop of a low number of qualified psychiatrists, few hospitals equipped with mental health facilities, and widespread stigma regarding mental disorders, most individuals have never been treated for their mental disorders, according to the Lancet study.[46]

Following a series of violent attacks on adults and children in spring 2010 by individuals who allegedly suffered from mental illness, which reportedly raised public concerns about those who fall through the cracks of the system and their potential harm to society, Chinese officials at the central and local levels took steps to address the country's deficient mental healthcare system.[47] News media sources inside and outside China reported widely on a sudden wave of violent attacks—mostly targeting school children—that took place from March to May 2010.[48] The perpetrators in at least three of the attacks reportedly suffered from mental illness.[49] In May 2010, the China Daily reported official plans in Hubei province to initiate a mental health screening program that would include free treatment for those perceived as a potential threat to "public safety."[50] According to the same report, authorities in Fujian province ordered a similar screening of "serious patients with an inclination to violence."[51] It is unclear what standards are used to evaluate patients or what safeguards exist to prevent misuse. In June, Vice Minister of Health Yin Li announced that the country would "increase the rate of treatment for those with serious mental illness and reduce [the occurrence of] disturbances and trouble that bring harm on society," and in the next two years renovate and expand 550 mental health facilities.[52] As noted in a July Lancet report, however, "such hospitals have been used as a means to silence individuals exercising their freedom of expression. Protestors and dissenters have been put in institutions against their will by local authorities, diagnosed with mental disorders they do not have, and given drugs and electroshock treatments they do not need."[53]

Official news media reported in 2009 that authorities had circulated a draft of China's first national mental health law for expert review.[54] According to one Shenzhen lawyer quoted in the report, "The draft has made some progress after 25 years of construction and amendments but it may still be difficult to get public support as several loopholes have been left unfilled."[55] While the report indicated that authorities would put the law into effect as early as the end of 2009,[56] the Commission has not observed reports of further developments on the legislation during this reporting year.

Public Health Advocacy

Despite official recognition this year of the valuable role non-governmental actors have played in raising awareness about health concerns, combating stigma, and promoting prevention of diseases,[57] some involved in public health advocacy continued to face government harassment and opposition in the past year.[58] The Chinese government continued to exert control over advocates' right to freedom of association through strict registration requirements that limit some organizations' ability to legally function independently of the government.[59] In addition, in December 2009, the State Administration of Foreign Exchange issued a circular that tightens restrictions on organizations that receive foreign funding.[60] Some in China's non-governmental organization (NGO) community have expressed concern that the new circular may be used to specifically target NGOs.[61] [See Section III—Civil Society for more information on the December 2009 circular.] Additional examples of government pressure on public health advocates in the past year include:

- According to Chinese Human Rights Defenders (CHRD), officials from Xincai county, Henan province, detained HIV/AIDS advocate Tian Xi on August 6, 2010, after he had broken office supplies the previous day when the director of Xincai County No. 1 People's Hospital refused to hear his request for resolution of his case.[62] Officials initially placed Tian under administrative detention, but on August 17, they took him to the Xincai County No. 2 People's Hospital for medical treatment.[63] On August 21, officials notified Tian's family of his transfer into criminal detention at the Shangcai County Public Security Bureau (PSB) Detention Center, and on August 23 he was formally arrested for "intentional destruction of property."[64] According to Tian's father, in 1996, Tian was infected with HIV, Hepatitis B, and Hepatitis C through a blood transfusion he received at Xincai County No. 1 People's Hospital after sustaining a mild concussion. Since learning of his illnesses in 2004, Tian has persistently petitioned for resolution of his case as well as those of others similarly infected.[65] Beijing officials detained Tian in December 2009 and July 2010 reportedly in connection with his petitioning activities. He is currently held at the Shangcai County PSB Detention Center and, without access to his regular medications, he is reportedly in poor health.[66]
- HIV/AIDS advocate Hu Jia continues to serve a three-and-a-half year prison sentence for allegedly "inciting subversion of state power." He is expected to be released in June 2011.[67] In April 2010, authorities denied family members' requests for his medical parole, despite recent indications that Hu's health has deteriorated.[68]
- Due to "increasing government harassment," Wan Yanhai, a prominent AIDS activist and founder of the NGO Beijing Aizhixing Institute, left China for the United States with his family in early May 2010.[69] Recent restrictions on foreign donations as well as recent run-ins with officials—including police interruption of a Guangzhou event at which he was speaking in March and harassment by the municipal fire de-

partment in April—reportedly factored into his decision to leave China.[70] Beijing tax bureau officials also launched an investigation into Aizhixing's tax records in March 2010[71] in a move that was reminiscent of developments that led to the shutdown of the Open Constitution Initiative in July 2009.[72] [For more details regarding official pressure on Aizhixing and other NGOs, see Section III—Civil Society—Legal Framework and Government Controls.]

• According to a CHRD report, on June 13, the hotel scheduled to host a legal training organized by the Beijing Yirenping Center (Yirenping)—an NGO that works to raise awareness about public health risks and eliminate discrimination against those carrying certain diseases—notified the center's director, Lu Jun, that it had cancelled the reservation due to official pressure.[73] On the same day, the antivirus software on Lu's personal computer revealed attempts by a remote computer to make changes to his computer and copy documents from his hard drive.[74] The attacks followed six previous hotel cancellations of Yirenping's planned legal training workshops, one of which was reportedly due to looting and vandalizing of the host hotel.[75]

Health-Based Discrimination

Despite provisions in China's domestic laws and regulations and commitments under international conventions that explicitly forbid discriminatory practices in employment and education against persons with disability or infectious disease,[76] regulation and punishment of such discrimination reportedly continue to be a challenge.[77] The Chinese government took steps this year to combat discrimination against Hepatitis B carriers,[78] but at least two reports involving discrimination against Hepatitis B carriers this year highlight the need for continued progress. According to a March 2010 report by the Hong Kong-based labor rights organization China Labour Bulletin, a university graduate with Hepatitis B won a lawsuit in October 2009 against Xiasha Hospital in Hangzhou city, Zhejiang province, for violating his right to privacy when it revealed his test results to a potential employer. Despite the success of this suit, many hospitals continue with such practices, according to the report.[79] [For additional information on employment discrimination, see Section II—Worker Rights.] According to a report by the Beijing Yirenping Center, some kindergartens in Haikou city, Hainan province, reportedly continued to refuse enrollment to children with Hepatitis B in March 2010.[80] July 2009 draft regulations on the management of health practices in nurseries and kindergartens contain provisions that prohibit such action.[81] On August 30, 2010, the Yingjiang District People's Court in Anqing city, Anhui province, accepted what may be China's first case of employment discrimination based on HIV status.[82] University graduate Xiao Wu (alias) brought a lawsuit against the Anqing Department of Education (DOE) for refusing to hire him as an instructor after he passed the written tests and interviews for the position but then tested positive for HIV in a subsequent medical examination.[83] According to China Labour Bulletin, Xiao is not seeking monetary compensation beyond legal expenses but rather

acknowledgment from the court that the DOE's refusal to hire him constituted an "illegal act" and must be corrected with "concrete action."[84] Although HIV cannot be spread through daily contact, one DOE employee told the China Daily, "Our decision not to hire [Xiao] is to protect the students."[85] According to the report, Xiao Wu also expressed concern that the publicity of the case may negatively impact his future.[86]

CLIMATE CHANGE AND THE ENVIRONMENT

Introduction

The Chinese government continued to strengthen regulatory structures and institutions to address climate change and environmental pollution and degradation. However, major implementation, enforcement, and compliance difficulties remain. Despite challenges, data reliability, access to information, and transparency in the climate change and environmental protection sectors have improved in some areas. Chinese leaders have emphasized their intent to rely on domestic monitoring, reporting, and verification of China's greenhouse gas emissions and reductions data, but at the same time, they have signaled some willingness to discuss transparency issues with international actors, and are working to improve data reliability. The Ministry of Environmental Protection and some local environmental protection bureaus have expanded "open government affairs" efforts, which, in the Chinese context, often refer to open government information systems and E-government, among other initiatives, but implementation has been uneven. Chinese officials remained willing to engage in cooperative programs with international actors related to climate change and environmental protection. Some policies and projects intended to address climate change, especially in relation to hydroelectric dam construction and other energy projects, could be linked to infringements upon citizens' rights. Citizen environmental complaints continued to increase in number as citizens increasingly voiced concerns about potentially polluting projects. However, channels available to citizens to express environmental concerns and grievances were not always open, contributing to the rise of antipollution demonstrations. Chinese authorities continued to stifle selectively environmental activism and suppress citizens who were involved in or organized collective action to halt perceived environmental harms.

Climate Change

CHINA'S COMMITMENTS, GOVERNMENTAL AND NON-GOVERNMENTAL ACTIONS

Chinese leaders signed the United Nations Copenhagen Accord [1] in 2010, and took additional steps to address climate change. The Chinese government agreed to voluntarily "endeavor to lower its carbon dioxide emissions per unit of GDP by 40 to 45 percent by 2020 compared to the 2005 level," among other actions.[2] In a communication to the United Nations Framework Convention on Climate Change Secretariat, Chinese authorities emphasized that China's "autonomous domestic mitigation actions are voluntary in nature." [3] In November 2009, Xie Zhenhua, the Vice Chairman of the National Development and Reform Commission, explained to the press that China will incorporate related targets in its next domestic five-year plan that will go into effect in 2011.[4] The Chinese government has not agreed to carbon emission caps, only to carbon intensity reductions. According to Chinese officials, China's carbon emissions are likely to continue to rise for decades, peaking between 2030 and 2040 according to some officials, and prior to 2050 according to others.[5]

The Chinese government included climate change-related language in China's 2009–2010 National Human Rights Action Plan (HRAP) and initiated related institutional and regulatory changes; in addition, non-governmental actors are taking steps to address climate change. The HRAP contains several specific goals[6] connected to energy and climate change that reiterate goals outlined in preexisting national climate change, energy, and environmental plans.[7] Energy reportedly accounts for 85 percent of China's carbon emissions.[8] Several Chinese energy-related institutional and regulatory developments have the potential to impact China's capacity to meet its voluntary carbon intensity targets, if adequately managed or implemented, including passage of new amendments to China's revised Renewable Energy Law in December 2009,[9] the establishment of the National Energy Commission in January 2010,[10] and the ongoing development of climate change programs in provinces, municipalities, and autonomous regions.[11] Citizen groups and networks have been active during this reporting year,[12] publishing reports,[13] issuing a public statement urging more proactive steps to address climate change,[14] and engaging in activities to educate the public about a low carbon economy.[15]

DATA RELIABILITY AND TRANSPARENCY

While challenges remain, the Chinese government has taken steps to improve the reliability of its energy data. However, China has had less experience collecting and reporting greenhouse gas emission data than it has had with energy data.[16] The State Council, the National Bureau of Statistics, and the National Development and Reform Commission are reportedly responsible for collecting and verifying China's energy data.[17] The National People's Congress Standing Committee passed a revision to China's Law on Statistics in June 2009, which came into effect on January 1, 2010, that imposes penalties on officials who "intervene in government statistical work and manipulate or fabricate data."[18] In previous years, China reportedly has acknowledged problems with energy figures[19] and the Chinese government states it has taken regulatory and institutional steps to improve the reliability of its energy data.[20] Current opinions regarding the reliability of China's energy data are mixed.[21]

Chinese leaders have emphasized their intent to rely on domestic monitoring, reporting, and verification of China's greenhouse gas emissions and reductions data.[22] At the same time, they have signaled some willingness to discuss transparency issues with international actors.[23] Chinese leaders signed the Copenhagen Accord and accepted an undefined role for the international community in "consultations" regarding information on the implementation of China's emission reductions.[24] Premier Wen Jiabao further signaled the Chinese government's intent to improve transparency of China's climate change-related data in his speech at the Copenhagen Climate Change Summit.[25] China already is engaged in cooperative programs with international actors regarding energy and carbon emission reduction data, including projects with the International Energy Agency[26] and the U.S. Environmental Protection Agency.[27] During U.S. President Barack Obama's trip to China in November 2009, both sides agreed to "provide for full transparency

with respect to the implementation of mitigation measures and provision of financial, technology and capacity building support."[28]

CLIMATE CHANGE POLICIES: CONSEQUENCES AND CHALLENGES

To mitigate China's carbon dioxide emissions, Chinese authorities intend to increase China's reliance on renewable energy sources, especially hydroelectric power.[29] Hydroelectric dam construction requires the relocation of citizens from construction zones,[30] which, without adequate procedural protections, could place the rights of relocated citizens at risk. There have been numerous reports of infringements on the rights of populations affected by the Three Gorges Dam hydroelectric project. These reports have uncovered forced evictions, below-standard compensation, suppression of advocates, and government corruption during resettlement processes, as well as the documented threat of severe hardships that may be faced by relocated citizens, including homelessness, unemployment, conflicts between resettled citizens and existing populations, and poverty among resettled migrants.[31] Authorities reportedly intend to address problems relating to early resettlement by implementing a "post-Three Gorges plan" starting in 2010.[32] China Daily reported in January 2010 that China has "basically" completed the first phase of the Three Gorges Dam resettlement, which involved, in part, relocating 1.3 million people and 1,500 enterprises from Chongqing municipality and Hubei province.[33]

The Three Gorges hydroelectric dam project is not the only one plagued by problems with citizen resettlement schemes. Over the years, the construction of the Pubugou Hydropower Station along the Dadu River, partially in Hanyuan county, Sichuan province, reportedly has been delayed repeatedly because of disputes over resettlement issues.[34] During this reporting year, a dozen families in Hanyuan county reportedly resisted officials' efforts to compel them to move to make way for additional construction on the dam.[35] Hanyuan county officials reportedly arrested six people in June who repeatedly petitioned against alleged unfair resettlement terms.[36] Lei Keqiao and five other women reportedly travelled to the township government to petition in May and police arrested them, accusing them of trying to injure a township official.[37] In another hydroelectric dam case, one 2010 research paper published by the Social Science Research Network, based on survey data, asserts that some resettlement practices in three villages affected by the construction of the Liuku Dam in the Nu River (Salween River) watershed may not be in accordance with national laws, including the cost and size of replacement housing, lack of access to agricultural land, lack of long-term economic support programs, and paucity of citizen input into decisionmaking processes.[38]

In August 2010, public security officials from Linwei district, Weinan city, Shaanxi province, and Beijing reportedly detained, but did not formally arrest, Xie Chaoping, an author and a journalist with a magazine under the Procuratorate Daily, in Beijing on suspicion of "illegal business activities."[39] Xie's lawyer reportedly has said the charge is linked to publication of Xie's documentary book "The Great Migration," which documents the historical impact of relocation programs related to the Sanmenxia hydro-

electric dam.[40] The migrants residing in Weinan reportedly are the primary subjects of the book.[41] Spark Magazine published the book as a supplement.[42] Xie reportedly used his own money to print the supplement, and agreed not to include advertisements or to sell it.[43] Xie reportedly alleges that Weinan authorities detained him because his writings provide details about corruption, land disputes, and hardship suffered by migrants associated with the Sanmenxia relocation programs.[44] Xie's lawyer and Chinese news stories raised questions about the charge against Xie, and noted procedural irregularities in the handling of his case.[45] On September 17, the Linwei District People's Procuratorate announced it had rejected the public security bureau's request to arrest Xie on the grounds that there was insufficient evidence.[46] Linwei public security officials released Xie on bail after holding him 29 days; however, they did not withdraw the case and will continue to investigate.[47] In addition, in mid-September, Linwei public security officers detained Zhao Shun, the manager of the print shop that printed "The Great Migration," although they reportedly have not provided the reason for the detention.[48]

During this reporting year, China's population planning officials sought to justify China's one-child policy by linking it to climate change,[49] saying the policy was "among the most cost-effective tools to reduce carbon emissions."[50] However, as the findings of this report show, China's population planning policies in both their nature and implementation violate international human rights standards.[51] [For more information, see Section II—Population Planning.]

Environmental Governance

CHINA'S POLLUTION PROBLEMS UNDERESTIMATED

Pollution remains a serious problem in China, and a report released by the Ministry of Environmental Protection (MEP) in February 2010 on the first national pollution source survey[52] revealed that the levels of some pollutants are higher than previously reported. This is largely because authorities incorporated data from additional pollution sources in the survey,[53] including agricultural sources, leachate from waste management facilities, and household waste from all "cities and towns" (except city-level county seats).[54] The newspaper Caixin reported a high-level environmental protection official, Wang Yuqing, as saying that the MEP would compile and release most of the survey data by the end of 2010,[55] but as of August 17, only an executive summary of the survey report was available.[56] Beyond the pollution source survey, other research by Western and Chinese scholars is beginning to reveal the depth of China's "cancer village" problem.[57] "Cancer villages" are, according to one study by U.S.-based scholar Lee Liu, farming villages that have a cancer cluster, i.e., an area "where cancer is more prevalent as a result of cancer-causing pollutants."[58] During his research, Lee found 241 "officially" reported and about as many "unofficially" reported "cancer villages" in China.[59]

ENFORCEMENT AND COMPLIANCE CHALLENGES, OFFICIAL CORRUPTION

China's 2009–2010 National Human Rights Action Plan (HRAP) includes themes of sustainable development and "environmental rights."[60] The HRAP also states that China will improve enforcement of environmental laws and regulations.[61] The HRAP includes the stated goal of "strengthening the rule of law in the sphere of environmental protection to safeguard the public's environmental rights and interests,"[62] but does not clearly outline the nature of these rights.

Uneven implementation and enforcement of environmental laws and regulations, along with noncompliance, remain significant challenges. In October 2009, the National Audit Office released an audit report regarding spending for a major project to reduce water pollution between 2001 and 2007 in China's "three rivers and three lakes" (which span 13 provinces, autonomous regions, and municipalities).[63] In some locations, auditors found inadequate environmental law enforcement, inaccurate environmental statistical data, work units that transmitted automated monitoring systems data on an irregular basis, and work units that did not have their monitoring equipment in proper working order.[64] Selective official enforcement and enterprise noncompliance with China's environmental impact assessment regulations continue to blunt their effectiveness. For example, in Jiahe county, Hunan province, a site that had been plagued by lead poisoning incidents, 309 of 541 enterprises in the county reportedly had not undergone an environmental impact assessment process.[65] Compliance problems in less developed areas of China are exacerbated because polluting enterprises with prohibited, antiquated equipment have been known to move to poorer areas within provinces or across provinces after being shut down in more developed areas.[66]

Official misconduct and corruption continued to be problems in the environmental sector during this reporting year. Discipline inspection and supervision entities around the country helped to investigate and manage over 10,000 cases involving government departments and Party cadres who violated major laws or regulations during the course of their administrative duties between January and November 2009.[67] In addition, the official National Audit report released in 2010 revealed corruption; a significant amount of project funding had been misappropriated or was "held back," according to China Daily.[68]

ENVIRONMENTAL OPEN GOVERNMENT INFORMATION

The Ministry of Environmental Protection (MEP) and some local environmental protection bureaus have continued to implement "open government affairs" policies, but obstacles to accessing environmental information remain. In her remarks at an April 2010 Commission roundtable, an expert in Chinese energy and environmental issues noted the significant progress environmental protection organs have made in information disclosure in recent years, but also highlighted obstacles to better compliance with environmental open government information (OGI) measures, including the lack of capacity of local-level environmental bureaus, the vagueness of the measures, and inconsistency in making local offi-

cials accountable for failing to comply with the measures.[69] During this reporting year, Chinese citizens continued to request environmental data and other information from environmental protection bureaus and offices. One joint Chinese/Western study of 113 cities also noted progress in the growth of the environmental OGI system, highlighting the good performances by some cities. It also noted overall low average performance on transparency, a little over 30 points out of 100.[70]

According to the MEP 2009 OGI report, the ministry received 72 requests for information, up from 68 last year, and had processed 71 of those requests by the time authorities published the report in March 2010.[71] The MEP did not grant information in four cases.[72] The MEP received nine administrative reconsideration requests.[73] While the MEP did not reveal the nature of the information it decided not to grant or explain its refusal in the report, it acknowledged some of the shortcomings of its implementation of the Regulations on Open Government Information (OGI Regulations), including an incomplete catalog, nonstandardized procedures, and an insufficiently wide range of information open to the public.[74]

In October 2009, Beijing resident Ren Xinghui filed open government information requests with the Ministry of Finance, the Three Gorges Project Construction Committee under the State Council, and the China Yangtze Three Gorges Project Development Corporation requesting information on the budget and financing of the Three Gorges hydroelectric dam project.[75] The Ministry of Finance refused Ren's request on November 16 and based the refusal on Article 14 of an official interpretation of the OGI Regulation, saying Ren's request had no direct relationship to his "production, livelihood, and scientific and technological research."[76] In January 2010, Ren sued the Ministry of Finance for refusing to fulfill his information request.[77] On April 19, the court informed Ren that it would not accept his case.[78] Two days later, Ren filed an appeal with the Beijing High People's Court.[79]

Media reports on incidents of pollution during the reporting period highlighted the lack of transparency in both the government's and industry's handling of information related to environmental disasters. Associated Press reporters covering a major oil spill after the explosion of a pipeline at a Dalian port quoted a Greenpeace statement as saying Greenpeace was "surprised to see that the beaches have not been closed to visitors and lack any warning signs . . . . [a]s a result, locals and visitors unaware of the extent of the oil spill were playing in the water with their kids, risking exposure to petroleum."[80] The New York Times reported that an American marine conservationist, who said he has seen "spills all over the world," asserted that the magnitude of the spill was "far more extensive than the official figures."[81] Media reports on a July 3 wastewater pollution incident involving a copper mine in Fujian province owned by the Zijin Mining Group that reportedly led to the death of at least 2,000 tons of fish, include allegations by local residents of collusion between polluting enterprises and local authorities.[82] According to a July 12, 2010, article by the Agence France-Presse, the Fujian province environmental protection bureau issued a statement saying it first detected the leak on July

3 and gave the order to begin monitoring it.[83] The company, however, did not make a public announcement regarding the acid pollution until nine days after the incident occurred.[84] The South China Morning Post reported that residents accused local authorities of covering up for the copper mining company after the July incident, and also after a similar smaller incident in June 2010.[85]

PUBLIC INTEREST LITIGATION AND PUBLIC PARTICIPATION

During this reporting year, several developments occurred that are likely to impact decisions about who has standing to bring environmental public interest litigation cases in Chinese courts. For the first time, an environmental group initiated environmental administrative public interest lawsuits, and another group initiated an environmental administrative reconsideration case. The All-China Environment Federation (ACEF), a group that is "overseen by the Ministry of Environmental Protection," brought two cases to China's special environmental courts, one against a local branch of a governmental ministry[86] and the other against a private entity.[87] Both ended in negotiated settlements. The cases mark an important development because these are the first instances in which courts accepted cases initiated by a group registered as a social organization. In another development, the Chinese citizen environmental organization Chongqing City League of Green Volunteers, headed by Wu Dengming, filed an administrative reconsideration request because Wu questioned the legality of low fines levied by environmental protection authorities against hydroelectric dam companies that disregarded a June 2009 order to stop construction of two dams along the Jinsha River and because the water below the dam site was affected by the construction.[88] The group withdrew the request in August 2009 after representatives from the Ministry of Environmental Protection, the Chongqing City Environmental Protection Bureau, and the ACEF consulted with Wu.[89]

SUPPRESSION OF CITIZEN DEMANDS FOR A CLEAN ENVIRONMENT

During this reporting year, citizen environmental complaints increased, highlighting mounting citizen demand for a cleaner environment. Environmental complaints increased in 2009, according to a report about MEP Vice Director Zhou Jian's speech during an April national environmental petition work videoconference.[90] There was a greater number of "petitions to higher authorities" and "a trend of mass petitions" in 2009 according to a separate news report on the conference.[91] The report noted eight focal points for 2010 petitioning work, including "further unblocking petitioning channels" and "strengthening petitioning mediation work."[92]

Major lead poisoning incidents across China during this reporting year led citizens to file petitions and engage in protests. Some of these incidents involved citizen detentions and draw attention to issues of government accountability. After the series of lead poisoning incidents, central authorities promised to take regulatory action to address heavy metal pollution problems on a national scale[93] and "placed importance on petitions about heavy metal pollution."[94] Select lead poisoning incidents in late 2009 and 2010 include:

- In August 2009, in Wugang city, Hunan province, approximately 1,000 residents clashed with police after as many as 1,354 children living nearby tested positive for various levels of lead poisoning.[95] The plant linked to the pollution that caused the lead poisoning reportedly did not have approval to operate from local environmental authorities. Local officials reportedly briefly detained 15 of the ill children's parents who participated in the protest, accusing them of being Falun Gong practitioners and reportedly intimidating and warning other parents not to talk to the media about the case.[96]
- Also in August 2009, lead pollution in Fengxiang county, Shaanxi province, led to elevated blood lead levels in 851 children and protests by hundreds of citizens. The case highlighted ongoing compliance problems related to environmental laws and policies, gaps in government accountability, and insufficient protection for citizens' rights, including that of access to information.[97]
- In September 2009, in Jiahe county, Hunan province, authorities stopped a bus carrying 53 Jiahe residents who were taking their children to obtain blood tests to determine if they had lead poisoning and subsequently detained 3 of the residents, accusing them of "disrupting traffic." They released one citizen later because of a medical condition. As of mid-March 2010, a second citizen remained in detention, while the fate of the third citizen was unknown.[98]

Chinese citizens are becoming increasingly vocal about concerns over potentially polluting enterprises prior to their construction. In some cases, citizens report they were not given opportunities to utilize institutionalized channels to voice their grievances. In some cases, authorities have arrested organizers of subsequent anti-pollution demonstrations. During this reporting year, "not-in-my-backyard" protests broke out against planned landfill facilities in Guangxi Zhuang Autonomous Region and in Anhui province, where authorities shelved project plans due to public discontent.[99] In Fuxing village, Guanyang county, Guangxi Zhuang Autonomous Region, village officials reportedly did not consult with the village committee, nor did they convene a village representative meeting before moving forward with a landfill project. Only the village Communist Party committee approved of the construction.[100] In July, public security officers formally arrested six citizens who along with other villagers had repeatedly demonstrated and petitioned against construction of the nearby planned landfill since mid-2009.[101] Authorities arrested Liu Zhengjiao, Mo Jian, Wang Zhaosheng, He Nianfa, Wang Shuangfa, and Wang Qiwen.[102] Irregularities in the handling of these cases were apparent.[103] Guanyang public security officers detained Liu Zhengjiao on June 15 but reportedly did not inform his family or charge him until July 11, at which time they arrested and charged him on "suspicion of disturbing public order."[104] A China Economic Times report noted irregularities with the detention orders or arrest warrants for Mo Jian, Wang Qiwen, and Wang Shuangfa.[105]

Large-scale not-in-my-backyard protests also broke out during this reporting year in several areas, including Jiangsu province and Guangzhou municipality, over the planned construction of trash in-

cinerators and cogeneration plants. The protests involved detentions of demonstration organizers, but also appeared to impact the construction schedule of a plant in at least one area. From October 21 to 23, 2009, thousands of citizens reportedly protested plans to build a cogeneration plant in Pingwang town, Wujiang city, Jiangsu province, and police detained 16 people when citizens and police clashed.[106] Early in 2010, Beijing authorities announced they will move forward with plans to build more incinerators in the city despite city residents' protests and community campaigns to look at other options.[107] Citizens in Panyu district, Guangzhou municipality, protested plans to build an incinerator, and on November 23, 2009, over 1,000 residents held a "sit-in in the city."[108] Authorities reportedly ordered a media blackout on November 5[109] and detained several people, four on "suspicion of organizing and instigating an illegal gathering."[110] As of July 2010, the fate of those detained was unknown. However, also in response to these protests, local officials eventually suspended, but did not cancel, the incinerator project.[111]

Citizens also engaged in demonstrations protesting pollution problems after the fact, following unsuccessful attempts to utilize the petitioning (*xinfang*) system and other institutionalized channels to resolve their grievances. Specific cases also highlight possible ill-treatment of citizens, the lack of public involvement in environmental decisionmaking, and the non-transparency of the media.

- In Tibetan areas in Gansu province, citizens reportedly petitioned, among other things, for tighter controls over air pollutants emitted by a cement plant in Madang township, Xiahe (Sangchu) county, Gannan (Kanlho) Tibetan Autonomous Prefecture, after attempts to resolve the problem through talks with the cement company were unsuccessful.[112] A crowd of 200 to 300 people gathered at the cement factory to protest, and some were reportedly detained and others injured by police.[113]
- In May and June, "thousands" of Tibetans in the Tibet Autonomous Region (TAR) protested against mining activities.[114] One citizen said that Tibetans had repeatedly appealed for an end to the mining activities; authorities brought in armed police to quell dissent.[115] [For more information on mining and a June 2009 negotiated agreement to cease the mining in parts of the TAR, see Section V—Tibet.]
- In July 2010, in Jingxi county, Guangxi Zhuang Autonomous Region, thousands of villagers participated in demonstrations over the course of three days beginning on July 11, against a long-term water pollution problem reportedly caused by an aluminum plant.[116] One article notes that villagers said the local media had been barred from reporting on the case.[117] Authorities reportedly detained the "troublemakers," i.e., the people who allegedly acted illegally to "instigate the incident."[118] One account noted that authorities had detained 17 people involved in leading the demonstrations.[119] As of August, more information about those detained was unavailable.

During this reporting year, there were other cases where authorities detained or harassed citizens for their environmental activism. In March 2010, authorities in Guangzhou detained Xiao Qingshan,

a longtime labor rights advocate, for seven days for "disturbing public order," for standing outside the Nanfang News Group office educating people about the alleged linkages between official corruption and environmental pollution.[120] In April, Beijing police prevented the "Environmental Protection and Citizen Responsibility Discussion Forum" from taking place[121] and raided the home of forum participant and rights defender Gu Chuan.[122]

Authorities also arrested and imprisoned citizens, in part for their environmental activism. In August 2009, public security officers in the Tibet Autonomous Region detained brothers Rinchen Samdrub and Jigme Namgyal reportedly after a local environmental protection group they founded accused local police of hunting protected wildlife species.[123] On July 3, a Changdu (Chamdo) prefecture court sentenced Rinchen Samdrub to five years' imprisonment and deprivation of political rights for three years on the charge of "inciting splittism." The court accused him of posting a pro-Dalai Lama article on his Web site.[124] On November 13, the Changdu Reeducation Through Labor (RTL) Committee ordered Jigme Namgyal to serve 21 months' RTL for "harming national security" by illegally gathering information and video material on the local environment, collecting propaganda material "from the Dalai Clique," and "severely interfering with state power organizations" and "harming social stability" by organizing local residents to conduct "irregular petitioning" of authorities.[125]

In April 2010, authorities released Wu Lihong, an environmental advocate, after he served a three-year prison sentence for alleged extortion and fraud. Wu had documented pollution in the Lake Tai region, Jiangsu province, for many years.[126] Upon his release, Wu reported mistreatment by officials while in detention and in prison.[127]

III. Development of the Rule of Law

CIVIL SOCIETY

Introduction

During the Commission's 2010 reporting year, the Chinese government continued to tighten control over what it considered to be politically sensitive individuals and organizations through harassment, closing of offices, and new regulations that could make it more difficult for groups to receive foreign sources of funding. Though localized experiments aimed at simplifying the legal registration process for civil society organizations (CSOs)[1] are currently taking place in the southern Chinese city of Shenzhen, a special economic zone, it is too early to conclude whether such reforms will succeed or be replicated in other parts of China.

The number of CSOs in China continues to grow, and their impact continues to be evident. Official government statistics indicate that the number of registered groups increased from 288,000 in 2004 to 430,000 in the first quarter of 2010.[2] However, unofficial estimates for the total number of groups, including unregistered grassroots organizations, range from two to eight million.[3] CSOs in China address a wide array of social issues, such as HIV/AIDS, women's rights, worker rights, religious charity work, and environmental concerns.[4] In the aftermath of recent earthquakes in Qinghai and Sichuan provinces, for example, CSOs played an instrumental role in organizing a national humanitarian response as part of the rescue effort.[5] The Beijing Yirenping Center, a public health advocacy organization, pressured the government to introduce measures aimed at eliminating discrimination against Hepatitis B virus carriers.[6] As severe drought affected southwest China in early 2010, Oxfam Hong Kong allocated funds for relief efforts and worked with local officials to provide drinking water and other supplies for residents.[7]

Still, many Chinese officials hold conflicting views of civil society organizations. While acknowledging that CSOs serve a necessary and even helpful function as mediating mechanisms between the government and society, Chinese authorities also look upon many groups with suspicion, fearing that "Western countries have used non-governmental organizations extensively . . . to intervene in the internal affairs of other countries, create turmoil, and even subvert the regimes of the host countries."[8] China, one Chinese scholar warned, "has to be vigilant about [Western intervention]."[9] As such, Chinese authorities allowed many CSOs that focus on providing basic social services to operate freely, and forcibly closed some that tried to form networks or carry out projects that the government considers to be "politically sensitive." As a former editor of the China Development Brief, an online newsletter dedicated to news about non-governmental organizations (NGOs), explained, one never knows "where the line is, and it does shift"—for it is "civil society with Chinese characteristics," where groups are "light, not antagonistic and not pushing the envelope too far."[10]

The Chinese government's actions to harass and tighten its control over CSOs operating in China contravene both Chinese law and international conventions. China's Constitution states that

"citizens of the People's Republic of China enjoy freedom of speech . . . of assembly, of association . . . ."[11] Article 22 of the International Covenant on Civil and Political Rights provides that:

> Everyone shall have the right to freedom of association with others . . . no restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety . . . .[12]

Legal Framework and Government Controls

The Chinese government imposes strict registration requirements for civil society organizations (CSOs). Under the 1998 Regulations for Registration and Management of Social Organizations, an individual who wishes to organize an NGO[13] in China must first obtain a sponsorship agreement from a government administrative department in a relevant "trade, scientific or other professional area" at the appropriate level of government before registering with the Ministry of Civil Affairs (MCA).[14] In other words, groups that wish to operate locally must register with the corresponding local government administrative departments and local MCA units; those that wish to operate nationally must do so with national departments and the MCA. In their role as sponsoring agencies, the local government administrative departments are charged with the duty to supervise the NGOs that they register, including "record keeping with respect to establishment, modification, and closure of social organizations," completing annual reviews on the organizations, and "applying disciplinary sanctions to organizations which fail to comply" with MCA regulations.[15]

Such a dual management process has presented problems for various groups, as permission to organize is difficult to obtain from local sponsors who are sometimes reluctant to take on the burdens of supervisory responsibilities.[16] Groups that fail to obtain permission to organize are not protected under the law and are also barred from receiving outside donations.[17] Many experts conclude that the cumbersome dual management requirement has had a chilling effect on Chinese civil society.

In part to avoid government interference, some groups in China register as "commercial entities" rather than as NGOs subject to the Chinese government's targeted oversight, even though registering as "commercial entities" means that these groups are subject to different tax schemes than government-registered NGOs.[18] At the same time, because such groups are neither NGOs nor legally recognized commercial enterprises, they risk becoming targets for closure. As the Commission reported in 2009, the Open Constitution Initiative (OCI), or *Gongmeng,* provides one prominent example. Founded in 2003, OCI attracted authorities' attention by challenging China's "black jails," campaigning for migrant workers' rights, and helping parents of babies hurt in the tainted milk incident of 2008 to seek legal redress.[19] Authorities ultimately fined the organization 1.42 million yuan (US$208,823) for allegedly evading 250,000 yuan (US$36,764) in taxes[20] before shutting it down, apparently because OCI did not register as an NGO.[21] In any case, OCI's experience sent, in the words of a Human Rights Watch re-

searcher, "a chilling effect across China's nascent civil society," since "most NGOs are much more fragile than [OCI]."[22]

During this reporting year, Chinese officials repeatedly harassed and interfered with the operations of the Beijing Aizhixing Institute (Aizhixing), a Beijing-based public health advocacy organization that activist Wan Yanhai founded in 1994. Having already been questioned or detained by authorities several times in the past 12 years, Wan was familiar with official harassment and interference, as some of his most significant and politically sensitive work involved publicizing the spread of HIV resulting from blood contamination cases in the 1990s among villagers in Henan province.[23] In March 2010, when the annual meetings of the National People's Congress and Chinese People's Political Consultative Conference convened in Beijing, authorities ordered Wan to cancel a seminar marking International Sex Worker Rights Day.[24] On March 25, local taxation bureau officials in Beijing went to Wan's offices to conduct an unannounced investigation into his organization's tax records from the previous year. A month later, fire officials showed up for a safety inspection.[25] Tax officials had investigated Aizhixing before, in September 2008, but they did not find any problems with the group's accounting.[26] Wan ultimately left China for the United States in May, saying that "the attacks from the government had become very serious for my organization and for me personally" and that, already "under a lot of stress," he had concerns for his personal safety.[27]

Peking University released a notice on March 25, 2010, announcing that it was canceling ties with four university-affiliated organizations, including the Center for Women's Law and Legal Services (Center).[28] The Center was China's first NGO dedicated to women's rights issues, and over its 15-year history it had provided free legal counseling to more than 70,000 people, handled over 2,000 cases, and proposed more than 70 pieces of legislation.[29] Although the university's dean of social sciences told the South China Morning Post that the cancellations were part of a routine restructuring aimed at eliminating "some institutes that no longer suit the current trend," Guo Jianmei, who founded the Center, confirmed to Asia Week that the Ministry of Education had made the cancellation decision, adding that "higher-up" authorities had told university officials that, because the Center accepted overseas funding, and because it was creating a public interest lawyer network, the political risks were relatively high.[30]

At least one international NGO, like its domestic counterparts, also faced politically motivated harassment from Chinese authorities during this reporting year. On February 4, 2010, the Ministry of Education (MOE) issued a notice warning Chinese students to "sever all ties" with the British relief agency Oxfam, accusing the organization of being an "[NGO] seeking to infiltrate our interior."[31] Although Oxfam's Hong Kong Director Howard Liu insisted that his agency had never challenged the government's policies or laws and was only interested in alleviating poverty, the MOE notice referred to Oxfam Hong Kong Chairman Lo Chi-kin—also a member of Hong Kong's Democratic Party who has spoken in support of direct elections and political reforms in Hong Kong—as a "stalwart of the opposition faction."[32]

Continued Regulatory Tightening

A new circular that tightens rules concerning foreign donations to domestic organizations provides another example of the Chinese government's further strengthening of its control over civil society. On December 25, 2009, the State Administration of Foreign Exchange (SAFE) issued a circular concerning "foreign exchange donated to or by domestic institutions," which went into effect on March 1.[33] Stating that foreign donations shall "comply with the laws and regulations . . . of China and shall not go against social morality or damage public interests,"[34] the SAFE circular requires all NGOs seeking to receive foreign donations to present the following information:

1. An application stating that the "donation is not against national prohibitive regulations . . . that the overseas institution is a non-profit institution, [and] that the domestic enterprise shall strictly follow the agreement in making use of the donation and bear the legal responsibility thus caused."[35]
2. A copy of the receiving organization's business license.[36]
3. A notarized donation agreement stating the purpose of the donation.[37]
4. The registration certificate of the overseas non-profit organization (with Chinese translation attached).[38]

One particularly problematic element of the new SAFE circular is the requirement that the donation agreement be notarized.[39] The Global Times, which operates under the official People's Daily, reported that two months after the rules became effective, "banks, notary service providers and non-profit outfits are in the dark about how to get a donation agreement 'notarized.'"[40] Moreover, some notaries reportedly will also require some donors to be present in China for the notarization.[41]

The new circular will also require all foreign donations to go into special foreign exchange bank accounts, allowing SAFE to "improve the administration of donated foreign exchange and facilitate the donated foreign exchange receipts and payments."[42] The circular also provides the central and provincial governments additional control over religious organizations by requiring an additional level of approval to accept one-time donations of more than one million yuan (US$147,000).[43] While it is unclear whether authorities established the SAFE rule to specifically target NGOs, some NGOs fear that the rule can be used as such.[44] As the organization Asia Catalyst put it succinctly, the new SAFE rule completes the government's goal to create "a chill that shuts some NGOs down, allows others . . . to survive but limits the overall growth of the sector—and without sparking an international outcry . . . ."[45]

Limited Reform in Shenzhen

Despite an overall trend of tighter controls, at least one case of limited localized reform took place in the past year. In July 2009, the Ministry of Civil Affairs (MCA) and the city of Shenzhen signed the Cooperation Agreement on Pushing Forward With Integrated Reforms to Civil Affairs Undertakings (Agreement), which delineates a deepening of systemic reforms concerning the registration and management of social organizations. The Agreement calls for

Shenzhen to "take the lead in experimenting with some of the MCA's major reform projects and measures,"[46] and to "explore establishing a system whereby civil society organizations apply and register directly with the [MCA]."[47] The reforms, if successful, could potentially lead to a system, at least in Shenzhen, where the MCA will supervise and regulate CSOs alone, without a sponsor organization, making it possible for future individuals wishing to form organizations—including NGOs—to have a relatively less complicated one-stop shop process.[48] The Agreement is also being used by certain civil society organizations, such as ones that provide services to the poor and migrant workers, to forgo registrations altogether and to be recognized by local authorities provided that organizations file the required papers properly.[49]

2009–2010 National Human Rights Action Plan

At the national level, the 2009–2010 National Human Rights Action Plan (HRAP), issued by the State Council Information Office in April 2009, also referenced the need to broaden the channel to "support mass organizations to participate in social management and public services, so as to protect the people's legitimate rights and interests."[50] The plan pledges to strengthen the "construction and management of social organizations" in order to "enhance their functions in serving society" and that "revisions will be made" to the Regulations for the Registration and Management of Social Organizations, Provisional Regulations for the Registration and Management of Non-Commercial Institutions, and Regulations for the Management of Foundations "to ensure social organizations conduct activities in accordance with the law and their respective charters."[51] Moreover, as stated in the HRAP, the government encouraged social organizations to "participate in social management and public services" and to establish "private non-enterprise entities in the fields of education, science and technology, culture, health care, sports and public welfare."[52] The plan also aims to develop and standardize "all kinds of foundations to promote programs for the public good."[53]

Notwithstanding the goals stated in the HRAP, however, the findings in this section suggest otherwise: that the overall trend is one in which the government continues to tighten its control over civil society, intimidates individuals that it deems threatening to "social stability," and shuts down organizations that conduct activities and projects that it considers to be politically sensitive.

Three Major Regulations That Govern NGO Operations in China

Regulations for the Registration and Management of Social Organizations (1998)

This set of regulations defines "social organizations" as "non-profit organizations voluntarily created by citizens in order to achieve the collective desires of members, and conduct activities according to their charters."[54] It sets forth the administrative, registration, supervision, and management requirements that NGOs must follow in order to operate in China.[55] It also requires that social organizations not "harm the unification, security, and ethnic unity of the state; damage state interests, the public interests of society, and the lawful rights and interests of other organizations and citizens; or violate prevailing social morals."[56]

Provisional Regulations for the Registration and Management of Non-Commercial Institutions (1998)

This set of regulations addresses institutions that "engage in such activities as education, science and technology, culture, or public health, that the state, with an objective of social welfare, runs through state organs or other organizations using state assets."[57]

Regulations for the Management of Foundations (2004)

This set of regulations places "foundations" into two categories: groups "aimed at fundraising from the general public . . . and those that are not" and lays out specific and different rules for both categories of groups.[58] It sets forth the administrative, registration, supervision, and management requirements that Chinese and foreign foundations must follow in order to operate in China.[59] It requires foundations to have charters and boards of directors, and specifies expenditure requirements.[60] Under the regulations, local sponsoring agencies are obligated to supervise these foundations, and to ensure that they follow all applicable laws and regulations.[61]

INSTITUTIONS OF DEMOCRATIC GOVERNANCE

Introduction

China's political system is dominated by the Communist Party, with limited participation by non-Party members in decision-making that affects China's political affairs. During the Commission's 2010 reporting year, the Party and the central government continued actions to strengthen controls over society and to "safeguard stability." Chinese authorities continued to have little tolerance for those involved in political activities not sanctioned by the Party. The Party continued to support isolated experiments with intraparty democracy and "democratic management" in localities around the country, and high-level leaders stated that the National People's Congress (NPC) and the NPC Standing Committee would strengthen supervision of governmental affairs and departments. While village elections for "village committees" have spread throughout China, their implementation remains problematic. Authorities plan to continue to strengthen open government affairs and various forms of "democratic management" in so-called "difficult villages." Corruption remained high and of serious concern to citizens. To bolster the legitimacy of the Party, in part in response to citizen concerns about corruption and official accountability, Party organs and government agencies initiated measures to strengthen anticorruption efforts and improve local accountability and transparency. Authorities at central and local levels signaled that China's budget processes could become more open to public scrutiny. There is variation in the willingness of local government agencies to make their budgets public. During this reporting year, authorities continued to signal that they would expand public participation in government policymaking on issues of "vital public interest" through a variety of public forums, and would establish a public hearing system to gather citizen input on draft regulatory instruments.

China's One-Party State and Political Control

Although China voted as a member of the UN General Assembly in favor of the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, China's political institutions do not comply with the standards outlined therein. Article 21 of the UDHR, for example, provides that, "everyone has the right to take part in the government of his country, directly or through freely chosen representatives . . . . [T]he will of the people shall be the basis of the authority of government, this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures."[1] China's political institutions also do not comply with the standards defined in Article 25 of the International Covenant on Civil and Political Rights (ICCPR), which China has signed and committed to ratify.[2] Article 25 of the ICCPR requires that citizens be allowed to "take part in the conduct of political affairs" and "to vote and to be elected at genuine periodic elections." Under General Comment 25 to the ICCPR, this language requires that: "Where citizens participate in the conduct of public affairs through freely

chosen representatives, it is implicit in article 25 that those representatives do in fact exercise governmental power and that they are accountable through the electoral process for their exercise of that power." (para. 7); "The right to vote at elections and referenda must be established by law and may be subject only to reasonable restrictions . . . . [P]arty membership should not be a condition of eligibility to vote, nor a ground of disqualification." (para. 10); "Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected." (para. 12); "The right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties." (para. 17); "An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant." (para. 20).[3]

During this reporting year, the Communist Party emphasized Party building[4] and increased Party membership. At the end of 2009, the Party had nearly 78 million members, an increase of approximately 2 million members from the previous year.[5] The Party has established more than 3.79 million committees and branches throughout the country.[6] These organizations reach down into and influence every sector of society, including villages and urban neighborhoods,[7] as well as many enterprises,[8] public service organizations (hospitals, schools, research institutes, etc.),[9] government departments, and social organizations[10] (*shehui tuanti:* foundations, nonprofit enterprises, and non-governmental organizations). The Party organizations in urban neighborhoods and residents committees (*jumin weiyuanhui*)[11] play a role in citizens' political, social, and economic lives.[12] During this reporting year, top Party leaders directed cadres to focus on Party construction at the most basic administrative levels,[13] in military organizations,[14] in academic institutions,[15] and in social organizations.[16]

Social Controls, Maintaining Social Stability

The Communist Party and the central government continued to focus on "safeguarding social stability" and strengthened controls over society. A March 2010 Southern Weekend article described the "quiet" changes to China's "system of safeguarding stability," which the article argues began to take shape in preparation for the 2008 Beijing Summer Olympic Games and are now becoming standard practice.[17] The story quotes an article by Zhou Yongkang, a member of the Politburo Standing Committee and Secretary of the Politics and Law Commission of the Party Central Committee, in which Zhou stated, "We should apply the successful experience of security at Beijing Olympic Games in developing a public order prevention and control system, deeply promote socialization, network formation, and informatization in developing the public order prevention and control system . . . ."[18] In the name of "maintaining social stability," the Party and the government make extensive use of informant networks.[19] Informant networks reportedly reach down into social institutions, such as schools.[20] In December 2009, high-level official Yang Huanning reportedly said that collecting information (through informants) was important for ensuring "social

stability." He promised "preemptive attacks" against people that Party and government officials characterize as threats to social stability.[21] In the spring of 2010, the Politics and Law Commission of the Party Central Committee reportedly launched a crackdown on groups for the protection of military personnel rights, underground labor unions, and groups of farmers petitioning higher level officials, labeling them the "internal three forces" and calling them "threats to social stability."[22] An April 2010 Tsinghua University Social Development Research Group report asserted that "safeguarding stability" has become one of the "most important duties" of local officials.[23] The report also states that "maintaining social stability" has begun to influence the normal work of governments in some locations.[24] Local officials reportedly have made serious investments in personnel to "maintain stability" and over the years increasingly have established specialized institutions, including "stability preservation offices" (*weiwenban*) or "comprehensive governance offices" (*zongzhiban*).[25] China's public security expenditures for 2009 reportedly increased by 16 percent, and the budget for such expenditures is expected to increase by another 8.9 percent for 2010.[26] Authorities at all administrative levels reportedly have established "stability preservation funds" from which they try to "buy security" by making payments to individuals with grievances in order to resolve conflicts before they escalate.[27] The Tsinghua University group report noted several downsides to the use of these funds for the development of rule of law in China, including the potential that these funds will be used arbitrarily without any legal basis.[28]

Official Actions Against Democracy Advocates

During this reporting year, Chinese authorities continued to show little tolerance for select individuals who advocated for greater democracy, who organized political parties, or who expressed political views not sanctioned by the Communist Party; for example:

- **Liu Xianbin.** On July 5, 2010, security officials in Suining city, Sichuan province, arrested Liu, a 1989 democracy movement participant and member of the banned Chinese Democracy Party, on charges of "inciting subversion of state power."[29] Liu was reportedly arrested because of his support for activists and human rights defenders and because articles penned by Liu had been posted outside of China.[30] As of August 2010, Liu was still awaiting trial.
- **Guo Quan.** The Suqian Intermediate People's Court in Jiangsu province sentenced Guo, formerly a university professor, to 10 years in prison on October 16, 2009, for "subversion of state power."[31] The court found that Guo used the Internet to organize an "illegal" political party called the "China New Democracy Party," among other charges.[32]
- **Xue Mingkai.** The Shenzhen Intermediate People's Court sentenced Xue to 18 months in prison on charges of "subverting state power" on February 10, 2010, despite pleas by his mother to consider medical records showing that Xue had a mental illness.[33] Authorities claimed Xue had contacted and joined the overseas China Democracy Party (CDP) in 2009 and

planned to organize a "China Democratic Workers' Party" online in the summer of 2006.[34]

• **Luo Yongquan.** In the summer of 2009, authorities in Shaoguan city, Guangdong province, ordered Luo, a member of the CDP and a poet, to serve two years of reeducation through labor. Authorities said that Luo publicly attacked the Communist Party and Chinese government in his poems.[35]

Intraparty Democracy

Isolated experiments with intraparty democracy (also translated as "inner-Party democracy") are taking place around the country with high-level Communist Party support. Chinese writers on the subject maintain that intraparty democracy should come before democracy in society as a whole.[36] The notion of intraparty democracy has been a part of the Party's basic institutional design since 1956.[37] The decision drafted by Party leaders during the Fourth Plenary Session of the 17th Chinese Communist Party Central Committee meeting in September 2009 called for expanding intraparty democracy and called it the "lifeblood of the Party."[38] During this reporting year, Party authorities in various locations experimented with election monitoring systems (*xuanju guanchayuan zhidu* or *minyi guanchayuan zhidu*) during intraparty elections for residents' committee members and leaders.[39] Election monitors typically were retired officials, people's congress and people's political consultative congress deputies, and Party committee members; but in some areas, people from other professions took on the role.[40]

The People's Congresses and the Chinese People's Political Consultative Conference

Chinese officials describe China's political system as a "socialist democracy" with "multi-party cooperation" and "political consultation" under the leadership of the Communist Party.[41] The 2009–2010 National Human Rights Action Plan (HRAP), issued by Chinese authorities in April 2009, referenced the supervisory roles of the National People's Congress (NPC)[42] and the Chinese People's Political Consultative Conference (CPPCC).[43] However, an official speech by Wang Chen, the Director of the State Council Information Office, on the comprehensive summary of the mid-term evaluation of the HRAP released in December 2009, included scant reference to civil and political rights developments related to the NPC and the CPPCC,[44] except for noting the deliberations regarding the proposed revisions to China's Electoral Law.[45] The NPC Standing Committee passed the revised Electoral Law in March 2010, which now awards the same proportion of NPC deputies per population to both rural and urban areas. (In the past, urban residents enjoyed greater representation.[46]) In summer 2010, Luojiang county, Sichuan province, reportedly began an experiment that established the country's first full-time, professional local people's congress deputies. While China's Constitution and other relevant laws do not prohibit professional deputies, there currently is not a specific legal foundation for them.[47]

ANNUAL MEETINGS: NATIONAL PEOPLE'S CONGRESS AND THE CHINESE PEOPLE'S POLITICAL CONSULTATIVE CONFERENCE

At the annual meetings of the National People's Congress (NPC) and the Chinese People's Political Consultative Conference (CPPCC) in March 2010 (Two Sessions), the Chairman of the NPC Standing Committee, Wu Bangguo, discussed the plan to increase NPC and NPC Standing Committee supervision over governmental affairs, and NPC delegates expressed displeasure regarding some government work. Increasing NPC supervision of governmental affairs is one of the goals outlined in the HRAP.[48] Wu said the NPC and the NPC Standing Committee would launch special topic "inquiry and questioning" work by inviting cadres from the State Council departments to sit in on meetings, listen to suggestions, and "respond to inquiries, and answer questions" regarding "issues of broad concern to NPC delegates" and the supervision of economic work.[49] During the Two Sessions, NPC delegates expressed their displeasure about some government work: 479 delegates opposed the Supreme People's Court report and 411 delegates opposed the report on the work of the Supreme People's Procuratorate.[50] The 2009 Finance and 2010 Budget Report and the Government Work Report fared better with 317 and 36 opposing votes, respectively.[51] In March, newspapers in two regions of China published editorials criticizing authorities for restricting lawmakers and political advisors' freedom of speech after a city government advisor admitted officials had pressured him during the Two Sessions to be cautious about discussing divisive policies.[52]

LOCAL PEOPLE'S CONSULTATIVE CONFERENCES: POLITICAL CONSULTATION IN GUANGZHOU

"Multi-party cooperation and political consultation" purportedly take place among the Party, the Chinese People's Political Consultative Conference, and eight "approved" minor political parties.[53] During this reporting year, the Guangzhou Municipal Central Party Committee issued a notice which provides for political consultation to be brought into the city's policy processes.[54] Specifically, it provides for political consultation between the municipal Party committee and each of the eight "approved" political parties at the municipal level or between the municipal Party committee and the municipal-level people's political consultative conference regarding a variety of documents including important local laws and regulations, long-term municipal economic and social plans, and leadership choices.[55] The notice outlines several consultative meeting types at which political consultation purportedly takes place.[56] A Wei Wen Po article reported that this is the first instance of such an experiment in China, and if the experiment goes smoothly, officials reportedly will promote it throughout Guangdong province in the second half of 2010.[57]

Village Autonomy, Elections, and "Democratic Management"

Authorities have established "grassroots autonomy" or village elections for village committees,[58] and while village elections have spread throughout China, their implementation remains problematic. In a December 2009 interview with the People's Daily, a

spokesperson for a department within the Ministry of Civil Affairs (MCA) noted that in a small number of villages, there are several problems with the operations of village organizations.[59] During this reporting year, Chinese authorities continued to implement plans to put in order open government affairs and "democratic management" in so-called "difficult villages." Authorities in different regions label villages "difficult" for a variety of reasons. In Guizhou province, which reported that 3.13 percent of its villages were "difficult villages,"[60] the category included villages that have not had successful village elections, had long-term problems with tensions between villagers and leaders, had longstanding issues with citizens taking grievances to higher authorities, or had problems with transparency of village affairs, among others.[61] At a video conference in February 2009, authorities pointed out that 6 percent of the villages across the country are "difficult villages" and that local officials had been underreporting their numbers.[62] In December 2009, authorities held a national meeting to share local authorities' experiences regarding open village affairs and "democratic management" in "difficult villages" across the country.[63] The conference followed a plan issued by the MCA in July 2009 to resolve problems in "difficult villages" between 2009 and 2011 and a joint opinion issued in February 2009 by high-level authorities outlining the guiding ideology, principles, goals, responsibilities, and methods authorities link to transforming "difficult villages."[64]

The National People's Congress Standing Committee reviewed draft amendments to the Organic Law of Villagers' Committees (Organic Law) in January and again in June[65] in part to potentially strengthen Party control over villages and remedy problems with village elections and village governance. Proposed changes to the law, if passed, reportedly could mandate that villagers establish village affairs supervision mechanisms, make it easier for rural residents to remove village committee members, and make it simpler to convene village meetings to decide on village issues.[66] In addition, there has been debate regarding a proposed change that would strengthen Party leadership over the running of village affairs.[67] Authorities collected public comments on the draft law from the end of December 2009 to the end of January 2010.[68] In February, authorities in Beijing attempted to prevent village leaders, who were attending a meeting in Beijing on February 25 to discuss the proposed amendments to the Organic Law, from holding a press conference. Police threatened one of the eight village leaders who planned to speak and prohibited the tea shop where the conference was to be held from opening. Two of the leaders found an alternate site and held the press conference there.[69]

Party and Government Accountability and Transparency

ACCOUNTABILITY AND CORRUPTION

Corruption reportedly remains high and continues to be one of the top three concerns of Chinese citizens, according to a survey conducted since 2006 by the People's Daily Online.[70] Transparency International gave China a score of 3.6 (out of a possible 10, which signifies "highly clean") on the organization's 2009 Corruption Perception Index, which is a measurement of the perceived levels of

public sector corruption.[71] During this reporting year, official discipline inspection and supervision entities from around the country reported receiving nearly 1.32 million complaints and information tips from citizens between January and November 2009, according to information from an official joint press conference.[72] Prosecution entities reportedly investigated 2,687 government officials who were allegedly involved in three categories of cases in 2009: infringement of people's rights, graft, and malfeasance.[73] In May 2010, the Vice Minister of the Ministry of Supervision announced that 3,058 officials had received punishments ranging up to life imprisonment in cases concluded over a six-month period beginning in October 2009 for wrongdoings related to China's economic stimulus funds or construction projects.[74] In addition, the Communist Party reportedly punished 5,241 individuals for issues relating to corruption involving economic stimulus funds.[75] It is unclear how many officials were subject to both Party and government punishment.

MEASURES TO CURB CORRUPTION AND PROMOTE ACCOUNTABILITY

Authorities pledged in the 2009–2010 National Human Rights Action Plan to stringently implement corruption prevention measures.[76] Central and local Communist Party and Chinese government entities also issued new or revised corruption prevention measures related to the disclosure of assets,[77] the closure of "liaison offices" in Beijing associated with local government lobbying efforts,[78] and a revised ethics code.[79]

Chinese authorities have taken additional steps to encourage reporting of corruption. Whistleblower protections, however, remain insufficiently developed at this time. [For more information on whistleblower protections, see Section III—Access to Justice—Administrative Law Developments.] In October 2009, the Party Central Commission for Discipline Inspection and the Ministry of Supervision established a new hotline to accept citizen tips and complaints about corruption.[80] According to the Legal Daily, 70 percent or more of the cases of work-related offenses filed with procuratorate offices initially involved a tip from a citizen.[81] Citizens who make allegations risk retribution. According to material from the Supreme People's Procuratorate reported by the Legal Daily, 70 percent of the people who filed tips with procuratorate offices were subject to various forms of retribution.[82] According to the South China Morning Post, however, a procuratorate official said that fewer than 200 cases of retaliation were reported each year.[83] The Legal Daily report indicated that some experts believe the law inadequately protects whistleblowers and that many forms of retribution technically are "legal" or are "hidden."[84] In one case of retribution in March 2010, police in Hubei province held Chen Yonggang for seven days of an eight-day detention on suspicion of "defamation," after Chen used the Internet to question government budget choices that he believed were extravagant.[85] Chen said he would not make such Internet postings again. County police reportedly will give Chen compensation for detaining him illegally.[86] In June, Chinese lawmakers discussed a second draft of the revised Administrative Supervision Law proposal, which included a draft

provision designed to provide legal protection for informants who report suspected official corruption.[87]

Chinese lawmakers and officials are considering institutional changes and measures to resolve other ongoing problems with official infringement of citizens' rights and to improve government accountability. Experts believe that a new round of training for county officials signals a continuing restructuring of county-level governance; the former system of "accountability upwards" will be modified to one of "accountability downward."[88] One official from the Party Construction Department of the Party Central Committee Party School noted that most mass incidents and frictions occur at the county level and stated that "the capability of the county government to deal with such events is closely related to the stability of the whole country."[89] During this reporting year, central officials urged local governments to eliminate local policies that could impinge on the rights of citizens. In May 2010, a Supreme People's Court vice president requested that local governments rapidly eliminate "local policies" that work to limit acceptance of administrative court suits.[90] A May China News article pointed out that for years, administrative behavior has been a "blind spot" for judicial supervision, including local administrative policy documents or so-called "red (letter) head documents" issued by administrative organs at every level of government.[91] The article noted that "red (letter) head documents" repeatedly have been found to be illegal, giving rise to numerous problems in administrative law; without examination for their legality, these documents could "deprive citizens of their rights."[92] During this reporting year, Guangdong province officials released for public comment a draft provision that would, if passed, limit the applicability of these "red (letter) head documents" to five years and restrict their scope in three areas.[93]

BUDGET TRANSPARENCY

Chinese authorities at the central level urged local officials to share information about official budgets with the public, and citizens put pressure on government agencies to reveal their budgets. Nevertheless, anecdotal evidence suggests there is some variation in the willingness on the part of local government agencies to make their budgets public. In March 2010, the Ministry of Finance made public national budget figures for the second time since early 2009, and included more budget categories, which increased the length of the material issued publicly from 4 to 12 pages.[94] Also in March, the National People's Congress (NPC) reportedly requested that all budgets approved by the NPC be made public, including the State Council's budget.[95] During this reporting year, 45 Beijing municipal government agencies were to make public their budgets, and by a May deadline, most of those agencies reportedly did make information available on the Internet.[96] Nevertheless, a news report suggested some experts and Beijing residents thought that the figures made public were not detailed enough nor presented clearly.[97] In October 2009, Li Detao, a Shenzhen resident working with Public Budget Watch, a volunteer group, submitted open government information requests to government agencies in Beijing, Shanghai, Guangzhou, Shenzhen, Tianjin, and Nanjing.[98] The Bureau of Finance in Shanghai responded to Li Detao's requests but refused to

provide him with the information he requested, declaring it a "state secret."[99] Officials at the Bureau of Finance in Guangzhou, however, called Li and informed him that the 2009 financial budgets for 114 agencies would be placed on the Internet.[100] The report said Li believes that this is among the first times he has seen government agencies in a first-level (provincial-level) city make their budgets widely available to the public.[101]

Open Government Information

In May 2008, the Regulations on Open Government Information (OGI Regulations) took effect.[102] The OGI Regulations are part of China's anticorruption efforts and are intended to increase public access to information and expand public oversight and participation.[103] The OGI Regulations require proactive disclosure of certain types of information by government agencies, allow for citizen requests for access to government information, and provide legal remedies for violations of the regulations. During the Commission's 2010 reporting year, the State Council General Office issued an opinion and the Supreme People's Court (SPC) issued two opinions (one proposed) relating to the OGI Regulations. The State Council General Office's opinion was issued in January 2010. That opinion affirmed guidance found in a 2008 opinion[104] allowing agencies to limit who may make an information request. Specifically, agencies may deny requests that do not relate to a requester's "special needs" in their "production, livelihood, or scientific and technological research."[105] The 2010 opinion also encourages agencies to release more information up front to reduce requests and to strengthen systems for determining whether information should be withheld on the grounds of state secrets or national, public, or economic security.[106] In November 2009, the SPC released for public comment proposed measures concerning the hearing of administrative cases involving open government information (OGI).[107] Within the month-long consultation period, the court collected 411 comments.[108] Internet users and a Chinese professor expressed concern that the draft gives courts too much discretion to deny the release of information for reasons such as "state secrets" or so as not to disrupt "normal administrative activities."[109] That same month, the SPC issued an opinion dealing with administration litigation that calls on courts to "vigorously accept" new categories of cases, including OGI cases.[110]

Open Government Information—Continued

Chinese citizens reportedly have responded to the OGI Regulations with "dynamism" amidst ongoing challenges to their "right to know."[111] The latest annual work reports on OGI requests in some of China's larger cities reported numbers of requests received that ranged from thousands to hundreds of thousands.[112] The level of detail provided on the disposition of requests varied. Shanghai, for example, provided information on why certain requests were denied, disclosing that 152 requests were denied because they involved "state secrets." The efforts of one Shenzhen resident, Li Detao, to file OGI requests for budget information from the governments in different locales illustrates some lack of uniformity regarding the handling of OGI requests. Shanghai officials denied Li's request for budget information on state secret grounds while Guangzhou officials granted his request.[113] Media stories reported that officials denied or had yet to respond to notable OGI requests, including one Shanghai resident's request for information about compensation for demolished homes,[114] one regarding the death toll in and the costs associated with the May 2008 Sichuan earthquake,[115] and one regarding Shanghai lawyer Yan Yiming's request on China's economic stimulus spending.[116]

Chinese and Western researchers have conducted studies assessing implementation of the OGI Regulations, with varying results.[117] Results of at least one Chinese study and one joint Chinese-Western study showed variation in the effectiveness of government agencies in implementing the OGI Regulations.[118] Studies highlighted the need to strengthen OGI mechanisms within government agencies and indicated that Chinese citizens' awareness and use of OGI mechanisms may be relatively low in some areas.[119]

Open Government Information—Continued

According to the 2009 annual work reports from Beijing, Shanghai, Guangzhou, and Chongqing municipalities, the number of OGI lawsuits heard by courts in these jurisdictions numbered 147, 199, 3, and 1, respectively.[120] Since Shanghai has had a local OGI regulation since 2004, there is some comparative data that shows that OGI-related lawsuits increased from 35 cases in 2006 to a high of 258 cases in 2008.[121] Details regarding the disposition of the OGI court cases also varied.[122] One Western expert on China's OGI noted that "Chinese courts have frequently refused to accept lawsuits over information disclosure or have found in favor of the government."[123] Chinese media reported on notable lawsuits. A June 2010 Democracy and Law article reported that Shanghai lawyer Li Honghua filed lawsuits against 80 provincial and city governments after he was dissatisfied with responses he received to his requests for information on government spending of a 4 trillion yuan (US$588 billion) stimulus package. Seven courts reportedly agreed to hear his case.[124] In January 2010, a court in Wuhan concluded the city's first OGI case, ruling that an agency had violated the law by not responding to an information request within the legal time limit.[125] In May, the Haidian District People's Court in Beijing ruled against a plaintiff who had requested information about the local environmental protection bureau's approval of a nearby medical waste incinerator, on the grounds that the plaintiff did not live close enough to the waste facility.[126] [For more information on implementation of the OGI initiative in the environmental protection sector, see Section II—Climate Change and the Environment.]

Taken together, developments relating to the OGI regulations over the past year suggest that officials are seeking to provide greater clarity regarding how the regulations should be implemented, while citizen interest in requesting government information and seeking legal remedies for government inaction continues to grow.

Public Input on Draft Regulatory Instruments, Public Hearings

Citizens and groups in China have little direct access to political decisionmaking processes; however, they are increasingly able to utilize various channels to express opinions regarding proposed policies and regulatory instruments. During this reporting year, authorities continued to signal they would expand public participation in policymaking related to issues involving the public interest. A March 2010 Legal Daily article outlined some of the channels through which experts and citizens can express their opinions about draft regulatory instruments including expert meetings, the Internet, and public participation in roundtables, discussion meetings, and public hearings.[127] According to the article, authorities granted citizens the opportunity to submit suggestions on 67 administrative legal measures over a six-year period beginning in 2004.[128] According to the same article, a spokesperson from the State Council Legislative Affairs Office (SCLAO) said that since June 2007, authorities have made all administrative regulations, excluding those involving state secrets and national security, available in principle on the Internet and open for public comment.[129] The U.S.-China Business Council released in April 2010 its annual

review of China's compliance with its policies and its bilateral agreements that relate to transparency. The report noted that the NPC had complied with regulations stipulating it must allow a 30-day comment period on all draft laws at least once during the NPC's three-reading review process.[130] It also noted, however, that the SCLAO had been inconsistent in publishing "trade and economic-related administrative regulations and department rules" for the 30-day public comment period.[131] The SCLAO posted on its Web site only approximately 25 percent of the regulations and rules issued or posted for comment during the Council's report period, which represents a decline from the previous year.[132]

Citizens and the media continue to express concern regarding the implementation and impact of public hearings. Public hearings in China have expanded across the country since 1996 with the promulgation of China's Law on Administrative Punishment and offer limited opportunities for public engagement regarding various policy topics.[133] During this reporting year, at least a few cities have issued local measures[134] in order to implement a 2008 State Council decision directing cities and counties to expand the scope of public hearings and to establish a hearing system to solicit citizen opinions regarding laws, regulations, provisions, and major government administrative policies that are relevant to the interests of citizens.[135] During this reporting year, several news articles reported that citizens were concerned about the implementation of water price hearings because of problems reported in several cases around the country.[136] In some of these cases, relevant authorities tried to prevent critics from attending hearings or excluded certain groups of citizens that may be adversely affected by the proposed policy, leaving them with no opportunity to speak out, among several other issues.[137] A Chinese university professor argued in a December 2009 China Daily commentary that the impact of public hearings on policy is limited.[138]

COMMERCIAL RULE OF LAW

Introduction

As a member of the World Trade Organization (WTO), China is bound by commitments outlined under both the WTO agreements and China's accession documents.[1] During the Commission's 2010 reporting year, foreign investors in China have found an increasingly uneven playing field and lack of progress in China's compliance with WTO principles of transparency and national treatment, i.e., treating foreign and domestic companies equally with respect to goods, services, and intellectual property rights.[2] The Chinese government's implementation of its WTO commitments, including those regarding transparency and non-discrimination, is a measure of the overall development of rule of law in China and of the Chinese government's willingness to abide by its international commitments.

The Chinese government's record in meeting WTO commitments is mixed. When China joined the WTO, the Chinese government agreed to adhere to WTO transparency standards, under which all laws, regulations, and other measures relating to trade shall be published in a timely manner.[3] According to China's two largest trading partners, the United States and the European Union, the Chinese government's current record in transparency is poor.[4] Further, when joining the WTO in 2001, the Chinese government committed to ensuring that all trade-related measures would be administered in a non-discriminatory manner and that, under the principle of national treatment, foreign and domestically owned companies would be treated the same. However, the government has become increasingly protectionist in the period since 2008.[5] One June 2010 report quoted the head of the U.S. delegation to the WTO as saying, "China has become much more focused on developing industrial policy initiatives aimed at helping Chinese enterprises move up the value chain in key industries, and China has demonstrated a highly selective interest in continuing to open its market more fully and fairly to foreign participation."[6]

The foreign business community has found increased problems in the Chinese government's regulatory system and its application to business operations in China. The AmCham-China 2010 Business Climate Survey for the first time found "inconsistent interpretation and implementation of laws" to be the top challenge for the 318 members that responded to the survey.[7] The survey also found increased concern over "obtaining required licenses and national protectionism, coupled with consistent concern about bureaucracy in China . . . ."[8]

The Chinese government has increasingly made use of industrial policies, which favor state-owned companies at the expense of foreign-owned companies,[9] and in some cases, such as the auto parts import provisions of the 2004 Auto Industrial Policy, which are not in keeping with WTO requirements on non-discrimination.[10] This jeopardizes equality before the law and neutral legal enforcement. Such use of industrial policies also negatively impacts transparency.

Industrial Policies and Commercial Law Developments

The Chinese government's use of industrial policies to direct economic growth, rather than strictly relying on market-based principles, hinders development of rule of law.[11] Industrial policies lay out comprehensive frameworks for the government's direction of relevant sectors, providing, for example, details on subsidies and other benefits, restructuring of key industrial entities, financing, technological development, and export goals. Industrial policies are implemented through various measures, including laws and regulations, which in some instances do not comply with WTO requirements, as in the WTO case on the Chinese government's imposition of measures affecting the import of auto parts. In that case, the WTO dispute settlement body found in 2008 that certain provisions of China's Policy on Development of the Automotive Industry, together with implementing legislation, violated WTO rules.[12] Under China's Protocol of Accession, the government agreed to provide comment periods for new legislation when possible.[13] However, as industrial policies spell out the scope and direction of legislation, comments on the legislation may carry less weight, rendering the comment period less meaningful.

Discussions of two industrial policies, cultural industrial policy and automotive policy, follow below.

Industrial Policy—Cultural Industry

During this reporting year, the Chinese government moved forward with a plan for promoting the so-called cultural industry through subsidies and other forms of support and guidance, passing legislation, and arranging financing in the sector. In July 2009, China Daily reported that the State Council had adopted a plan for the industry's development in light of the financial crisis,[14] and on September 26, 2009, the central government published the Plan to Vigorously Promote the Cultural Industry (Plan).[15] The Plan covers filmmaking, publishing, printing and reproduction, advertising, the performing arts and entertainment, animation, cultural exhibitions, and digitalization,[16] and lists a number of policy measures for the Chinese government to take to further develop the industry, including, for example, financing, reforming the state-owned cultural entities, preferential land use and tax policies, development of creative industry parks, assistance with exporting, provision of subsidies, and investment.[17]

The Plan was issued within two months after the panel established by the WTO Dispute Settlement Body reported its findings in a case concerning Chinese regulation of importation and distribution of certain foreign cultural products.[18] In that case, the WTO panel found Chinese regulations restricting the ability of foreign companies and Chinese-foreign joint ventures to import or distribute reading materials, audiovisual home entertainment products, and sound recordings, or to import films for theatrical performances, violated WTO rules.[19]

Though an industrial plan lays out the framework for the development of the sector, it is implemented through legislation and other similar measures by responsible government departments. During the period since the issuance of the Plan, government de-

partments have issued a number of implementation measures. In September 2009, the Ministry of Culture—the ministry with overall supervisory responsibility for the industry—published its Guiding Opinion Concerning Speeding Up Development of the Cultural Industry (Guiding Opinion).[20] The Guiding Opinion was dated September 10, but was not published until after the State Council announced the Plan, and sets out additional details on the covered industries and on the means to accelerate development of the industry.

Financing. The Plan to Vigorously Promote the Cultural Industry (Plan) calls for financing of the industry.[21] In September 2009, a report indicated that the central government would establish a fund to invest in the cultural industry and that China Film would be recommended for listing on China's stock exchange.[22] The China Securities Journal reported on March 30, 2010, six months after the issuance of the Plan, that the domestic entertainment and media industry would grow 9.5 percent annually but noted that cultural enterprises in China still had trouble obtaining financing.[23] On April 8, the central bank and nine other government departments issued the Guidance on Financial Support To Reinvigorate and Develop the Culture Industry, which related to providing financing to support the cultural industry.[24]

Exports. The Plan calls for expanding trade in Chinese cultural products and for Chinese cultural products to have greater influence on international markets.[25] In 2010, 6 government departments accredited 211 printing and reproduction companies as Major Culture Export Enterprises and 255 printing and reproduction projects as Major Culture Export Projects, which the Ministry of Commerce would support to become more competitive on export markets.[26]

Sectoral policies. During this reporting year, government departments in charge of particular cultural sectors issued measures implementing the Plan. For example, in January 2010, the General Administration of Press and Publication (GAPP) issued a guiding opinion for the development of printed materials, digital and non-paper media, animation and electronic games, and press and publications distribution and logistics;[27] the Ministry of Culture accredited 100 enterprises as Animation Enterprises, eligible for preferential tax policies;[28] and the State Council issued Guiding Opinions on Promoting the Development of a Flourishing Movie Industry.[29] In March, GAPP worked out a plan for international best sellers.[30]

Regulation of markets. The Chinese government regulates the cultural industry strictly, as evidenced by the strict censorship prevalent in China.[31] In December 2009, the Ministry of Commerce issued a notice on special management of the cultural markets during the New Year and the weeklong Spring Festival, including supervising online games and Internet cafes, online music and cell phone music, and lip-syncing and unlawful performances.[32] [For information on censorship in China, see Section II—Freedom of Expression.]

Industrial Policy—Automotive

During the Commission's 2010 reporting year, the Chinese government revised its 2004 Auto Industrial Policy, and implemented its Auto Stimulus Program, which it had issued in March 2009.[33] The dramatic development of China's auto sector has been guided by China's 2004 Auto Industrial Policy.[34] The policy sets out comprehensive guidelines for China's auto industry, including the development and acquisition of technology, structural adjustment of the auto sector through the formation of large corporate groups, foreign investment in the sector, growth in the domestic auto market, and automobile exports.[35]

In 2006, the United States, European Union, and Canada challenged certain provisions of China's auto policy concerning tariff rates applicable to the import of auto parts and assemblies, and the legislation implementing these provisions, at the WTO.[36] The WTO dispute panel found that the provisions discriminated against imported auto parts and thus were inconsistent with WTO requirements.[37] The Chinese government appealed the panel's ruling, which subsequently was upheld by the WTO Appellate Body. Accordingly, the panel requested that the government bring the auto parts import provisions of the policy, as well as its implementing legislation, into conformity with WTO obligations by September 1, 2009.[38] The government did so in August 2009, effective September 1, 2009.[39] In the five years from the issuance of the policy till the import provisions were revised, foreign automakers with factories in China started buying parts produced in China, in part because of the discriminatory measures.[40]

Both the auto policy and the Program for the Adjustment and Rejuvenation of the Auto Industry call for development of automotive technology through a combination of imported technology and independent research and development, or indigenous innovation.[41] Chinese companies' overseas acquisitions, including state-owned Beijing Automotive's acquisition of rights to certain Saab technology from General Motors in December 2009[42] and Zhejiang Geely's purchase of Volvo from Ford in March 2010 (financed in large part by Chinese state-owned banks), have provided access to foreign technology.[43]

Transparency

The Chinese government's implementation of its WTO transparency commitments has been uneven. In its Protocol of Accession to the WTO, the government committed to publish all laws, regulations, or other measures affecting trade, to allow a reasonable comment period before implementation, and to establish or designate an official journal for this purpose.[44] The U.S. Trade Representative (USTR) in a 2010 report notes that while the State Council issued regulations in 2001 requiring comment periods and hearings, "only a small proportion of new or revised laws and regulations have been issued after a period for public comment, and even in these cases the amount of time provided for public comment generally has been short."[45] According to the USTR report, a 2006 State Council notice directed all government authorities to send trade-related rules to the Ministry of Commerce for publication in

its gazette, but compliance with this requirement is "far from complete."[46] The USTR's finding is similar to the April 2010 analysis conducted by the US-China Business Council on transparency in China.[47]

China's transparency obligations have been the subject of several dialogues between the U.S. and Chinese governments.[48] Most recently, at a meeting of the Joint Commission on Commerce and Trade in October 2009, both governments agreed to continue to cooperate and to develop a workplan on transparency for 2009–2010.[49] [For more information on transparency, see box titled Open Government Information in Section III—Institutions of Democratic Governance.]

Government Procurement

In 2009, Chinese government procurement exceeded 700 billion yuan (US$147 billion).[50] This is an area of importance to Chinese citizens and to non-Chinese companies alike. As noted in a WTO overview, "Procurement systems have a significant impact on the efficiency of the use of public funds and, more generally, on public confidence in government and on good governance."[51] When China joined the WTO, the Chinese government made several commitments related to government procurement, including that it would begin negotiations to join the Government Procurement Agreement (GPA) under the WTO "as soon as possible."[52] While there has been some minimal progress toward this end, it is still subject to negotiation.[53]

During this reporting year, the Chinese government continued to develop legislation to improve its procurement system for domestic companies. In January 2010, the government issued for comment draft Implementation Rules for the 2003 Government Procurement Law,[54] which clarify certain open issues in the law. According to a China Daily report, the draft "is aimed at specifying the law, including details over domestic goods in government procurement, to further fight any corruption in the purchasing process."[55] The draft rules specify when the procuring party should withdraw from a procurement proceeding because of a relationship to the supplier, and provide details on the definition of domestic goods, projects, and services. On May 21, 2010, four Chinese government departments issued the Notice on Collecting Public Comments on Administrative Measures for Government Procurement of Domestically Made Products.[56] The draft clarifies that domestic goods and services include products of foreign-invested companies in China.[57]

Indigenous Innovation

The Chinese government's use of industrial policy intersects with government procurement in the area of indigenous innovation. China's industrial policies have called for Chinese domestic development and ownership of technology.[58] The government's policy on indigenous innovation is directed toward encouraging technological development in certain key sectors of the economy, with final consideration the development of potential exports, as well as substitution of products using Chinese technology for imported products using non-Chinese technology. Although indigenous innovation pol-

icy only applies to government procurement at the central level, there are concerns with the policy's application at the provincial and local levels.[59]

Although the Chinese government has encouraged indigenous innovation since at least 2007,[60] there has been significant regulatory activity during this reporting year, which has led to widespread concern from the international business community and to high-level United States and China discussions of indigenous innovation. In November 2009, three Chinese government departments issued the Circular on Launching 2009 National Indigenous Innovation Accreditation Work,[61] requiring companies to apply by December 2009 for their products to be "accredited" as qualifying for government procurement. The circular, which covers six broad categories of products in high technology, or new energy or energy efficient areas, provided that only products using intellectual property initially registered in China would be eligible for accreditation.[62] In December 2009, four government departments issued the Catalogue Guiding Domestic Innovation in Major Technology Equipment, which listed products that could be certified as indigenous innovation products, eligible for certain procurement preferences.[63] Although China is not a member of the WTO GPA, the policies potentially raise market access or intellectual property issues under the WTO.[64]

Foreign government response to the December documents was negative,[65] and perhaps in response, on April 10, 2010, the Chinese government issued a draft notice without the requirement that intellectual property first be registered in China.[66] Other issues remain, including the resolution of conflicts between national policies and local-level government decisions on indigenous innovation,[67] and a group of large American, Canadian, and European business associations submitted a letter to the Chinese government commenting on the draft, urging China to join the GPA, and urging the Chinese government "not to publish the indigenous innovation product list and not to carry forward this program."[68]

Intellectual Property Rights

China's record on protection of intellectual property rights (IPR) remained poor during this reporting year. China is on the U.S. Government's Priority Watch List for 2010, and named in the Special 301 Report of April 30, 2010, which notes, "China's IPR enforcement regime remains largely ineffective and non-deterrent."[69] According to the report, "IPR enforcement at the local level is hampered by poor coordination among Chinese ministries and agencies, local protectionism and corruption, high thresholds for initiating investigations and prosecuting criminal cases, lack of training, and inadequate and non-transparent processes."[70]

In October 2009, revisions to China's Patent Law went into effect, and in February 2010, revisions to the Patent Law's implementing rules went into effect.[71] While the revisions provide some clarification, the Special 301 Report notes some concerns, "including the effect of disclosure of origin requirements on patent validity, inventor remuneration, and the scope of and procedures relating to compulsory licensing, among other matters."[72] The National People's Congress revised the Copyright Law, effective April 1, 2010,

to close a loophole on the scope of protection and to add an article concerning registration of pledges of copyright.[73] To implement the law's language on pledges of copyright, the National Copyright Administration issued for comments a draft Measure for Registration of Copyright Pledge on April 26, 2010.[74]

According to the Supreme People's Court (SPC) 2009 Annual Report on Intellectual Property Cases, there were 440 IPR cases pending before the SPC in 2009, an increase of 33.7 percent over 2008.[75] The SPC concluded 390 IPR cases in 2009, an increase of 111.96 percent over 2008.[76] A Chinese court ruled that Microsoft had infringed the rights of Chinese software maker Zhongyi Electronics in November 2009.[77] However, in April 2010, Microsoft won a major case against a Chinese insurance company, Dazhong Insurance, which was using pirated copies of Microsoft software.[78] Dazhong indicated it would appeal the ruling, accusing Microsoft of acting monopolistically.[79]

Antimonopoly Law

During the Commission's 2010 reporting year, two of the three government departments charged with enforcing China's 2008 Antimonopoly Law (AML) issued implementing legislation. To clarify the merger control procedures, the Ministry of Commerce (MOFCOM) issued two sets of measures on concentrations of businesses, both of which came into effect on January 1, 2010.[80] The State Administration for Industry and Commerce on May 25, 2010, issued three draft rules for comment, covering monopoly agreements, abuse of dominance, and administrative monopolies.[81] If promulgated, the draft rules will provide greater clarity on the types of conduct forbidden by the AML.

The AML has the potential to enhance competition in the Chinese economy and to benefit Chinese consumers, but may conflict with Chinese industrial policies encouraging the development of large domestic companies and protecting state-owned enterprises. A comparison of MOFCOM's merger rulings in cases involving non-Chinese companies with MOFCOM's lack of review of mergers of large Chinese state-owned companies highlights this conflict. During this reporting year, MOFCOM has blocked or given conditional approvals to a number of deals involving foreign companies, in some cases forcing global companies to divest assets outside of China.[82] In the period since the AML came into effect in August 2008 to the end of 2009, MOFCOM has completed 60 merger reviews, 6 of which MOFCOM approved with conditions, and 1 of which MOFCOM blocked. MOFCOM only publishes rulings on mergers that it rejects or approves with conditions, so it is difficult to tell whether the parties to unconditionally approved mergers are state-owned enterprises or non-Chinese companies. The six that were conditionally approved involved mergers between non-Chinese parties.[83] This has led some multinationals to believe the AML "is being used as a tool to protect domestic rivals from competition and suspect that—unlike in the US, EU and Japan—merger reviews are open to industrial policy considerations."[84] However, as a matter of industrial policy, the Chinese government intends to create large "national champions," for example, in automobiles and steel.[85] Indeed, the 2008 merger of two large state-owned enter-

prises, China Unicom and China Netcom, was large enough to trigger a merger filing with MOFCOM but, reportedly, none was filed.[86]

Food Safety and Product Quality

FOOD SAFETY

Following the passage of China's Food Safety Law in March 2009 and implementing legislation[87] during this reporting year, the Chinese government continued to develop its food safety regime, though problems remain. The Chinese government issued regulations on food additives and on monitoring food safety and a rectification plan for the catering industry, and established a high-level Food Safety Commission headed by Vice Premier Li Keqiang to coordinate the work of government departments involved in food safety.[88] Nonetheless, there still are risks in the food supply, according to a report by Radio Free Asia, as indicated by recent cases of poisoned chives and dyed beans.[89] The report notes that analysts point to several problems, including poor government supervision, lack of coordination among departments, and lack of compensation.[90] Parents of the children sickened by the contaminated Sanlu milk in 2008 continue to seek redress.[91] Zhao Lianhai, who organized a group representing the parents and is a parent of a sickened child, was tried in March for "inciting social disorder," according to his lawyer.[92] Four parents, unable to obtain redress in China, sued in small claims court in Hong Kong in April 2010.[93] However, the Hong Kong court refused the case on jurisdictional grounds.[94]

PRODUCT QUALITY

Problems with the quality of Chinese products are well known outside China, with recent cases of toxic sofas exported to England, reported cadmium in children's jewelry imported into the United States, and toxic drywall imported into the United States.[95] The General Administration of Quality Supervision, Inspection and Quarantine has taken some steps, including setting up a blacklist system in January 2010 for companies with illegal quality problems, and announced plans to establish a recall system for home appliances this year.[96]

Tort Liability Law

The National People's Congress Standing Committee passed the Tort Liability Law in December 2009.[97] The law took effect July 1, 2010, and covers product liability and product recalls.[98] The law provides for punitive damages where a producer or seller of a defective product has knowledge of the defect, but still produces or sells the product, and it causes serious injury or death.[99]

Exchange Rate Policy and Export Restraints

The value of the Chinese yuan continues to be the subject of criticism and concern among policymakers and the general public in the United States and around the world. Article XV(4) of the General Agreement on Tariffs and Trade (GATT) provides that con-

tracting parties "shall not, by exchange action, frustrate the intent of the provisions of [the GATT], nor, by trade action, the intent of the provisions of the Articles of Agreement of the International Monetary Fund." [100] The Articles of Agreement of the International Monetary Fund (IMF) state that "each member shall . . . avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members[.]" [101]

From July 2008 till June 2010, China maintained a yuan-dollar exchange rate of about 6.83 yuan to the dollar.[102] According to one economist, this has given Chinese manufacturing "a large cost advantage over its rivals, leading to huge trade surpluses." [103] On June 19, 2010, just before a G–20 meeting, Chinese officials made statements concerning greater exchange rate flexibility for the yuan.[104] As of the end of August 2010, however, there has been no real change. According to a July 8 Treasury Department report, "China's continued foreign reserve accumulation, the limited appreciation of China's real effective exchange rate relative to rapid productivity growth in the traded goods sector, and the persistence of current account surpluses even during a period when China's trading partners were in deep recession together suggest that the renminbi remains undervalued." [105]

During this reporting year, the United States challenged China's restraints on exports of certain key input materials at the World Trade Organization (WTO). According to the U.S. Trade Representative (USTR), these restraints tilt the playing field in favor of Chinese manufacturers by lowering prices of inputs to manufacturers in China, giving them a competitive price advantage.[106] When it joined the WTO, China committed to eliminate export restraints, with certain exceptions enumerated in China's WTO accession documents.[107] However, according to a 2010 USTR report on foreign trade barriers, "China has increased the artificial advantages afforded to its downstream producers by making the export quotas more restrictive and by imposing or increasing export duties on many raw materials at issue." [108] The United States brought a WTO challenge against China over export restraints on nine materials used in the manufacture of steel and chemicals, joined by the European Union and other third parties.[109] In March 2010, the Director-General of the WTO composed a panel to hear the case,[110] and in May, the panel made certain preliminary rulings in response to a request by China.[111]

There are reports that USTR is considering a separate WTO case against China concerning its restraints on exports of rare earth metals, which are essential for production of certain high technology products,[112] and are the found in many products, including, for example, "iPads, BlackBerries, plasma TVs, lasers, wind turbines, hybrid engines, and smart bombs." [113] USTR cited the policies on rare earths during China's 2009 Transitional Review Mechanism.[114] In 2009, China supplied about 97 percent of the global demand for rare earths.[115] However, China has cut its export quotas, decreasing its rare earth shipments for the second half of 2010 by 72 percent,[116] and is planning to consolidate domestic production in a few Chinese companies.[117] Foreign companies are not allowed to engage in rare earth prospecting or mining in China,[118] but can

enter into rare earth smelting or refining joint ventures with Chinese partners.[119]

Property

Under China's Constitution and system of property law, land is categorized into "urban land" and rural, or "collectively-owned land."[120] Urban land is owned by the state.[121] Urban land cannot be sold, but the state can grant the right to use urban land for a term of years upon payment of a land grant premium. The period of the grant is 70 years for land classified as residential, 50 years for industrial, and 40 years for recreational/tourism/commercial.[122] While only the state can grant urban land use rights, a grantee can transfer such rights. The parties cannot, however, change the type of usage, i.e., residential, industrial, or recreational/tourism/commercial. Collectively owned land can be used only for agricultural purposes, or for residences or services for farmers, who can enter into land use contracts with the collective for a period of 30 years.[123]

China's real property system raises both commercial rule of law and human rights issues. During the Commission's 2010 reporting year, there were many cases of expropriation and abuses by local governments and property developers, including forced evictions.[124] The International Federation for Human Rights notes that there are no statistics on the number of evictions in China but states that, according to the Centre on Housing Rights and Evictions, "at least 1,25 million households were demolished and nearly 3,7 million people were evicted" in the period from 1997 to 2007.[125] Land disputes, especially forced evictions, are a major cause of social unrest in China.[126] As a commercial matter, the supply of land, including through conversion of collectively owned land into urban land for industrial use, is necessary for China's economic development and the land sales provide revenue for the government.[127] According to one "semiofficial" estimate, revenue from land sales makes up as much as 60 percent of local government revenue.[128] Further, according to at least one expert, the Chinese government subsidizes production by its state-owned enterprises in part by providing them with free or undervalued land.[129] This brings down costs, making Chinese exports more competitive internationally.

EXPROPRIATION OF URBAN AND RURAL LAND, COMPENSATION, AND ABUSES

The dramatic changes in Chinese land law since the country's founding in 1949 have resulted in conflicting regulations, and in many cases, unclear title, which coupled with the rapid rise in property values, has led to widespread demolitions and evictions.[130] In some cases, there is collusion between local officials and property developers, for example, through officials' ownership interests in the property developers, or through family relationships.[131] Article 11 of the International Covenant on Economic, Social and Cultural Rights, which the Chinese government has ratified, provides for the right to housing, and General Comment 4, paragraph 18, adopted by the UN Committee on Economic, Social and Cultural Rights in 1991, provides that "instances of forced evictions

are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances."[132]

Urban Land Expropriation

Expropriation of urban land for redevelopment is governed by China's Constitution and legislation including the 2007 Property Law, the 2004 Law on Administration of Urban Real Property, and the 2001 Regulations on Government Housing Demolition in Urban Areas (2001 Demolition Regulations).[133] The Property Law allows expropriation of urban land in the "public interest," subject to compensation for demolition and resettlement.[134] After the Property Law came into effect, the Law on Administration of Urban Real Property was revised to add a new Article 6, providing that the state may expropriate urban land in the "public interest," subject to granting compensation to the rights holder. Neither law defines the term "public interest," which allows abuse of expropriation.[135] Article 6 further provides that when an individual's residence is expropriated, that individual's living conditions should be protected.[136]

There has been widespread abuse in the process of expropriation of urban land, with forced evictions, lack of adequate compensation, and poor procedural protection.[137] Owners who refuse to leave their homes in some cases have been harassed, beaten, or illegally detained.[138] There have been countless cases of forced eviction reported in the press,[139] including the case of a Sichuan woman who set herself on fire in November 2009 to protest the demolition of her home.[140] This case triggered a debate among Chinese Internet users concerning forced demolitions.[141]

In December 2009, five law professors from Peking University sent an open letter to the National People's Congress calling for the repeal or amendment of the 2001 Demolition Regulations, which they said violate the Constitution and the Property Law.[142] In January 2010, the government issued for public comment draft Regulations for Expropriation and Compensation of Residential Buildings on State Owned Land.[143] The draft provides that evictions must be in the "public interest" and sets out seven categories of public interest, such as national defense installations.[144] However, the draft allows expropriation other than in the public interest in certain circumstances where the developers get permission from the relevant government departments.[145] The draft contains procedures for expropriation with greater protection for evicted residents, including public comment periods and better terms of compensation payment and calculation. At least two of the law professors who had called for the amendment considered the draft an improvement, though it allows certain demolitions that do not meet the public interest requirement and it does not cover expropriation of collectively owned land.[146] As of July 2010 the draft had not been passed. One of the five professors, Jiang Ming'an, told the South China Morning Post that, "if the draft regulation goes into effect, the western provinces would barely be able to attract investment, as real estate developers would find it difficult to acquire land under the new rules." Noting the reliance of local governments on income from land sales, Jiang said that "less government revenue could affect

the implementation of projects that aim to improve people's livelihoods."[147] The government has issued other documents since the publication of the draft in January 2010 to address problems with forced evictions, including a State Council directive issued in May to stop forced demolition and a Ministry of Land and Resources notice issued in July to local governments concerning compensation to homeowners.[148] In May, China Daily reported that the State Council had ordered localities to put in place land compensation standards before July.[149]

Expropriation of Collectively Owned Land

The draft Regulations for Expropriation and Compensation of Residential Buildings on State Owned Land apply to urban land only, leaving rural residents with a lower level of protection than that provided by the draft.[150] Many of the disputes leading to mass protests involve collectively owned land around major cities.[151] Though farmers can enter into 30-year contracts with their collectives for use of collectively owned land,[152] in some cases, the village committee takes the land back to "reallocate" it.[153] In other cases, the village committee, local government, and developer conspire to convert land into urban land, which the local government can then sell to the developer.[154] Finally, the Property Law mandates payment of compensation for the land, fixtures, and crops; subsidies for resettlement; and premiums for the farmers' social security.[155] Often, these amounts are paid to the village committee, and in some cases, very little reaches the original inhabitants.[156]

COOLING AN OVERHEATING PROPERTY MARKET

During the reporting year, the Chinese government took a number of measures at the national and local levels to cool the property market and curb speculation, and the Communist Party Central Commission for Discipline Inspection issued rules to stop officials from "meddling in the real estate industry," in a nod to corruption in the construction sector.[157] These efforts were against the backdrop of a surge in property prices of 23.6 percent in 2009.[158] In January 2010, the State Council issued a notice ordering local governments to curb speculation and provide affordable housing for residents.[159] In April, the State Council issued the Circular on Determined Suppression of the Exceedingly Rapid Rise of Certain Urban Housing Prices.[160] The Bank of China announced that, in principle, it would stop issuing home loans to purchasers who already owned two or more homes,[161] and reportedly the Chinese government planned to put a moratorium on real estate firms raising capital.[162] The Ministry of Land and Resources issued the Circular on Issues Relevant To Strengthening the Supply and Regulation of Land Use for Real Property in March 2010.[163] A number of localities, including Hainan, Chongqing, Beijing, and Shanghai, introduced measures as well.[164]

ACCESS TO JUSTICE

Introduction

During the Commission's 2010 reporting year, the Commission observed instances in which Chinese officials failed to meet international and domestic standards in upholding and protecting citizens' access to justice. International human rights standards require effective remedies for official violations of citizen rights. Article 8 of the Universal Declaration of Human Rights provides: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."[1] Article 2 of the International Covenant on Civil and Political Rights (ICCPR), which China has signed but not yet ratified, requires that all parties to the ICCPR ensure that persons whose rights or freedoms are violated "have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity."[2] China's Constitution similarly provides protections, under Article 41, for citizens seeking to petition or criticize the Chinese government for "violation of the law or dereliction of duty by any state organ or functionary."[3]

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

The National People's Congress Standing Committee issued laws and regulations—including a revision to the State Compensation Law and a new Mediation Law—which, if faithfully and effectively enforced, may improve access to justice for Chinese citizens in the future. However, the Chinese government's policy of targeting Chinese human rights defenders and lawyers that handle "sensitive" case work continued unabated, jeopardizing the potential of these reforms to produce positive results.[4] Systemic abuses within China's *xinfang* (letters and visits), or petitioning, system continue to reflect official unwillingness to protect the legal rights of Chinese citizens.[5]

Administrative Law Developments

During this reporting year, the Chinese government continued to promote administrative law reforms that reportedly aim to provide greater oversight of state agencies, protect citizen interests, and enhance supervision of government employees. The administrative law system in China, however, remains beset with fundamental institutional challenges. For instance, although the 1989 Administrative Litigation Law (ALL) gives Chinese citizens the right to file lawsuits to challenge "concrete" administrative acts that violate their lawful rights and interests, Chinese media sources have consistently criticized difficulties within the legal system that undermine the effectiveness of the ALL.[6] In November 2009, the Su-

preme People's Court (SPC) addressed concerns over administrative litigation by issuing an opinion on the protection of administrative litigants, which aims to strengthen the system for accepting administrative cases and to resolve "complainant difficulties."[7] In May 2010, however, the Legal Daily criticized the "chronic [justice] problems" that exist in administrative lawsuits (commonly referred to as "citizens sue officials"), due in part to the problem of lower level courts creating policies to restrict citizens from exercising administrative litigation rights.[8] According to a May 2010 article in the Southern Metropolis Daily, the low success rate of administrative lawsuits not only reflects the reality of "citizen-official" power dynamics, but also demonstrates the "awkwardness" of the ALL.[9] The article notes that even when plaintiffs win their cases, the "difficulty of implementing" the decisions remains.[10]

In addition, in June 2010, Chinese officials announced that revisions to the Administrative Reconsideration Law (ARL) would be included in the 2010 annual legislative agenda of the State Council.[11] The ARL allows Chinese citizens to submit an application to State Council departments for administrative review of specific government actions that violate the applicant's legal rights and interests.[12] In July, a China University of Politics and Law professor said the scope of the ARL should be expanded: "the scope of administrative reconsideration cases should be broader than the scope of administrative litigation—except where otherwise provided by law, any administrative influence over the rights of citizens should be included within the scope of reconsideration."[13] In July, Gao Fengtao, Deputy Director of the State Council's Legislative Affairs Office, told official news media: "Although administrative reconsideration has made significant progress and achieved significant results, the functional role of the administrative reconsideration system has yet to be effectively developed."[14]

In April 2010, the National People's Congress Standing Committee (NPCSC) adopted the first revision to the 1994 State Compensation Law (SCL) in more than 15 years.[15] The amendments to the SCL reportedly will expand the scope of state liability and grant citizens greater ability to obtain compensation.[16] The revised SCL, which will go into effect in December 2010, includes amendments that will allow citizens to claim compensation for psychological injury, will enhance detainees' protections by allowing compensation when authorities sanction the mistreatment of criminal suspects in detention centers, and will shift the burden of proof to authorities when a detainee dies or is incapacitated, so that officials will now be required to provide evidence demonstrating they were not responsible.[17] Under the revised SCL, victims will be allowed to apply directly for compensation; the current SCL stipulates "victims should first apply for state compensation at the department which caused the loss, and . . . in some cases, the citizen must first obtain written acknowledgement of violation from the department before applying for compensation."[18] The April amendments come after years of criticism over the SCL's effectiveness. The law, which had been dubbed the "Non-Compensation Law" by many due to its complicated procedures, underwent one draft amendment in 2008 and two in 2009.[19] In 2009, Chinese courts tried a total of 1,531 cases in which citizens applied for state com-

pensation.[20] Only one-third of the complainants, however, received compensation, according to the Southern Metropolis Daily.[21] The recently revised SCL received some public criticism for not including earlier draft recommendations on prolonged detention, which would have allowed for state compensation in cases where criminal suspects were detained wrongly within the period stipulated by the Criminal Procedure Law (up to a total of 37 days).[22]

In June 2010, the NPCSC endorsed amendments to the Administrative Supervision Law (ASL), which entered into effect on October 1, 2010.[23] The ASL fulfills an important function in China's national legal system, stipulating measures that bolster administrative control, cover government oversight, and boost agency efficiency. The revised ASL aims to expand the scope of supervision from administrative agencies to those more broadly involved in public management activities. In addition, if properly implemented, the ASL will improve the monitoring of agencies by strengthening the responsibility to protect whistleblowers and by stipulating that individuals who reveal an informant's personal information may be punished according to the law.[24] The issue of retaliation against whistleblowers has become a serious problem for the law's implementation—the Supreme People's Procuratorate revealed in late June that "approximately 70 percent of informants suffered varying degrees of retaliation or covert retaliation."[25]

Mediation Reform: The People's Mediation Law

Over the 2010 reporting year, the Commission observed ongoing government efforts to advance and expand China's system of dispute settlement through mediation.[26] China's official state media claim that local-level mediation of civil disputes has existed in China for "thousands of years."[27] In recent years, however, the Chinese government has promoted an official "great mediation" (*da tiaojie*) campaign nationally in part to relieve pressure on courts amid what has been deemed a "litigation explosion."[28] According to a Ministry of Justice official, by the end of 2009, the country had 4.94 million mediators (*renmin tiaojie yuan*) and 824,000 mediation organizations (*renmin tiaojie zuzhi*).[29] In June 2010, Xinhua reported that these organizations handled 7.67 million cases in 2009 and that less than one percent of mediated cases went on to litigation.[30] In 2009, Sichuan Province mediated 527,000 disputes, which the government claimed contributed to a 23.5 percent drop in "mass incidents" and a 47.3 percent decline in grievances filed through the petition (*xinfang*) system.[31] In January, Politburo Standing Committee member Zhou Yongkang affirmed the Sichuan model on mediation and called on officials to do more to eliminate and resolve disputes at the grassroots level.[32]

Mediation Reform: The People's Mediation Law—Continued

During the reporting year, the Chinese government moved to streamline mediation procedures.[33] Most notably, on August 28, 2010, the National People's Congress Standing Committee passed the first People's Mediation Law (PML), which will take effect on January 1, 2011.[34] In presenting the draft law for approval in June, Minister of Justice Wu Aiying told the Standing Committee that "Mediation should be the first line of defence to maintain social stability and promote harmony."[35] The PML stipulates the legal basis for establishing mediation committees as the organizations charged with resolving disputes.[36] The PML stipulates, for instance, procedures on the creation of mediation committees within village committees (*cunmin weiyuanhui*) and neighborhood committees (*jumin weiyuanhui*).[37] The PML also requires local-level governments to provide financial support for mediation work.[38] Some observers, however, have pointed out possible shortcomings in the new People's Mediation Law. Article 14, for instance, stipulates that mediation committees must select mediators that are "impartially upright and enthusiastic in carrying out the people's mediation work."[39] It further states that the mediators must possess the "certain level of education, policy and legal knowledge of adult citizens."[40] The PML, however, does not specify professional qualifications or procedures for how committees will determine impartiality.[41] Critics of the PML have expressed concern with how the new law will ensure mediation outcomes are enforced.[42] In July 2010, a Beijing Youth Daily article pointed out that "the courts are strongly pushing mediated settlements, but the rate of voluntary execution for mediated settlements is far less than that for litigated settlements."[43]

Human Rights Lawyers and Defenders

During its 2010 reporting year, the Commission noted ongoing official efforts to discourage, intimidate, and physically harm human rights lawyers and defenders who took on issues officials deemed "sensitive." In what activists have said is a "widespread official clampdown" on human rights defenders, Chinese authorities targeted human rights lawyers with extralegal detention, administrative punishments, and harassment. In April 2010, Chinese officials announced even greater restrictive measures on the legal profession.[44]

The whereabouts and condition of prominent human rights lawyer Gao Zhisheng, who gained international attention for representing marginalized citizens and religious practitioners, remain unknown. On March 28, 2010, Gao reportedly resurfaced at Wutai Mountain, a sacred Buddhist landmark in Shanxi province, after "disappearing" into the custody of public security officers in February 2009.[45] In early April 2010, Gao gave several interviews to foreign reporters, claiming he had been "released" months earlier and planned to end his human rights campaigning in hopes of reuniting with his family.[46] Weeks later, however, Gao "vanished" again, after visiting with family in Urumqi, Xinjiang Uyghur Autonomous Region.[47] The disappearance of Gao has raised concerns internationally about the Chinese government's willingness to silence critics. In a May 2010 Wall Street Journal op-ed, Professor

Jerome Cohen of New York University Law School and Beth Schwanke, Legislative Counsel for Freedom Now, stated that "[i]f the government can act with impunity toward a lawyer as prominent as Gao Zhisheng . . . other dissidents will continue to be 'disappeared,' as have many protesters unknown to the outside world."[48]

As noted in the Commission's 2009 Annual Report, law firms and legal advocacy organizations faced similar challenges in advocating on behalf of their clients and human rights topics. The Beijing Yitong Law Firm, a firm well known for taking on "matters deemed sensitive by the authorities," remained inactive after Chinese authorities shut down the law firm for six months in March 2009.[49] In March 2010, Chinese Human Rights Defenders reported that Beijing's Anhui Law Firm, a human rights law firm that failed its annual examination and evaluation in May 2009, was forced to move from its Chongwen district offices after Bureau of Justice and Public Security Bureau officials pressured the firm's landlord not to renew its lease.[50] The Chinese government has also continued its crackdown on non-governmental organizations representing disadvantaged groups. In late March, Peking University severed ties with its Center for Women's Law Studies and Legal Services, a high-profile women's rights advocacy group that has been involved with sensitive legal work in recent years.[51] [For more information, see Section III—Civil Society.] In May 2010, prominent Chinese AIDS rights advocate Wan Yanhai, founder of the Aizhixing Institute of Health Education, fled China for the United States after facing increasing pressure and harassment from government sources.[52] [For more information, see Section III—Civil Society.]

The following examples illustrate the mistreatment that Chinese human rights lawyers suffered during this reporting year under public security measures and government policies.

- On November 20, 2009, Chinese security officials placed "dozens" of Chinese human rights lawyers and defenders, including prominent human rights lawyer Jiang Tianyong, "under house arrest or under surveillance" during U.S. President Barack Obama's visit to China.[53] [For more information about house arrests and "soft detention," see Section II—Criminal Justice—Arbitrary Detention.] Chinese authorities held Jiang for more than 13 hours at a Beijing police station, without any documentation authorizing the detention, the day after Jiang requested to meet with President Obama.[54] While public security officials detained Jiang in a police car, a public security officer reportedly used excessive force in constraining Jiang's wife in front of his seven-year-old daughter. Public security officials reportedly later questioned the daughter at school while he was in custody. During President Obama's visit, Chinese authorities also placed other human rights lawyers, including Li Xiongbing, Li Heping, and Mo Shaoping, under police surveillance, with three or four police officers stationed in front of their homes.[55]
- In December 2009, officials from the Fuzhou Municipal Justice Bureau, in Fujian province, suspended the legal license of Fuzhou-based criminal defense lawyer Lin Hongnan for one year, and in April 2010, justice officials reportedly notified Lin

that his law firm would be dissolved for "holding unlawful statutory conditions of establishment."[56] The 70-year-old criminal defense lawyer represented one of three defendants accused of posting articles and video on the Internet calling on officials to investigate allegations of rape and murder in the death of a young woman in a highly publicized slander case.[57] The three Internet users reportedly repeated claims by the woman's mother that her daughter was gang-raped and murdered by people with ties to local police. [For more information on the "Case of the Fujian Netizens," see Section II—Freedom of Expression.]

• In late 2009, the Shahekou District People's Court, located in Dalian city, Liaoning province, sentenced human rights lawyer Wang Yonghang, in a closed court hearing without a lawyer, to seven years' imprisonment for defending Falun Gong practitioners and publishing articles on Internet sites outside of China. According to the non-governmental organization Chinese Human Rights Defenders, Wang met with his lawyers for the first time in January 2010, six months after domestic security protection officers kidnapped him on July 4, 2009. During the meeting, the lawyers verified reports that he had been "violently beaten on three occasions, and that he suffered a severe ankle injury, which required surgery. . . ."[58]

• On July 12, 2010, after reportedly receiving orders from their superiors,[59] police barred Beijing lawyer Zhang Kai from entering a court in Linfen municipality, Shanxi province.[60] A prominent lawyer who has defended Christians in several sensitive cases over the past year,[61] Zhang was attempting to file an administrative lawsuit on behalf of five Linfen church leaders sentenced to imprisonment in November 2009 following a violent raid on the Linfen-Fushan Church in September 2009.[62] One officer reportedly referred to the issue as a matter of national security.[63] [For more information on the Linfen-Fushan Church raid, see Section II—Freedom of Religion.]

• In June 2010, officials from the Beijing Justice Bureau's Lawyer's Management Office warned prominent human rights lawyers Li Heping and Li Xiongbing not to participate in the formation of the "Rights Defense Lawyers' Association," and indicated that the Association would not be registered.

In 2010, Chinese authorities continued to pressure human rights lawyers who took on sensitive cases by denying annual license renewals. In order to continue practicing law, lawyers in China must have their license to practice law renewed annually by passing the "assessment and registration" process, which is conducted by government-controlled lawyers associations.[64] Some rights lawyers have stated that this process has become a political tool to silence human rights lawyers and intimidate other attorneys from joining their ranks.[65] In July, the China Human Rights Lawyer Concern Group reported it had received information that six human rights lawyers—Jiang Tianyong, Wen Haibo, Zhang Lihui, Tong Chaoping, Yang Huiwen, and Li Jinsong—failed to pass the "annual assessment and registration" by the extended July 15 deadline.[66] Some human rights lawyers passed the assessment only after accepting supplementary conditions, such as guaranteeing

that they will avoid certain sensitive cases or decline interviews.[67] After the deadline, prominent human rights lawyer Jiang Tianyong described the pressures placed on lawyers and law firms: "They put a lot of requirements on law firms, even making lawyers make strict promises, and at the same time making them pay guarantee deposits. But as soon as they say they are going to do a certain case, this insurance money disappears."[68]

In April 2010, the Beijing Municipal Justice Bureau permanently revoked the lawyer's licenses of Tang Jitian and Liu Wei, two Beijing human rights lawyers who represented a Falun Gong practitioner in an April 2009 trial in Sichuan province.[69] The justice bureau officials accused Tang and Liu of "disrupting the order of the court and interfering with the regular litigation process." According to the organization Human Rights in China, however, the two lawyers claimed that authorities illegally videotaped the trial, that the trial judge interrupted the proceedings repeatedly, and that unidentified men ordered the lawyers out of the courtroom.[70] Although lawyers in China are usually permanently disbarred only if convicted of a crime, the New York Times quoted a law professor at the Chinese University of Hong Kong who stated the permanent revocation of Tang and Liu's practicing licenses could be the first of its kind for a "disruption-of-court" charge.[71]

In early April 2010, Chinese authorities issued two new administrative regulations on the legal profession that Chinese media outlets claimed will "strengthen the supervision and management of lawyers and law firms."[72] The Ministry of Justice publicly stated the measures aim to standardize practices nationally, provide consistency across regulations, and ensure conformity with the 2008 Lawyers Law.[73] The organization Chinese Human Rights Defenders, however, criticized the regulations, writing: "it is clear that these regulations were designed to protect the interests of the government, rather than lawyers or the law."[74] According to an April 2010 Associated Press article, lawyers and human rights groups in China warned that the new legal measures "will allow authorities to punish lawyers . . . for actions such as talking to the media or even causing 'traffic troubles.'"[75]

Petitioning (Xinfang)

The *xinfang* (letters and visits), or petitioning, system exists to provide a channel, outside court challenges, for citizens to appeal government, court, and Party decisions and present their grievances.[76] China's Constitution and the 2005 National Regulations on Letters and Visits provide that Chinese citizens have the right to petition without retribution.[77] Because of "institutional weaknesses of the Chinese judiciary and government limitations on citizen political participation," citizen petitions are a "popular channel" for wronged Chinese citizens seeking accountability.[78] *Xinfang* offices are found throughout the Chinese bureaucracy, including offices of the Communist Party, police, government, procuratorates, courts, and people's congresses.[79] Citizen petitions cover a range of issues, from "minor business disputes" to the most egregious alleged abuses and accusations of "murder, torture, and rape inflicted at the hands of government and police officials."[80] Despite legal rights to petition and prohibitions against retribution, citizens may

face official reprisals, harassment, violence, or detention in reeducation through labor centers, psychiatric hospitals (*ankang*), and extralegal "black jails" (*hei jianyu*).[81]

During the Commission's 2010 reporting year, central authorities continued to urge officials to handle petitions locally to prevent grievances reaching higher administrative offices, as authorities have noted increasing *xinfang* trends and labeled some petitioning activities as threats to "social stability." In March 2010, Zhou Yongkang, member of the Politburo Standing Committee and secretary of the Politics and Law Commission of the Party Central Committee, wrote that "much of what is reflected behind petitions and mass incidents are contradictions among the people that are triggered by interest-related complaints . . . [w]ith regard to the large number of contradictions and problems which have not yet risen to the level of petitions, they should also be resolved as quickly as possible in order to keep them from building up and intensifying."[82] Zhou urged improving the mediation system and resolving "social contradictions at the grassroots level."[83] In November 2009, a Supreme People's Court official announced that the people's county system received 8.25 percent more complaints during the first six months of 2009 than it received in 2008, and he estimated that the number of complaints for the whole year could surpass 12 million cases.[84] In March 2010, the Party's Central Political-Legal Committee for the first time named groups of farmers petitioning higher level officials as one of the "internal three forces" that threatened "social stability."[85]

With growing concerns over *xinfang* trends, central and local authorities intensified restrictions on "abnormal petitioning."[86] In November 2009, Shenzhen municipal authorities reportedly issued the Circular Regarding the Lawful Handling of Abnormal Petitioning Behavior.[87] The Circular identified 14 types of "abnormal" petitioning behavior, such as "shouting slogans" and "wearing grievances," that would be subject to administrative disciplinary action, including reeducation through labor (RTL).[88] Various provinces and cities have passed circulars similar to Shenzhen's.[89] In April, Shenzhen authorities announced a new "policy" that would restrict those with a history of "abnormal" petitioning behavior from obtaining residence permits.[90] Some authorities have already detained[91] or sent to RTL centers citizens for exhibiting "abnormal petitioning" behavior, including repeat petitioners from Guangxi province who traveled to Beijing to air their grievances with higher level authorities.[92]

Abuse of Petitioners

Regulations and evaluation systems dictate that local-level leaders bear responsibility if a large number of petitioners take their grievances to higher levels; in some instances, petitions may contribute to poor performance evaluations.[93] These responsibility systems give local authorities an interest in suppressing group petitions and preventing petitioners from taking their grievances to higher administrative levels.[94]

During the 2010 reporting year, some collective petitioning activities resulted in police abuses. On June 24, 2010, approximately 200 relatives of children killed in the May 2008 Sichuan earth-

quake reportedly stormed the Mianzhu city government, but were prevented from entering the building by 300 special police.[95] On June 21, nearly 80 Dongjiangyan county parents of children killed in the Sichuan earthquake petitioned the provincial government in Chengdu for compensation, but 40 were detained and 3 appeared to still be in detention as of June 25.[96] On April 27, 314 teachers from Gong'an county, Hubei province, knelt before the county government building and public security bureau to protest being illegally fired. Police administratively detained three of the organizers and sought two more associated with the kneeling protest.[97] After a previous protest in 2009 by teachers in Gong'an county, authorities sent at least one organizer to a reeducation through labor center for one year.[98]

In 2010, Chinese authorities detained, threatened or placed under surveillance petitioners across China to ensure that their complaints regarding access to justice would not interfere with the Shanghai 2010 World Expo.[99] Chinese authorities targeted a number of housing activists, including petitioners from Shanghai that sought to exercise their rights to petition against the relocation of 18,000 households in preparation for the Shanghai Expo site.[100] International human rights organizations and media widely reported on official abuses and detentions related to the forced evictions and demolitions.[101] In one such instance, Chinese Human Rights Defenders reported that Shanghai public security officials ordered Cao Yibao to serve one year of reeducation through labor in late May for "disrupting public order," after being detained in April during an identification check on the Expo grounds. Cao, who is 60 years old and suffers from diabetes and high blood pressure, has petitioned for years since her home was demolished in preparation for the Shanghai Expo event.[102]

PETITIONERS IN "BLACK JAIL" DETENTIONS

Chinese authorities continued to use "black jails" (*hei jianyu*), secret detention sites established by local officials, to detain and punish petitioners that travel to Beijing and other provincial capitals to voice complaints and seek redress for injustices. [For more information, see Section II—Criminal Justice—"Black Jails": Secret Detention Sites.] During this reporting year, the Commission observed several examples of black jail detentions that violated international and domestic laws.[103]

- In June 2010, Xu Lingjun, a disabled People's Liberation Army (PLA) retiree from Shaanxi province, died in a black jail after suffering from starvation in detention. Xu and other petitioners were held after pursuing complaints against local officials. A former inmate from the black jail told Radio Free Asia that Xu "had been detained for 10 months, and his family had been placed under very tight surveillance." According to the report, authorities at the black jail, established by the Communist Party's Politics and Law Committee of Shaanxi's Chenggu county, regularly beat detainees and failed to provide sufficient food.[104]
- On May 7, 2010, black jail authorities released Beijing-based human rights advocate Li Jinping after domestic security protection officers abducted him on April 28 in Beijing. The

guards refused to let Li leave the "closely guarded room" throughout the duration of his detention, and individuals beat and verbally abused Li. According to Chinese Human Rights Defenders, authorities detained Li for seeking to demonstrate for "an official re-evaluation of the legacy of Zhao Ziyang" and for "encouraging petitioners to join him to commemorate [Zhao,] the former [Communist Party General Secretary] known for his sympathy with demonstrators during the 1989 Tiananmen protests." [105]

FORCIBLE DETENTION OF PETITIONERS IN PSYCHIATRIC HOSPITALS

During this reporting year, authorities continued to forcibly confine Chinese citizens—including petitioners—to psychiatric hospitals, because of outspoken petitioning activities. Chinese and foreign media outlets reported on petitioners committed to mental institutions for periods ranging from days (particularly around sensitive dates) to years.[106] In late April, a China Youth Daily article exposed the case of Xu Lindong, a Henan petitioner held in psychiatric hospitals for more than six years despite his pleas of sanity. Authorities released Xu, a villager from Luohe city, Henan province, after he spent six and one-half years in forcible confinement for filing a petition, on behalf of a disabled friend, over a land dispute with local officials.[107] During his detention, psychiatric officials shackled Xu 48 times, applied electric shocks on 54 occasions, and forced Xu to take psychiatric drugs. In late April 2010, China Youth Daily reporters, posing as relatives, revealed the wrongful detention, sparking widespread criticism of compulsory psychiatric commitments. In response to the case, more than 100 lawyers around the country reportedly signed a recommendation urging China's procuratorates to end the practice of falsely labeling citizens as "mentally ill." [108] In February 2010, Radio Free Asia reported that one Chinese non-governmental organization had collected the names of over 300 people who had been forcibly committed to psychiatric hospitals, including petitioners and Falun Gong practitioners.[109]

IV. Xinjiang

Introduction

Human rights conditions in the Xinjiang Uyghur Autonomous Region (XUAR) worsened during the Commission's 2010 reporting year. Following government suppression of a demonstration by Uyghurs and riots in the XUAR in July 2009, authorities instituted unprecedented levels of control over the free flow of information, denying XUAR residents and the outside world news about conditions in the region and increasing the government's capacity to manipulate information. Amid this information blackout, authorities strengthened security measures and campaigns to promote "ethnic unity," using them to quell free speech, curb independent religious activity, and impose intrusive controls over the lives of XUAR residents. Authorities singled out Uyghurs in particular in security campaigns, and the whereabouts of some Uyghurs detained in the aftermath of the July demonstrations and riots remain unknown. Trials connected to events in July 2009 have been marked by a lack of transparency and violations of due process. Authorities detained, and in some cases, imprisoned, Uyghur Web site workers and a journalist in connection to free speech about the events and about broader conditions in the XUAR. Amid these developments, central government and Communist Party authorities inaugurated a "central work forum" on the topic of the XUAR in May 2010 that set central government and Party objectives for the region's economic and political development, intensifying a trend of top-down initiatives that prioritize state economic and political goals over the promotion of regional autonomy and broader protections of XUAR residents' rights.

Against this backdrop, the government enforced other policies and measures that also fueled worsening human rights conditions in the region, including measures aimed at quelling dissent, promoting assimilation, and repressing independent expressions of ethnic and religious identity, especially among the Uyghurs. The XUAR government intensified steps to promote Mandarin Chinese and marginalize the use of the Uyghur language in XUAR schools, in violation of Chinese law. As in past years, some population planning policies in the region singled out non-Han ethnic groups. The government continued work to transfer Uyghur and other non-Han workers to jobs in the interior of China, through programs reportedly marked, in some cases, by coercion and abusive practices. Uyghurs and other groups within the XUAR remained subject to hiring practices that have allowed widespread discrimination against non-Han groups. Ongoing work to "reconstruct" the historic Old City section of Kashgar continued to undermine Uyghurs' right to preserve their cultural heritage. Repression of Islam in the XUAR worsened. [For more information on conditions for religious freedom in the XUAR, see Section II—Freedom of Religion—Islam.] Uyghurs seeking asylum outside of China continued to face barriers to accessing asylum proceedings and risk of refoulement to China under the sway of China's influence in neighboring countries and its disregard for international law, as illustrated by the Cambodian government's deportation of 20 Uyghur asylum seekers to

China in December 2009, following Chinese government intervention.

Repressive government controls throughout the region, especially those targeting Uyghurs, illustrated the status of the XUAR as a government-designated ethnic autonomous region that lacks true autonomy, particularly for the group in whose name it was established. Despite guarantees in Chinese law for measures of autonomy in governance and protections for ethnic minority rights,[1] central and local government authorities exert control at a level antithetical to local residents' meaningful control over their own affairs and to the protection of their rights. Chinese government actions violate not only Chinese law but also international human rights law that the Chinese government is bound to uphold.[2]

Security Measures and Ideological Campaigns

Top leaders from the central and Xinjiang Uyghur Autonomous Region (XUAR) governments and Communist Party pledged throughout the year to make "upholding stability" a top priority for the region.[3] Zhang Chunxian, who replaced Wang Lequan as Party Secretary of the XUAR in April 2010,[4] reiterated official calls to promote the ideology of "stability above all else" and to "strike hard with maximum pressure" against the "three forces" of terrorism, separatism, and religious extremism.[5] Authorities continued to politicize security concerns, targeting peaceful human rights activity, political dissent, and free expression as threats to the region's security.[6] The XUAR government took several steps in the past year to enhance the region's security capacity. The XUAR government increased spending for public security by 87.9 percent over the previous year in its 2010 budget, raising the total to 2.89 billion yuan (US$423 million).[7] In December 2009, the XUAR government made revisions to its Regulation for the Comprehensive Management of Social Order, effective February 1, 2010, that redefine the region's priorities in maintaining social order, placing new prominence on "striking hard" against crimes of endangering state security (ESS).[8] Authorities in China have used ESS charges to punish political dissent,[9] and the new emphasis on such crimes in the XUAR regulation is unseen in most other social order regulations in China.[10] The XUAR government also increased the number of "special police" in the region, with plans to recruit a total of 5,000 new officers.[11] In the XUAR capital of Urumqi, where the July 2009 demonstrations and riots took place, authorities reported they would increase the number of 24-hour surveillance cameras in the city to 60,000 by the end of 2010.[12] Urumqi authorities also described plans to hire 10,000 new officers to expand the ranks of "patrol teams" to monitor the city.[13] Urumqi authorities launched a one-month stability operation in late June in the lead-up to the one-year anniversary of the July 2009 demonstrations and riots.[14]

In the aftermath of events in July 2009, the XUAR government also increased measures to promote "ethnic unity" in the region, using them as a vehicle for promoting longstanding government and Party policy and as a tool for restricting free speech. Authorities dispatched "stability work teams" to over 160 neighborhoods in Urumqi following events in July, to "stress the truth about the incident, stress ethnic unity, and stress policy and law."[15] In Decem-

ber, the XUAR People's Congress Standing Committee passed a regulation on promoting education on ethnic unity—apparently the first of its kind in China [16]—that aims to publicize Party policy toward ethnic minorities and that imposes tight controls on freedom of expression, with implications in areas such as academic freedom, educational curricula, and commercial decisions.[17] The regulation includes administrative penalties and states the possibility of punishment under China's Criminal Law for spreading information deemed "not beneficial" to ethnic unity.[18] In January and February 2010, XUAR authorities used administrative and criminal measures to punish people for spreading "harmful" information by telephone and text message, including information that "influenced" or "destroyed" ethnic unity.[19] [For additional information, see Controls Over Free Expression in this section.] Authorities also bolstered ethnic unity education in XUAR schools and universities.[20]

Criminal Law and Access to Justice

The criminal justice system in the Xinjiang Uyghur Autonomous Region (XUAR) remained marked by rights abuses, overt politicization, and a lack of transparency. In the aftermath of the July 2009 demonstrations and riots, government reports provided inconsistent statistics on the number of people detained in connection to the events,[21] while overseas media cited sources in the XUAR that described widespread security sweeps and mass detentions—including mass roundups of Uyghur men—indicating detention numbers that would exceed those reported at different times by the Chinese government and media.[22] Some of the people reported to have been detained appeared to have no involvement in either acts of protest or violent activity in July.[23] An October 2009 report from Human Rights Watch documented 43 cases of enforced disappearances after July 2009, while the report estimated that the true number of people in such situations was "likely significantly higher than the number of cases documented" in the report.[24] In addition, Chinese authorities have not reported investigating accounts of state abuses committed during the events in July. In July 2010, the Uyghur Human Rights Project published a report, based on interviews with people present in Urumqi on July 5, 2009, that described the use of deadly police force against Uyghur protestors and Uyghur crowds that day.[25]

Trials held in connection to alleged crimes committed during the July 2009 demonstrations and riots were marred by violations of Chinese law and international standards for due process, including politicized judge selections and curbs on independent legal defense. Rozi Ismail, head of the XUAR High People's Court, reported in July 2009 that the court had selected judges for the trials who were "politically reliable," [26] and he reported in January 2010 that the XUAR High People's Court had issued "guiding opinions" to the trial court and strengthened "supervision and guidance" toward the court to "guarantee" the trials "took place in an orderly way in accordance with law." [27] Although defendants reportedly had legal defense at the trials, in advance of the court hearings, authorities in Beijing and the XUAR issued orders dictating the terms upon which lawyers could be involved in cases.[28] Authorities also reportedly warned lawyers active in human rights defense work against

taking the cases.[29] In at least one set of trials, authorities reportedly violated Article 151(5) of China's Criminal Procedure Law (stipulating that courts shall announce trials involving public prosecutions three days in advance) by failing to provide adequate public notice of the hearings.[30] Authorities also warned the media against independent reporting on the events.[31] Trials were also marked by a lack of transparency and apparent failure to publicize many of the judgments, in violation of Article 163 of the Criminal Procedure Law (stipulating that "[i]n all cases, judgments shall be pronounced publicly").[32] XUAR government chairperson Nur Bekri said in March that 198 people involved in 97 cases had been sentenced in the XUAR for crimes committed in July 2009, a figure that appeared to far exceed the number of cases reported as of March 2010 by Chinese media.[33] [See table below titled Xinjiang Trials for Crimes Committed During the July 2009 Demonstrations and Riots for detailed information.]

XINJIANG TRIALS FOR CRIMES COMMITTED DURING THE JULY 2009 DEMONSTRATIONS AND RIOTS: AVAILABLE INFORMATION AS OF NUR BEKRI'S MARCH 2010 ANNOUNCEMENT ON THE SENTENCING OF 198 PEOPLE[34]

Trial Date	Number of People/ Cases	Date of Alleged Crime	Charges	Sentencing Details (Number of people)	Ethnic Group (Conjectured based on name of defendant)	Appeals
October 12, 2009	7 people/ 3 cases	July 5	Intentional homicide; arson; robbery	6: death (executed) 1: life in prison	7 Uyghur	October 30, 2009: All judgments upheld.
October 14, 2009 (sentence October 15)	14 people/ 3 cases	July 5 and July 7	Intentional homicide; arson; robbery; intentional injury; intentional destruction of property	3: death (executed) 3: death + 2-yr reprieve 3: life in prison 5: 5–18 yrs	12 Uyghur 2 Han	October 30, 2009: All judgments upheld.
December 3, 2009	13 people/ 5 cases	July 5	Intentional homicide; robbery; arson; intentional injury	5: death 2: life in prison 6: 10–20 yrs	11 Uyghur, of names provided	December 19, 2009: Some cases appealed. Judgments upheld.

XINJIANG TRIALS FOR CRIMES COMMITTED DURING THE JULY 2009 DEMONSTRATIONS AND RIOTS: AVAILABLE INFORMATION AS OF NUR BEKRI'S MARCH 2010 ANNOUNCEMENT ON THE SENTENCING OF 198 PEOPLE[34]—CONTINUED

Trial Date	Number of People/ Cases	Date of Alleged Crime	Charges	Sentencing Details (Number of people)	Ethnic Group (Conjectured based on name of defendant)	Appeals
December 4, 2009	7 people/5 cases	July 5–7	Intentional homicide; intentional injury; arson; carrying out explosions	3: death 1: life in prison 3: 10–18 yrs	5 Uyghur 2 Han	December 19, 2009: Some cases appealed. Judgments upheld.
December 22 and 23, 2009	22 people/ 5 cases	July 5	Intentional homicide; robbery	5: death 5: death + 2-yr reprieve 8: life in prison 4: 12–15 yrs	22 Uyghur	N/A
January 25, 2010	13 people/ 5 cases	N/A	N/A	4: death 1: death + 2-yr reprieve 8: prison terms including life in prison	6 Uyghur, of names provided	N/A
Total	76 people/ 26 cases		Where reported: Intentional homicide; arson; robbery; intentional injury; intentional destruction of property; carrying out explosions	26: death 9: death + 2-yr reprieve 15: life in prison 18: 5–20 yrs 8: prison terms, including life in prison	63 Uyghur 4 Han, of names provided	

The number of trials for crimes of endangering state security (ESS)—a category of criminal offenses that authorities in China have used to punish citizen activism and dissent—surged in the XUAR in 2009. Courts in the XUAR completed trials in 437 ESS cases in 2009, an increase of 169 cases over the previous year.[35] The 2008 figure from the XUAR, 268 cases, appeared in turn to represent a sharp increase over previous years.[36] As of December 2009, no trials directly related to events in July 2009 were reported

to involve ESS crimes,[37] suggesting the increase in 2009 may have come partly or fully from other sources, though detailed information on the ESS crimes committed in 2009 is not available.[38] XUAR authorities had previously heightened politicized security campaigns in the region in advance of the 2008 Beijing Summer Olympic Games and into 2009.[39]

Controls Over Free Expression

The Xinjiang Uyghur Autonomous Region (XUAR) government and Communist Party imposed widespread controls over the free flow of information in 2009 and 2010. Following demonstrations and riots in Urumqi starting July 5, 2009, the Urumqi Party Secretary announced on July 7 that authorities had cut Internet access in the city to "quench the riot quickly and prevent violence from spreading to other places."[40] Authorities also instituted Internet restrictions across the XUAR and imposed curbs on text messaging and international phone calls.[41] The actual role the communication devices played in the violence (as opposed to demonstrations), however, was unclear,[42] and the wide-reaching restrictions—affecting all Internet, SMS, and international phone content and lasting for months after the July 2009 events—exceeded permissible boundaries for limiting the right to free expression as defined in international human rights standards.[43] [See Section II—Freedom of Expression for details.] Authorities allowed XUAR residents more access to the technologies starting in late December and January[44] but did not restore more complete Internet access until May 14.[45] At the same time, after that date, a number of popular Uyghur-language Web sites remained shut down, with some of their staff held in detention [see box titled Free Expression Punished in Xinjiang below], and longstanding curbs throughout China over some human rights Web sites remained in place.[46] Throughout the past year, and especially in advance of the one-year anniversary of events in July 2009, authorities also maintained restrictions on Internet discussions and reporting about the events and reportedly ordered people not to speak to foreign journalists without authorization.[47]

Authorities in the XUAR bolstered legal measures to repress free speech following events in July 2009. The XUAR People's Congress Standing Committee passed a new regulation on information promotion in September 25, 2009, effective December 1, 2009, that bans use of the Internet to "endanger state security," "incite ethnic separatism," "destroy ethnic unity," or publish "harmful" information, among other acts.[48] Though similar in certain respects to some Internet regulations elsewhere in China,[49] one official described the new prohibitions as addressing the role the Internet played in allowing the "three forces" (terrorism, separatism, and religious extremism) to "spread rumors, incite ethnic separatism, and provoke disturbances" before events in Urumqi on July 5.[50] The regulation stipulates the possibility of criminal penalties for acts such as "destroying ethnic unity" and "inciting ethnic separatism" (splittism).[51] An announcement issued by three Kashgar district government offices in March 2010 reiterated the possibility of criminal punishment and other penalties for using the Internet and other communications technology to commit the crime of "inciting

separatism." The announcement defined the crime to include using technology to carry out, with the aim of splitting the country, acts including: spreading materials on separatism, "inciting" people to participate in demonstrations, distributing literary works "with separatist content," and "slandering and assaulting the Party and government."[52] Additional regulations implemented or revised in the past year in the XUAR further expanded curbs over free expression. In addition to the new regulation on ethnic unity, discussed above,[53] which curbs speech deemed "not beneficial" to ethnic unity, a regulation on social order, revised on December 29, 2009, and effective February 1, 2010, calls for government offices to punish those who create, publish, sell, or distribute materials perceived to touch on issues including threats to state security, "illegal religion," and superstition.[54]

The XUAR government and Party also continued to enforce wide-scale censorship campaigns. A XUAR media report said the XUAR government and Party have made "striking hard" against "reactionary" materials and other "illegal" political and religious publications distributed by the "three forces" as the focus of the region's censorship campaign since 2009.[55] The article also described strengthening controls over "illegal" materials especially after events in July 2009.[56] Authorities initiated a special multi-province operation in 2009, headed by a XUAR government and Party group, aimed at stopping "three forces" materials.[57] Zhou Huilin, Deputy Director of the National "Sweep Away Pornography and Strike Down Illegal Publications" Office, said that the operation held significance in staving off the threats of "Westernization" and "division" from "Western countries led by the United States."[58]

Free Expression Punished in Xinjiang

Information emerged throughout this reporting year on people in the Xinjiang Uyghur Autonomous Region (XUAR) detained for exercising their right to freedom of expression. Limited information from XUAR government and media sources indicates authorities have detained people of various ethnic groups for speech deemed to "threaten stability," while several indepth reports detail detentions targeting Uyghurs in particular for speaking out about the demonstrations and riots in July 2009 or otherwise deemed to have a connection to the events.

- Haji Memet and Abdusalam Nasir, two Uyghur men from Huocheng (Qorghas) county, Ili Kazakh Autonomous Prefecture, were detained on September 23, 2009, for their role in sharing information with U.S.-based Radio Free Asia on the death in custody of Shöhret Tursun, a man from Huocheng who reportedly had been detained in Urumqi on July 6 and died in police custody under suspicious circumstances.[59] Authorities reportedly suspected Haji Memet and Abdusalam Nasir of leaking state secrets.[60] Authorities also reportedly detained several other people in connection to Shöhret Tursun's case, and as of June 2010, reportedly continued to hold at least one of them in detention, along with Abdusalam Nasir.[61]

Free Expression Punished in Xinjiang—Continued

- Gheyret Niyaz, a Uyghur journalist and Web editor in Urumqi, was sentenced by the the Urumqi Intermediate People's Court on July 23, 2010, to 15 years' imprisonment for "leaking state secrets." Prosecutors in court cited essays by Gheyret Niyaz addressing economic and social problems affecting Uyghurs; sources also connected the prison sentence to interviews Gheyret Niyaz gave to foreign media after the July 2009 demonstrations and riots that were critical of aspects of government policy in the XUAR.[62]
- Nijat Azat, Dilshat Perhat, and Nureli, Web site administrators, received prison sentences of 10, 5, and 3 years, respectively, in July 2010 for "endangering state security."[63] Sources connected the cases to their Web sites not deleting postings about hardships in the XUAR and, in one instance, permitting the posting of announcements for the July 2009 demonstration.[64] All three are believed to have been taken into detention in the aftermath of the July 2009 events,[65] and other people involved with Uyghur Web sites also were detained during the same period.[66] In July 2009, XUAR government chairperson Nur Bekri accused some Uyghur Web sites of contributing to incitement of the events on July 5.[67]
- Gulmira (Gulmire) Imin, a Uyghur Web site administrator and government employee, was sentenced by the Urumqi Intermediate People's Court on April 1, 2010, to life in prison for "splittism, leaking state secrets, and organizing an illegal demonstration." Authorities alleged she was involved in organizing the July 5, 2009, demonstration.[68]
- Following the partial restoration of text messaging in the XUAR in January 2010, the XUAR Public Security Department penalized over 100 people in January and February for using text messages and telephone calls to "spread harmful information," including information deemed to "harm ethnic unity" or pertain to "splitting the country." While authorities levied administrative penalties on most people, they took at least five people into criminal detention.[69] Authorities reported in May on penalizing others for similar acts.[70] The penalties and detentions—about which authorities provided limited details—come amid a track record of authorities in China using overbroad and vague legal provisions to punish peaceful expression. [See Section II—Freedom of Expression for more information.]

Xinjiang Work Forum

Central government and Communist Party authorities inaugurated a "central work forum" on the topic of the Xinjiang Uyghur Autonomous Region (XUAR) in May 2010 that set central government and Party objectives for the region's economic and political development, intensifying a trend of top-down initiatives that prioritize state economic and political goals over the promotion of regional autonomy and broader protections of XUAR residents' rights.[71] Speaking at the forum, President and Party General Secretary Hu Jintao described upholding long-term stability and promoting "fast-track development" as the dual priorities for the

region.[72] The forum did not address citizen grievances over long-standing political and religious controls in the XUAR and affirmed existing government policy toward ethnic and religious issues.[73] Initiatives and goals addressed at the forum—some of which represent a continuation or intensification of older policies—included increased infrastructure construction; greater market access in some sectors; wider job creation and pension coverage; tax reforms aimed at keeping resource revenue in the region (a reform scheduled to be implemented throughout China[74]); and renewed programs to promote "ethnic unity," "social stability," and security of border areas.[75] Authorities said development efforts will focus on the southern XUAR, an area with a predominantly Uyghur population that has lagged economically behind areas of the XUAR with larger Han populations.[76] Authorities also will channel development assistance to the Xinjiang Production and Construction Corps, areas within the XUAR with a separate administrative structure and with predominantly Han residents that have adopted agricultural, manufacturing, and security functions.[77]

Taken as a whole, while some initiatives from the forum may bring some economic benefits to the region, the program appears to poise the XUAR to undergo greater demographic and cultural shifts in coming decades that further undercut the ability of Uyghurs and other non-Han groups to protect their culture, language, and livelihoods. Following the forum, XUAR Party Secretary Zhang Chunxian detailed development initiatives including plans to resettle 100,000 herders, resettle 700,000 urban residents, and intensify Mandarin-focused "bilingual" education, a program that has marginalized the use of Uyghur and other non-Han languages in XUAR schools.[78] He also said that work would focus on strengthening the promotion of state ideologies, "ethnic unity" campaigns, and "Party construction," a program to strengthen Party discipline, governance, and legitimacy.[79]

Language Policy and Bilingual Education

The Xinjiang Uyghur Autonomous Region (XUAR) government intensified steps to promote Mandarin Chinese in XUAR schools and to largely phase out instruction in other languages, a development that in the future could permanently marginalize the role of the Uyghur language within broad segments of society in the XUAR. Authorities announced in May 2010 that by 2015, they would aim to universalize "bilingual education"—a policy that, within the XUAR, has come to promote class instruction almost exclusively in Mandarin[80]—with the goal of making all ethnic minority children proficient in Mandarin by 2020.[81] The efforts to make Mandarin the dominant language of instruction in XUAR schools contravene protections for ethnic minority languages in Chinese law[82] and underscore state failures to safeguard and promote local languages as one component of regional ethnic autonomy. Prior to the May announcement, XUAR authorities had already increased promotion of "bilingual education." In 2009, 31.79 percent of the total ethnic minority student population in the XUAR—753,300 ethnic minority preschool, primary, and secondary school students—received "bilingual education," an increase of over 25 percent from 2008, according to official statistics.[83] Another 240,900

ethnic minority students (*minkaohan* students) received education solely in Mandarin through longstanding programs that track ethnic minority students directly into Mandarin Chinese schooling.[84] The central and XUAR governments also continued to promote "bilingual education" at the preschool level. XUAR authorities reported in 2010 that the central and XUAR governments would build over 2,200 new "bilingual" kindergartens by 2012 and universalize two years of "bilingual" preschool education by that time.[85]

Authorities also continued to bolster plans to train more teachers for bilingual programs,[86] a policy which has had a detrimental effect on older teachers who do not know Mandarin or teachers who do not meet certain political requirements, such as holding appropriate viewpoints toward religion, ethnicity, and the Marxist state.[87] New developments in the past year also affected the career prospects of current students. In the past year, authorities announced plans to recruit 6,000 students each year from 2010 to 2013 for free teacher training, with a focus on students who have received "bilingual education" or education in Mandarin. The program will include students training to teach in bilingual programs.[88] In addition, in announcing college recruitment priorities for the coming year, XUAR authorities said they would "readjust" preferential recruitment policies for ethnic minority students educated in ethnic minority languages and increase the number of students educated in Mandarin, in order to "adapt to the needs of speeding up the promotion of 'bilingual' education."[89]

In a measure that, depending on effectiveness of implementation, could promote the use of Uyghur in some capacity among government officials, a XUAR Communist Party office and a government department issued a circular in April to require all candidates for state jobs and some current state employees to pass a language proficiency test in a second language spoken in the XUAR.[90] The degree of proficiency required and overall scope of implementation remains unclear, although authorities reported in 2010 on carrying out a separate language-training program to promote second-language skills for grassroots cadres.[91]

Population Planning Policies

In the past reporting year, government authorities continued to enforce some population planning measures that target non-Han ethnic groups in the Xinjiang Uyghur Autonomous Region (XUAR), at the same time it enforced broader population planning measures across the region. In October 2009, the National Population and Family Planning Commission signed an agreement with the XUAR government to launch a series of initiatives in the region to strengthen the region's population control work, including through "special rewards" (*teshu jiangli*) for families in 26 poor and border counties who have fewer children than permitted.[92] Official media reported that the new reward policy mainly targets rural ethnic minority households that already have two children and have "been certified" as voluntarily forgoing a third birth.[93] Under Article 15 of the XUAR's Regulation on Population and Family Planning, rural ethnic minority families are permitted to have a maximum of three children.[94] In March 2009, a XUAR Party official called on

ethnic and religious affairs departments to train religious leaders to "bring their relatively greater prestige and influence among the religious masses into play [and] actively propagandize the importance of family planning[.]"[95] The steps build on earlier measures to target population planning in predominantly non-Han areas within the XUAR.[96]

Citizens who expose abuses in official implementation of population planning policies have faced repercussions,[97] and information became available in the past reporting year on a Uyghur man from the XUAR detained for speaking to media about a case involving official abuses against his daughter. According to October 2009 reports from Radio Free Asia, authorities in Yining (Ghulja) county, Ili Kazakh Autonomous Prefecture, detained 67-year-old Tursunjan Hesen on July 2, 2009, and reportedly accused him of revealing state secrets and endangering state security. Tursunjan Hesen earlier had given interviews to overseas media about a case involving his daughter, Arzigul Tursun, whom authorities had planned to subject to a forced abortion.[98] Prior to his detention, Tursunjan Hesen reported that police had interrogated him repeatedly about Arzigul's case, asking him who had alerted international media about the situation.[99]

Freedom of Residence

In the aftermath of demonstrations and riots in the Xinjiang Uyghur Autonomous Region (XUAR) in July 2009, authorities increased oversight of migrants. Some of the steps appeared to target Uyghur migrants to Urumqi from other parts of the XUAR. Authorities alleged that Uyghur migrants who were involved in events in July had stayed in unregulated rental housing.[100] According to official media, in August, Urumqi authorities launched a "clean-up and reorganize" campaign targeting "disorderly" migration and "chaotic" rental managements, after events in July "exposed bottlenecks" in the management of rentals and migrant populations.[101] As areas of Urumqi implemented directives to regulate rentals, one district in Urumqi reported "screening out and striking hard" against "itinerant society" and "illegal activities such as concealing the 'three forces' [terrorism, separatism, and religious extremism] in rental housing."[102] In April 2010, Urumqi authorities adopted a formal regulation, effective July, that institutes registration and other requirements on rentals,[103] a step one official connected to the presence of migrants in the city and the use of rental housing by the "three forces."[104] The region's Regulation for the Comprehensive Management of Social Order, revised in December 2009, added new provisions to strengthen controls over migrants and over rental housing.[105] In July, authorities demolished what they described as a shantytown in the Heijiashan area of Urumqi,[106] where authorities had already increased oversight of migrants earlier in the year.[107] An official in charge of the demolition—part of broader stated efforts to eliminate "shantytowns"—said that migrants in the area "often disrupted social order" and because of "poor management" were "easily incited by rioters" during events in July 2009.[108]

Labor

DISCRIMINATION

Authorities in the Xinjiang Uyghur Autonomous Region (XUAR) reported taking some steps in the past year to promote employment among non-Han ethnic groups, but did not indicate that the government had taken broader measures to eliminate longstanding systemic discrimination in job hiring. The XUAR government and Party Committee implemented an opinion on employment promotion in October 2009 that calls for enterprises registered in the XUAR and enterprises working there to recruit no fewer than 50 percent of workers from among local XUAR residents.[109] The opinion also calls for "recruiting more ethnic minorities to the extent possible."[110] In addition, employers are to pledge a fixed proportion of positions for ethnic minorities as part of work to increase recruitment of college graduates and prioritize graduates from the XUAR.[111] (Within the XUAR, groups designated as ethnic minorities comprise about 60 percent of the population and Han Chinese 40 percent, according to official Chinese statistics.[112]) The opinion does not appear to clarify if the stipulations apply to government agencies.[113] Information on adherence to the opinion and steps to promote the hiring of non-Han groups remains limited.[114] Job hiring practices that discriminated against ethnic minorities continued. The Commission has tracked government and other employment announcements in recent years, including in the past reporting year, that reserved positions for Han, in violation of Chinese law.[115] The Xinjiang Production and Construction Corps reserved 78 percent of 1,131 open positions for Han during job recruitment in the past year.[116]

LABOR TRANSFERS

Authorities in the Xinjiang Uyghur Autonomous Region (XUAR) continued to send young non-Han men and women to work in factory jobs in the interior of China through programs that, in some cases, reportedly have involved coercion and have placed participants in exploitative working conditions.[117] XUAR government chairperson Nur Bekri has denied that workers are coerced into participating in the government-led labor transfer programs—versions of which exist elsewhere in China[118]—and has described the programs as a means for XUAR residents to earn income and gain job training.[119] Uyghurs demonstrating in Urumqi on July 5, 2009, were protesting government handling of a reported assault on Uyghur laborers sent to a Guangdong factory through the government-sponsored program.[120] In the aftermath of the events, authorities affirmed that the labor transfer programs would continue.[121] The XUAR Labor and Social Security Department reportedly planned to transfer 300,000 rural workers in 2010,[122] an increase of approximately 60,000 people over the number of workers who went to jobs in the interior of China in 2008.[123]

Authorities continued to tie the labor transfers to broader efforts to promote state political ideology. According to a XUAR Human Resources and Social Security Department official,[124] labor transfers not only have allowed participants to earn money but, "more significantly," have enabled ethnic minorities in border areas to

"transform their ideas, liberate themselves from old thinking, and experience the huge achievements gained from the state's reform and opening."[125] An article on labor transfers in Qaba (Habahe) county in Altay, Ili Kazakh Autonomous Prefecture, reported that under county government leadership, numerous rural women changed "traditional concepts" and "vigorously threw themselves into various kinds of economic construction."[126] Another article reported that authorities in Jiashi (Peyziwat) county, Kashgar district, strengthened services to protect the rights of transferred workers, but also carried out work in "ideology education" and "persuasion for morale."[127]

Protection of Cultural Heritage

Authorities in the Xinjiang Uyghur Autonomous Region (XUAR) reported on continued steps to demolish and "reconstruct" the Old City section of Kashgar and relocate residents, a project which has drawn opposition from Uyghur residents and other observers for requiring the resettlement of residents and for undermining cultural heritage protection.[128] Authorities in Kashgar implemented a "zero-tolerance system" (*lingkongzhi*) in the past year to curb citizen petitioning to higher authorities over grievances connected to the demolition and resettlement project.[129] They incorporated incentives for officials to curb petitioning to higher level authorities in official performance evaluations.[130] Authorities reported spreading information on the "necessity, urgency, and significance" of the demolition project and visiting local households to "coordinate and solve" existing problems.[131] A Xinhua article reported that a three-month project was launched in October to survey cultural heritage in the Old City, but the article did not explain why the preservation effort began almost a year after beginning demolition work in the Old City.[132] In the runup to the launch of the demolition project in 2009, authorities said that "few" buildings in the Old City had real preservation value and that most structures would be demolished.[133] The statements on the number of buildings with preservation value were at odds, however, with outside assessments and earlier official evaluations of the area's cultural heritage, while subsequent reports indicated that historic buildings had been razed.[134] Although Chinese authorities stated in the past year that an official from the United Nations Educational, Scientific, and Cultural Organization (UNESCO) supported the project,[135] the UNESCO official said the organization's statements were taken out of context and described the Kashgar project as "a whole cultural heritage that's being destroyed."[136]

Uyghur Refugees and Migrants

Uyghurs seeking asylum outside of China continued to face barriers to accessing asylum proceedings and risk of *refoulement* under the sway of China's influence in neighboring countries and its disregard for international protections for asylum seekers. While a number of previously reported cases of *refoulement* and extradition involved refugees, asylum seekers, and migrants in central and south Asian countries near the Xinjiang Uyghur Autonomous Region (XUAR),[137] a case from the past year illustrated the barriers

to asylum procedures that a group of Uyghurs faced in a southeast Asian country. On December 19, 2009, Cambodian authorities deported a group of 20 Uyghur asylum seekers to China, including 2 infants,[138] in violation of international law.[139] Most of the group, along with two others, had arrived in the country in November, and sought asylum from the UN High Commissioner for Refugees (UNHCR) office in Phnom Penh.[140] A Chinese Ministry of Foreign Affairs (MFA) spokesperson alleged the asylum seekers were "involved in crimes," and the Chinese government sent the Cambodian government a diplomatic note on the case.[141] Cambodian authorities then deported the 20 people before the UNHCR made a determination of their refugee status.[142] Two days after the deportation, China's Vice President Xi Jinping signed an agreement to provide a reported US$1.2 billion in aid to Cambodia.[143] The Chinese MFA spokesperson denied a connection between the two events and said that authorities would deal with the Uyghur group's "illegal criminal activities in accordance with the law."[144] Chinese authorities reported in June that 3 of the 20 people returned to China were terrorist suspects,[145] a charge that, even if made at the time of extradition, would not have precluded an assessment of the asylum cases by UN officers.[146] Earlier in the reporting year, authorities in China also reportedly detained Uyghurs in Chinese cities outside the XUAR who had tried to leave China or who had helped others attempting to leave.[147]

V. Tibet

Introduction

During the Commission's 2010 reporting year, the Chinese government and Communist Party continued to press the "core interest" policy that seeks to isolate the Dalai Lama internationally and diminish or end his international influence. The Fifth Tibet Work Forum (Fifth Forum) applied the highest imprimatur of political power to achieving sweeping economic, social, and cultural policy objectives throughout the Tibetan autonomous areas of China by 2020—the same year that the government intends to have completed the "redesign" of Lhasa city and the construction of a network of railways crisscrossing the Tibetan plateau.[1] The forum expanded the Party's Tibet policy purview beyond the Tibet Autonomous Region (TAR) to include the Tibetan autonomous prefectures and counties located in Qinghai, Gansu, Sichuan, and Yunnan provinces. The forum set out economic development objectives that principally focus on accelerating and strengthening a development model that subordinates respecting and protecting Tibetan culture to Party and government priorities.

During this reporting year, the dialogue between the Dalai Lama's representatives and Chinese government and Party officials resumed as the government increased pressure on Tibetan Buddhism, a principal element of Tibetan culture. The China-Dalai Lama dialogue resumed days after the Fifth Forum when the Dalai Lama's envoys arrived in China for the ninth round of formal dialogue since 2002 with Party officials. Neither side reported substantive progress and both sides reiterated key positions, but senior figures on both sides referred to certain developments in a positive manner. The Chinese government and Party strengthened the push to use policy and legal measures to shape and control what Chinese officials refer to as the "normal order" for Tibetan Buddhism. Legal measures requiring a nationwide re-registration of "professional religious personnel," underway in the TAR during 2010, could result in substantial losses to the Tibetan monastic community if authorities apply re-registration in a manner intended to weed out monks and nuns whom authorities suspect of holding religious views that the government does not deem to be "legal." Such views include religious devotion toward the Dalai Lama and support of the Dalai Lama's recognition in 1995 of Gedun Choekyi Nyima as the Panchen Lama.

Reports of Tibetan political protest and detention declined during the Commission's 2010 reporting year based on Commission monitoring as of early September. The apparent decline may suggest that Tibetans generally are less willing to risk the consequences of political protest in the presence of the ongoing security crackdown on Tibetan communities, monasteries, nunneries, schools, and workplaces. Courts sentenced Tibetans to imprisonment for seeking to make information and views about the Tibetan protests available to other Tibetans (inside and outside of China) and for using cultural or entertainment media to articulate their views.

Internationally, Government Presses "Core Interest" Policy To Isolate Dalai Lama

The Chinese government and Communist Party during the Commission's 2010 reporting year pressed the "core interest" policy that seeks to isolate the Dalai Lama internationally and diminish or end his international influence.[2] The policy is based on Chinese officials' assertions that "Tibet" is one of China's two "core interests" ("Taiwan" is the other);[3] the Dalai Lama is a "splittist";[4] and that other governments, therefore, should not permit the Dalai Lama to enter their countries and thereby threaten China's "territorial integrity."[5]

During the period preceding U.S. President Barack Obama's February 18, 2010, meeting with the Dalai Lama,[6] China's state-run media published demands that the United States "respect China's core interests" by not allowing the meeting to occur.[7] During the period between the October 6, 2009, White House statement[8] confirming that the meeting would take place at a time following the President's November 15 to 18 China visit,[9] and the February 11, 2010, White House announcement that the meeting would take place on February 18,[10] some Chinese media reports expressed exuberance based on the incorrect conclusion that President Obama's decision to travel to China before meeting with the Dalai Lama signaled that Chinese government pressure had caused him to decide to forego meeting the Dalai Lama.[11]

The "core interest" policy that aims to isolate the Dalai Lama internationally operates in tandem with the Party's domestic campaign to isolate Tibetans in China from the Dalai Lama. [See, e.g., Hu Jintao Invokes Marxist Theory To Reinforce Struggle Against the Dalai Lama's Influence in this section.] At the same time, the Chinese government seeks to isolate Tibetans in China from the international community with respect to issues such as human rights by asserting that Tibetan affairs are China's "internal affairs" and "brook no interference" from other countries.[12] The results of such Chinese government policies could include further increases of human rights abuses of Tibetans concurrent with a decrease in the ability of the international community to detect, document, and respond to such abuses.

Domestically, Fifth Forum Sets Far-Reaching Objectives for 2010–2020

PRIOR TO FORUM, POLITBURO SETS "NEW" STRATEGY FOR GOVERNING TIBET

On January 8, 2010, 10 days prior to the Fifth Tibet Work Forum (Fifth Forum),[13] the Standing Committee of the Political Bureau (Politburo) of the Communist Party met to formulate a "new general strategy for governing Tibet."[14] At the meeting, Politburo members planned the Party's "work on Tibet" for the period ahead, namely "the advancement of work on Tibet's development by leaps and bounds and long-term order and stability in the new situation."[15] China's state-run media reported that the Politburo's "new general strategy" for Tibetan governance would be based on the notion of "four adherences":[16]

- "Insist on adherence to the [Party's] leadership";
- "Insist on adherence to the socialist system";
- "Insist on adherence to the system of regional autonomy for minority nationalities"; and
- "Insist on adherence to a development path with Chinese characteristics and Tibetan traits."

The fourth "adherence" reaffirms the Party's intention to continue the policy of creating a Tibet where the fundamental objectives (the "development path") are Chinese, but where some "Tibetan traits" will remain.[17] As a governing "strategy," the "adherences" emphasize the high degree of subordination imposed on local ethnic autonomous governments established under China's Constitution and Regional Ethnic Autonomy Law.[18] None of the 25 members of the Politburo—the highest ranking bureau within the Party's Central Committee—are Tibetans.[19] Formulation of a "new" Tibetan governance strategy by a body made up of the highest ranking representatives of central Party and government power, and lacking Tibetan representation, demonstrates the poor implementation of "ethnic autonomy" in the Tibetan autonomous areas of China.

THE FORUM: HIGHEST LEVEL OF PARTY AND STATE SUPPORT

The nine-member Politburo Standing Committee presided at the January 18–20 Fifth Forum, signifying the highest level of Party and state support for policy objectives across the Tibetan autonomous areas of China.[20] Party General Secretary and President of China Hu Jintao and Premier of the State Council Wen Jiabao delivered key addresses.[21] The Fourth Tibet Work Forum took place in June 2001.[22]

Maintaining the Rural Priority: Boost Income, Provide Services, Build Infrastructure

Hu Jintao outlined at the Fifth Forum a series of development goals for 2015 and 2020 that prioritize changes to rural Tibetan areas—where 87 percent of Tibetans lived in 2000, according to official Chinese census data[23]—and that will have the capacity to increase pressure on Tibetan culture in rural areas. The Party and government's heightened emphasis on the link between rural development and regional stability follows Tibetan farmers' and herders' participation in the wave of protests (and some rioting) that began in Lhasa in March 2008 and spread to locations across the Tibetan plateau.[24] By 2015, the gap between the income level of farmers and herders in the Tibet Autonomous Region (TAR) and the national average[25] must be "markedly narrowed" and by 2020, the gap must be nearly closed, Hu told forum attendees.[26] The government's ability to provide basic public services in rural areas must be "markedly increased" by 2015 and must be near the national level by 2020.[27] Hu said that infrastructure construction must make "great progress" by 2015, and by 2020 infrastructure must be "comprehensively improved."[28]

As of September 2010, the Commission had observed few published reports containing details about specific projects that the Fifth Forum would promote in the Tibetan autonomous areas of China. Pema Choling (Baima Chilin), Chairman of the TAR govern-

ment as of January 15, 2010,[29] said in March that the Fifth Forum adopted "unprecedented new measures" and the TAR government would "initiate some major projects," but he named only one: the "Qinghai-Tibet direct current transmission line."[30] In terms of potential economic, demographic, environmental, and cultural impact, however, the most important infrastructure projects that the central government has announced for completion by 2020 are several new railways that will crisscross the Tibetan plateau.[31]

New Development: Policy Coordination Across an Expanded Tibetan Area

The Fifth Forum for the first time expanded and coordinated the Party's Tibetan policy purview beyond the administrative boundaries of the TAR to include the Tibetan autonomous prefectures and counties located in Qinghai, Gansu, Sichuan, and Yunnan provinces.[32] China's state-run media reported that the Fifth Forum "made comprehensive arrangements for speeding up the economic and social development" of the Tibetan areas of those four provinces at both central and provincial government levels.[33] Echoing the principal policy declarations of the January Politburo meeting [see Prior to Forum, Politburo Sets "New" Strategy for Governing Tibet in this section], the Fifth Forum identified four priorities as "the main direction of attack" for resolving "the most conspicuous and most urgent issues restraining economic and social development" (listed in the order reported):[34]

- "Improvement in the people's livelihood";
- "Development of social undertakings";
- "Protection for the ecological environment"; and
- "Construction of the infrastructure."

The policy change more than doubles the number of Tibetans who live within the Fifth Forum's contiguous target area and nearly doubles the area subject to central-level policy coordination. According to official Chinese 2000 census data, of approximately 5.42 million Tibetans in China, approximately 2.43 million lived in the TAR and approximately 2.57 million lived in the Tibetan autonomous areas of Qinghai, Gansu, Sichuan, and Yunnan.[35] The expanded Tibetan policy area, with an area of approximately 2.24 million square kilometers, is nearly double the size of the 1.2-million-square-kilometer TAR.[36]

The Party's decision to expand the Tibetan policy area and coordinate policy implementation has resulted in an unprecedented political consequence: Chinese government and Party officials, as well as the Dalai Lama and his representatives, have focused their respective recent policy statements on the same area of administrative geography—all of the Tibetan autonomous areas of China. The Dalai Lama's envoys' November 2008 "Memorandum on Genuine Autonomy for the Tibetan People"[37] identifies the Tibetan area that the Memorandum seeks to address as "comprising all the areas currently designated by the PRC as Tibetan autonomous areas."[38] The Chinese and Tibetan parties engaged in the China-Dalai Lama dialogue continue, however, to maintain different policy approaches toward the Tibetan autonomous areas.[39]

Hu Jintao Invokes Marxist Theory To Reinforce Struggle Against the Dalai Lama's Influence

Party General Secretary and President of China Hu Jintao may have used the Fifth Forum to seek to improve the Party's reputation as "Communist" by using an esoteric Marxist premise to reinforce the Party campaign against the Dalai Lama and end the Dalai Lama's influence among Tibetans in China.[40] Hu applied the Marxist theoretical concept of "special contradiction" to what the Party claims is a threat to China's ethnic unity and stability that the Dalai Lama and organizations and individuals that the Party associates with him ("the Dalai Clique") create.[41] Marxism posits that a "special contradiction" may exist when an entity such as an ethnic minority group considers itself to be "alienated" from other ethnic groups, then makes the "mistake" of equating "alienation" with "differentiation" and attributing alienation to "historical categories."[42] (That is, if ethnic Tibetans believe they are "differentiated" from ethnic Chinese, and that such a belief has a historical basis, then the Party blames "the Dalai Clique" for creating a "special contradiction" to Marxism.)

Hu's prominent mention at the Fifth Forum of the Marxist notion of "special contradiction" may seek to serve Party interests by creating the semblance of a Communist ideological basis for the Party insistence that the Dalai Lama aims to "separate the motherland" (seek independence).[43] The Dalai Lama's recurrent assertions that he seeks "genuine" (or "meaningful") autonomy for Tibetans, not independence, hinder the Party's campaign.

Increasing Pressure on Religion: The "Normal Order" for Tibetan Buddhism

Hu Jintao used the powerful Fifth Forum platform to emphasize the Communist Party's role in controlling Tibetan Buddhism and the important role of law as a tool to enforce what the Party deems to be the "normal order" for the religion. Hu instructed the forum: "Comprehensively implement the Party's basic principles for religious work and laws and regulations on the government's administration of religious affairs, earnestly maintain the normal order of Tibetan Buddhism, and guide Tibetan Buddhism to keep in line with the socialist society."[44]

The legal measures to which Hu Jintao referred at the Fifth Forum empower the Chinese government to reshape and control Tibetan Buddhism (and other religions) and had not yet been created when the Fourth Tibet Work Forum took place in 2001.[45] [See Religious Freedom: Tibetan Buddhists "Can Believe Whatever They Want as Long as It's Legal" in this section.]

Initial Fifth Forum Reports Do Not Address Some Key Issues

State-run media reports on the Fifth Forum seen by the Commission in the weeks following the forum are also noteworthy for what they do not include.

- None of the reports provided details about infrastructure and aid projects from 2010 to 2020 or estimates of their cost. The total cost of building additional railways linking Tibetan autonomous areas with principal cities in Gansu, Sichuan, and Yunnan provinces, and with the Xinjiang Uyghur Autonomous Region, could be several times greater than the 33 billion yuan (US$4.7 billion) cost of constructing the Qinghai-Tibet railway.[46]
- None of the Fifth Forum reports provided information about whether Party and government personnel canvassed Tibetans at the grassroots level on their preferences for economic and social development.
- None of the reports provided information on whether "Tibet work" over the coming decade aims to improve the human rights environment for Tibetans along with their standard of living, or whether officials intend to address in a reconciliatory manner any of the complaints that Tibetans have raised in the series of protests that began in March 2008.[47]

Status of Negotiations Between the Chinese government and the Dalai Lama or His Representatives

The China-Dalai Lama dialogue resumed less than one week after the Fifth Tibet Work Forum (Fifth Forum) concluded.[48] The Dalai Lama's envoys arrived in China on January 26, 2010, for the ninth round of formal dialogue with Communist Party officials.[49] The 15-month interval between the eighth and ninth rounds of dialogue was the longest since such contacts resumed in 2002.[50] Du Qinglin, head of the Party's United Front Work Department (UFWD) and the most senior Chinese official engaged in discussions with the Dalai Lama's envoys, reportedly briefed the envoys on the Fifth Forum and claimed that the forum showed that "[no] country or party in the world can match China and the [Communist Party] in using the resources of the whole country to support the development of an ethnic region."[51]

Neither side reported substantive progress as a result of the ninth round of dialogue and both sides reiterated key positions,[52] but senior figures referred to certain developments in a positive manner. For example, Chinese officials and the Dalai Lama's envoys both emphasized the important role of Fifth Forum developments.[53] Zhu Weiqun, Deputy Head of the UFWD, praised the "better attitude" of the Dalai Lama's Special Envoy, Lodi Gyari.[54] In March 2010, Lodi Gyari referred favorably to the Party's Fifth Forum decision to consider development issues throughout all Tibetan autonomous areas:

> We welcome the fact that the Fifth Tibet Work Forum has looked into the issues of development in all Tibetan areas—the Tibet Autonomous Region as well as other Tibetan areas. It is our strong belief that all the Tibetan

areas must be under a uniform policy and a single administration. If we take away the political slogans, many of the issues that have been prioritized by the Forum are similar to the basic needs of the Tibetan people outlined in our Memorandum.[55]

Other developments at the ninth round of dialogue included:

- **Party adds more preconditions on the Dalai Lama.** Du Qinglin listed four types of expression (or criticism) that the Dalai Lama must not "indulge in":[56]
  - "National interests brook no infringement";
  - "The principles of the Constitution brook no trampling on";
  - "National dignity brooks no vilification"; and
  - "The common wishes of the people of all ethnic groups brook no deviation."
- **The Tibetan "Note."** The Dalai Lama's envoys provided to UFWD officials a "Note" with additional explanation of the eighth-round "Memorandum on Genuine Autonomy for the Tibetan People," which elaborated on behalf of the Dalai Lama a more detailed explanation of Tibetan aspirations for "genuine autonomy" than had been available previously.[57] The Note contained "constructive suggestions for a way forward" and addressed "fundamental issues," according to a February 10, 2010, Special Envoy statement.[58]
- **Party rejection of the "Note."** At a February 2 press conference, Zhu Weiqun rejected the Note and claimed that the envoys refused to "revise a single word" of the Memorandum or "make any concession."[59] Zhu repeated that the Party is willing to discuss only the Dalai Lama's "personal future and the future of those around him."[60]

Religious Freedom: Tibetan Buddhists "Can Believe Whatever They Want as Long as It's Legal"

The Chinese government and Communist Party's push to define and manage a "normal order" for Tibetan Buddhism, and transform the Tibetan Buddhist community into one that adheres to state-approved positions and practices, creates increasing restraints on the exercise of freedom of religion for Tibetan Buddhists. In March 2010, Lhasa's mayor summed up the limits on freedom of religion: "In Tibet, people can believe whatever they want as long as it is legal."[61]

STRENGTHENING THE ROLE OF LAW IN SHAPING, CONTROLLING TIBETAN BUDDHISM

During the Commission's 2010 reporting year, the Chinese government and Communist Party strengthened their push to use policy and legal measures to shape and control what Chinese officials, including President and Party General Secretary Hu Jintao, refer to as the "normal order" for Tibetan Buddhism. Hu directed senior Party leadership figures attending the Fifth Tibet Work Forum to guide Tibetan Buddhism "to keep in line with socialist society" and to rely on the Party's "basic principles for religious work" and the government's "laws and regulations" to achieve that end.[62] [See Do-

mestically, Fifth Forum Sets Far-Reaching Objectives for 2010–2020 in this section.] Some of the principal regulatory instruments to which Hu referred were not issued until recent years; the most recent measure went into effect days before the Fifth Tibet Work Forum commenced. In addition to China's principal regulatory measure on religion, the 2005 Regulation on Religious Affairs,[63] the central and Tibet Autonomous Region governments have issued at least four regulatory measures since 2007 that provide increased state control of Tibetan Buddhism.[64]

- **Effective January 1, 2007.** The TAR People's Government Standing Committee issued the TAR Implementing Measures for the Regulation on Religious Affairs (TAR Measures), imposing stricter and more detailed controls on monks, nuns, monasteries, and nunneries in the TAR than previous measures.[65]
- **Effective March 1, 2007.** The State Administration for Religious Affairs (SARA) issued the Measures for Putting Professional Religious Personnel on Record (Record Measures), requiring nationwide re-registration of "professional religious personnel."[66]
- **Effective September 1, 2007.** SARA issued the Measures on the Management of the Reincarnation of Living Buddhas in Tibetan Buddhism. The measures could transform Tibetan Buddhism in China by empowering the Party and government to gradually reshape the religion by controlling one of the religion's most unique and important features—lineages of teachers that Tibetan Buddhists believe are reincarnations (*trulkus*) and that can span centuries.[67]
- **Effective January 10, 2010.** The Buddhist Association of China[68] issued the Measures for Confirming the Credentials of Tibetan Buddhist Professional Religious Personnel (Confirming Measures).[69] The measures provide that Tibetan Buddhist "religious personnel" whose credentials were "confirmed" prior to the measure's effective date need not repeat the confirmation process, but that the monastery or nunnery Democratic Management Committee (DMC)[70] must examine and verify the monk's, nun's, or *trulku's* conformity with political, professional, and personal criteria.[71] After the DMC submits an opinion on the applicant to the local Buddhist Association for approval, the association will issue a registration certificate to the "religious professional."[72] The TAR government reported on the date the Confirming Measures took effect that it would complete re-registration by the end of 2010—including recording the government's assessment of the "qualifications" of Tibetan Buddhist monks, nuns, and "living Buddhas," a Chinese term for *trulkus.*[73]

The number of Tibetan Buddhist monks and nuns subject to re-registration under the Record Measures and Confirming Measures is substantial. The central government has reported the total number of monks and nuns in the Tibetan areas of China as approximately 120,000 as long ago as 1997[74] and as recently as June 2009, according to a U.S. State Department report.[75] The impact of the measures could result in substantial losses to the monastic community if authorities apply re-registration in a manner intended to weed out monks and nuns whom authorities suspect of

holding beliefs that the government does not deem to be "legal." Such views include religious devotion toward the Dalai Lama and support of the Dalai Lama's recognition in 1995 of Gedun Choekyi Nyima as the Panchen Lama.[76]

Three Top-Ranking Lamas: Deepening Alarm; a Hint on Location; Explanation of Escape From Tibet

During the Commission's 2010 reporting year, the Dalai Lama expressed deepening alarm on the outlook for Tibetan Buddhism in China. A senior Tibet Autonomous Region (TAR) official commented on the current status of Gedun Choekyi Nyima, who was five years old when he disappeared after the Dalai Lama recognized him as the 11th Panchen Lama in May 1995.[77] The Karmapa, the spiritual head of the Kagyu tradition of Tibetan Buddhism,[78] explained publicly why he decided to escape from Tibet at the end of 1999.

- **The Dalai Lama** spoke in his 2010 annual March 10 address[79] about the outlook for Tibetan Buddhism under current Chinese policies: "Today, the Chinese authorities are conducting various political campaigns, including a campaign of patriotic re-education, in many monasteries in Tibet. They are putting the monks and nuns in prison-like conditions, depriving them [of] the opportunity to study and practice in peace. These conditions make the monasteries function more like museums and are intended to deliberately annihilate [Tibetan] Buddhism."[80]
- **The Panchen Lama** (Gedun Choekyi Nyima) and his family are "living a very good life in Tibet," Chairman of the TAR government Pema Choling (Baima Chilin) told reporters on March 7.[81] He said that Gedun Choekyi Nyima and his family "are reluctant to be disturbed,"[82] and described Gedun Choekyi Nyima as a "victim" [apparently of the Dalai Lama] who "lives the life of an ordinary citizen like us."[83] Also in March, Gyaltsen Norbu, the Panchen Lama that the Chinese government installed in December 1995,[84] entered the "political arena" as a member of the Chinese People's Political Consultative Conference.[85]
- **The Karmapa,** in a January 2010 interview, stated that he fled from Tibet to India because he feared that "the Chinese government would have assigned me political duties as I became older."[86] Life in China might have been "endurable" if he had been able to focus only on his religious functions, he said. The Karmapa fled his religious seat at Tsurphu Monastery, located in Duilongdeqing (Toelung Dechen) county, Lhasa municipality, TAR, on December 28, 1999, at the age of 14 and arrived in Dharamsala, India, the Dalai Lama's residence in exile, on January 5, 2000.[87]

Tibetan Development Initiatives: Party Claims National, International Stakes for Its "Tibet Work"

The January 2010 Fifth Tibet Work Forum (Fifth Forum) set out Communist Party and central government economic development objectives for 2010 to 2020. The objectives principally focus on accelerating and strengthening a development model that subordinates respecting and protecting Tibetan culture to Party and government priorities. President and Party General Secretary Hu

Jintao claimed high stakes nationally and internationally for the success of such objectives, telling forum attendees that Party initiatives in Tibetan areas address "the urgent need in safeguarding ethnic solidarity, safeguarding social stability, and safeguarding national security," as well as "the urgent need in creating a favorable international environment."[88] Hu outlined Fifth Forum development objectives that included building major infrastructure projects,[89] increasing natural resource exploitation,[90] and continuing to push forward the construction of a "socialist new countryside" (compulsory settlement of nomadic herders and resettlement of farmers).[91]

The Fifth Forum objectives build upon the Great Western Development campaign that the State Council launched in 2000,[92] and (because of the magnitude of forum objectives) will increase pressure on Tibetans to accept and adapt to a development model the fundamental properties of which the Party describes as "Chinese characteristics," but that would retain "Tibetan traits."[93] Tibetan resentment against Chinese policies—including poor implementation of the Regional Ethnic Autonomy Law[94] and consequences of development initiatives[95]—helps to explain the wave of Tibetan protests that began in March 2008.[96] Government and Party officials have not acknowledged publicly the unpopularity of their Tibetan development policies.

UPDATES ON KEY DEVELOPMENT TOPICS

Railroad construction. Chinese government plans to complete a network of railways crisscrossing the Tibetan plateau by 2020 have the potential to have a profound impact on the Tibetan culture and the ecological environment.[97] During the Commission's 2010 reporting year, state-run media reports disclosed limited progress on Tibetan railway construction.

- Work on the first section of the Sichuan-Tibet railway, between Chengdu city, the capital of Sichuan province, and Kangding (Dartsedo), the capital of Ganzi (Kardze) Tibetan Autonomous Prefecture (TAP), will start by the end of 2010, according to a January 2010 Sichuan government report.[98] An April Chinese news report, however, said that work would start "next year"(2011).[99]
- Construction of a railway segment from Lhasa eastward to Linzhi (Kongpo) that both the Sichuan-Tibet and Yunnan-Tibet railways will use will start in 2013 at the earliest, according to a state-run media report.[100] The government has not yet decided whether to route the railway to the north of the Brahmaputra River (Yarlung Tsangpo) or to the south of the river.[101] A southern route would position the railroad much closer to a section of disputed, heavily militarized border between the Indian state of Arunachal Pradesh and Linzhi prefecture in the TAR.[102] Experts favor the southern route, the report said.[103]
- Construction of the railway extension westward from Lhasa to Rikaze (Shigatse) city, initially "expected to be completed in 2010,"[104] remained in preparatory stages as of March 2010.[105] Construction work began on September 26, 2010, and will take four years to complete, according to an official news media report.[106]

Expansion of mining. A TAR official said in March 2010 that the mining industry share of TAR gross domestic product would increase from the current level of about 3 percent to between 30 percent and 50 percent by 2020.[107] The TAR government has designated nine "special zones for mineral industries," the official said.[108] Tibetan protests against Chinese government mineral exploitation and resulting environmental damage continued during the Commission's 2010 reporting year and could increase further if the government expands mining without adequate protection for Tibetans and their environment. On May 15, 2010, for example, People's Armed Police reportedly fired on 200 to 300 Tibetan villagers in Xiahe (Sangchu) county, Gannan (Kanlho) Tibetan Autonomous Prefecture, Gansu province, after they attempted to protest at the gate of a cement factory they held responsible for fouling the atmosphere, damaging a roadside Buddhist pagoda, and blocking access to their village.[109] And according to a report in early May, "thousands" of Tibetans renewed protests against mining on what Tibetans regard as a sacred mountain in Mangkang (Markham) county, Changdu (Chamdo) prefecture, TAR, after the companies involved disregarded a June 2009 negotiated agreement to cease the mining.[110]

Forced settlement of nomadic herders, resettlement of farmers. Chairman of the TAR government Pema Choling (Baima Chilin) said in March 2010 that "constantly deepening efforts to build a new socialist countryside" was a priority following the Fifth Forum.[111] China's state-run media reported in November 2009 that "more than 1 million farmers and herdsmen" in the TAR were already "enjoying safe houses," and that by the end of 2009 an additional 330,000 nomadic herders and farmers would move into new houses.[112] These figures total approximately 1.33 million, a figure equal to about half the TAR Tibetan population.[113] A September 2009 State Council Information Office white paper listed "building settlements for formerly nomadic people" as a measure to "relieve the poverty the ethnic minorities suffer,"[114] but an international advocacy organization said in 2010 the policy threatens Tibetan nomads' livelihoods and often results in "ghetto-like" conditions.[115]

Managing the "floating population." Lhasa's mayor said in March 2010 that following the March 2008 Lhasa rioting, the city had implemented measures "reinforcing the management [of] the floating population and communities."[116] The mayor did not specify whether he referred to Tibetan or Han itinerant workers and traders.[117] Chinese officials have acknowledged that Tibetan resentment against increasing numbers of non-Tibetan workers and traders[118] traveling into the TAR was a factor in the March 14, 2008, Lhasa riots.[119] Premier Wen Jiabao in his March 2010 National People's Congress work report called on the government to improve services and "do a good job in employment and management work" for the ethnic minority "floating population."[120] State-run media reported that Wen's comments were the first time the issue has been raised in a national work report.[121]

Political Imprisonment of Tibetans: Law as a Tool of Repression

Reports of Tibetan political protest and detention declined during the Commission's 2010 reporting year based on Commission moni-

toring as of early September.[122] The apparent decline may suggest that Tibetans generally are less willing to risk the consequences of political protest in the presence of the ongoing security crackdown on Tibetan communities, monasteries, nunneries, schools, and workplaces following the wave of Tibetan political protests that began in March 2008. The Commission, however, cannot determine the extent to which the apparent decrease may have resulted from heightened security measures that reduce the frequency of protests and detentions (thus reducing the number of reports of protest and detention), or the extent to which Chinese government suppression of information flow may have prevented reports of protest and detention from reaching international monitoring and reporting organizations (thus reducing such agencies' ability to report protests and detention).

China's security and judicial institutions' use of laws on "splittism" and "leaking state secrets"[123] during this reporting year infringed upon Chinese citizens' constitutionally protected freedoms of speech, religion, association, and assembly[124]—first by using the law on "splittism" to punish Tibetans who criticize or peacefully protest government policies, and then by using the law on "leaking state secrets" to punish Tibetans who attempt to share with other Tibetans information about incidents of repression and punishment. For example, a Chinese court reportedly sentenced Dondrub Wangchen to imprisonment on the charge of "splittism" for using film media to disseminate Tibetan views on topics such as Tibetan freedom and the Dalai Lama.[125] Prosecutors reportedly used the charge of "leaking secrets" to seek conviction of Konchog Tsephel and Kunga Tseyang for using their Web sites to share with other Tibetans—including Tibetans outside of China—information and views on Tibetan experiences of detention, imprisonment, and religious and cultural repression during the ongoing crackdown.[126] [See box titled Imprisonment for Sharing Information, Cultural Expression below for more information on these cases.]

Chinese government officials moved during the Commission's 2010 reporting year to diminish or end the public influence of emergent Tibetan civic and intellectual leaders.[127] Prior to this reporting year, the apparent misapplication of China's Criminal Law to imprison Tibetan leaders and remove them from society involved religious figures, e.g., Bangri Chogtrul (1999),[128] Sonam Phuntsog (1999),[129] Tenzin Deleg (2002),[130] and Phurbu Tsering (2008).[131] During this reporting year, officials misapplied the law in order to imprison environmentalist and art collector Karma Samdrub and charge secularist intellectual Tagyal—both of whom had developed cooperative relationships with the government and avoided "political" activity, according to reports.[132] Some officials may suspect that such leaders could encourage in Tibetan citizens a commitment to civic values and responsibilities that the Party may regard as a potential obstacle to the Party's exclusive exercise of political power.[133] Other officials may have sought retribution against the men for more parochial reasons.[134]

- In Karma Samdrub's case, a court in the Xinjiang Uyghur Autonomous Region sentenced him on June 24, 2010, to 15 years' imprisonment for "tomb-robbing," a charge first brought against him in 1998 and dropped the same year.[135] Officials

revived criminal proceedings against Karma Samdrub after he attained national acclaim as an environmentalist,[136] and then sought the release of two of his brothers whom public security officials detained in August 2009 after an environmental protection organization they founded accused local officials of hunting protected wildlife.[137]

• In the case of Tagyal—an intellectual who worked at a government publishing house and advocated for a more secular Tibetan society[138]—officials in Qinghai province charged him in May 2010 with "inciting splittism" after he used veiled language the previous month to urge Tibetans to avoid corrupt official channels when donating money to aid victims of the April 2010 Yushu earthquake in Qinghai.[139] Other accounts attribute his detention to the publication of a book he wrote about the 2008 Tibetan protests.[140]

Imprisonment for Sharing Information, Cultural Expression

During the Commission's 2010 reporting year, Chinese courts sentenced Tibetans to imprisonment for seeking to make information and views about the Tibetan protests and their consequences available to other Tibetans (inside and outside of China). Some of the sentenced Tibetans used cultural or entertainment media to articulate their views. Five examples follow.

• **Dondrub Wangchen, film-maker.** On December 28, 2009, the Xining Intermediate People's Court, located in Xining city, Qinghai province, reportedly sentenced Dondrub Wangchen to six years in prison on the charge of "splittism" for making a documentary film featuring Tibetans in Qinghai expressing on camera their views on the Dalai Lama, the 2008 Beijing Summer Olympic Games, and Chinese law.[141]

• **Konchog Tsephel, civil servant and Web site operator.** On November 12, 2009, the Gannan (Kanlho) Intermediate People's Court, located in Gannan Tibetan Autonomous Prefecture (TAP), Gansu province, reportedly sentenced Konchog Tsephel to 15 years' imprisonment for "disclosing state secrets."[142] The charge reportedly was linked to essays he published on his Tibetan-language Web site.[143]

• **Kunga Tseyang, monk and Web site operator.** On November 12, 2009, the Gannan Intermediate People's Court reportedly sentenced Labrang Tashikhyil Monastery monk Kunga Tseyang to five years in prison on the charge of "disclosing state secrets" for publishing essays, photographs, and environmental information on his Tibetan-language Web site.[144]

• **Ngagchung, monk.** In January 2010, the Ganzi (Kardze) Intermediate People's Court, located in Ganzi TAP, Sichuan province, reportedly sentenced Serthar Buddhist Institute (Larung Gar) monk Ngagchung to seven years' imprisonment for "leaking information" on the Tibetan situation to "separatist forces" outside of China via telephone and other means.[145]

Imprisonment for Sharing Information, Cultural Expression—Continued
• **Tashi Dondrub, singer.** On January 5, 2010, the Henan (Yulgan) Mongol Autonomous County Reeducation Through Labor (RTL) Committee, located in Huangnan (Malho) TAP, Qinghai province, ordered Tashi Dondrub, a member of the county performing arts troupe, to serve 15 months' RTL for singing songs with "provocative themes"[146] such as nostalgia for the Dalai Lama and sadness at the situation following the March 2008 protests.[147]

UPDATES: PROTESTS, SENTENCING, POLITICAL PRISONER DATABASE

Although the number of published reports of Tibetan political protest and detention observed by the Commission declined during the 2010 reporting year, instances of protest continued to occur that suggest some Tibetan areas remain protest-prone even under heightened security measures. Two representative examples follow.

- **Protesters demand release of Buddhist teacher in Sichuan.** Tenzin Deleg (A'an Zhaxi), recognized by the Dalai Lama as a reincarnated Tibetan Buddhist teacher, was convicted in a closed court in Sichuan province in November 2002 of conspiring to cause explosions and inciting splittism and is currently serving a sentence of life imprisonment.[148] In July 2009, Tibetans in Yajiang (Nyagchukha) county, Ganzi (Kardze) Tibetan Autonomous Prefecture (TAP), Sichuan province, presented to officials a petition calling for his release on the asserted basis that there was no proof of his guilt, he had not confessed to the alleged crimes, and officials had framed him.[149] Beginning on December 5, several hundred Nyagchukha Tibetans participated in several days of protests calling for Tenzin Deleg's release.[150] Public security officials and People's Armed Police reportedly beat and detained dozens of protesters and later released most of them.[151]
- **Middle school students protest in Gansu, TAR.** On March 14, 2010, 20 to 30 Tibetan middle school students joined by at least 100 other Tibetans in the seat of Maqu (Machu) county, Gannan (Kanlho) TAP, staged a political protest calling for Tibetan freedom and the Dalai Lama's long life.[152] Public security officials and People's Armed Police reportedly detained at least 40 protesters.[153] On March 16, 30 to 40 Tibetan students from two middle schools in Hezuo (Tsoe), the capital of Gannan TAP, staged a brief protest and shouted slogans.[154] Public security officials reportedly detained at least 20 of the students. On March 22, Tibetan primary school students briefly staged a protest in Biru (Driru) county, Naqu (Nagchu) prefecture, Tibet Autonomous Region.[155] During the protests, students in both locations reportedly called for Tibetan freedom, the Dalai Lama's long life, and his return to Tibet.[156]

In a closely watched case,[157] on December 23, 2009, the Ganzi TAP Intermediate People's Court, located in Kangding (Dartsedo), Ganzi TAP, reportedly sentenced Phurbu Tsering,[158] whom Tibetan Buddhists regard as a reincarnated Tibetan Buddhist teacher, to eight years and six months' imprisonment.[159] The same court had

tried him on April 21, 2009, on charges of illegally possessing weapons or ammunition (an offense under China's Criminal Law, Article 128) and "embezzlement" (Criminal Law, Article 271), according to his lawyers, Jiang Tianyong and Li Fangping.[160] The lawyers' defense statement to the court argued that insufficient evidence was available to support either charge and the government could not prove that Phurbu Tsering had not been framed by someone else.[161] The court reportedly sentenced Phurbu Tsering to one year and six months' imprisonment for "illegal possession of ammunition" and seven years' imprisonment for "misappropriation of public assets."[162]

The Commission has not observed during the 2010 reporting year any new developments in the cases of former monk Jigme Gyatso[163] (detained in 1996 and serving an extended 18-year sentence for printing leaflets, distributing posters, and later shouting pro-Dalai Lama slogans in prison); monk Choeying Khedrub[164] (sentenced in 2000 to life imprisonment for printing leaflets); Bangri Chogtrul[165] (regarded by Tibetan Buddhists as a reincarnated teacher; detained in 1999 and serving a sentence of 18 years commuted from life imprisonment for "inciting splittism"); or nomad Ronggye Adrag (sentenced in November 2007 to 8 years' imprisonment for shouting political slogans at a public festival).[166]

Summary Information: Tibetan Political Detention and Imprisonment

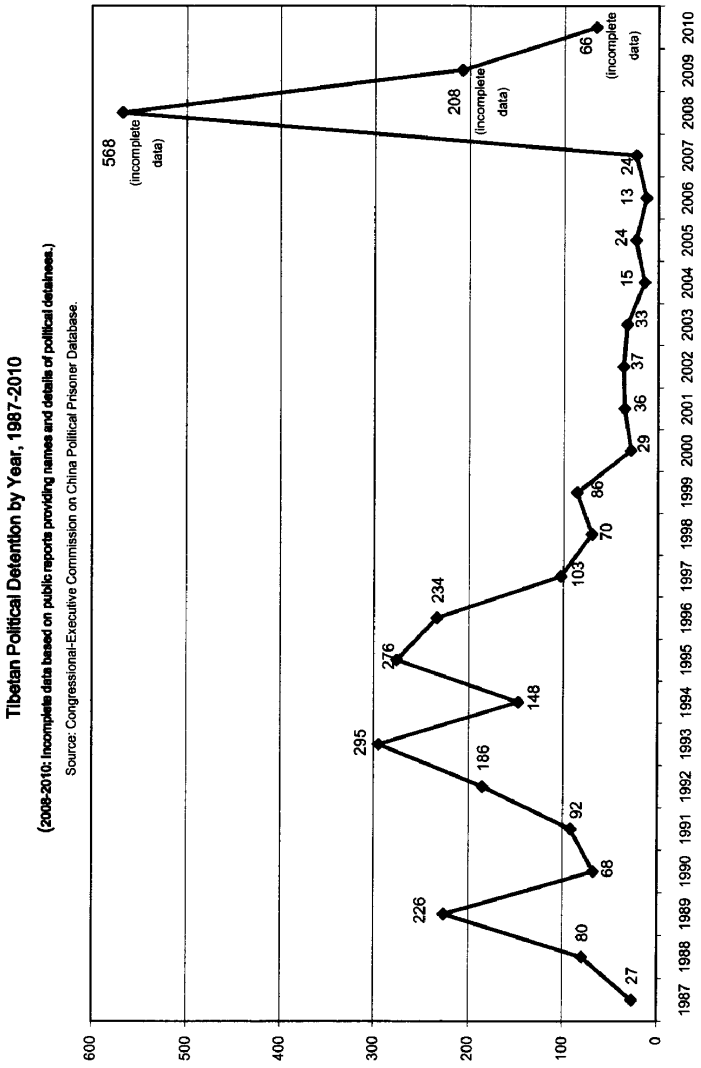
As of September 3, 2010, the Commission's Political Prisoner Database (PPD) contained records of 824 Tibetan political prisoners believed to be currently detained or imprisoned. Of those 824 records, 765 are records of Tibetans detained on or after March 10, 2008,[167] and 59 are records of Tibetans detained prior to March 10, 2008. It is certain that PPD information is far from complete for the period after March 10, 2008.

Of the 765 Tibetan political prisoners believed to be currently detained or imprisoned and who were detained on or after March 10, 2008, according to PPD data:

- Slightly more than half (388) are detained or imprisoned in Sichuan province; the rest are detained or imprisoned in the Tibet Autonomous Region (183), Gansu province (105), Qinghai province (87), Yunnan province (1), and the Xinjiang Uyghur Autonomous Region (1).
- 443 (approximately 58 percent) are Tibetan Buddhist "religious professionals" (monks, nuns, and *trulkus*).

Sentencing information is available for 152 of the 824 Tibetans the PPD records as currently imprisoned or detained, as of September 3, 2010. Of the 152 Tibetan political prisoners for whom sentencing information is available, 116 were detained on or after March 10, 2008. The 116 sentences range in length from one year to life imprisonment.[168] The average length of the 116 sentences imposed on Tibetan political prisoners detained on or after March 10, 2008, is approximately five years and nine months.[169] Of the 141 Tibetan political prisoners for whom sentencing information is available, 36 were detained prior to March 10, 2008. The 36 sentences range in length from three years to life imprisonment.[170] The average length of the 36 sentences currently being served by

Tibetan political prisoners detained prior to March 10, 2008, is approximately 13 years and 5 months.[171]



VI. Developments in Hong Kong and Macau

Introduction

The United States supports a stable, autonomous Hong Kong under the "one country, two systems" formula articulated in the Sino-U.K. Joint Declaration and the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.[1] The United States also supports the high degree of autonomy of Macau set forth in the Sino-Portuguese Joint Declaration on the Question of Macao and the Basic Law of the Macao Special Administrative Region of the People's Republic of China.[2] The people of Hong Kong and Macau enjoy an independent judiciary[3] and an open society in which the freedoms of speech, movement, and assembly are largely respected.[4]

According to the Hong Kong Basic Law, "The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures"; the Basic Law also provides that "[t]he ultimate aim is the election of all the members of the Legislative Council by universal suffrage"; furthermore, under the Basic Law, the mainland Chinese government authorizes Hong Kong to exercise "a high degree of autonomy and enjoy executive, legislative and independent judicial power. . . ."[5]

Macau introduced national security legislation provided by Article 23 of the Macau Basic Law in October 2008, criminalizing treason, secession, subversion, sedition, theft of state secrets, and association with foreign political organizations that harm state security.[6] The Macau government's passage of the legislation in February 2009 was praised by Wu Bangguo, Chairman of the National People's Congress Standing Committee, at a celebration in December 2009 commemorating Macau's handover, raising concerns among some in Hong Kong that China would try to reintroduce similar legislation in Hong Kong.[7] When similar legislation was proposed for Hong Kong in 2003, public protest was strong, and the government withdrew the legislation.[8]

Hong Kong

UNIVERSAL SUFFRAGE

During the Commission's 2010 reporting year, there has been limited progress toward universal suffrage in Hong Kong.[9] A December 2007 decision of the National People's Congress Standing Committee (NPCSC) prohibited the people of Hong Kong from directly electing both the chief executive and all members of the Legislative Council (Legco) by universal suffrage in 2012, or making other substantive changes to the electoral system.[10] In light of the decision, the earliest possible dates for universal suffrage are 2017 for the chief executive and 2020 for Legco, though there is no guarantee of universal suffrage at those times. In line with the NPCSC decision, the Hong Kong government issued a consultation document on constitutional reform in November 2009, and on April 14, 2010, released its Package of Proposals for the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012.[11]

The government's proposals cover the 2012 election only. Currently, an 800-member election committee selects the chief executive. Under the proposals, the number of members of the committee is enlarged to 1,200, but the makeup and procedure of appointment to the committee are not changed. According to a Financial Times article, the election committee is "dominated by pro-Beijing businessmen and community leaders." [12] Currently, Legco has 60 members, only half of whom are directly elected. The other half are selected by "functional constituencies," which represent "key economic and social sectors." [13] According to one commentator, "By one estimate, this system allows 1% of the voters to fill half the Legco seats." [14] The proposals add 10 seats to Legco, 5 selected by functional constituencies and 5 directly elected, thus not changing the proportion of Legco seats returned by direct election. The Basic Law provides that "passage of bills introduced by the government" require only a simple majority vote, but requires that the "passage of motions, bills or amendments to government bills introduced by individual members of the Legislative Council" require a majority vote of each of the two groups in Legco, those directly elected through geographically-based elections, and those selected by the functional constituencies.[15] The government proposals were criticized by some in Hong Kong.[16] Legco approved the proposal package in June 2010, after it was amended to provide voters who do not belong to any functional constituency the right to elect Legco members from a list of candidates nominated by the district councilors to fill the five additional functional constituency seats.[17] The vote for the package brought what the South China Morning Post described as an "incremental boost to democracy—but not universal suffrage." [18]

ACTIVE DISSENT

During this reporting year, Hong Kong citizens have continued to express their dissent, not only concerning the pace of progress toward universal suffrage,[19] but also against other government actions, including plans to build a costly high-speed railway project.[20] There were several large-scale protests during this reporting year, including a January 1, 2010, anti-government demonstration.[21] According to a January 2010 article, "The political system in Hong Kong is increasingly paralyzed, and street protests are growing more confrontational as public dissatisfaction on economic issues and a lack of democracy is rising." [22] The Chinese government has expressed its concerns over Hong Kong protests with Peng Qinghua, the director of the mainland's Liaison Office in Hong Kong, saying that Hong Kong would not put up with what Peng characterized as radical demonstrations.[23]

FREEDOM OF EXPRESSION

For the most part, the people of Hong Kong continue to enjoy freedom of expression. For example, Hong Kong rose three rankings to 48th over the previous year in the 2009 Press Freedom Index of Reporters Without Borders.[24] (For comparison, the United States rose from 36th to 20th during the same period, and China ranked 168th.) [25] According to the U.S. State Department 2009 Human Rights Report, however, "reports of self-censorship contin-

ued during the year." The report noted claims that businesses with interests in China owned most media outlets, making them "vulnerable to self-censorship."[26] The Hong Kong Journalists Association "expressed regret" concerning Esquire magazine's decision to pull a 16-page story on the June 1989 Tiananmen protests, and one of Hong Kong's free-to-air television stations was criticized at a public hearing for deliberately downplaying coverage of the annual Hong Kong commemoration of the Tiananmen protests.[27] There were also concerns with the editorial independence of a new advisory board for the government-run Radio Television Hong Kong.[28]

Macau

ABILITY OF MACAU CITIZENS TO INFLUENCE THEIR GOVERNMENT

The ability of the people of Macau to influence their government is restricted by Macau's constitutional system, under which the chief executive is selected by a 300-person committee, and only 12 of 29 seats in the Legislative Assembly are filled by direct election.[29] In July 2009, the selection committee chose Fernando Chui Sai On as the chief executive in an uncontested election.[30] In September, voters selected 12 assembly members by direct election, the chief executive appointed 7, and an additional 10 were selected indirectly (in a manner similar to the system of functional constituencies in Hong Kong) in uncontested elections.[31] The South China Morning Post reported that vote buying in the September legislative election was widespread, though reportedly not as widespread as in previous elections.[32]

CORRUPTION

Corruption, and the belief that business and government are too close, are serious issues for the people of Macau, with corruption fueling discontent.[33] Macau ranked 43rd in the 2009 Transparency International Corruption Perception Index, which measures the perceived level of corruption in 180 countries.[34] (By comparison, Hong Kong ranked 12th, the United States ranked 19th, and mainland China ranked 79th.) Bloomberg reported in December 2009 that 66 percent of Macanese questioned in a survey said that getting rid of corruption should be a top priority of the new government.[35]

NATIONAL SECURITY LAW (ARTICLE 23)

Macau enacted national security legislation in March 2009, a move that was highly praised by mainland authorities.[36] The impact of the law is not clear at this stage. However, one media report commented on Chief Executive Chui's use of force to put down a May Day demonstration in 2010, writing, "Since the passage of Article 23 antisubversion legislation last year, he [Chui] has a freer hand to legally suppress public protest."[37]

CHINA'S INTERNATIONAL HUMAN RIGHTS COMMITMENTS

The Universal Declaration of Human Rights (UDHR) enshrines a core set of rights and freedoms that individuals everywhere enjoy. Prior to the establishment of the People's Republic of China in October 1949, China voted as a member of the UN General Assembly in favor of the adoption of the UDHR in 1948. According to the Chinese government's 2009–2010 National Human Rights Action Plan (HRAP), issued in April 2009, "China will continue to fulfill its obligations to the international human rights conventions to which it has acceded, and initiate and actively participate in exchanges and cooperation in the field of international human rights."[1]

During the Commission's 2010 reporting year, the Chinese government reiterated its stated commitment to ratify the International Covenant on Civil and Political Rights (ICCPR), which China signed in 1998. In October 2009, Ambassador Liu Zhenmin, China's Deputy Permanent Representative to the United Nations, said at a UN meeting, "At present, legislative, judicial and administrative reforms are under way in China with a view to aligning our domestic legislation with the provisions of the [ICCPR] and paving the way for its ratification."[2] This statement followed similar expressions made during the Commission's 2009 reporting year. In the HRAP, for example, the Chinese government said it would "continue legislative, judicial and administrative reforms to make domestic laws better linked with this Covenant, and prepare the ground for approval of the ICCPR."[3] During the February 2009 session of the UN Human Right's Council's Universal Periodic Review of the Chinese government's human rights record, the Chinese government supported recommendations that it ratify the ICCPR and said it was in the process of amending domestic laws, including the criminal procedure law and laws relating to reeducation through labor, to make them compatible with the ICCPR.[4] The chart below lists what action China has taken on major human rights treaties and protocols to the treaties.[5]

Convention or Protocol	Ratification Status	Declarations and Reservations (Excerpts)
International Covenant on Economic, Social and Cultural Rights	Ratified March 27, 2001. The Covenant also applies to Hong Kong and Macau.	The application of article 8.1(a) of the Covenant to the People's Republic of China shall be consistent with the relevant provisions of the Constitution of the People's Republic of China, Trade Union Law of the People's Republic of China and Labor Law of the People's Republic of China.
International Covenant on Civil and Political Rights	Signed October 5, 1998; not yet ratified. The Covenant applies to Hong Kong and Macau as described in the notes accompanying the Covenant.	
Optional Protocol to the International Covenant on Civil and Political Rights	Neither signed nor ratified.	
Second Optional Protocol to the International Covenant on Civil and Political Rights	Neither signed nor ratified.	
International Convention on the Elimination of All Forms of Racial Discrimination	Acceded to December 29, 1981. The Convention with the reservation made by China also applies to Hong Kong and Macau.	The People's Republic of China has reservations on the provisions of article 22 of the Convention and will not be bound by it.

Convention or Protocol	Ratification Status	Declarations and Reservations (Excerpts)
Convention on the Elimination of All Forms of Discrimination against Women	Ratified November 4, 1980. The Convention with the reservation made by China also applies to Hong Kong and Macau.	The People's Republic of China does not consider itself bound by paragraph 1 of article 29 of the Convention.
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	Neither signed nor ratified.	
Convention on the Rights of the Child	Ratified March 2, 1992. The Convention with the reservation made by China also applies to Hong Kong and Macau.	The People's Republic of China shall fulfill its obligations provided by article 6 of the Convention under the prerequisite that the Convention accords with the provisions of article 25 concerning family planning of the Constitution of the People's Republic of China and in conformity with the provisions of article 2 of the Law of Minor Children of the People's Republic of China.
Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict	Ratified February 20, 2008. Ratification also applies to Hong Kong and Macau.	1. The minimum age for citizens voluntarily entering the Armed Forces of the People's Republic of China is 17 years of age. 2. The Government of the People's Republic of China is applying [safeguard measures] in implementing the foregoing provision.

Convention or Protocol	Ratification Status	Declarations and Reservations (Excerpts)
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	Ratified December 3, 2002. The Protocol also applies to Macau. The application of the Protocol to Hong Kong requires prior domestic legislation by the Hong Kong government and the Protocol shall not apply to Hong Kong until the Chinese government notifies otherwise.	
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Ratified October 4, 1988. The Convention with the reservation made by China also applies to Hong Kong and Macau.	The Chinese government does not recognize the competence of the Committee against Torture as provided for in article 20 of the Convention. The Chinese government does not consider itself bound by paragraph 1 of article 30 of the Convention.
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Neither signed nor ratified.	
Convention relating to the Status of Refugees	Acceded to September 24, 1982. The Convention with the reservation made by China also applies to Macau.	[Subject to] reservations on the following articles: 1. The latter half of article 14, which reads “In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.” 2. Article 16(3).

Convention or Protocol	Ratification Status	Declarations and Reservations (Excerpts)
Protocol relating to the Status of Refugees	Acceded to September 24, 1982. The Convention with the reservation made by China also applies to Macau.	With a reservation in respect of article 4.
Convention on the Prevention and Punishment of the Crime of Genocide	Ratified April 18, 1983. The Convention with the reservation made by China also applies to Hong Kong and Macau.	The People's Republic of China does not consider itself bound by article IX of the said Convention.
United Nations Convention against Transnational Organized Crime	Ratified September 23, 2003. The Convention also applies to Hong Kong and Macau.	The People's Republic of China makes a reservation with regard to Article 35, paragraph 2 of the Convention and is not bound by the provisions of Article 35, paragraph 2.
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime.	Acceded to February 8, 2010. The Protocol also applies to Macau. The Protocol shall not apply to Hong Kong unless otherwise notified by the Chinese government.	The People's Republic of China shall not be bound by paragraph 2 of Article 15 of the Protocol.
Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organized Crime	Neither signed nor ratified.	
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Neither signed nor ratified.	

Convention or Protocol	Ratification Status	Declarations and Reservations (Excerpts)
Convention on the Rights of Persons With Disabilities	Ratified August 1, 2008. The Convention also applies to Hong Kong and Macau.	
Optional Protocol to the Convention on the Rights of Persons With Disabilities	Neither signed nor ratified.	

RATIFICATION OF THE INTERNATIONAL LABOUR ORGANIZATION FUNDAMENTAL CONVENTIONS [6]

Forced Labor		Freedom of Association		Discrimination		Child Labor	
C. 29	C. 105	C. 87	C. 98	C. 100	C. 111	C. 138	C. 182
Not ratified.	Not ratified.	Not ratified.	Not ratified.	Ratified November 2, 1990.	Ratified January 12, 2006.	Ratified April 28, 1999.	Ratified August 8, 2002.

VII. Endnotes

†Voted to adopt: Senators Dorgan, Baucus, Levin, Feinstein, Brown, Corker, Barrasso, and LeMieux; and Representatives Levin, Kaptur, Honda, Walz, Wu, Smith, Manzullo, Royce, and Pitts.

Not voting: Senator Brownback.

Notes to Section I—Political Prisoner Database

[1] The Commission treats as a political prisoner an individual detained or imprisoned for exercising his or her human rights under international law, such as peaceful assembly, freedom of religion, freedom of association and free expression, including the freedom to advocate peaceful social or political change and to criticize government policy or government officials. (This list is illustrative, not exhaustive.) In most cases, prisoners listed in the Political Prisoner Database were detained or imprisoned for attempting to exercise rights guaranteed to them by China's Constitution and law, by international law, or both. Chinese security, prosecution, and judicial officials sometimes seek to distract attention from the political or religious nature of imprisonment by convicting a de facto political or religious prisoner under the pretext of having committed a generic crime. In such cases defendants typically deny guilt but officials may attempt to coerce confessions using torture and other forms of abuse, and standards of evidence are poor. If authorities permit a defendant to entrust someone to provide him or her legal counsel and defense, as China's Criminal Procedure Law guarantees in Article 32, officials may deny the counsel adequate access to the defendant, restrict or deny the counsel's access to evidence, and not provide the counsel adequate time to prepare a defense.

Notes to Section II—Freedom of Expression

[1] See, e.g., PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 105; Provisions on the Administration of Internet News Information Services [Hulianwang xinwen xinxi fuwu guanli guiding], issued and effective 25 September 05, art. 19(6); PRC Measures for Overseeing the Import and Export of Printed Materials and Audio-Visual Materials Through Customs [Zhonghua renmin gongheguo haiguan jinchu jing yinshuapin ji yinxiang zhipin jianguan banfa], issued 18 April 07, effective 1 June 07, art. 4(4).

[2] CECC, 2009 Annual Report, 10 October 09, 48.

[3] Michael Wines, "Dissident Chinese Writer Appeals Sentence," New York Times (Online), 4 January 10; Political Prisoners in China: Trends and Implications for U.S. Policy, Hearing of the Congressional-Executive Commission on China, 3 August 10, Written Statement Submitted by Joshua Rosenzweig, Senior Manager, Research and Hong Kong Operations, The Dui Hua Foundation.

[4] CECC, 2009 Annual Report, 10 October 09, 47–48.

[5] Ng Tze-wei, "'End Hukou System' Call Earns Rebuke," South China Morning Post (Online), 6 March 10; For CECC analysis, see "Joint Editorial Calling for Hukou Reform Removed From Internet Hours After Publication, Co-Author Fired," CECC China Human Rights and Rule of Law Update, No. 4, 21 April 10, 1–2.

[6] Regulations on the Administration of Publishing [Chuban guanli tiaoli], issued 25 December 01, effective 1 February 02, art. 15.

[7] Measures for the Administration of Internet Information Services [Hulianwang xinxi fuwu guanli banfa], issued 20 September 00, effective 25 September 00, art. 4; Registration Administration Measures for Non-Commercial Internet Information Services [Fei jingyingxing hulianwang xinxi fuwu bei'an guanli banfa], issued 8 February 05, effective 20 March 05, art. 5.

[8] Measures for Administration of News Reporter Cards [Xinwen jizhe zheng guanli banfa], issued 24 August 09, effective 15 October 09, arts. 11, 12, 16.

[9] PRC Constitution, adopted 4 December 82, amended 12 April 88, 29 March 93, 15 March 99, 14 March 04, art. 35. Article 41 also provides the right to criticize officials free from retaliation. PRC Constitution, art. 41.

[10] For example, the State Council Information Office released a white paper on the Internet in June 2010 which stated that the government "guarantees the citizens' freedom of speech on the Internet." State Council Information Office, White Paper on the State of the Internet in China [Zhongguo hulianwang zhuangkuang], 8 June 10.

[11] International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 19; Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, arts. 19, 29. The UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression has also used this three-factor test to describe the standard for determining when a restriction is permissible under Article 19, paragraph 3 of the ICCPR. UN GAOR, Hum. Rts. Coun., 14th Sess., Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, A/HRC/14/23, 20 April 10, para. 74. China signed the ICCPR in 1998. The Chinese government has committed to ratifying the ICCPR and says it is taking concrete steps to prepare for ratification. In November 2009, a Joint Statement of the 12th EU-China Summit said, "The EU welcomed China's commitment to ratifying the [ICCPR] as soon as possible." Joint Statement of the 12th EU-China Summit, reprinted in China Internet Information Center (Online), 30 November 09. In October 2009, Ambassador Liu Zhenmin, China's Deputy Permanent Representative to the United Nations, said, "At present, legislative, judicial and administrative reforms are under way in China with a view to aligning our domestic legislation with the provisions of the [ICCPR] and paving the way for its ratification." Permanent Mission of the People's Republic of China to the UN (Online), "Statement by H.E. Ambassador Liu Zhenmin, Deputy Permanent

Representative of China to the United Nations, at the Third Committee of the 64th Session of the General Assembly on the Implementation of Human Rights Instruments (Item 69A)," 20 October 09. In its 2009–2010 National Human Rights Action Plan issued in April 2009, the Chinese government stated that the ICCPR was one of the "fundamental principles" on which the plan was framed, and that the government "will continue legislative, judicial and administrative reforms to make domestic laws better linked with this Covenant, and prepare the ground for approval of the ICCPR." State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, introduction, sec. V(1). In February 2009, during the UN Human Rights Council's Universal Periodic Review of the Chinese government's human rights record, the Chinese government supported recommendations made by Member States that China ratify the ICCPR. Chinese officials said China was in the process of amending domestic laws, including the criminal procedure law and laws relating to reeducation through labor, to make them compatible with the ICCPR. UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, paras. 63, 114(1).

[12] In October 2009, the UN Human Rights Council adopted a resolution that identified a number of restrictions that are inconsistent with the freedom of expression provision in the International Covenant on Civil and Political Rights (i.e., Article 19), including restrictions on "[d]iscussion of government policies and political debate," "reporting on human rights," and "expression of opinion and dissent." UN GAOR, Hum. Rts. Coun., 12th Sess., Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development, adopted by Human Rights Council resolution 12/16, A/HRC/RES/12/16, 12 October 09, para. 5(p)(i).

[13] See, e.g., Zhang Lei, "Publish and Be Deleted," Global Times (Online), 25 February 10.

[14] International experts on freedom of expression have declared licensing schemes for print media unnecessary and subject to abuse and have found press accreditation appropriate only where necessary to provide access to certain places and events. UN Press Release, UN Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Cooperation in Europe Representative on Freedom of the Media, and the Organization of American States Special Rapporteur on Freedom of Expression, "International Experts Condemn Curbs on Freedom of Expression and Control Over Media and Journalists," 18 December 03.

[15] Zhang Lei, "Publish and Be Deleted," Global Times (Online), 25 February 10.

[16] Committee to Protect Journalists (Online), "Falling Short: Olympic Promises Go Unfulfilled as China Falters on Press Freedom," 2008, 36.

[17] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 105.

[18] See, e.g., a Beijing court's December 2009 decision in the Liu Xiaobo case in which the court provided no evidence that Liu advocated violence in his works. Human Rights in China (Online), "Case Update: International Community Speaks Out on Liu Xiaobo Verdict," 30 December 09. For CECC analysis, see "Liu Xiaobo Appeals Sentence; Official Abuses Mar Case From Outset," CECC China Human Rights and Rule of Law Update, No. 2, 5 February 10, 2.

[19] "Lawyer Shang Baojun Speaks About Liu Xiaobo's Appeal" [Shang baojun lushi tan liu xiaobo shangshu], Radio France Internationale (Online), 5 January 10; Maggie Chen, "Freedom of Speech Defence Bound To Fail," South China Morning Post (Online), 7 June 10.

[20] Maggie Chen, "Freedom of Speech Defence Bound To Fail," South China Morning Post (Online), 7 June 10.

[21] Michael Wines, "Dissident Chinese Writer Appeals Sentence," New York Times (Online), 4 January 10; Political Prisoners in China: Trends and Implications for U.S. Policy, Hearing of the Congressional-Executive Commission on China, 3 August 10, Written Statement Submitted by Joshua Rosenzweig, Senior Manager, Research and Hong Kong Operations, The Dui Hua Foundation.

[22] "Chengdu Intermediate People's Court Criminal Judgment," Canyu (Online), 9 February 10. For CECC analysis, see "Chengdu Court Sentences Tan Zuoren to Five Years and Upholds Huang Qi's Sentence," CECC China Human Rights and Rule of Law Update, No. 3, 16 March 10, 1.

[23] Ibid.

[24] Bao Daozu, "Activist on Trial for Subversion," China Daily (Online), 13 August 09.

[25] "Suqian Intermediate People's Court of Jiangsu Province Criminal Verdict [in case of Guo Quan]," Dui Hua Foundation (Online), 16 October 09. For CECC analysis, see "Jiangsu Court Affirms 10-Year Sentence of Guo Quan for Organizing Political Party Online," CECC China Human Rights and Rule of Law Update, No. 2, 5 February 10, 2.

[26] Human Rights in China (Online), "Case Update: International Community Speaks Out on Liu Xiaobo Verdict—Beijing Municipal No. 1 Intermediate People's Court Criminal Verdict," 30 December 09. For CECC analysis, see "Beijing High People's Court Affirms Liu Xiaobo's 11-Year Sentence," CECC China Human Rights and Rule of Law Update, No. 3, 16 March 10, 3.

[27] Human Rights in China (Online), "Case Update: International Community Speaks Out on Liu Xiaobo Verdict—Beijing Municipal No. 1 Intermediate People's Court Criminal Verdict," 30 December 09. For CECC analysis, see "Beijing Court Sentences Liu Xiaobo to 11 Years," CECC China Human Rights and Rule of Law Update, No. 1, 8 January 10, 1.

[28] For a complete English translation of each of these essays, see Human Rights in China, "Freedom of Expression on Trial in China," China Rights Forum No. 1, 2010, 17–67. For a CECC analysis and summary of the essays, see "Prosecutors Indict Liu Xiaobo; Trial To Take Place December 23," CECC China Human Rights and Rule of Law Update, No. 1, 8 January 10, 1.

[29] Human Rights in China (Online), "Case Update: International Community Speaks Out on Liu Xiaobo Verdict—Beijing Municipal No. 1 Intermediate People's Court Criminal Verdict," 30 December 09.

[30] "China Extends Detention of Leading Dissident," Agence France-Presse (Online), 9 June 09.
[31] Chinese Human Rights Defenders (Online), "Liu Xiaobo Sentenced to 11 Years in Prison," 25 December 09.
[32] "Final Decision on Liu Xiaobo's Appeal of Inciting Subversion Case" [Liu xiaobo shexian shandong dianfu guojia zhengquan shangshu yi an zhongshen caiding shu], Boxun (Online), 9 February 10.
[33] Human Rights in China (Online), "Shanghai Petitioner To Serve 18 Months of Reeducation-Through-Labor After Shouting Slogans," 9 March 10.
[34] See, e.g., Alexa Olesen, "China Sentences Uighur Writer to 15 Years in Jail," Associated Press, reprinted in Washington Post (Online), 23 July 10; "Uyghur Journalist Gets 15 Years," Radio Free Asia (Online), 22 July 10. For information on the charge against him, see "Many Scholars Make Appeal: Release Xinjiang Reporter, Respect Freedom of Speech" [Zhong xuezhe huyu: shifang xinjiang jizhe zunzhong yanlun ziyou], Chinese Human Rights Defenders, reprinted in Boxun (Online), 30 July 10.
[35] James T. Areddy, "Geologist Sought Oil-Industry Data," Wall Street Journal (Online), 6 July 10.
[36] Ibid.
[37] Dui Hua Foundation (Online), "China Sentences American Geologist on State Secrets Charge," 4 July 10; Charles Hutzler, "Xue Feng, American Geologist, Held and Mistreated by China," Associated Press, reprinted in Huffington Post (Online), 19 November 09.
[38] Jerome A. Cohen, "Justice Denied," South China Morning Post (Online), 21 July 10.
[39] "Quake Critic Arrested," Radio Free Asia (Online), 4 June 10.
[40] Ibid.; International Campaign for Tibet (Online), "A 'Raging Storm': The Crackdown on Tibetan Writers and Artists After Tibet's Spring 2008 Protests," 18 May 10.
[41] Chinese Human Rights Defenders (Online), "Three Fujian Digital Activists Convicted as Thousands Gather in Landmark Protest," 16 April 10; "Criminal Judgment [of Fujian Province Fuzhou City Mawei District People's Court]" [Xingshi panjue shu], reprinted in Chinese Human Rights Defenders (Online), 16 April 10, 25–26.
[42] "Criminal Judgment [of Fujian Province Fuzhou City Mawei District People's Court]" [Xingshi panjue shu], reprinted in Chinese Human Rights Defenders (Online), 16 April 10, 25–26.
[43] China Human Rights Lawyers Concern Group (Online), "Fujian Lawyer Lin Hongnan and His Law Firm Punished—Retaliation for Taking Up the 'Three Fuzhou Netizens' Case" [Fujian lin hongnan lushi yu lushi shiwusuo jieban "san wangmin" an zao baofu], 3 May 10.
[44] CECC, 2009 Annual Report, 10 October 09, 50.
[45] Sharon LaFraniere, "School Construction Critic Gets Prison Term in China," New York Times (Online), 23 November 09. For CECC analysis, see "Authorities Sentence Rights Activist Huang Qi to Three Years in Prison," CECC China Human Rights and Rule of Law Update, No. 1, 8 January 10, 2.
[46] Keith Richburg, "China Sentences Quake Activist to 3 Years in Prison," Washington Post (Online), 23 November 09.
[47] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. II(5).
[48] Regulations of the People's Republic of China on Open Government Information [Zhonghua renmin gongheguo zhengfu xinxi gongkai tiaoli], issued 5 April 07, effective 1 May 08, arts. 9, 13.
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[157] For the government response to forced labor in brick kilns, including child labor, see, e.g., Zhang Pinghui, "Crackdown on Slave Labor Nationwide—State Council Vows To End Enslavement," South China Morning Post (Online), 21 June 07.

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[174] See generally PRC Labor Law, enacted 5 July 94, effective 1 January 95, amended 10 October 01, art. 12.

[175] International Covenant on Economic, Social and Cultural Rights adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, art. 8.

[176] United Nations Treaty Collection (Online), Declarations and Reservations, 5 February 02. Article 10 of China's Trade Union Law establishes the All-China Federation of Trade Unions (ACFTU) as the "unified national trade union federation," and Article 11 mandates that all unions must be approved by the next higher level union body, giving the ACFTU an absolute veto over the establishment of any local union and the legal authority to block independent labor associations. PRC Trade Union Law, enacted and effective 3 April 92, amended 27 October 01, arts. 10, 11.

Notes to Section II—Criminal Justice

[1] For information on reforms related to limiting the use of coerced confessions and executions, see Provisions Concerning Questions About Examining and Judging Evidence in Death Penalty Cases [Guanyu banli sixing anjian shencha panduan zhengju ruogan wenti de guiding], effective 1 July 10, and Provisions Concerning Questions About Exclusion of Illegal Evidence in Handling Criminal Cases [Guanyu banli xingshi anjian paichu feifa zhengju ruogan wenti de guiding], effective 1 July 10. After several reports on the handling of suspicious detention center deaths, the Ministry of Public Security released new guidelines on management and education in detention centers. For more information, see "China Issues Detention Center Guideline," Xinhua (Online), 26 February 10.

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[98] "Ill but No Medical Parole, Government Controls Fate of Defenders" [You bing bu bao wai wu bing po zhuyuan zhengfu zuoyou weiquan zhe mingyun], Radio Free Asia (Online), 6 May 10; "China and US To Discuss Human Rights as Beijing Cracks Down on Jailed Dissidents," AsiaNews (Online), 17 May 10; Human Rights in China (Online), "Liver Cancer Suspected, Activist Hu Jia Seeks Medical Parole," 9 April 10.

[99] Human Rights in China (Online), "Writer Zhang Jianhong, Gravely Ill, Is Released on Medical Parole; Family Struggles To Pay for Treatment," 8 June 10.

[100] Measures for Carrying Out Medical Parole for Prisoners [Zuifan baowai jiuyi zhixing banfa], issued 31 December 90, art. 2(2); Human Rights in China (Online), "Writer Zhang Jianhong, Gravely Ill, Is Released on Medical Parole; Family Struggles To Pay for Treatment," 8 June 10.

[101] "Wang Shengjun: Strictly Apply the Relevant Facts, Evidence and Laws in Capital Cases So as To Ensure the Quality of Trials" [Wang shengjun: yan ba sixing anjian shishi guan zhengju guan falu guan quebao shenpan zhiliang], Xinhua (Online), 11 March 10.

[102] "China Executes Thousands: Amnesty," Canadian Broadcasting Corporation (Online), 30 March 10.

[103] Bao Daozu, "China May Drop Death Penalty for 13 Economic Crimes," China Daily (Online), 24 August 10; "Criminal Law Draft Revision (8) Removes 13 Economic Crimes From Death Penalty" [Xingfa xiuzheng an (ba) ni quxiao 13 ge jingji xing fei baoli fanzui sixing], People's Daily Network (Online), 23 August 10.

[104] Peter Simpson and David Williams, "Gordon Brown Leads Furious Outcry as China Executes British Drugs Mule by Lethal Injection," Daily Mail (Online), 30 December 09.

[105] Rosa Prince, "Akmal Shaikh Execution Leaves Sino-British Relations at a Low Point," Telegraph (Online), 30 December 09.

[106] "British Citizen Akmal Shaikh Executed in China," Telegraph (Online), 29 December 09.

[107] "China Calls for Steady Development of Sino-British Ties," Xinhua, reprinted in Global Times (Online), 5 January 10.

[108] Amnesty International (Online), "China: British Man Facing Imminent Execution," 21 October 09.

[109] Cristian Segura, "China Injects 'Humanity' Into Death Sentence," Asia Times (Online), 16 December 09; Liu Ligang, "Liaoning Completely Implements Death by Injection, Becomes the

First Province To Say Goodbye to Executions by Firing Squad" [Liao quanmian shixing zhushe sixing cheng quanguo shou ge gaobie "qiangjue" shengfen], Xinhua (Online), 10 December 09.

[110] "Next Year Beijing Will Fully Implement Lethal Injections" [Beijing ni mingnian qi quanmian shixing zhushe sixing], Global Times (Online), 5 November 09.

Notes to Section II—Freedom of Religion

[1] PRC Constitution, adopted 4 December 82, amended 12 April 88, 29 March 93, 15 March 99, 14 March 04, art. 36. This section of the Commission's Annual Report primarily uses the expression "freedom of religion" but encompasses within this term reference to the more broadly articulated freedom of "thought, conscience, and religion" (see, e.g., the Universal Declaration of Human Rights (UDHR), adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, art. 18). For protections in international law, see, e.g., UDHR, art. 18; International Covenant on Civil and Political Rights (ICCPR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 18; International Covenant on Economic, Social, and Cultural Rights (ICESCR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, art. 13(3) (requiring States Parties to "ensure the religious and moral education of . . . children in conformity with [the parents'] own convictions"); Convention on the Rights of the Child (CRC), adopted and opened for signature, ratification, and accession by UN General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, art. 14; Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, UN General Assembly resolution 36/55 of 25 November 81. See General Comment No. 22 to Article 18 of the ICCPR for an official interpretation of freedom of religion as articulated in the ICCPR. General Comment No. 22: The Right to Freedom of Thought, Conscience, and Religion (Art. 18), 30 July 93, para. 1. China is a party to the ICESCR and the CRC, and a signatory to the ICCPR. China signed the ICCPR in 1998. The Chinese Government has committed to ratifying the ICCPR and says it is taking concrete steps to prepare for ratification. In November 2009, a Joint Statement of the 12th EU-China Summit said, "The EU welcomed China's commitment to ratifying the [ICCPR] as soon as possible." Joint Statement of the 12th EU-China Summit, reprinted in China Internet Information Center (Online), 30 November 09. In October 2009, Ambassador Liu Zhenmin, China's Deputy Permanent Representative to the United Nations, said, "At present, legislative, judicial and administrative reforms are under way in China with a view to aligning our domestic legislation with the provisions of the [ICCPR] and paving the way for its ratification." Permanent Mission of the People's Republic of China to the UN (Online), "Statement by H.E. Ambassador Liu Zhenmin, Deputy Permanent Representative of China to the United Nations, at the Third Committee of the 64th Session of the General Assembly on the Implementation of Human Rights Instruments (Item 69A)," 20 October 09. In its 2009–2010 National Human Rights Action Plan issued in April 2009, the Chinese Government stated that the ICCPR was one of the "fundamental principles" on which the plan was framed, and that the government "will continue legislative, judicial and administrative reforms to make domestic laws better linked with this Covenant, and prepare the ground for approval of the ICCPR." State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, introduction, sec. V(1). In February 2009, during the UN Human Rights Council's Universal Periodic Review of the Chinese Government's human rights record, the Chinese Government supported recommendations made by Member States that China ratify the ICCPR. Chinese officials said China was in the process of amending domestic laws, including the criminal procedure law and laws relating to reeducation through labor, to make them compatible with the ICCPR. UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, paras. 63, 114(1).

[2] For more on unregistered groups in China, see, e.g., Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, International Religious Freedom Report—2009, China (includes Tibet, Hong Kong, and Macau), 26 October 09.

[3] State Administration for Religious Affairs (Online), "Central Authorities' Decision Restructures Main Leadership Posts at State Administration for Religious Affairs" [Zhongyang jueding guojia shiwuju zhuyao lingdao zhiwu tiaozheng], 21 September 09.

[4] See, e.g., "Religious Harmony: New Frontiers in Religion Work" [Zongjiao hexie: zongjiao gongzuo de xin jingjie], People's Daily (Online), 13 January 10; "Senior Leader Urges Religious Believers To Help Promote Development, Stability," Xinhua (Online), 9 February 10. For an overview of past efforts to articulate a "positive role" for religion, see "Politburo Study Session Calls for Uniting Religious Communities Around Party," CECC China Human Rights and Rule of Law Update, January 2008, 3.

[5] Wang Zuo'an, "Strengthen Ability To Do Work on Religion" [Zengqiang zuohao zongjiao gongzuo de nengli], Qiushi (Online), 1 February 10.

[6] "Forum Convenes on 5th-Year Anniversary of Implementation of 'Regulation on Religious Affairs,' Hui Liangyu Attends and Makes Important Speech" ["Zongjiao shiwu tiaoli" shishi 5 zhounian zuotanhui zhaokai hui liangyu chuxi bing zuo zhongyao jianghua], China Religions (Online), 12 April 10; Regulation on Religious Affairs [Zongjiao shiwu tiaoli], issued 30 November 04, effective 1 March 05.

[7] See the RRA generally for provisions defining the scope of state control over various internal affairs of religious groups. For detailed analysis of specific articles, see, e.g., "Zhejiang and Other Provincial Governments Issue New Religious Regulations," CECC China Human Rights and Rule of Law Update, June 2006, 9–10.

[8] The RRA conditions protections on religious groups registering as official organizations and registering venues with the government. Regulation on Religious Affairs [Zongjiao shiwu tiaoli], issued 30 November 04, effective 1 March 05, arts. 6, 12–15. For information on harassment of unregistered groups, see subsections on specific religious communities within this section. See also Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, International

Religious Freedom Report—2009, China (includes Tibet, Hong Kong, and Macau), 26 October 09.

[9] Hubei Province Regulation on Religious Affairs [Hubei sheng zongjiao shiwu tiaoli], issued 31 July 09, effective 1 October 09, arts. 30–35; Hainan Province Provisions on the Management of Religious Affairs [Hainan sheng zongjiao shiwu guanli ruogan guiding], issued 25 September 09, effective 1 December 09, art. 10. Compare these provisions with those in the older regulations they replace. Hubei Province Regulation on the Management of Religious Affairs [Hubei sheng zongjiao shiwu guanli tiaoli], issued 14 January 01, effective 1 April 01, art. 7; Hainan Province Regulation on the Management of Religious Affairs [Hainan sheng zongjiao shiwu guanli tiaoli], issued 26 September 97, effective 22 October 97 (lacking a provision on cross-provincial movement of religious personnel that is present in the 2009 measures that replace them). For analysis of the new regulation and provisions, see "Three Provinces Issue New or Amended Regulations on Religion," CECC China Human Rights and Rule of Law Update, No. 6, 9 December 09, 4. In addition, in 2010, the Guangdong province People's Congress Standing Committee amended its 2000 regulation on religious affairs. Guangdong Province Regulation on Religious Affairs [Guangdong sheng zongjiao shiwu tiaoli], issued 30 June 00 as the Guangdong Province Regulation on the Management of Religious Affairs [Guangdong sheng zongjiao shiwu guanli tiaoli], amended and name changed on 22 January 10, effective 1 March 10.

[10] Measures on the Supervision and Management of Financial Affairs of Venues for Religious Activities (Trial) [Zongjiao huodong changsuo caiwu jiandu guanli banfa (shixing)], issued 11 January 10, effective 1 March 10.

[11] See analysis in "New Measures Regulate Financial Affairs of Venues for Religious Activities," CECC China Human Rights and Rule of Law Update, No. 5, 4 June 10, 3. For provisions articulating broad oversight of venues and as well as protection for the sites, see Measures on the Supervision and Management of Financial Affairs of Venues for Religious Activities (Trial) [Zongjiao huodong changsuo caiwu jiandu guanli banfa (shixing)], issued 11 January 10, effective 1 March 10, arts. 6, 7.

[12] Measures on the Supervision and Management of Financial Affairs of Venues for Religious Activities (Trial) [Zongjiao huodong changsuo caiwu jiandu guanli banfa (shixing)], issued 11 January 10, effective 1 March 10, art. 2.

[13] State Administration of Foreign Exchange, Circular on Issues Concerning the Management of Foreign Exchange Donated to or by Domestic Institutions [Guanyu jingnei jigou juanzeng waihui guanli youguan wenti de tongzhi], issued 30 December 09, effective 1 March 10, art. 8(3).

[14] This section pertains to what official sources refer to as "Buddhism in the Han tradition," an inaccurate umbrella term that encompasses all schools of Buddhism in China, aside from the Tibetan tradition. "Buddhism in the Han tradition" (*hanchuan fojiao*) is inaccurate in religious terms. Buddhists divide themselves according to a number of traditions, ritual practices, and schools of thought, but not in purely ethnic terms. It is also worth noting that with the possible exception of the Chan school of Buddhism, there is arguably no true "Han tradition" of Buddhism. All non-Chan schools of Buddhism in China can be clearly traced to Indian sources. In addition, there are Chinese citizens belonging to officially recognized "ethnic minority" groups, such as the Dai, that practice Theravada Buddhism—a branch of Buddhism completely outside of what Chinese officials mean by the "Han tradition" (non-esoteric Mahayana Buddhism—a branch of Buddhism of Indian origin as practiced by non-Tibetans).

[15] Constitution of the Buddhist Association of China [Zhongguo fojiao xiehui zhangcheng], enacted 18 September 02, art. 3; Regulation on Religious Affairs [Zongjiao shiwu tiaoli], issued 30 November 04, effective 1 March 05, arts. 6, 27–29.

[16] See the discussion of the legal framework for religion in China in the Introduction of this section for more information.

[17] See, e.g., case studies from "China—Taoist, Buddhist Associations' Websites Suggest Constraints," Open Source Center, 23 November 09.

[18] Buddhism Online (Online), "Director Wang Zuo'an's Remarks at the Eighth National Conference of the Buddhist Association of China" [Wang zuo'an ju zhang zai zhongguo fojiao xiehui di ba ci quanguo daibiao huiyi shang de jiang hua], 2 February 10.

[19] Ibid.

[20] See, e.g., Mashang Party Committee and Mashang People's Government, Mashang Work Summary for First Half of 2009 and Work Plan for Second Half of 2009 [Mashang zhen 2009 nian shangbannian gongzuo zongjie ji xiabannian gongzuo dasuan], 25 December 09; Qidong Municipal Anti-Cult Association (Online), "Introduction to Anti-Cult Knowledge in 2010" [2010 nian fanxiejiao zhishi jieshao], 4 June 10.

[21] Ministry of Public Security, Circular on Several Issues With Designating and Banning Cult Organizations [Guanyu rending he qudi xiejiao zuzhi ruogan wenti de tongzhi], issued 30 April 00.

[22] See, e.g., Changsha Municipal Ethnic and Religious Affairs Bureau, Circular Regarding the Breakdown of the Changsha Municipal Ethnic and Religious Affairs Bureau's Official Law Enforcement Powers [Guanyu changsha shi minzu zongjiao shiwu ju zhifa zhiquan fenjie de tongzhi], issued 1 December 09; Changshu Municipal Ethnic and Religious Affairs Bureau, 2009 Work Summary and Focal Points of 2010 Work [2009 niandu gongzuo zongjie ji 2010 nian gongzuo zhongdian], 17 November 09; Wuxi Municipal Ethnic and Religious Affairs Bureau, Wuxi City Propaganda Manual for Governance of Unapproved Sites (Temples) [Wuxi shi weijing pizhun changsuo (simiao) zhili gongzuo xuanchuan shouce], 19 October 09; Wuzhong District Ethnic and Religious Affairs Bureau, District Ethnic and Religious Affairs Bureau 2009 Work Summary and 2010 Work Plans [Qu minzong ju 2009 niandu gongzuo zongjie ji 2010 niandu gongzuo dasuan], 22 December 09; Yangzhou Religious Affairs Bureau, "Jiangdu Television Station Special Exposes Tricks of Fake Monks and Fake Daoist Priests" [Jiangdu dianshitai zhuanti jiechuan jia seng jia dao de pianshu], reprinted in Yangzhou Municipal People's Government (Online), 2 June 10; Zetan Township Communist Party Committee, Circular Regarding Investigation Into the Basic Situation for Buddhists, Taoists, Muslims, and Catholics [Guanyu

kaizhan fojiao, daojiao, yisilanjiao, tianzhujiao jiben qingkuang diaocha gongzuo de tongzhi], issued 15 September 09.

[23] See, e.g., Wuxi Municipal Ethnic and Religious Affairs Bureau, Wuxi City Propaganda Manual for Governance of Unapproved Sites (Temples) [Wuxi shi weijing pizhun changsuo (simiao) zhili gongzuo xuanchuan shouce], 19 October 09; Wuzhong District Ethnic and Religious Affairs Bureau, District Ethnic and Religious Affairs Bureau 2009 Work Summary and 2010 Work Plans [Qu minzong ju 2009 niandu gongzuo zongjie ji 2010 niandu gongzuo dasuan], 22 December 09.

[24] See, e.g., Changsha Municipal Ethnic and Religious Affairs Bureau, Circular Regarding the Breakdown of the Changsha Municipal Ethnic and Religious Affairs Bureau's Official Law Enforcement Powers [Guanyu changsha shi minzu zongjiao shiwu ju zhifa zhiquan fenjie de tongzhi], issued 1 December 09; Changshu Municipal Ethnic and Religious Affairs Bureau, 2009 Work Summary and Focal Points of 2010 Work [2009 niandu gongzuo zongjie ji 2010 nian gongzuo zhongdian], 17 November 09; Wuzhong District Ethnic and Religious Affairs Bureau, District Ethnic and Religious Affairs Bureau 2009 Work Summary and 2010 Work Plans [Qu minzong ju 2009 niandu gongzuo zongjie ji 2010 niandu gongzuo dasuan], 22 December 09; Zetan Township Communist Party Committee, Circular Regarding Investigation Into the Basic Situation for Buddhists, Taoists, Muslims, and Catholics [Guanyu kaizhan fojiao, daojiao, yisilanjiao, tianzhujiao jiben qingkuang diaocha gongzuo de tongzhi], issued 15 September 09.

[25] "The Flower of Ethnic Unity Is in Full Bloom, Religion Has Stepped Onto the Harmonious Path" [Minzu shengkai tuanjie hua, zongjiao tashang hexie lu], People's Daily (Online), 1 September 09.

[26] See, e.g., Changshu Municipal Ethnic and Religious Affairs Bureau, 2009 Work Summary and Focal Points of 2010 Work [2009 niandu gongzuo zongjie ji 2010 nian gongzuo zhongdian], 17 November 09; Wuzhong District Ethnic and Religious Affairs Bureau, District Ethnic and Religious Affairs Bureau 2009 Work Summary and 2010 Work Plans [Qu minzong ju 2009 niandu gongzuo zongjie ji 2010 niandu gongzuo dasuan], 22 December 09.

[27] Wuxi Municipal Ethnic and Religious Affairs Bureau, Wuxi City Propaganda Manual for Governance of Unapproved Sites (Temples) [Wuxi shi weijing pizhun changsuo (simiao) zhili gongzuo xuanchuan shouce], 19 October 09.

[28] Estimates of the size of China's Catholic community vary widely, and there are large discrepancies between Chinese Government estimates and foreign media estimates. For example, senior Party leader Jia Qinglin has estimated the Catholic population at 4 million, although it is unclear whether or not his estimate applies to both registered and unregistered Catholics. Bao Daozu, "Religion 'Can Promote Harmony,'" China Daily (Online), 4 March 08. Foreign media estimates range from 6 to over 12 million. See, e.g., Ambrose Leung, "Tsang Had Audience With Pope but Cancelled," South China Morning Post (Online), 26 March 10; "Cardinal for China," Wall Street Journal (Online), 16 April 09; James Pomfret, "New Hong Kong Bishop Pressures China on Religious Freedom," Reuters (Online), 16 April 09.

[29] For information on the history of this policy, see CECC, 2006 Annual Report, 20 September 06, 87.

[30] See CECC, 2007 Annual Report, 10 October 07, 96–97, for information on coercion to participate in bishop appointments in previous years.

[31] Ambrose Leung, "Beijing and Vatican Focus on Long-Term Future," South China Morning Post (Online), 1 November 09; U.S. Commission on International Religious Freedom, 2010 Annual Report, May 2010, 109.

[32] Examples of bishops approved by both the CPA and the Holy See this year include Bishop Cai Bingrui of the Xiamen diocese in Fujian province, Bishop Meng Qinglu of the Hohhot diocese in the Inner Mongolia Autonomous Region (IMAR), Bishop Shen Bin of the Haimen diocese in Jiangsu province, Bishop Du Jiang of the Bameng diocese in the IMAR, and Bishop Han Yingjin of the Sanyuan diocese in Shaanxi province. "Church Communities Welcome Xiamen Bishop," Union of Catholic Asian News (Online), 10 May 10; Tom Mitchell, "China Ordains Bishops Backed by the Vatican," Financial Times (Online), 10 May 10; "Haimen Bishop Ordained With Papal Mandate," Union of Catholic Asian News (Online), 21 April 10; Wang Zhicheng, "Bishop Placed Under House Arrest for Refusing To Co-Celebrate Mass With Excommunicated Bishop," AsiaNews (Online), 8 April 10; "Fourth China Bishop Ordained This Year," Union of Catholic Asian News (Online), 24 June 10.

[33] Ankang Municipal Bureau of Civil Affairs (Online), "Liu Bainian, Vice-Chair of the China Catholic Patriotic Association, Visits Ankang To Inspect and Guide Catholic Work" [Zhongguo tianzhujiao aiguo hui fu zhuxi liu bainian lai an jiancha zhidao tianzhujiao gongzuo], 20 January 10.

[34] See, e.g., "Study Deeply and Implement the Spirit of the 2010 National Meeting for Work on Religion" [Shenru xuexi guanche 2010 nian quanguo zongjiao gongzuo huiyi jingshen], China Religion (Online), 3 March 10; Guangdong Ethnic and Religious Affairs Commission (Online), "Zhongshan Municipal Catholic Patriotic Association Convenes Second Representative Assembly" [Zhongshan shi tianzhujiao aiguo hui zhaokai di er jie daibiao da hui], 20 January 10; Li Yi, Songjiang District Religious and Ethnic Affairs Bureau, "Our District's Third Representative Assembly of Catholics Convenes" [Wo qu tianzhujiao di san ci daibiao huiyi zhaokai], reprinted in Songjiang District United Front Work Department (Online), 18 January 10.

[35] See, e.g., Qujiang People's Government, Program Regarding the Implementation of Investigations into the Basic Situation for Buddhists, Taoists, and Catholics [Guanyu kaizhan fojiao, daojiao, tianzhujiao jiben qingkuang diaocha shishi fang'an], 8 January 10; Taijiang District People's Government, Taijiang District Ethnic and Religious Affairs Bureau's 2009 Work Summary and 2010 Work Ideas [Taijiang qu minzongju 2009 nian gongzuo zongjie ji 2010 nian gongzuo silu], 15 January 10; Zetan Township Communist Party Committee, Circular Regarding Investigation Into the Basic Situation for Buddhists, Taoists, Muslims, and Catholics [Guanyu kaizhan fojiao, daojiao, yisilanjiao, tianzhujiao jiben qingkuang diaocha gongzuo de tongzhi], issued 15 September 09.

[36] Wang Zhicheng, "Bishop Placed Under House Arrest for Refusing To Co-Celebrate Mass With Excommunicated Bishop," AsiaNews (Online), 8 April 10.

[37] Ibid.

[38] Michael Wines, "Bishop Yao Liang, 87, Imprisoned in China for Loyalty to the Vatican, Dies," New York Times (Online), 6 January 10.

[39] Zhen Yuan, "Underground Bishop of Xiwanzi Dies, Security Tightened for Funeral," AsiaNews (Online), 4 January 10.

[40] "Over 20 Thousand Official and Underground Catholics at the Funeral of the Bishop of Wenzhou," AsiaNews (Online), 15 October 09.

[41] U.S. Commission on International Religious Freedom, 2010 Annual Report, May 2010, 110.

[42] Bernardo Cervellera, "In Hebei, Underground Bishop Joins Chinese Patriotic Catholic Association," AsiaNews (Online), 29 October 09.

[43] See, e.g., Hebei Province Bureau of Ethnic and Religious Affairs, "Hebei Province Ethnic and Religious Affairs Bureau Bulletin No. 16: the 'Year of Cadre Work-Style Building' Activities" [Sheng minzongting 'ganbu zuofeng jianshe nian' huodong di 16 qi jianbao], 28 December 09; Shandan County United Front Work Department, "Regarding Thoughts on Accelerating the Socioeconomic Development of Ethnic and Religious Neighborhoods" [Guanyu jiakuai minzu zongjiao qunzhong jujuqu jingji shehui fazhan de sikao], reprinted in Shandan County People's Government (Online), 20 November 09; Wuxi City Bureau of Ethnic and Religious Affairs, Wuxi City Bureau of Ethnic and Religious Affairs Report Regarding 2009 Work To Promote Administration According to the Law [Wuxi shi minzu zongjiao shiwu ju guanyu 2009 niandu tuijin yifa xingzheng gongzuo qingkuang baogao], 29 December 09.

[44] See, e.g., Qujiang People's Government, Program Regarding the Implementation of Investigations Into the Basic Situation for Buddhists, Taoists, and Catholics [Guanyu kaizhan fojiao, daojiao, tianzhujiao jiben qingkuang diaocha shishi fang'an], 8 January 10; Shandan County United Front Work Department, "Regarding Thoughts on Accelerating the Socioeconomic Development of Ethnic and Religious Neighborhoods" [Guanyu jiakuai minzu zongjiao qunzhong jujuqu jingji shehui fazhan de sikao], reprinted in Shandan County People's Government (Online), 20 November 09; Taijiang District People's Government, Taijiang District Ethnic and Religious Affairs Bureau's 2009 Work Summary and 2010 Work Ideas [Taijiang qu minzongju 2009 nian gongzuo zongjie ji 2010 nian gongzuo silu], 15 January 10; Wuxi City Bureau of Ethnic and Religious Affairs, Wuxi City Bureau of Ethnic and Religious Affairs Report Regarding 2009 Work To Promote Administration According to the Law [Wuxi shi minzu zongjiao shiwu ju guanyu 2009 niandu tuijin yifa xingzheng gongzuo qingkuang baogao], 29 December 09; Zetan Township Communist Party Committee, Circular Regarding Investigation Into the Basic Situation for Buddhists, Taoists, Muslims, and Catholics [Guanyu kaizhan fojiao, daojiao, yisilanjiao, tianzhujiao jiben qingkuang diaocha gongzuo de tongzhi], issued 15 September 09.

[45] See, e.g., Qujiang People's Government, Program Regarding the Implementation of Investigations into the Basic Situation for Buddhists, Taoists, and Catholics [Guanyu kaizhan fojiao, daojiao, tianzhujiao jiben qingkuang diaocha shishi fang'an], 8 January 10; Taijiang District People's Government, Taijiang District Ethnic and Religious Affairs Bureau's 2009 Work Summary and 2010 Work Ideas [Taijiang qu minzongju 2009 nian gongzuo zongjie ji 2010 nian gongzuo silu], 15 January 10; Wuxi City Bureau of Ethnic and Religious Affairs, Wuxi City Bureau of Ethnic and Religious Affairs Report Regarding 2009 Work To Promote Administration According to the Law [Wuxi shi minzu zongjiao shiwu ju guanyu 2009 niandu tuijin yifa xingzheng gongzuo qingkuang baogao], 29 December 09; Zetan Township Communist Party Committee, Circular Regarding Investigation Into the Basic Situation for Buddhists, Taoists, Muslims, and Catholics [Guanyu kaizhan fojiao, daojiao, yisilanjiao, tianzhujiao jiben qingkuang diaocha gongzuo de tongzhi], issued 15 September 09.

[46] See, e.g., Qujiang People's Government, Program Regarding the Implementation of Investigations Into the Basic Situation for Buddhists, Taoists, and Catholics [Guanyu kaizhan fojiao, daojiao, tianzhujiao jiben qingkuang diaocha shishi fang'an], 8 January 10; Zetan Township Communist Party Committee, Circular Regarding Investigation Into the Basic Situation for Buddhists, Taoists, Muslims, and Catholics [Guanyu kaizhan fojiao, daojiao, yisilanjiao, tianzhujiao jiben qingkuang diaocha gongzuo de tongzhi], issued 15 September 09.

[47] "Fujian Priest Detained Over Youth Camp," Union of Catholic Asian News (Online), 11 March 10.

[48] "CHINA—Another 'Underground' Priest Detained," Union of Catholic Asian News (Online), 23 March 10.

[49] "Baoding Bishop Explains Departure From 'Underground' Church," Union of Catholic Asian News (Online), 12 November 09.

[50] Zhen Yuan, "Underground Bishop: I Joined the Patriotic Association for the Good of the Church," AsiaNews (Online), 11 November 09.

[51] Bernardo Cervellera, "In Hebei, Underground Bishop Joins Chinese Patriotic Catholic Association," AsiaNews (Online), 29 October 09.

[52] Ibid.

[53] "Bishop Francis An Shuxin Openly Installed," Union of Catholic Asian News (Online), 9 August 10; Wang Zhicheng, "Bishop An Shuxin, Former Underground Bishop Installed as Ordinary of Baoding," AsiaNews (Online), 7 August 10.

[54] "Bishop Jia Zhiguo of China's Zhengding Diocese Released" [Zhongguo zhengding jiaoqu jia zhiguo zhujiao huoshi], CathNews China (Online), 8 July 10; "Chinese Underground Bishop Released," Union of Catholic Asian News (Online), 8 July 10; Wang Zhicheng, "Mgr. Jia Zhiguo, Underground Bishop, Released After 15 Months," AsiaNews (Online), 8 July 10.

[55] Bernardo Cervellera, "Police Arrest Underground Zhengding Bishop Jia Zhiguo," AsiaNews (Online), 31 March 09.

[56] "Inner Mongolia, the Only Catholic Church in Ordos Demolished To Build a New Road," AsiaNews (Online), 10 June 10; "Only Catholic Church in Ordos Demolished" [E'erduosi shi weiyi de tianzhu jiaotang bei chai], Radio Free Asia (Online), 11 June 10.

[57] Ibid.
[58] Ibid.
[59] For more information on the Shanghai 2010 World Expo, see Falun Gong in this section for more information.
[60] For more information, see "China's Marian Shrines," AsiaNews (Online), 27 May 04.
[61] Holy See, Letter of the Holy Father Pope Benedict XVI to the Bishops, Priests, Consecrated Persons, and Lay Faithful of the Catholic Church in the People's Republic of China, 27 May 07.
[62] See, e.g., Taijiang District People's Government, Taijiang District Ethnic and Religious Affairs Bureau's 2009 Work Summary and 2010 Work Ideas [Taijiang qu minzong ju 2009 nian gongzuo zongjie ji 2010 nian gongzuo silu], 15 January 10; Wuxi City Bureau of Ethnic and Religious Affairs, Wuxi City Bureau of Ethnic and Religious Affairs Report Regarding 2009 Work To Promote Administration According to the Law [Wuxi shi minzu zongjiao shiwu ju guanyu 2009 niandu tuijin yifa xingzheng gongzuo qingkuang baogao], 29 December 09.
[63] See, e.g., "Believers From Various Locations in the Mainland Answer Pope's Call To Pray for the Chinese Church" [Dalu ge di xinzhong xiangying jiaozong wei zhongguo jiaohui qidao], CathNews China, reprinted in Catholic Online (Online), 25 May 10; "Mainland Catholics Pray for China Church," Union of Catholic Asian News (Online), 24 May 10.
[64] See, e.g., "Mainland Catholics Pray for China Church," Union of Catholic Asian News (Online), 24 May 10; Wang Zhicheng, "Even in Persecution We Pray to Our Lady of Sheshan," AsiaNews (Online), 24 May 10.
[65] For more information about the history of the "strike hard" campaign against Falun Gong, see CECC, 2009 Annual Report, 10 October 09, 120–26.
[66] For more information on the teachings and practices of Falun Gong, see David Ownby, Falun Gong and the Future of China (New York: Oxford University Press, 2008).
[67] For more information on the events leading to the crackdown on Falun Gong, see Human Rights Watch, Dangerous Meditation: China's Campaign Against Falun Gong, January 2002, 17–43.
[68] Official estimates placed the number of adherents inside China at 30 million prior to the crackdown. Falun Gong sources estimate that there was twice that number. Maria Hsia Chang, Falun Gong: the End of Days (New Haven: Yale University Press, 2004), 2. In April 2009, Han Zhiguang, a Chinese attorney who has defended Falun Gong clients, reported that there remain "huge numbers" of practitioners in China and that the movement is "expanding." See Malcolm Moore, "Falun Gong 'Growing' in China Despite 10-Year Ban," Telegraph (Online), 24 April 09.
[69] Dafa Information Center (Online), "Shanghai Expo Fuels Falun Gong Crackdown, Over 120 Abductions," 5 May 10; Pudong District People's Government (Online), "Comrade Xu Lin's Speech to the New District Political-Legal Comprehensive Management Work Meeting" [Xu lin tongzhi zai xinqu zhengfa zongzhi gongzuo huiyi shang de jianghua], 1 February 10; Pudong District People's Government (Online), "Hangtou Residential Committees Launch Anti-Cult Propaganda and Education Activities To Welcome the World Expo" [Hangtou juwei kaizhan ying shibo fan xiejiao xuanchuan jiaoyu huodong], 31 March 10; Pudong District People's Government (Online), "Residential Committee Work Meeting on Sorting Through Unstable Factors" [Juwei bu wending yinsu paimo gongzuo huiyi], 21 January 10; Shanghai Municipal People's Government (Online), "Chongming County Bureau of Civil Affairs Launches 'Welcome World Expo, Speak in a Civilized Way, Oppose Cults' Week of Propaganda Education Activities" [Chongming xian minzhengju kaizhan 'ying shibo, jiang wenming, fan xiejiao' xuanchuan jiaoyu zhou huodong], 2 April 10.
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[74] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 300; "Sentenced to Seven Years for Defending Falun Gong, Attorney Wang Yonghang's Family Calls for Support" [Wei falun gong bianhu huoxing qi nian, lushi wang yonghang jiashu huyu guanzhu], Radio Free Asia (Online), 19 January 10; Chinese Human Rights Defenders (Online), "Dalian Human Rights Lawyer Wang Yonghang Sentenced to Seven Years in Prison" [Dalian weiquan lushi wang yonghang bei panxing 7 nian], 5 December 09; Lucy Hornby, "China Disbars Two Rights Defense Lawyers," Reuters (Online), 9 May 10.
[75] Tang Jitian said that the disbarment was "revenge for what we have done. It's to scare our friends who are doing the same things. It has a chilling effect on them." Edward Wong and Xiyun Yang, "China Bans Two Rights Lawyers for Life," New York Times (Online), 10 May 2010. See also Lucy Hornby, "China Disbars Two Rights Defense Lawyers," Reuters (Online), 9 May 10. The Beijing Municipal Bureau of Justice alleged that the two attorneys had "disrupted the order of the court and interfered with the regular litigation process." The lawyers

dispute the charges, and experts note that it is very unusual for lawyers to be disbarred in China on such charges.

[76] Michael Wines, "Chinese Rights Lawyers Disappears Again," New York Times (Online), 30 April 10. For more information on Gao Zhisheng and the torture that he has suffered in custody, see CECC, 2009 Annual Report, 10 October 09, 97–98, 125. See Section III—Access to Justice—Human Rights Lawyers and Defenders for more information.

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[140] ChinaAid (Online), "Guangzhou Pastor Wang Dao Calls for Continuing Prayer To Fight" [Guangzhou wang dao mushi huyu jixu daogao zhengzhan], 18 August 10; ChinaAid (Online), "News Flash: Pastor Wang Dao Taken Away by Public Security Personnel Again, Released After Brief Detention" [Kuai xun: wang dao mushi zai ci bei guo'an dai zou, duanzan kouya hou shifang], 13 August 10.

[141] ChinaAid (Online), "Pastor Zhang Mingxuan and Wife Released" [Zhang mingxuan mushi fufu huoshi], 15 June 10.

[142] ChinaAid (Online), "By Dawn's Early Light: 400 Launch Violent Attack on Fushan House Church," 15 September 09; "Shanxi Linfen Household Church Endures an Escalation in Government Pressure" [Shanxi linfen jiating jiaohui shou zhengfu daya shengji], Radio Free Asia (Online), 21 September 09; "Protestant Church Destroyed by Police in Shanxi, Dozens of Faithful Wounded," AsiaNews (Online), 17 September 09.

[143] ChinaAid (Online), "By Dawn's Early Light: 400 Launch Violent Attack on Fushan House Church," 15 September 09; "Protestant Church Destroyed by Police in Shanxi, Dozens of Faithful Wounded," AsiaNews (Online), 17 September 09.

[144] Ibid.

[145] ChinaAid (Online), "By Dawn's Early Light: 400 Launch Violent Attack on Fushan House Church," 15 September 09; ChinaAid (Online), "Linfen Fushan Church Leaders Rushed to Trial Without Notice," 13 November 09.

[146] "Protestant Church Destroyed by Police in Shanxi, Dozens of Faithful Wounded," AsiaNews (Online), 17 September 09.

[147] "Shanxi Linfen Household Church Endures an Escalation in Government Pressure" [Shanxi linfen jiating jiaohui shou zhengfu daya shengji], Radio Free Asia (Online), 21 September 09.

[148] Linfen City Ethnic and Religious Affairs Bureau, "Ding Wenlu, Linfen Municipal Party Committee Standing Committee Member and Head of United Front Work Department, Inspects the City's Ethnic and Religious Work" [Linfen shi wei changwei, tongzhanbu zhang ding wenlu diaoyan shi minzu zongjiao gongzuo], reprinted in Linfen Municipal People's Government (Online), 18 November 09.

[149] Ibid.

[150] Linfen City Ethnic and Religious Affairs Bureau, "Linfen Municipal Party Committee Secretary Xie Hai Stresses the Strengthening of Ethnic and Religious Work in Practical Ways" [Linfen shi wei shuji xie hai qiangdiao yao qieshi jiaqiang minzu zongjiao gongzuo], reprinted in Linfen Municipal People's Government (Online), 18 November 09.

[151] Ibid.

[152] ChinaAid (Online), "Fushan House Church Christian Sentenced to 7-Years in Prison," 25 November 09.

[153] ChinaAid (Online), "10 More Arrested After Detainees Refuse To Leave Without Fellow Linfen Pastor," 18 October 09.

[154] "China Sentences 5 Church Leaders to Labor Camp," Associated Press (Online), reprinted in Washington Post, 2 December 09.

[155] ChinaAid (Online), "Fushan House Church Christian Sentenced to 7-Years in Prison," 25 November 09.

[156] Ibid.

[157] Ibid.; "Linfen Golden Lamp Church To Be Demolished After Two Sessions" [Linfen jindengtang jiaotang "lianghui" hou jiang bei dangju qiangchai], Radio Free Asia (Online), 5 March 10.

[158] ChinaAid (Online), "Prominent Chinese Legal Researcher Abruptly Dismissed for 'Political Reasons,'" 3 November 09.

[159] ChinaAid (Online), "Human Rights Lawyer Banned From Entering Linfen Court, Barred From Travel," 13 July 10; "Christians Come Under Attack in China," Toronto Star (Online), 7 August 10.

[160] "China Moves Uyghur Christian Prisoner, Allows Family Visit," Compass Direct News (Online), 29 April 10.

[161] Ibid.; "Second Trial for Alimjan Affirms First Ruling of 15 Year Prison Sentence" [Alimujiang an ershen caiding weichi yuanpan shiwu nian tuxing], Radio Free Asia (Online), 7 April 10.

[162] "China Moves Uyghur Christian Prisoner, Allows Family Visit," Compass Direct News (Online), 29 April 10.

[163] Ibid.

[164] U.S. Commission on International Religious Freedom (USCIRF), "Countries of Particular Concern: People's Republic of China," Annual Report 2010, May 2010, 112.

[165] "Religious Rights Abuses Cited," Compass Direct News (Online), 7 May 09; "Tortured Christian Lawyer Arrested as Officials Deny Abuses," Compass Direct News (Online), 11 February 09.

[166] The Chinese term is *xiejiao zuzhi*. In 1995, the State Council and the Communist Party Central Committee formally outlawed a number of "heretical" or "cult" groups with Protestant roots. "Selection of Cases From the Criminal Law: Banned Protestant Groups," Occasional Publications of the Dui Hua Foundation, No. 12, February 2003, iii. Article 300 of the PRC Criminal Law outlaws "using cult organizations to undermine the implementation of the law." PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 300.

[167] Fengang Yang, "The Red, Black, and Gray Markets of Religion in China," 47 Sociological Quarterly 93, 106–108 (2006). It is unknown how many members of these groups have been arrested or detained in recent years, but the total has likely risen on account of the extensive "anti-cult" crackdown of the last decade. For more information on the scale of the anti-cult crackdown, see CECC, 2008 Annual Report, 31 October 08, 87–93. In the 17 months prior to the July 1999 commencement of the anti-cult crackdown, the Ministry of Public Security reported over 20,000 arrests of "cult" members from mostly Protestant groups. "Selection of Cases From the Criminal Law: Banned Protestant Groups," Occasional Publications of the Dui Hua Foundation, No. 12, February 2003, iv.

[168] Ministry of Public Security, Circular on Several Issues With Designating and Banning Cult Organizations [Gong'an bu guanyu rending he qudi xiejiao zuzhi ruogan wenti de tongzhi], 30 April 00.

[169] The government labeled the church a "counterrevolutionary group" in 1983 and designated it a "cult organization" in 1995. "Selection of Cases From the Criminal Law: Banned Protestant Groups," Occasional Publications of the Dui Hua Foundation, No. 12, February 2003, vii; Ministry of Public Security, Circular on Several Issues With Designating and Banning Cult Organizations [Gong'an bu guanyu rending he qudi xiejiao zuzhi ruogan wenti de tongzhi], 30 April 00.

[170] Three-Self Patriotic Movement Committee of the Protestant Churches of Beijing's Fengtai District (Online), "Promoting Harmony, Everyone Has a Duty" [Cujin hexie, renren youze], 11 July 08.

[171] ChinaAid (Online), "The Oppression of Linfen-Fushan Church Continues," 7 October 09. See Major Cases of Harassment, Detention, and Interference With Places of Worship in this section for more information.

[172] Ibid.

[173] ChinaAid (Online), "10 More Arrested After Detainees Refuse To Leave Without Fellow Linfen Pastor," 18 November 09.

[174] ChinaAid (Online), "Shuozhou Pastor's Home Destroyed; 6 Christian Leaders Detained," 28 January 10.

[175] "Five Members of House Church in Shuozhou, Shanxi Formally Arrested" [Shanxi shuozhou wu ming jiating jiaohui jiaoyou bei zhengshi daibu], Radio Free Asia (Online), 2 February 10.

[176] ChinaAid (Online), "Christians in Shangqiu, Henan Including Gao Jianli Bring Suit Against RTL Committee, Rejected" [Henan shangqiu jidutu gao jianli deng su laojiao wei bei bohui], 3 August 10; ChinaAid (Online), "Court Upholds Decision Sentencing Two Henan Christians," 3 August 10.

[177] Ibid.

[178] The word "Taoism" and its derivatives are also often spelled with a "D" instead of a "T," e.g., "Daoism" or "Daoist."

[179] Article 3 of the Chinese Taoist Association (CTA) Constitution says that the State Administration for Religious Affairs is the "administrative unit in charge of" the CTA. Constitution of the Chinese Taoist Association [Zhongguo daojiao xiehui zhangcheng], enacted 24 June 05, art. 3.

[180] See, e.g., case studies from "China-Taoist, Buddhist Associations' Websites Suggest Constraints," Open Source Center, 23 November 09.

[181] Chinese Taoist Association (Online), "Chinese Taoist Association's Eighth National Conference Convenes in Beijing" [Zhongguo daojiao xiehui di ba ci quanguo daibiao huiyi zai jing kaimu], 22 June 10.

[182] See, e.g., Changsha Municipal Ethnic and Religious Affairs Bureau, Circular Regarding the Breakdown of the Changsha Municipal Ethnic and Religious Affairs Bureau's Official Law Enforcement Powers [Guanyu changsha shi minzu zongjiao shiwu ju zhifa zhiquan fenjie de tongzhi], 1 December 09; Wuzhong District Ethnic and Religious Affairs Bureau (Online), District Ethnic and Religious Affairs Bureau 2009 Work Summary and 2010 Work Plans [Qu minzong ju 2009 niandu gongzuo zongjie ji 2010 niandu gongzuo dasuan], 22 December 09.

[183] See, e.g., Wuxi Municipal Park Administration Center, Opinions Regarding Doing Religious Safety and Stability Work Well During the Shanghai 2010 World Expo [Guanyu zuohao shibo qijian zongjiao anquan wending gongzuo de yijian], 17 April 10; Wuzhong District Ethnic and Religious Affairs Bureau, District Ethnic and Religious Affairs Bureau 2009 Work Summary and 2010 Work Plans [Qu minzong ju 2009 niandu gongzuo zongjie ji 2010 niandu gongzuo dasuan], 22 December 09.

[184] Wuxi Municipal Park Administration Center, Opinions Regarding Doing Religious Safety and Stability Work Well During the Shanghai 2010 World Expo [Guanyu zuohao shibo qijian zongjiao anquan wending gongzuo de yijian], 17 April 10.

[185] Provisions on the Management of the Religious Activities of Foreigners Within the PRC [Zhonghua renmin gongheguo jingnei waiguoren zongjiao huodong guanli guiding], issued 31 January 94, effective 31 January 94, art. 4; Detailed Implementing Rules for the Provisions on the Management of the Religious Activities of Foreigners Within the PRC [Zhonghua renmin gongheguo jingnei waiguoren zongjiao huodong guanli guiding shishi xize], issued 26 September 00, effective 26 September 00, arts. 7, 17(5).

[186] The Church of Jesus Christ of Latter-day Saints (Online), "Statement From the First Presidency," 30 August 10; The Church of Jesus Christ of Latter-day Saints (Online), "Church in Talks To 'Regularize' Activities in China," 30 August 10.

[187] Heilongjiang Regulation on the Management of Religious Affairs [Heilongjiangsheng zongjiao shiwu guanli tiaoli], issued 12 June 97, effective 1 July 97, art. 2; Inner Mongolia Autonomous Region Implementing Measures for the Management of Venues for Religious Activity [Nei menggu zizhiqu zongjiao huodong changsuo guanli shishi banfa], issued 23 January 96, effective 23 January 96, art. 2.

[188] "An Orthodox View," Global Times (Online), 4 January 10.

[189] Department for External Church Relations of the Russian Orthodox Church (Online), "Talks on Russian-Chinese Relations in Religious Sphere Held in Beijing," 17 November 09; State Administration for Religious Affairs (Online), "Vice-Director Jiang Jianyong Sees Delegation From the Presidential Council for Cooperation With Religious Organizations" [Jiang jianyong fujuzhang huijian eluosi zongtong zhishu de zongjiao tuanti hezuo weiyuanhui daibiaotuan yixing], 18 November 09.

[190] For detailed information, see CECC, 2009 Annual Report, 10 October 09, 141.

Notes to Section II—Ethnic Minority Rights

[1] See generally PRC Regional Ethnic Autonomy Law, enacted 31 May 84, effective 1 October 84, amended 28 February 01.

[2] Ibid., preamble.

[3] See discussion within for more information on restrictions on ethnic minority rights in China. For a detailed discussion of the relevant domestic legal framework, see Special Focus for 2005: China's Minorities and Government Implementation of the Regional Ethnic Autonomy Law in CECC, 2005 Annual Report, 11 October 05, 13–23. Regarding international human rights standards, see, e.g., the Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217 A (III) of 10 December 48, arts. 2, 7; International Covenant on Civil and Political Rights (ICCPR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, arts. 2(1), 26, 27; International Covenant on Economic, Social, and Cultural Rights (ICESCR), adopted by UN General Assembly resolu-

tion 2200A (XXI) of 16 December 66, entry into force 3 January 76, art. 2(2); Convention on the Rights of the Child (CRC), adopted and opened for signature, ratification, and accession by UN General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, arts. 2(1), 30. See generally International Convention on the Elimination of All Forms of Racial Discrimination (CERD), adopted and opened for signature and ratification by UN General Assembly resolution 2106 (XX) of 21 December 65, entry into force 4 January 69. Article 1(1) of CERD defines racial discrimination to mean "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life." China is a party to the ICESCR and the CRC, and a signatory to the ICCPR. China signed the ICCPR in 1998. The Chinese Government has committed to ratifying the ICCPR and says it is taking concrete steps to prepare for ratification. In November 2009, a Joint Statement of the 12th EU-China Summit said, "The EU welcomed China's commitment to ratifying the [ICCPR] as soon as possible." Joint Statement of the 12th EU-China Summit, reprinted in China Internet Information Center (Online), 30 November 09. In October 2009, Ambassador Liu Zhenmin, China's Deputy Permanent Representative to the United Nations, said, "At present, legislative, judicial and administrative reforms are under way in China with a view to aligning our domestic legislation with the provisions of the [ICCPR] and paving the way for its ratification." Permanent Mission of the People's Republic of China to the UN (Online), "Statement by H.E. Ambassador Liu Zhenmin, Deputy Permanent Representative of China to the United Nations, at the Third Committee of the 64th Session of the General Assembly on the Implementation of Human Rights Instruments (Item 69A)," 20 October 09. In its 2009–2010 National Human Rights Action Plan issued in April 2009, the Chinese Government stated that the ICCPR was one of the "fundamental principles" on which the plan was framed, and that the government "will continue legislative, judicial and administrative reforms to make domestic laws better linked with this Covenant, and prepare the ground for approval of the ICCPR." State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, introduction, sec. V(1). In February 2009, during the UN Human Rights Council's Universal Periodic Review of the Chinese Government's human rights record, the Chinese Government supported recommendations made by Member States that China ratify the ICCPR. Chinese officials said China was in the process of amending domestic laws, including the criminal procedure law and laws relating to reeducation through labor, to make them compatible with the ICCPR. UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, paras. 63, 114(1).

[4] International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 27.

[5] For a discussion of longstanding controls over how ethnic groups may express their ethnicity, see CECC, 2009 Annual Report, 10 October 09, 147.

[6] Due to imprecision that can be engendered in the translation process, some scholars writing in English choose to leave the term *minzu* untranslated. See, e.g., Gardner Bovingdon, "Autonomy in Xinjiang: Han Nationalist Imperatives and Uyghur Discontent," East-West Center Washington 2004, Policy Studies 11, 49 (endnote 4); Jonathan N. Lipman, Familiar Strangers: A History of Muslims in Northwest China (Seattle: University of Washington Press, 1997), xx–xxv. This section uses "ethnic minorities" both to refer to the status of such groups as defined in international human rights instruments and in reference to China's categorizations of *shaoshu minzu*. While recognizing the challenges of translating the term, this section follows the Chinese Government's and media's current use of "ethnicity" when referring to *minzu* in English-language publications and in the official name of the State Ethnic Affairs Commission (*guojia minzu shiwu weiyuanhui*).

[7] State Council Information Office, White Paper on Ethnic Policy, China Daily (Online), 27 September 09. For other examples defending state policy, see, e.g., Choi Chi-Yuk, "Policies Not To Blame for Rioting, Official Says," South China Morning Post, 22 July 09 (Open Source Center, 22 July 09); "FYI—CCTV–4 Live Coverage of PRC State Council Press Conference on Ethnic Policy," Open Source Center, 21 July 09; "Chinese Vice Premier Stresses Ethnic Unity," China Daily, 22 December 09 (Open Source Center, 22 December 09); "Sita: Our Country's Regional Ethnic Autonomy System Is a Success" [Sita: woguo de minzu quyu zishi zhidu shi chenggong de], People's Daily, reprinted in United Front Work Department (Online), 8 March 10; "Hui Liangyu Stresses at Plenary Session of State Ethnic Affairs Commission Going a Step Further To Ramp Up the Foundation of Ethnic Work and Promote Great Unity for All Ethnic Groups and Accelerated Development in Ethnic Areas" [Hui liangyu zai guojia minwei weiyuan quanti huiyi shang qiangdiao jinyibu hangshi minzu gongzuo de jichu cujin ge minzu datuanjie he minzu diqu jiakuai fazhan], Xinhua, reprinted in State Ethnic Affairs Commission (Online), 21 December 10.

[8] For general statements, see, e.g., "Absolute Equality for All Ethnicities Is the Cornerstone of China's Ethnic Policy" [Ge minzu yilu pingdeng shi zhongguo minzu zhengce de jishi], Seeking Truth (Online), 16 November 09; Central Propaganda Bureau and State Ethnic Affairs Commission, Outline Concerning Propaganda and Education on the Party and State's Ethnic Policy [Dang he guojia minzu zhengce xuanchuan jiaoyu tigang], 5 February 09 (estimated date). For more information on official statements blaming events in Tibet in 2008 and in the XUAR in 2009 on overseas "hostile forces," see, e.g., CECC, 2008 Annual Report, 31 October 08, 185–186; CECC, 2009 Annual Report, 10 October 09, 249.

[9] See, e.g., "Views of Beijing Experts on 'Xinjiang' Ethnic Relations Issue" [Béngdiki mutexessislerning 'shinjang'diki milletler munasiwiti mesilisi heqqidiki qarashliri], Radio Free Asia (Online), 17 November 09; "Prominent Tibetan Communist Yangling Dorje's Critique of China's Ethnic and Religious Affairs Policy," Tibetan Culture Net, 31 December 09 (Open Source Center, 7 January 10); Raymond Li, "Delegate Dares To Challenge Official Policy on Xinjiang," South China Morning Post, 9 March 10 (Open Source Center, 9 March 10).

[10] State Council Information Office, White Paper on Ethnic Policy, China Daily (Online), 27 September 09.

[11] See the following documents issued in 2008 and 2009: Central Propaganda Bureau and State Ethnic Affairs Commission, Outline Concerning Propaganda and Education on the Party and State's Ethnic Policy [Dang he guojia minzu zhengce xuanchuan jiaoyu tigang], 5 February 09 (estimated date); Ministry of Education and State Ethnic Affairs Commission, Guiding Program on Ethnic Unity Education in Schools (Trial) [Xuexiao minzu tuanjie jiaoyu zhidao gangyao (shixing)], issued 26 November 08. For analysis, see CECC, 2009 Annual Report, 10 October 09, 145–146.

[12] "CPC Vows To Crack Down on 'Ethnic Separatist Activities,'" Xinhua, reprinted in China Daily (Online), 18 September 09; Jia Nan, "State Ethnic Affairs Commission: Stress Great Efforts in 2010 in Implementation of Ethnic Policy and Blazing Trails" [Guojia minwei: 2010 nian tuchu zhuahao minzu zhengce luoshi he chuangxin deng], Xinhua, reprinted in PRC Central People's Government (Online), 24 December 09; State Ethnic Affairs Commission (Online), "Central Propaganda Bureau, United Front Work Department, and State Ethnic Affairs Commission Put Forth 'Opinion on Further Launching Activities To Establish Ethnic Unity and Progress'" [Zhongyang xuanchuanbu, zhongyang tongzhanbu, guojia minwei chutai "guanyu jinyibu kaizhan minzu tuanjie jinbu chuangjian huodong de yijian"], 4 March 10; Central Propaganda Bureau, United Front Work Department, and State Ethnic Affairs Commission, Opinion on Further Launching Activities To Establish Ethnic Unity and Progress [Guanyu jinyibu kaizhan minzu tuanjie jinbu chuangjian huodong de yijian], issued 1 February 10.

[13] See, e.g., Inner Mongolia Autonomous Region Education Department Opinion on Further Strengthening Implementation of Ethnic Unity Propaganda and Education Activities in All Levels and Types of Schools Throughout the Region [Neimenggu zizhiqu jiaoyuting guanyu zai quanqu geji gelei xuexiao jinyibu jiaqiang minzu tuanjie xuanchuan jiaoyu huodong de shishi yijian], issued 9 September 09; "Beijing To Drive Ahead Wholeheartedly With 'Five Enters' Project for Ethnic Unity Education [Beijing jiang quanli tuijin minzu tuanjie jiaoyu "wu jin" gongcheng], China Ethnicities News (Online), 19 January 10; Qingdao Ethnic and Religious Affairs Bureau, "Qingdao Drafts 'Opinion on Carrying Out in Deep-Going Way Ethnic Unity Propaganda and Education Activities'" [Qingdao shi zhiding "guanyu shenru kaizhan minzu tuanjie xuanchuan jiaoyu huodong de yijian"], reprinted in State Ethnic Affairs Commission (Online), 18 January 10; "Highlights: Reports on Ethnic Stability Issues in PRC Provinces 1 Dec 09–28 Feb 10," Open Source Center, 30 March 10.

[14] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. III(1).

[15] Yu Xiaojie, "Uphold a People-Centered Approach and Revel in the Light of Human Rights—Roundup at the Midpoint of the 'National Human Rights Action Plan (2009–2010),'" Xinhua, 4 December 09 (Open Source Center, 13 December 09).

[16] State Ethnic Affairs Commission, Opinion on Improving Work on the Management of Ethnic Minority Languages [Guojia minwei guanyu zuo hao shaoshu minzu yuyan wenzi guanli gongzuo de yijian], issued 14 May 10; Communist Party Central Committee and State Council, Outline of National Plan for Medium and Long-Term Education Reform and Development (2010–2020) [Guojia zhong changqi jiaoyu gaige he fazhan guihua gangyao], issued 29 July 10. For a summary of aspects of the July plan, see "China Vows Stronger Support for Education for Ethnic Minority Groups," Xinhua (Online), 30 July 10.

[17] State Ethnic Affairs Commission, Opinion on Improving Work on the Management of Ethnic Minority Languages [Guojia minwei guanyu zuo hao shaoshu minzu yuyan wenzi guanli gongzuo de yijian], issued 14 May 10, art. 2(5); Communist Party Central Committee and State Council, Outline of National Plan for Medium and Long-Term Education Reform and Development (2010–2020) [Guojia zhong changqi jiaoyu gaige he fazhan guihua gangyao], issued 29 July 10, art. 27.

[18] See Section IV—Xinjiang for more information as well as, e.g., Ben Blanchard, "Tibetans' Mother Tongue Faces Tide of Chinese," Reuters, reprinted in Washington Post (Online), 13 July 10.

[19] See, e.g., Human Rights in China (Online), "China: Minority Exclusion, Marginalization and Rising Tensions," 2007, 22–24; Keith B. Richburg, "China's Push To Develop Its West Hasn't Closed Income Gap With East, Critics Say," Washington Post (Online), 29 June 10. See also CECC, 2009 Annual Report, 10 October 09, 263–64, 282–88.

[20] See, e.g., "Premier Wen Says China Will Continue Developing Western Region," Xinhua (Online), 16 October 09; "Chinese Leaders Call for More Efforts To Develop West," Xinhua (Online), 6 July 10; "100 Billion To Go to Poorer West China," China Daily (Online), 7 July 10; Lan Xinzhen, "What's Best for the West," Beijing Review, 19 July 10 (Open Source Center, 20 July 10).

[21] "Transcript of Interview With Inner Mongolia Autonomous Region Assistant Chairman, Public Security Department Head Zhao Liping" [Neimeng zizhiqu zhuxi zhuli, gongan tingzhang zhao liping fangtan wenzi shilu], People's Daily, reprinted in Police Net (Online), 4 December 09.

[22] Inner Mongolia Autonomous Region Education Department, Opinion on Further Strengthening Implementation of Ethnic Unity Propaganda and Education Activities in All Levels and Types of Schools Throughout the Region [Neimenggu zizhiqu jiaoyuting guanyu zai quanqu geji gelei xuexiao jinyibu jiaqiang minzu tuanjie xuanchuan jiaoyu huodong de shishi yijian], issued 9 September 09.

[23] For general information, see, e.g., CECC, 2009 Annual Report, 10 October 09, 149. For reports from the past year, see, e.g., Emma Graham-Harrison, "China To Speed Up Clearing Nomads From Grasslands," Reuters (Online), 8 July 10; Etuokeqian Banner People's Government (Online), "Etuokeqian Banner's Smooth Headway on Major Projects and Key Projects Pushed Forward in One Quarter" [Eqian qi yi jidu zhongdian tuijin de zhongyao xiangmu ji zhongdian xiangmu jinzhan shunli], 19 April 10; "Ordos City Prohibits Wholesale Transfer of Population

in Development Zone, Transfer Carried Out in Orderly [Way]" [E'erduosi shi jinzhi kaifaqu renkou zhengti banqian zhuanyi youxu tuijin], Xinhua (Online), 13 October 09; "China Spends 6.5 Bln Yuan Protecting Northern Grasslands," Xinhua (Online), 7 December 09.

[24] Gregory Veeck and Charles Emerson, "Develop the West Assessed: Economic and Environmental Change in Inner Mongolia Autonomous Region, People's Republic of China 2000–2005," 25 (Nos. 1 and 2) Asian Geographer 61 (2006) (based on information on page 13 of prepublication article on file with the Commission); China's Ethnic Regional Autonomy Law: Does It Protect Minority Rights? Staff Roundtable of the Congressional-Executive Commission on China, 11 April 05, Testimony of Christopher P. Atwood, Associate Professor, Department of Central Eurasian Studies, Indiana University; Dee Mack Williams, Beyond Great Walls (Stanford: Stanford University Press, 2002), 40–60; Qiu Lin, "Scholars Urge Improving Grassland Policies," Xinhua (Online), 31 July 09.

[25] Southern Mongolian Human Rights Information Center (Online), "Principal of Mongol-Tibetan Medical School Arrested in Mongolia by Chinese Police," 19 October 09. For an account of the incident in a Mongolian newspaper, see "General D. Murun Says Mongolian Police Helped Chinese," Zuunii Medee, 28 October 09, translated in Southern Mongolian Human Rights Information Center (Online).

[26] Southern Mongolian Human Rights Information Center (Online), "Southern Mongolian Representative to United Nations Conference Arrested at Beijing Airport," 23 April 10. Sources cited in a July 2010 Amnesty International report conjectured that Sodmongol was held in detention in Chaoyang city, Liaoning province, and that the procuratorate was investigating the case, but officials have not confirmed his whereabouts, according to the report. Amnesty International (Online), "Document—China: Ethnic Mongolian Activist Detained in China: Sodmongol," 15 July 10.

Notes to Section II—Population Planning

[1] The population planning policy was first launched in 1979, canonized as a "fundamental state policy" in 1982, and codified as national law in 2002. As of 2007, 19 of China's 31 provinces—accounting for 53.6 percent of China's population—allow rural dwellers to have a second child if their first child is a girl. Gu Baochang et al., "China's Local and National Fertility Policies at the End of the Twentieth Century," 33 Population and Development Review 133, 138 (2007).

[2] See, e.g., "Time For Families To Have Two Children Each," China Daily (Online), 1 February 10; Liu Ming, "Ease One-Child Policy and Invite Disaster," China Daily (Online), 1 February 10; "Most People Want Two Children, Survey Says," China Daily (Online), 27 March 10; Yao Yijiang, "30 Years of Family Planning, To Change or Not To Change to a Two Child Policy: At a Historical Juncture, Undergoing Heated Debate" [Jihua shengyu 30 nian, bian haishi bubian ertai zhengce: lishi guankou, zhengzai jibian], Southern Metropolitan Daily (Online), 17 March 10.

[3] For example, officials in Huanggang township (Xiushui county, Jiangxi province) described a family planning campaign in July 2009 that focused on the "two inspections and four procedures," (*liangjian sishu*) which refers to IUD inspections, pregnancy examinations (the two inspections), IUD implants, first-trimester abortions, mid-to-late term abortions, and sterilization (the four procedures). See Xiushui County Population and Family Planning Committee (Online), "Huanggang Township's Statement at the Xiushui County 2009 Population and Family Planning Work Dispatch Meeting" [Huanggangzhen zai 2009 nian quanxian renkou he jihua shengyu gongzuo diaoduhui fayan], 18 June 09.

[4] See, e.g., in Fujian's Sha county, family planning officials are required to insert an IUD in women within three months of the birth of a first child. Sha County Zhenghu Township People's Government (Online), "Recommendations Regarding Zhenghu Township's Population and Family Planning Work for 2009" [Guanyu zuohao 2009 niandu zhenghu xiang renkou yu jihua shengyu gongzuo de yijian], 18 February 09.

[5] PRC Population and Family Planning Law, adopted 29 December 01, effective 1 September 02, art. 4. According to Article 4, officials "shall perform their administrative duties strictly in accordance with the law, and enforce the law in a civil manner, and they may not infringe upon the legitimate rights and interests of citizens."

[6] CECC, 2006 Annual Report, 20 September 06, 109; Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09; UN Committee against Torture, 41st Session, Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture—China, CAT/C/CHN/CO/4, 3–21 November 08, 12.

[7] For examples of the sterilization requirements, see Qiaojia County People's Government Circular on the Completion of 2010 Population and Family Planning Work [Qiaojia xian renmin zhengfu guanyu zuohao 2010 nian renkou yu jihua shengyu gongzuo de tongzhi], issued 29 January 10; Guangzhou Municipal Population and Family Planning Bureau (Online), "Seeking Advice Regarding the Issue of Tubal Ligation" [Zixun biaoti: guanyu jieza wenti], 6 July 09.

[8] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2008, China (includes Tibet, Hong Kong, and Macau), 25 February 09, 6. The Beijing Municipal Population and Family Planning Commission clearly draws the link between the term remedial measures and abortion: "early term abortion refers to the use of surgery or pharmaceutics to terminate a pregnancy before the 12th week of gestation, it is a remedial measure taken after the failure of contraception." See Beijing Municipal Population and Family Planning Commission (Online), "Early Term Abortion" [Zaoqi rengong liuchan], 10 April 09.

[9] For a recent example from an urban area, see Xincun Village Committee's Self-Governing Regulations for Family Planning [Xincun cunweihui jihua shengyu zizhi zhangcheng], issued 16 January 09. For a recent example from a rural area, see Jiangxi Provincial Population and Fam-

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[10] CECC, 2007 Annual Report, 10 October 07, 108.

[11] The PRC Population and Family Planning Law became effective in 2002. PRC Population and Family Planning Law, adopted 29 December 01, effective 1 September 02; United Nations, Beijing Declaration and Platform for Action, adopted at the Fourth World Conference on Women, Beijing, 4–15 September 95, para. 17; United Nations, Programme of Action of the International Conference on Population and Development, adopted at the International Conference on Population and Development, Cairo, 5–13 September 94, para. 7.2. On the concept of "illegal pregnancy" and its use in practice, see Elina Hemminki et al., "Illegal Births and Legal Abortions—The Case of China," Reproductive Health (Online), Vol. 2, No. 5, 11 August 05.

[12] Convention on the Elimination of All Forms of Discrimination against Women, adopted and opened for signature, ratification, and accession by UN General Assembly resolution 34/180 of 18 December 79, entry into force 2 September 81, arts. 2, 3, 16(1)(e).

[13] Convention on the Rights of the Child, adopted and opened for signature, ratification, and accession by UN General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, arts. 2, 3, 4, 6, 26.

[14] International Covenant on Economic, Social, and Cultural Rights (ICESCR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, art. 10(3).

[15] PRC Population and Family Planning Law, adopted 29 December 01, effective 1 September 02, art. 4.

[16] Ibid., art. 39.

[17] CECC, 2009 Annual Report, 10 October 09, 153–156; CECC, 2008 Annual Report, 31 October 08, 98–99; CECC, 2007 Annual Report, 10 October 07, 110.

[18] Chinese Human Rights Defenders (Online), "China Human Rights Briefing August 25, 2010," 25 August 10.

[19] Puning City People's Government (Online), "Our City Starts a Special Operation To Sterilize Women With Two Children" [Woshi xianqi erhai jieza zhuanxiang xingdong], 12 April 10; Yifeng County Circular Regarding the Earnest Launch of Family Planning Technical Services for the 2010 Spring Festival [Guanyu renzhen kaizhan 2010 nian chunji jihua shengyu jishu fuwu huodong de tongzhi], issued 18 March 10.

[20] Jiangxi Provincial Population and Family Planning Commission (Online), "Anyi County Unleashes an Upsurge of Population and Family Planning Activities To 'Welcome Three Festivals, Battle for 100 Days, Achieve Three Breakthroughs'" [Anyi xian xianqi "ying sanjie, zhan baitian, san tupo" renkou jisheng huodong gaochao], 24 February 10.

[21] Gulou Subdistrict Office of the Echeng District People's Government (Online), "Comrade Ke Yanmin's Speech to the Subdistrict Plenary Work Meeting for the Large-Scale Family Planning Operation for Spring 2010" [Ke yanmin tongzhi zai quanjie 2010 nian jihua shengyu chunji daxingdong gongzuo dahui shang de jianghua], 3 March 10.

[22] Xincun Village Committee's Self-Governing Rules for Family Planning [Xincun cunweihui jihua shengyu zizhi zhangcheng], issued 16 January 09.

[23] The nine provinces in which local governments produced these reports were, as detailed later in the paragraph: Henan, Hubei, Guangdong, Jiangsu, Jiangxi, Liaoning, Anhui, Zhejiang, and Yunnan.

[24] For a Henan province example, see Jiyuan City Population and Family Planning Commission (Online), "Our City Convenes 2010 Population and Family Planning Work Conference on Spring Service Activities" [Woshi zhaokai 2010 nian renkou he jihua shengyu ji chunji fuwu huodong gongzuo huiyi], 4 March 10; for a Hubei province example, see Yingshan County Population and Family Planning Bureau (Online), "Xiao Ang: By Any Means, Stabilize Low Birth Level" [Xiao ang: qianfangbaiji wending di shengyu shuiping], 17 March 10; for a Guangdong province example, see Lechang City People's Government, Lechang City Circular on the Launch of Family Planning Concentrated Service Activities in Spring 2010 [Guanyu kaizhan 2010 nian jihua shengyu chunji jizhong fuwu huodong de tongzhi], issued 11 March 10; for a Jiangsu province example, see Suqian Municipal People's Government (Online), "Stand at a New Starting Point, Seek New Breakthroughs, Achieve New Strides" [Lizu xin qidian mouqiu xin tupo shixian xin kuayue], 18 January 10; for a Jiangxi province source, see PRC National Population and Family Planning Commission (Online), "Jiangxi: All-Province Population and Family Planning Work Conference Convenes in Nanchang" [Jiangxi: quansheng renkou jisheng gongzuo huiyi zai nanchang zhaokai], 24 March 10.

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[27] "City Cuts Fines On Second Child," Global Times (Online), 23 August 10. According to the report, "The fine for an extra child is based on the official measure of average annual income: 26,738 yuan ($3,937) for an urban Beijinger and 11,986 yuan ($1,765) for a rural resident. Parents are fined six to 10 times that figure for a second baby or six to 20 times for a third or more." See also An Evaluation of 30 Years of the One-Child Policy, Hearing of the Tom Lantos Human Rights Commission, U.S. House of Representatives, 10 November 09, Testimony of Toy Reid, Senior Research Associate, Congressional-Executive Commission on China; CECC, 2009 Annual Report, 10 October 09, 151–152.

[28] "Famous Scholar Yang Zhizhu Fired for Challenging Family Planning Regulations" [Zhuming xuezhe yang zhizhu yin tiaozhan jihua shengyu zhengce bei jiepin], Chinese Human

Rights Defenders, reprinted in Boxun (Online), 6 April 10; "Beijing Professor Yang Zhizhu Fired for Exceeding One-Child Policy Limit" [Beijing jiaoshou yang zhizhu yin chaosheng bei jiepin], Radio Free Asia (Online), 7 April 10; "City Cuts Fines On Second Child," Global Times (Online), 23 August 10.

[29] "City Cuts Fines on Second Child," Global Times (Online), 23 August 10. According to one expert quoted in this report, "Children born outside State scrutiny will enjoy equal rights as the first child only after the family pays the fine and registers them."

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[31] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2009, China (includes Tibet, Hong Kong, and Macau), 11 March 10.

[32] See CECC, 2009 Annual Report, 10 October 09, 155. The Commission analyzed local government reports which show targeting of migrant workers in Zhejiang and Yunnan provinces. As this section details, the Commission has examined such reports in the 2010 reporting year issued by local governments in Guangdong, Zhejiang, Jiangsu, Shandong, and Fujian provinces as well as a central-level directive that applies to all governments within the following provincial-level jurisdictions: Beijing, Tianjin, Hebei, Shandong, Liaoning, Heilongjiang, Jilin, Henan, Shandong, and the Inner Mongolia Autonomous Region.

[33] The implementation plan defines the Bohai Region as encompassing the following provincial-level jurisdictions: Beijing, Tianjin, Hebei, Shandong, Liaoning, Heilongjiang, Jilin, Henan, Shandong, and the Inner Mongolia Autonomous Region. PRC National Population and Family Planning Commission (Online), "Bohai Rim Floating Population Family Planning Region's 'Chess Board' Work Implementation Plan" [Huan bohai liudong renkou jihua shengyu quyu 'yi pan qi' gongzuo shishi fang'an], 11 April 10.

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[36] Zhoushi Town Opinion on the Implementation of a Special Family Planning Rectification Operation for the Floating Population [Zhoushi zhen liudong renkou jihua shengyu zhuanxiang zhengzhi xingdong shishi yijian], issued 3 June 09.

[37] The text of the measures specifies Anhui province as the area of jurisdiction, but the regulations were found by Commission staff on the official Web site of a municipal government in neighboring Shandong province. Binzhou Municipal Population and Family Planning Commission, "Family Planning Management Measures for the Floating Population" [Liudong renkou jihua shengyu guanli banfa], issued 24 December 09.

[38] Ibid.

[39] Qiaojia County People's Government Circular on the Completion of 2010 Population and Family Planning Work [Qiaojia xian renmin zhengfu guanyu zuohao 2010 nian renkou yu jihua shengyu gongzuo de tongzhi], issued 29 January 10.

[40] Ibid.

[41] Qianxi County Population and Family Planning Bureau, Circular Regarding the Launch of Special Rectification Activities for Population and Family Planning Work [Guanyu kaizhan renkou jisheng gongzuo zhuanxiang zhengzhi huodong de tongzhi], issued 4 March 10.

[42] Ibid.

[43] Puning City People's Government (Online), "Our City Starts a Special Operation To Sterilize Women With Two Children" [Wo shi xianqi erhai jieza zhuanxiang xingdong], 12 April 10.

[44] "Puning Exceeds Conventional Measures To Break Through Family Planning Difficulties" [Puning chao changgui cuoshi tupo jisheng nandian], Southern Rural News (Online), 14 April 10.

[45] Puning City People's Government (Online), "Our City Starts a Special Operation To Sterilize Women With Two Children" [Wo shi xianqi erhai jieza zhuanxiang xingdong], 12 April 10.

[46] "Puning Exceeds Conventional Measures To Break Through Family Planning Difficulties" [Puning chao changgui cuoshi tupo jisheng nandian], Southern Rural News (Online), 14 April 10.

[47] A local Chinese journalist from the Southern Rural News conducted extensive undercover interviews with locals and witnessed detentions firsthand in four townships in Puning (Hongyang, Daba, Liaoyuan, and Chiwei). "Puning Exceeds Conventional Measures To Break Through Family Planning Difficulties" [Puning chao changgui cuoshi tupo jisheng nandian], Southern Rural News (Online), 14 April 10.

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[49] Ibid.

[50] For examples from Jiangxi, Jiangsu, Anhui, and Gansu provinces, and the Guangxi Zhuang Autonomous Region (GZAR), see Yongxiu County People's Government (Online), "Yongfeng Reclaimed Land Site Pushes Strongly Ahead With Tubal Ligations of Households With Two Female Children" [Yongfeng kenzhi chang zhashi tuijin liangnu hu jieza gongzuo], 26 April 10 (Jiangxi); Jiangsu Provincial Population and Family Planning Commission (Online), "Tongzhou District Convenes All-District Meeting To Push Forward With Establishing a '15th' Provincial Population Coordinated Development Advanced District" [Tongzhou qu zhaokai quanqu chuangjian "shiyiwu" sheng renkou xietiao fazhan xianjin qu tuijin hui], 21 April 10 (Jiangsu);

Huangshan Municipal People's Government (Online), "Xiuning County Party Secretary Lu Qun Raises 'Four Demands' for Population and Family Planning Work Across the County" [Xiuning xianwei shuji lu qun dui quanxian renkou jisheng gongzuo tichu "sidian yaoqiu"], 26 March 10 (Anhui); Huan County People's Government (Online), "Huan County Vice-Magistrate Li Yuanqing's Report to the County Population and Family Planning Meeting" [Zhengfu fuxianzhang li yuanqing zai quanxian renkou he jihua shengyu gongzuo huiyi shang baogao], 3 March 10 (Gansu); Hezhou Municipal People's Government (Online), "Vice-Mayor Liu Xueping's Speech to the All-City Population and Family Planning Work Conference" [Fu shizhang liu xueping zai quanshi renkou jisheng gongzuo huiyi shang de jianghua], 24 March 10 (GZAR).

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[55] The UN sets the threshold for classification as an aging society at 10 percent of the total population. Shan Juan, "Aging Seniors Facing Life Without Proper Care," China Daily (Online), 30 December 09.

[56] John Gordon, et al., Domestic Trends in the United States, China, and Iran: Implications for U.S. Navy Strategic Planning (Santa Monica, CA: RAND Corporation, 2008), 60.

[57] Cary Huang, "Leadership Wakes to Grey Storm of Ageing Population," South China Morning Post (Online), 2 November 09.

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[60] Cary Huang, "Leadership Wakes to Grey Storm of Ageing Population," South China Morning Post (Online), 2 November 09.

[61] See Mikhail Lipatov et al., "Economics, Cultural Transmission, and the Dynamics of the Sex Ratio at Birth in China," Proceedings of the National Academy of Social Sciences of the United States of America, 9 December 08, vol. 105 (49), 19171. According to this study, "The root of the [gender imbalance] problem lies in a 2,500-year-old culture of son preference." See also Chu Junhong, "Prenatal Sex Determination and Sex-Selective Abortion in Rural Central China," 27 Population and Development Review 2 (2001), 259; Joseph Chamie, "The Global Abortion Bind: A Woman's Right To Choose Gives Way to Sex-Selection Abortions and Dangerous Gender Imbalances," Yale Global (Online), 29 May 08.

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Notes to Section II—Freedom of Residence and Movement

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[12] Alice Yan, "Condemned by *Hukou* to Education Aparthied," South China Morning Post (Online), 2 July 10; "Migrant Children Face Education Divide," China Daily (Online), 14 July 10.

[13] For an article discussing representative *hukou* legislation, see Fiona Tam, "Migrant Workers Get Chance for Urban Residency," South China Morning Post (Online), 9 June 10.

[14] For a review of *hukou* reforms since 2005, see CECC, 2008 Annual Report, 31 October 08, 103–112; "Invisible and Heavy Shackles," Economist (Online), 6 May 10.

[15] "China's Floating Population Exceeds 210m," Xinhua (Online), 27 June 10; Kam Wing Chan and Will Buckingham, "Is China Abolishing the *Hukou* System/" 195 China Quarterly 582, 596–599 (2008).

[16] "Invisible and Heavy Shackles," Economist (Online), 6 May 10.

[17] Kam Wing Chan and Will Buckingham, "Is China Abolishing the *Hukou* System/" 195 China Quarterly 582, 594–596 (2008).

[18] Ibid., 582, 597.

[19] "Invisible and Heavy Shackles," Economist (Online), 6 May 10.

[20] For a review of *hukou* reforms since 2005, see CECC, 2008 Annual Report, 31 October 08, 103–112.

[21] Han Changfu, "Agriculture Minister Han Changfu Discusses Post-1990s Migrant Workers" [Nongyebu buzhang han changfu tan jiushihou nongmingong], People's Daily, reprinted in China Review News (Online), 1 February 10. Agricultural Minister Han Changfu wrote an essay in People's Daily calling on the central government to make the necessary policy and administrative preparations as more migrants became urban residents; Zhou Yongkang, "Promote the In-Depth Resolution of Social Contradictions, Be Innovative in Social Management, and Enforce the Law Fairly and Honestly, Providing Even More Powerful Rule-of-Law Support for Both Good and Rapid Economic and Social Development" [Shenru tuijin shehui maodun huajie, shehui guanli chuangxin, gongzheng lianjie zhifa, wei jingji shehui youhao youkua fazhan tigong gengjia youli de fazhi baozhang], Seeking Truth, No. 4., 16 February 10, reprinted in Xinhua (Online). Zhou Yongkang, a ranking member of the Politburo Standing Committee, referenced the need to accelerate *hukou* reform and efforts to resolve the challenges facing migrant workers. "Premier Wen Jiabao Chats With Online Users" [Wen jiabao zongli yu wangyou zaixian jiaoliu], Xinhua (Online), 28 February 10. Premier Wen said that China would advance reforms of the *hukou* system for the new generation of migrant workers.

[22] Development Research Center of the State Council, "Gradually Advancing *Hukou* Reform, Achieving Substantive Equality of Rights" [Tidu tuijin huji gaige shixian quanli shizhi pingdeng], China Economic Times, reprinted in People's Daily (Online), 9 June 10.

[23] "Invisible and Heavy Shackles," Economist (Online), 6 May 10.

[24] For a detailed account of the joint editorial and circumstances surrounding its depublication, see "Joint Editorial Calling for *Hukou* Reform Removed From Internet Hours

After Publication, Co-Author Fired," CECC China Human Rights and Rule of Law Update, No. 4, 21 April 10, 1–2.

[25] Guangzhou Development and Reform Commission, Implementing Opinion Regarding the Advancing of Urban-Rural *Hukou* System Reforms [Guanyu tuijin chengxiang huji zhidu gaige de shishi yijian], issued 31 August 09. For a summary of the Guangzhou *hukou* reform in English, see "Hukou Reform Experiment Begins in Guangzhou," CECC China Human Rights and Rule of Law Update, No. 5, 4 June 10, 2–3.

[26] Kam Wing Chan and Will Buckingham, "Is China Abolishing the *Hukou* System/" 195 China Quarterly 582, 596–599 (2008).

[27] "Invisible and Heavy Shackles," Economist (Online), 6 May 10.

[28] Chongqing Municipal Government, Opinion on Systematically Reforming Urban-Rural Household Registration [Guanyu tongchou chengxiang huji zhidu gaigede yijian], issued 25 July 10.

[29] Ibid., arts. 3, 6(1)–(10).

[30] Ibid., art. 6(1).

[31] Wu Hongying and Huang Haiyang, "Ten Million Migrant Workers Will Move Into Urban Area in Ten Years, Chongqing Initiates Household Registration Reform on a Trial Basis" [Shinian qianwan nongmin jincheng chongqing shi shui huji gaige], 21st Century Business Herald, 14 July 10.

[32] For English translation of the editorial, see Chinese Law Prof Blog (Online), "The Famous *Hukou* Editorial," 26 March 10, last visited 21 June 10; "Joint Editorial Calling for *Hukou* Reform Removed From Internet Hours After Publication, Co-Author Fired," CECC China Human Rights and Rule of Law Update, No. 4, 21 April 10, 1–2.

[33] "Joint Editorial From 13 Newspapers Urges Speedy Household Registration Reform" [Quanguo 13 jia baozhi fabiao gongtong shelun duncu jiasu huji gaige], Sina Hong Kong (Online), 1 March 10.

[34] Ibid.

[35] "Hukou Editorial Gone From Some Sites," China Realtime Report (Online), 3 March 10; Sharon Lafraniere, "Editor Is Fired After Criticizing Chinese Registration System," New York Times (Online), 9 March 10. For a detailed account of facts surrounding the joint *hukou* editorial, see "Joint Editorial Calling for *Hukou* Reform Removed From Internet Hours After Publication, Co-Author Fired," CECC China Human Rights and Rule of Law Update, No. 4, 21 April 10, 1–2.

[36] Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, art. 13; International Covenant on Civil and Political Rights, adopted by UN General Assembly Resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 12.

[37] PRC Passport Law, enacted 29 April 06, effective 1 January 07, art. 13(7).

[38] Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, arts. 2, 13(1), 13(2); International Covenant on Civil and Political Rights, adopted by UN General Assembly Resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, arts. 2(1), 12(1), 12(3), 12(4), and 26.

[39] CECC, 2009 Annual Report, 10 October 09, 164; Justin McCurry, "Chinese Dissident Stranded at Tokyo Airport Set To Return Home," Guardian (Online), 1 February 10.

[40] Louisa Lim, "In Shanghai, Alternatives to the World Expo," National Public Radio (Online), 4 May 10; Chinese Human Rights Defenders (Online), "China Human Rights Briefing Weekly," 31 May 10.

[41] Charles Hutzler, "China Bans Poet From Traveling to US Conference," Associated Press (Online), 25 March 10.

[42] Ibid.

[43] Philip Gourevitch, "Liao Yiwu's Persistent Voice," New Yorker (Online), 2 March 10; Steven Erlanger and Jonathan Ansfield, "Uneasy Engagement: at Book Fair, a Subplot About Chinese Rights," New York Times (Online), 18 October 09.

[44] Steven Erlanger and Jonathan Ansfield, "Uneasy Engagement: at Book Fair, a Subplot About Chinese Rights," New York Times (Online), 18 October 09.

[45] Sapa-dpa, "Chinese Author Put Under House Arrest," (South Africa) Sunday Times Live (Online), 1 March 10; Letter from Liao Yiwu, to German Chancellor Angela Merkel, translated from Chinese by Human Rights in China (Online), 5 February 10.

[46] "Uyghur Scholar Slams Exit Ban," Radio Free Asia (Online), 28 April 10.

[47] "Travel Ban for Uyghur Scholar," Radio Free Asia (Online), 20 May 10.

[48] "Uyghur Scholar Slams Exit Ban," Radio Free Asia (Online), 28 April 10; "Uyghur Barred from Travel," Radio Free Asia (Online), 19 April 10.

[49] "Travel Ban for Uyghur Scholar," Radio Free Asia (Online), 20 May 10.

[50] Ibid.

[51] "Hong Kong Activists Denied Entry to Macao," Agence France-Presse (Online), 19 December 09.

[52] Ibid.

[53] Du Yali, "Leung Kwok-Hung Denied Entry to Macao; Has Returned to Hong Kong" [Liang guoxiong bei jurujing aomen yi fandi xiang gang], Radio Television Hong Kong (Online), 19 December 09.

[54] "Macao Bans HK Activists After May Day Rally," Reuters (Online), reprinted in Epoch Times, 13 May 07.

[55] Chinese Human Rights Defenders (Online), "Chinese Government Tightens the Screws Ahead of National Day," 1 October 10; "Restrictions on Dissidents and Human Rights Defenders Have Still Not Been Lifted as of October 9" [Yijian renshi yu weiquanzhe 10 yue 9 ri rengwei jiejin], Radio Free Asia (Online), 9 October 09.

[56] "Restrictions on Dissidents and Human Rights Defenders Have Still Not Been Lifted as of October 9" [Yijian renshi yu weiquanzhe 10 yue 9 ri rengwei jiejin], Radio Free Asia (Online), 9 October 09.
[57] Ibid.
[58] Chinese Human Rights Defenders (Online), "Chinese Government Tightens the Screws Ahead of National Day," 1 October 10.
[59] Chinese Human Rights Defenders (Online), "China Human Rights Briefing May 25–31," 31 May 10.
[60] Chinese Human Rights Defenders (Online), "China Human Rights Briefing May 25–31," 31 May 10; "Tang Jitian Meets With U.S. Officials To Talk About Human Rights and Religion: Lawyer Li Xiongbing Not Allowed To Leave Home" [Tang jitian tan jian meiguanyuan tan renquan zongjiao li xiongbing lushi bei jinzhi chumen], Radio Free Asia (Online), 25 May 10.
[61] Chinese Human Rights Defenders (Online), "China Human Rights Briefing May 25–31," 31 May 10.
[62] Ibid.
[63] Chinese Human Rights Defenders (Online), "China Human Rights Briefing June 1–7, 2010," 7 June 10.

Notes to Section II—Status of Women

[1] The 2009–2010 National Human Rights Action Plan states that women should occupy 50 percent of government leadership positions in central government ministries, provincial governments, and city governments. State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. III(2). The Law on the Protection of Women's Rights and Interests and the Electoral Law of the National People's Congress and local people's congresses stipulate that an "appropriate number" of female deputies should serve at all levels of people's congresses. PRC Law on the Protection of Women's Rights and Interests, enacted 3 April 92, effective 1 October 92, amended 28 August 05, art. 11; PRC Electoral Law of the National People's Congress and local people's congresses, enacted 1 July 79, amended 27 October 04, art. 6.
[2] Convention on the Elimination of All Forms of Discrimination against Women, adopted and opened for signature, ratification, and accession by UN General Assembly resolution 34/180 of 18 December 79, entry into force 2 September 81, art. 7.
[3] "'She' Officials" ["Ta" guanyuan], Southern Daily (Online), 8 March 10.
[4] Permanent Mission of the People's Republic of China to the UN (Online), "Statement by Mme. Meng Xiaosi, Head of Chinese Delegation to 54th Session of the Commission on the Status of Women, Vice-Chairperson of the National Working Committee on Women and Children Under the State Council of China," 1 March 10. According to Meng, "At present, there are 8 women among the state leaders, 230 ministerial and vice-ministerial/provincial level women leaders, and 670 mayors and deputy mayors of the over 600 cities of China. Women account for over 40% of government officials compared with less than 1/3 of 1995." See also "'She' Officials" ["Ta" guanyuan], Southern Daily (Online), 8 March 10. According to this report, of the eight women in Party and central government leadership positions mentioned by Meng Xiaosi above, some are in deputy positions. The report also notes that, currently, 3 of the 28 departments under the State Council are headed by women.
[5] "'She' Officials" ["Ta" guanyuan], Southern Daily (Online), 8 March 10.
[6] 2010 data provided by the Inter-Parliamentary Union, however, now ranks China 53rd out of 186 countries with regard to women's representation in national parliaments. Inter-Parliamentary Union (Online), "Women in Parliaments: World Classification," 31 May 10.
[7] "'She' Officials" ["Ta" guanyuan], Southern Daily (Online), 8 March 10. The target of 30 percent female representation in leadership positions was set by the UN Commission on the Status of Women at its 34th session in 1990. United Nations Publications, reprinted in Bnet (Online), "Target: 30 Percent of Leadership Positions to Women by 1995—United Nations Commission on the Status of Women," June 1990.
[8] "Chen Zhili: ACWF Actively Promotes Female Political Participation" [Chen zhili biaoshi fulian jiang jiji tuidong funu canzheng yizheng], China Radio International (Online), 6 March 10.
[9] Women's Watch-China (Online), Annual Report 2008, 2009, 17.
[10] Ibid., 18. According to this report, "[s]ome scholars have pointed out that village rules and regulations are much more important than other similar customary laws, mainly because they have greater force than even national laws in most villages, and are regarded as the supreme principle in handling the village's daily affairs."
[11] Ibid., 20.
[12] International Covenant on Economic, Social and Cultural Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, art. 7; PRC Employment Promotion Law, enacted 30 August 07, effective 1 January 08, art. 3.
[13] PRC Labor Law, enacted 5 July 94, effective 1 January 95, amended 10 October 01, arts. 12, 13. PRC Law on the Protection of Women's Rights and Interests, enacted 3 April 92, effective 1 October 92, amended 28 August 05, arts. 22–27; PRC Employment Promotion Law, enacted 30 August 07, effective 1 January 08, art. 3. See also Women's Watch-China (Online), "The E-Newsletter 54 of WW-China," February 2010, 10. According to this analysis, Chinese laws on employment discrimination are "riddled with flaws and loopholes by virtue of having no enforcement mechanism. Should an employer refuse to recruit a female applicant, she has little recourse other than to appeal to the local women's federation. As there is no law in force through which to file a lawsuit against the prejudice itself, the only option at present is to file for labor arbitration."
[14] "Survey Reveals Over Ninety Percent of Female College Students Experience the Trouble of Gender Discrimination in Employment" [Diaocha xianshi: yu jiucheng nu daxuesheng jiuye shou xingbie qishi kunrao], CCTV, reprinted in Xinhua (Online), 16 September 09.

[15] Women's Watch-China (Online), "The E-Newsletter 54 of WW-China," February 2010, 10.
[16] Jia Feishang, "Male Students Have Edge in Jobs," Shanghai Daily (Online), 3 March 10.
[17] Women's Studies Institute of China, reprinted in All-China Women's Federation (Online), "Gender Tops List of University Graduate Employment Discriminations," 30 July 10. The report does not specify how many state-operated enterprises, government agencies, or public institutes were surveyed.
[18] Shenzhen Hengping Jigou (Online), An Investigative Report on the Shenzhen Employment Discrimination Situation [Shenzhen jiuye qishe zhuangkuang diaocha baogao], May 2010, 18.
[19] Ibid.
[20] Ibid.
[21] Currently, retirement ages for male and female government and Party officials are 60 and 55, respectively, while retirement ages for male and female workers in general are 60 and 50, respectively. "China's Compulsory Retirement Age for Males and Females Challenged for Violating Constitution" [Woguo nannu tuixiu nianling guiding beitiqing weixian shencha], China Law Education (Online), 16 March 06.
[22] Wang Yijun and Cui Li, "National People's Congress Standing Committee Enforcement Investigation Reveals Covert Gender Discrimination Still Exists in Employment" [Renda changweihui zhifa jiancha faxian jiuye reng cun yinxing xingbie qishi], China Youth Daily, reprinted in Xinhua (Online), 24 June 10.
[23] Ibid. See also "Centennial of Women's Day," China Daily (Online), 8 March 10. According to this report, women are sometimes "pushed into early retirement" and many are "passed over for promotion" as they near retirement age.
[24] Women's Watch-China (Online), "Shenzhen Promises To Launch First Gender Equality Promotion Regulation" [Shenzhen youwang chutai shoubu xingbie pingdeng cujin tiaoli], 28 December 09.
[25] Ibid.
[26] Liu Minghui, Women's Watch-China (Online), "The E-Newsletter 53 of WW-China," February 2010, 3. See also "Shenzhen Gender Equality Regulations Soon To Be Made Public, Men To Enjoy 30 Days Paternity Leave" [Shenzhen jiang chutai xingbie pingdeng tiaoli, nanshi kewang xiang 30 tian yuyingjia], Chongqing Evening Post (Online), 21 January 10.
[27] See, e.g., Women's Watch-China (Online), "Shenzhen Promises to Launch First Gender Equality Promotion Regulation" [Shenzhen youwang chutai shoubu xingbie pingdeng cujin tiaoli], 28 December 09; "Shenzhen Gender Equality Regulations Soon To Be Made Public, Men To Enjoy 30 Days Paternity Leave" [Shenzhen jiang chutai xingbie pingdeng tiaoli, nanshi kewang xiang 30 tian yuyingjia], Chongqing Evening Post (Online), 21 January 10; Liu Minghui, Women's Watch-China (Online), "The E-Newsletter 53 of WW-China," February 2010, 3.
[28] He Huifeng, "Draft Sex Equality Law Proposes Leave for Dads," South China Morning Post (Online), 22 January 10.
[29] Liu Minghui, Women's Watch-China (Online), "The E-Newsletter 53 of WW-China," February 2010, 4. According to this report, in the draft Shenzhen Regulation, "direct gender discrimination is defined as any gender-based exclusion or restriction with the result and purpose to damage or impede a citizen to enjoy or exercise their political, economic, social, cultural, civil or any other rights and freedoms on the basis of gender equality. Indirect gender discrimination is defined as a considerable degree of more adverse impacts on a particular gender though there is no difference in treatment based on gender, marital status, pregnancy and childbirth."
[30] He Huifeng, "Draft Sex Equality Law Proposes Leave for Dads," South China Morning Post (Online), 22 January 10.
[31] Liu Minghui, Women's Watch-China (Online), "The E-Newsletter 53 of WW-China," February 2010, 9.
[32] "Shenzhen Gender Equality Regulations Soon To Be Made Public, Men To Enjoy 30 Days Paternity Leave" [Shenzhen jiang chutai xingbie pingdeng tiaoli, nanshi kewang xiang 30 tian yuyingjia], Chongqing Evening Post (Online), 21 January 10.
[33] Liu Minghui, Women's Watch-China (Online), "The E-Newsletter 53 of WW-China," February 10, 10.
[34] Ibid., 14–15.
[35] Ibid., 10.
[36] He Huifeng, "Draft Sex Equality Law Proposes Leave for Dads," South China Morning Post (Online), 22 January 10.
[37] "Shenzhen Gender Equality Regulations Soon To Be Made Public, Men To Enjoy 30 Days Paternity Leave" [Shenzhen jiang chutai xingbie pingdeng tiaoli, nanshi kewang xiang 30 tian yuyingjia], Chongqing Evening Post (Online), 21 January 10.
[38] PRC Law on the Protection of Women's Rights and Interests, enacted 3 April 92, effective 1 October 92, amended 28 August 05, art. 46; PRC Marriage Law, enacted 10 September 80, effective 1 January 81, amended 28 April 01, art. 3.
[39] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, arts. 234, 236, 260.
[40] "Domestic Violence Occurs in Nearly 30 Percent of Chinese Families, Experts Call for Legislation To Protect Victims" [Zhongguo jin 30% de jiating cunzai jiating baoli, zhuanjia huyu wei fan jiabao lifa], People's Daily (Online), 27 November 09.
[41] PRC Law on the Protection of Women's Rights and Interests, enacted 3 April 92, effective 1 October 92, amended 28 August 05, art. 46; PRC Marriage Law, enacted 10 September 80, effective 1 January 81, amended 28 April 01, art. 3. For Chinese scholars' discussion of the shortcomings of current national-level legislation, see "All-China Women's Federation Strongly Promotes Anti-Domestic Violence Law" [Quanguo fulian litui fan jiating baoli fa], People's Representative News (Online), 31 December 09; Women's Watch-China (Online), "Proposal for Law on Prevention and Curbing of Domestic Violence Comes Out" [Yufang he zhizhi jiating baoli fa jianyi gao chulu], 28 November 09; "China Scholars Call for Attention on 'Anti-Domestic Vio-

lence' Legislation" [Zhongguo xuezhe huyu guanzhu "fan jiating baoli" lifa], Radio Free Asia (Online), 13 January 10. See also "All-China Women's Federation Proposes, Highlights Need for Draft Anti-Domestic Violence Legislation," CECC China Human Rights and Rule of Law Update, No. 2, 5 February 10, 3.

[42] "All-China Women's Federation Proposes, Highlights Need for Draft Anti-Domestic Violence Legislation," CECC China Human Rights and Rule of Law Update, No. 2, 5 February 10, 3; "Domestic Violence Occurs in Nearly 30 Percent of Chinese Families, Experts Call for Legislation To Protect Victims" [Zhongguo jin 30% de jiating cunzai jiating baoli, zhuanjia huyu wei fan jiating baoli fa], People's Daily (Online), 27 November 09; "Experts Discuss Anti-Domestic Violence Legislation: 'Cohabitants Who Encounter Domestic Violence' Can Also Apply for Protection Orders" [Zhuanjia tan fan jiabao lifa: tongju zao "jiabao" ye ke shenqing baohuling], People's Daily (Online), 12 January 10.

[43] Women's Watch-China (Online), "Proposal for Law on Prevention and Curbing of Domestic Violence Comes Out" [Yufang he zhizhi jiating baoli fa jianyi gao chulu], 28 November 09.

[44] "Current Situation and Characteristics of China Anti-Domestic Violence Legislation" [Zhongguo fan jiating baoli lifa de xianzhuang yu tedian], People's Daily (Online), 26 November 09.

[45] Convention on the Elimination of All Forms of Discrimination against Women, adopted and opened for signature, ratification, and accession by UN General Assembly resolution 34/180 of 18 December 79, entry into force 2 September 81, art. 11.

[46] PRC Law on the Protection of Women's Rights and Interests, enacted 3 April 92, effective 1 October 92, amended 28 August 05, arts. 40, 58.

[47] Ibid. For discussion on the shortcomings of the LPWRI in addressing sexual harassment, see Women's Watch-China (Online), Annual Report 2008, 2009, 30.

[48] Women's Watch-China (Online), Annual Report 2008, 2009, 30.

[49] "Defending Rights of Women Who Face Workplace Sexual Harassment Difficult, Related Regulations Have a Ways To Go" [Zhichang nuxing yu xing saorao hou weiquan kunnan xiangguan guiding dai wanshan], Legal Daily, reprinted in Xinhua (Online), 11 May 10.

[50] CECC Staff Interview. See also "Defending Rights of Women Who Face Workplace Sexual Harassment Difficult; Related Regulations Have a Ways To Go" [Zhichang nuxing yu xing saorao hou weiquan kunnan xiangguan guiding dai wanshan], Legal Daily, reprinted in Xinhua (Online), 11 May 10. According to this report, women who encounter sexual harassment typically do not report offenses due to worries that it might harm their own reputation, have a negative impact on their families, or even cause them to lose their jobs.

[51] Women's Watch-China (Online), "The E-Newsletter 52 of WW-China," December 2009, 3, 10.

[52] China Labour Bulletin (Online), "Trade Union Recommended Sacking Sexual Harassment Victim," 22 December 09.

[53] CECC Staff Interview.

[54] Maple Women's Psychological Counseling Center Beijing (Online), "'Law on Prevention of Sexual Harassment in the Workplace,' Submitted to the National People's Congress (Draft Proposal)" [Xiang quanguo renda tijiao "gongzuo changsuo xingsaorao fangzhifa" (jianyi gao) yi an], 17 March 09.

[55] China Best Practices—Infanticide, What if the Infant Is Still Alive After Induced Labor? Hearing of the Tom Lantos Human Rights Commission, U.S. House of Representatives, 10 November 09, Report Submitted by ChinaAid and Women's Rights Without Frontiers; China's One-Child Policy, Hearing of the Tom Lantos Human Rights Commission, U.S. House of Representatives, 10 November 09, Testimony of Reggie Littlejohn, President, Women's Rights Without Frontiers.

[56] SOS Children's Villages, Canada (Online), "Chinese Child Traffickers Detained," 29 March 10. According to this report, "The combination of these factors [China's one child policy and a traditional preference for male heirs] has meant that China suffers high rates of female infanticide, sex-selective abortion, as well as widespread abandonment and human trafficking of the girl-child."

[57] United Nations Development Programme (Online), Power, Voice and Rights: A Turning Point for Gender Equality in Asia and the Pacific, 8 March 10.

[58] According to statistics quoted in the report, China is "missing" 42.6 million women, 44 percent of Asia's 96.2 million "missing" women. United Nations Development Programme (Online), Power, Voice and Rights: A Turning Point for Gender Equality in Asia and the Pacific, 8 March 10, 34.

[59] See Mikhail Lipatov, Shuzhuo Li, and Marcus W. Feldman, "Economics, Cultural Transmission, and the Dynamics of the Sex Ratio at Birth in China," 105 (49) Proceedings of the National Academy of Social Sciences of the United States of America, 19171 (2003). According to this study, "The root of the [sex ratio] problem lies in a 2,500-year-old culture of son preference." See also Chu Junhong, "Prenatal Sex Determination and Sex-Selective Abortion in Rural Central China," 27 Population and Development Review 259 (2001); Joseph Chamie, "The Global Abortion Bind: A Woman's Right To Choose Gives Way to Sex-Selection Abortions and Dangerous Gender Imbalances," Yale Global (Online), 29 May 08.

[60] State Commission for Population and Family Planning, Ministry of Health, State Food and Drug Administration, Regulations Regarding the Prohibition of Non-Medically Necessary Gender Determination Examinations and Sex-Selective Termination of Pregnancy [Guanyu jinzhi fei yixue xuyao de tai'er xingbie jianding he xuanze xingbie de rengong zhongzhi renshen de guiding], issued 29 November 02, effective 1 January 03. For a discussion of these regulations, see "China Bans Sex-Selection Abortion," Xinhua, reprinted in China Net (Online), 22 March 03.

[61] "Experts: Gender Discrimination Creates China's Sex Ratio Imbalance," Xinhua (Online), 3 April 10.

[62] Chinese Academy of Social Sciences (Online), "Difficulty Finding a Wife in 10 Years: 1 Out of Every 5 Men To Be a Bare Branch" [10 nian zhihou quqi nan, 5 ge nanren zhong jiuyou 1 ge guanggun], 27 January 10.

[63] "China To Be Short 24 Million Wives, Study Says," Associated Press (Online), 12 January 10.

[64] For China's 2000 census data and information on global norms for sex ratio at birth, see Barry Naughton, The Chinese Economy: Transitions and Growth (Cambridge, MA: MIT Press, 2007), 171–172.

[65] Chinese Academy of Social Sciences (Online), "Difficulty Finding a Wife in 10 Years: 1 Out of Every 5 Men To Be a Bare Branch" [10 nian zhihou quqi nan, 5 ge nanren zhong jiuyou 1 ge guanggun], 27 January 10.

[66] Wei Xing Zhu, Li Lu, and Therese Hesketh, "China's Excess Males, Sex Selective Abortion and One Child Policy: Analysis of Data From 2005 National Intercensus Survey," British Medical Journal (Online), 9 April 09, 4–5.

[67] SOS Children's Villages, Canada (Online), "Chinese Child Traffickers Detained," 28 March 10.

[68] Susan W. Tiefenbrun and Christie J. Edwards, "Gendercide and the Cultural Context of Sex Trafficking in China," 32 Fordham International Law Journal 731, 752 (2009); Women in a Changing China, Staff Roundtable of the Congressional-Executive Commission on China, 8 March 10, Testimony of Mark Lagon, Former Ambassador-at-Large and Director, Office to Monitor and Combat Trafficking in Persons, U.S. Department of State.

Notes to Section II—Human Trafficking

[1] The specific phrase used to describe the concept of trafficking in Chinese government documents, including the National Plan of Action on Combating Trafficking in Women and Children (2008–2012) as well as related regulations, circulars, and opinions, is *guaimai funu ertong,* which literally means "the abduction and sale of women and children." See, e.g., State Council General Office, China's National Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Zhongguo fandui guaimai funu ertong xingdong jihua (2008–2012 nian)], issued 13 December 07, effective 1 January 08. See also Qinghai Province Implementing Rules and Regulations for the Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Qinghai sheng fandui guaimai funu ertong xingdong jihua shishi xize (2008–2012 nian)], issued 22 December 09; Zhuzhou City Action Plan on Combating Trafficking in Women and Children [Zhuzhou shi fandui guaimai funu ertong xingdong jihua], issued 31 December 09; Opinion of Bazhong City People's Government Office Regarding the Implementation of "China's National Action Plan on Combating Trafficking in Women and Children (2008–2012)" [Bazhong shi renmin zhengfu bangongshi guanyu guanche guowuyuan "zhongguo fandui guaimai funu ertong xingdong jihua (2008–2012 nian)" de shishi yijian], issued 25 August 09.

[2] UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN TIP Protocol), adopted by UN General Assembly resolution A/RES/55/25 of 15 November 00, entry into force 25 December 03, art. 3(a). The Chinese government had been considering accession to the UN TIP Protocol for the past few years. China's laws and regulations already include more than 95 percent of the protocol's contents. CECC, 2008 Annual Report, 31 October 08, 120–21. See also Wang Zhuoqiong, "China Set To Ratify UN Trafficking Protocol," China Daily (Online), 24 October 08.

[3] National People's Congress, National People's Congress Standing Committee Decision Regarding Acceding to the "United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime" [Quanguo renmin daibiao dahui changwu weiyuanhui guanyu jiaru "lianheguo daji kuaguo youzuzhi fanzui gongyue guanyu yufang, jinzhi he chengzhi fanyun renkou tebie shi funu he ertong xingwei de buchong yidingshu" de jueding], 26 December 09. For additional information regarding China's accession to the UN TIP Protocol, see Chen Jia, "China Joins UN Fight Against Human Trafficking," China Daily (Online), 23 December 09.

[4] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Interim Assessment—China, 24 February 10. According to this report, "Forced adult and forced child labor remained a problem throughout the country. Government efforts described as addressing human trafficking, however, continued to be aimed largely at the trafficking of women and children. The government did not take steps to enact legislation to prohibit all forms of trafficking, though it ratified the UN TIP Protocol in December 2009."

[5] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 240.

[6] UN Protocol to Prevent, Suppress and Punish Trafficking In Persons, Especially Women and Children (UN TIP Protocol), adopted by UN General Assembly resolution A/RES/55/25 of 15 November 00, entry into force 25 December 03, art. 3(a). Article 3(a) of the UN TIP Protocol states: "'Trafficking in persons' shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs." See also Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2010—China, 14 June 10. According to this report, "China's definition of trafficking does not prohibit non-physical forms of coercion, fraud, debt bondage, involuntary servitude, forced labor, or offenses committed against men, although many aspects of these crimes are addressed in other articles of China's criminal law. China's legal definition of trafficking does not automatically regard children over the age of 14 who are subjected to the commercial sex trade as trafficking victims."

[7] State Council General Office, China's National Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Zhongguo fandui guaimai funu ertong xingdong jihua (2008–

2012 nian)], issued 13 December 07, effective 1 January 08. See also Qinghai Province Implementing Rules and Regulations for the Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Qinghai sheng fandui guaimai funu ertong xingdong jihua shishi xize (2008–2012 nian)], issued 22 December 09; Implementing Rules and Regulations for the Gansu Province Implementation of "China's National Plan of Action on Combating Trafficking in Women and Children (2008–2012)" [Gansu sheng shishi "zhongguo fandui guaimai funu ertong xingdong jihua (2008–2012 nian)" fang'an shishi xize], issued 29 April 10; Zhuzhou City Action Plan on Combating Trafficking in Women and Children [Zhuzhou shi fandui guaimai funu ertong xingdong jihua], issued 31 December 09; Opinion of Bazhong City People's Government Office Regarding the Implementation of "China's National Action Plan on Combating Trafficking in Women and Children (2008–2012)" [Bazhong shi renmin zhengfu bangongshi guanyu guanche guowuyuan "zhongguo fandui guaimai funu ertong xingdong jihua (2008–2012 nian)" de shishi yijian], issued 25 August 09.

[8] CECC, 2008 Annual Report, 31 October 08, 118. As documented and defined internationally, major forms of human trafficking include forced labor, bonded labor, involuntary domestic servitude, child soldiers, forced prostitution, children exploited for commercial sex, child sex tourism, and debt bondage and involuntary servitude among migrant laborers. Office to Monitor and Combat Trafficking In Persons, U.S. Department of State, Trafficking in Persons Report 2008, Major Forms of Trafficking in Persons, 4 June 08, 19–25.

[9] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2010—China, 14 June 10; Juliet Shwe Gaung, "Forced Marriages Driving Human Trafficking, UN Says," Myanmar Times (Online), 8 March 10.

[10] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2010—China, 14 June 10; See also Women in a Changing China, Staff Roundtable of the Congressional-Executive Commission on China, 8 March 10, Testimony of Mark Lagon, Former Ambassador-At-Large and Director, Office to Monitor and Combat Trafficking in Persons, U.S. Department of State.

[11] CECC, 2008 Annual Report, 31 October 08, 121. Countries where women and children are trafficked into China include North Korea, Vietnam, and Burma. See, e.g., Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2010—China, 14 June 10; Keith B. Richburg, "Chinese Border Town Emerges as New Front Line in Fight Against Human Trafficking," Washington Post (Online), 26 December 09; "Analyzing the Underlying Interest in Transnational Marriages: High Income Urban Males Visit Vietnam To Find a Mate" [Jiexi liyi xia de kuaguo hunyin, gao shouru dushi nan fu yuenan qiu'ou], Southern Metropolis Weekly, reprinted in Sina (Online), 6 April 10. See also Women in a Changing China, Staff Roundtable of the Congressional-Executive Commission on China, 8 March 10, Testimony of Mark Lagon, Former Ambassador-At-Large and Director, Office to Monitor and Combat Trafficking in Persons, U.S. Department of State.

[12] Lee Tae-hoon, "North Korean Defectors Priced at $1,500," Korea Times (Online), 5 May 10. See also CECC, 2008 Annual Report, 31 October 08, 121.

[13] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2010—Korea, Democratic People's Republic of, 14 June 10. According to the U.S. State Department Trafficking in Persons Report, "NGOs and researchers estimate that tens of thousands of undocumented North Koreans currently live in northeast China, and as many as 70 percent of them are women. There is no reliable information on how many of these North Koreans are or have been trafficked, but their status in China as economic migrants who may be deported to North Korea makes them particularly vulnerable to trafficking."

[14] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Interim Assessment—China, 24 February 10; Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2010—China, 14 June 10. For information on allegations of child labor at one of Microsoft's supplier factories, see National Labor Committee (Online), "China's Youth Meet Microsoft," April 2010.

[15] UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN TIP Protocol), adopted by UN General Assembly resolution A/RES/55/25 of 15 November 00, entry into force 25 December 03.

[16] Man Guihua, All-China Women's Federation (Online), "The Fight Against Human Trafficking," 14 December 09; "China Faces Growing Gender Imbalance," BBC (Online), 11 January 10. Researchers quoted in this article reported that human trafficking in China has become "rampant."

[17] Malcolm Moore, "Chinese Police Rescue 2,000 Kidnapped Children," Telegraph (Online), 28 October 09; Mark Colvin, "Chinese Authorities Crackdown on Child Trafficking," ABC (Online), 29 October 10; Lucy Hornby, "China Police Rescue Trafficked Children," Reuters (Online), 21 June 09.

[18] Juliet Shwe Gaung, "Forced Marriages Driving Human Trafficking, UN Says," Myanmar Times (Online), 8 March 10; Virginie Mangin, "Parents Left Bereft by Curse of China's Child Snatchers," National (Online), 12 March 10; "The Reason Child Trafficking Crimes Are Unstoppable" [Guaimai ertong fanzui weihe luda bujue], China Comment Magazine, reprinted in Xinhua (Online), 24 March 09.

[19] "The Reason Child Trafficking Crimes Are Unstoppable" [Guaimai ertong fanzui weihe luda bujue], China Comment Magazine, reprinted in Xinhua (Online), 24 March 09; Lucy Hornby, "China Police Rescue Trafficked Children," Reuters (Online), 21 June 09. For examples of cases in which parents sold their children this year, although not explicitly as a direct result of the one child policy, see Zhou Xuelian, "21-Year-Old Youngster 'Sells' 6-Day-Old Son To Buy Cell Phone To Play With" [21 sui shuawa dang laohan "mai" 6 tian da de erzi mai bu shouji shua], Chongqing Times (Online), 9 December 09; "Child Trafficking Ring Cracked in Harbin, Suspect Is Chair of OB/GYN Department in Hospital" [Harbin pohuai yiqi guaimai ertong an xianyiren shi yiyuan fuchanke zhuren], 7 January 10.

[20] "US Envoy: Economic Crisis Drives Human Trafficking," Associated Press, reprinted in Google (Online), 4 December 09. See, e.g., Jane Chen, "Parents Sold Baby and Bought a Phone," Shanghai Daily (Online), 9 December 09. See also Zhou Xuelian, "21-Year-Old Youngster 'Sells' 6-Day-Old Son To Buy Cell Phone To Play With" [21 sui shuawa dang laohan "mai" 6 tian da de erzi mai bu shouji shua], Chongqing Times (Online), 9 December 09.

[21] "Chinese Women Taught To Avoid People-Traffickers," Xinhua, reprinted in China Daily (Online), 8 March 10.

[22] Pino Cazzaniga, "Fleeing From North Korea To Be Sold in China as Brides or Prostitutes," AsiaNews.it (Online), 15 February 10; Bill Allan, "They Fled From the Nightmare of North Korea—Only To Be Sold Into Slavery in China," Herald Scotland (Online), 20 June 10; Keith B. Richburg, "Chinese Border Town Emerges as New Front Line in Fight Against Human Trafficking," Washington Post (Online), 26 December 09.

[23] Scott Tong, "Take My Daughter: Confessions of a Chinese Baby Trafficker," Marketplace (Online), 5 May 10.

[24] Tania Branigan, "The Chinese Toddler Chained Through Love and Fear," Guardian (Online), 4 February 10; "Migrant Children Become At-Risk Group for Trafficking" [Liudong ertong chengwei bei guaimai de gaowei qunti], Peace Net, reprinted in Xinhua (Online), 7 January 10; China Labour Bulletin (Online), "The Children of Migrant Workers in China," 8 May 09; Damian Grammaticas, "Chinese Children Snatched and Sold on to Couples," BBC (Online), 27 November 09.

[25] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2010—China, 14 June 10, 113.

[26] Ibid., 217.

[27] "Explosion in Fireworks Workshop Occurs in Hezhou City, Guangxi Province, 1 Child Killed, 12 Seriously Injured" [Guangxi hezhou fasheng yiqi baozhu zuofang baozha an 13 ertong 1 si 12 zhongshang], Southern Metropolitan Daily, reprinted in Zhu'ao Net (Online), 13 November 09.

[28] Jiang Guibin and Tang Xuping, "'Child Workers' Injured and Killed in Hezhou Fireworks Factory Explosion Case Were All 'Left Behind Children'" [Hezhou baozhu zuofang baozha shijian zhong sishang 'tonggong' junwei 'liushou ertong'], Xinhua (Online), 14 November 09. See also Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2010—China, 14 June 10, 112.

[29] Liang Shubin, "Child Trafficking Ring Cracked in Harbin, Suspect Is Chair of OB/GYN Department in Hospital" [Harbin pohuai yiqi guaimai ertong an xianyiren shi yiyuan fuchanke zhuren], Xinhua, reprinted in China Peace Net (Online), 7 January 10.

[30] According to the Chinese government's second reservation in its written decision to accede to the UN TIP Protocol, Hong Kong is not a party to the UN TIP Protocol. Human trafficking cases in Hong Kong are treated separately under Hong Kong law. National People's Congress, National People's Congress Standing Committee Decision Regarding Acceding to the "United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the UN Convention against Transnational Organized Crime" [Quanguo renmin daibiao dahui changwu weiyuanhui guanyu jiaru "lianheguo daji kuaguo youzuzhi fanzui gongyue guanyu yufang, jinzhi he chengzhi fanyun renkou tebie shi funu he ertong xingwei de buchong yidingshu" de jueding], 26 December 09.

[31] Office of the President of the Philippines, Commission on Filipinos Overseas (Online), "Two Filipinos Convicted of Human Trafficking in Hong Kong," 15 March 10.

[32] Ibid. See also Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2010—Hong Kong, 14 June 10, 167. According to the State Department report, the two Filipina offenders lured three women.

[33] Jane Chen, "Parents Sold Baby and Bought a Phone," Shanghai Daily (Online), 9 December 09; Zhou Xuelian, "21-Year-Old Youngster 'Sells' 6-Day-Old Son To Buy Cell Phone To Play With" [21 sui shuawa dang laohan "mai" 6 tian da de erzi mai bu shouji shua], Chongqing Times (Online), 9 December 09.

[34] Chen Yong, "Gambling Couple Gave Birth to Children and Sold Them for Money To Squander, Grandmother Contacted Buyer" [Haodu fuqi sheng haizi maiqian huihuo nainai lianxi maijia], Northeast Net (Online), 5 July 10.

[35] "China's Top Legislature Ends Bimonthly Session, Adopts Tort Law," Xinhua (Online), 26 December 09; UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN TIP Protocol), adopted by UN General Assembly resolution A/RES/55/25 of 15 November 00, entry into force 25 December 03, art. 3(a).

[36] "Trafficking Crackdown: 'Babies Looking for Home' Campaign Results in Another Two 'Babies' Finding Their Homes" [Daguai: "baobei xunjia" huodong you you liangming "baobei" zhaodao jia], Xinhua (Online), 24 December 09; Ministry of Public Security (Online), "National Anti-Trafficking DNA Database Set Up" [Quanguo "daguai" DNA shujuku jiancheng], 30 April 09; Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2010—China, 14 June 10.

[37] Ministry of Public Security (Online), "Information on Unidentified Trafficked Children" [Wei chaqing shenyuan de bei guaimai ertong xinxi], accessed 23 September 10.

[38] Ministry of Public Security, Opinion on Lawful Punishment for the Crime of Abducting and Selling Women and Children [Guanyu yifa zhengzhi guaimai funu ertong fanzui de yijian], 2 April 10.

[39] Chen Jia, "Parents of Missing Teenagers Win in New Trafficking Law," China Daily (Online), 11 March 10.

[40] State Council General Office, China's National Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Zhongguo fandui guaimai funu ertong xingdong jihua (2008–2012 nian)], issued 13 December 07, effective 1 January 08. See also CECC, 2009 Annual Report, 10 October 09, 176; Qinghai Province Implementing Rules and Regulations for the Plan of Action on Combating Trafficking in Women and Children (2008–2012) [Qinghai sheng fandui

guaimai funu ertong xingdong jihua shishi xize (2008–2012 nian)], issued 22 December 09; Implementing Rules and Regulations for the Gansu Province Implementation of "China's National Plan of Action on Combating Trafficking in Women and Children (2008–2012)" [Gansu sheng shishi "zhongguo fandui guaimai funu ertong xingdong jihua (2008–2012 nian)" fang'an shishi xize], issued 29 April 10; Zhuzhou City Action Plan on Combating Trafficking in Women and Children [Zhuzhou shi fandui guaimai funu ertong xingdong jihua], issued 31 December 09; Opinion of Bazhong City People's Government Office Regarding the Implementation of "China's National Plan of Action on Combating Trafficking in Women and Children (2008–2012)" [Bazhong shi renmin zhengfu bangongshi guanyu guanche guowuyuan "zhongguo fandui guaimai funu ertong xingdong jihua (2008–2012 nian)" de shishi yijian], issued 25 August 09.

[41] See, e.g., "China, Laos Set Up Liaison Office To Fight Human Trafficking," Xinhua (Online), 17 October 09; Keith B. Richburg, "Chinese Border Town Emerges as New Front Line in Fight Against Human Trafficking," Washington Post (Online), 26 December 09; Ma Guihua, "China Joins Mekong Countries in Fighting Cross-Border Human Trafficking," 29 November 09.

[42] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2010—China, 14 June 10.

[43] Ibid.

[44] Zhang Yuchen, "A League of Their Own Out To Trace Missing Children," China Daily (Online), 28 April 10; Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2010—China, 14 June 10.

[45] Virginie Mangin, "Parents Left Bereft by Curse of China's Child Snatchers," National (Online), 12 March 10; "Parents of Abducted Children Protest in South China," Reuters, reprinted in Radio Nederland Wereldomroep (Online), 18 January 10; Peter Hitchens, "Gendercide: China's Shameful Massacre of Unborn Girls Means There Will Soon Be 30m More Men Than Women," Daily Mail (Online), 10 April 10. According to this article, Chinese officials "even chase after citizens who go to Peking to complain about their treatment, or to petition for help. Parents who had put up posters begging for news of their stolen children were shocked to find that officials immediately snatched them from walls."

[46] Mark MacKinnon, "The Search for China's Stolen Children," Globe and Mail (Online), 25 December 09; John Vause, "Parents Seek Answers After Children Abducted," CNN (Online), 10 August 09. One parent of a missing child told CNN, "During sensitive times, like Children's Day, the government forces me to leave town . . . they were afraid I would organize some activities like searching for kids."

[47] Damian Grammaticas, "Chinese Children Snatched and Sold on to Couples," BBC (Online), 27 November 09.

[48] "China's Top Legislature Ends Bimonthly Session, Adopts Tort Law," Xinhua (Online), 26 December 09.

[49] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 240.

[50] UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN TIP Protocol), adopted by UN General Assembly resolution A/RES/55/25 of 15 November 00, entry into force 25 December 03, art. 3(a). Article 3(a) of the UN TIP Protocol states: "'Trafficking in persons' shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs." See also Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2010—China, 14 June 10. According to this report, "China's definition of trafficking does not prohibit non-physical forms of coercion, fraud, debt bondage, involuntary servitude, forced labor, or offenses committed against men, although many aspects of these crimes are addressed in other articles of China's criminal law. China's legal definition of trafficking does not automatically regard children over the age of 14 who are subjected to the commercial sex trade as trafficking victims."

[51] CECC, 2009 Annual Report, 10 October 09, 175.

[52] Ibid. For information concerning the distinction between human smuggling and trafficking, see U.S. Immigration and Customs Enforcement (Online), "Human Smuggling and Trafficking," 20 January 10.

[53] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2010—China, 14 June 10.

[54] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Interim Assessment—China, 24 February 10; Human Rights Watch (Online), World Report 2010—North Korea, 20 January 10; Women in a Changing China, Staff Roundtable of the Congressional-Executive Commission on China, 8 March 10, Testimony of Mark Lagon, Former Ambassador-at-Large and Director, Office to Monitor and Combat Trafficking in Persons, U.S. Department of State.

[55] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report 2010—China, 14 June 10.

[56] Ibid.

Notes to Section II—North Korean Refugees in China

[1] "Crackdown on North Koreans," Radio Free Asia (Online), 28 September 09.

[2] Ibid.

[3] The 1951 Convention and its Protocol define a refugee as someone who, "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular

social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country." They mandate that "[n]o Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." Convention Relating to the Status of Refugees, 28 July 51 by the UN Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under UN General Assembly resolution 429(V) of 14 December 50, arts. 1, 33. China acceded to the Convention on September 24, 1982.

[4] Ministry of Foreign Affairs (Online), "Foreign Ministry Spokesperson Jiang Yu Holds January 22, 2008, Press Conference" [2008 nian 1 yue 22 ri waijiaobu fayanren jiang yu juxing lixing jizhehui], 22 January 08.

[5] UN GAOR, 64th Sess., Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea, A/64/224, 4 August 09, 16–17.

[6] Ibid.

[7] "Crackdown on North Koreans," Radio Free Asia (Online), 28 September 09.

[8] John Garnaut, "Crackdown Reduces Flow of Fleeing North Koreans," Sydney Morning Herald (Online), 26 October 09.

[9] "Crackdown on North Koreans," Radio Free Asia (Online), 28 September 09.

[10] John M. Glionna, "Aiding North Korea Defectors: A High-Stakes Spy Mission," Los Angeles Times (Online), 25 November 09.

[11] Good Friends (Online), North Korea Today, No. 328, January 2010.

[12] Good Friends (Online), North Korea Today, No. 332, February 2010.

[13] "Some 50 Refugees in S. Korea Diplomatic Missions," Agence France-Presse, reprinted in AsiaOne News (Online), 8 March 10.

[14] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Reports on Human Rights Practices—2009, China (includes Tibet, Hong Kong, and Macau), 11 March 10.

[15] Lee Tae-hoon, "Female North Korean Defectors Priced at $1,500," Korea Times (Online), 5 May 10.

[16] Committee for Human Rights in North Korea (Online), Lives for Sale: Personal Accounts of Women Fleeing North Korea to China, March 2009, 18–19.

[17] Lee Sung Jin, "Current Situation on Refugees in China," Daily NK (Online), 10 May 09.

[18] ChinaAid (Online), "Christian Sentenced to 10 Years in Prison for Aiding North Korean Refugees," 1 September 09.

[19] Lee Tae-hoon, "Female North Korean Defectors Priced at $1,500," Korea Times (Online), 5 May 10.

[20] Citizens' Alliance for North Korean Human Rights, Survival Under Torture: Briefing Report on the Situation of Torture in the DPRK, September 2009, 24–31; UN GAOR, 64th Sess., Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea, A/64/224, 4 August 09, 17; Yoonok Chang, Stephan Haggard, and Marcus Noland, Peterson Institute for International Economics, Migration Experiences of North Korean Refugees: Survey Evidence From China, March 2008, 10.

[21] Stephan Haggard and Marcus Noland, East-West Center (Online), "Repression and Punishment in North Korea: Survey Evidence of Prison Camp Experiences," October 2009, 11–12.

[22] Yoonok Chang, Stephan Haggard, and Marcus Noland, Peterson Institute for International Economics, Migration Experiences of North Korean Refugees: Survey Evidence From China, March 2008, 6; Tom O'Neill, "Escape From North Korea," National Geographic (Online), 1 February 09; U.S. Commission on International Religious Freedom (Online), A Prison Without Bars: Refugee and Defector Testimonies of Severe Violations of Freedom of Religion or Belief in North Korea, March 2008, Preface, 28.

[23] Tom O'Neill, "Escape From North Korea," National Geographic (Online), 1 February 09; John M. Glionna, "Aiding North Korea Defectors: A High-Stakes Spy Mission," Los Angeles Times (Online), 25 November 09.

[24] A total of 1,346 refugees were interviewed at 11 sites in northeastern China. Yoonok Chang, Stephan Haggard, and Marcus Noland, Peterson Institute for International Economics, Migration Experiences of North Korean Refugees: Survey Evidence From China, March 2008, 12–13, 24.

[25] U.S. Commission on International Religious Freedom (Online), A Prison Without Bars: Refugee and Defector Testimonies of Severe Violations of Freedom of Religion or Belief in North Korea, March 2008, 30.

[26] Yoonok Chang, Stephan Haggard, and Marcus Noland, Peterson Institute for International Economics, Migration Experiences of North Korean Refugees: Survey Evidence From China, March 2008, 9, 21.

[27] UN GAOR, 64th Sess., Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea, A/64/224, 4 August 09, 17; Citizens' Alliance for North Korean Human Rights, Survival Under Torture: Briefing Report on the Situation of Torture in the DPRK, September 2009, 23–33; The Rising Stakes of Refugee Issues in China, Staff Roundtable of the Congressional-Executive Commission on China, 1 May 09, Testimony of Suzanne Scholte, President, Defense Forum Foundation.

[28] Citizens' Alliance for North Korean Human Rights, Survival Under Torture: Briefing Report on the Situation of Torture in the DPRK, September 2009, 27; Committee for Human Rights in North Korea (Online), Lives for Sale: Personal Accounts of Women Fleeing North Korea to China, March 2009, 15; UN GAOR, 64th Sess., Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea, A/64/224, 4 August 09, 17; The Rising Stakes of Refugee Issues in China, Staff Roundtable of the Congressional-Executive Commission on China, 1 May 09, Testimony of Suzanne Scholte, President, Defense Forum Foundation.

[29] Committee for Human Rights in North Korea (Online), Lives for Sale: Personal Accounts of Women Fleeing North Korea to China, March 2009, 46–49; Yoonok Chang, Stephan Haggard, and Marcus Noland, Peterson Institute for International Economics, Migration Experiences of North Korean Refugees: Survey Evidence From China, March 2008, 13.

[30] Tom O'Neill, "Escape From North Korea," National Geographic (Online), 1 February 09.

[31] Lee Tae-hoon, "Female North Korean Defectors Priced at $1,500," Korea Times (Online), 5 May 10.

[32] Committee for Human Rights in North Korea (Online), Lives for Sale: Personal Accounts of Women Fleeing North Korea to China, March 2009, 28–33; "North Korean Trafficked Brides," Radio Free Asia (Online), 30 April 09.

[33] "North Korean Women Sold in China," Radio Free Asia (Online), 29 April 09.

[34] Joel R. Charny, et al., Refugees International, Acts of Betrayal: The Challenge of Protecting North Koreans in China, April 2005, 11.

[35] Committee for Human Rights in North Korea (Online), Lives for Sale: Personal Accounts of Women Fleeing North Korea to China, March 2009, 20–21; Lee Tae-hoon, "Female North Korean Defectors Priced at $1,500," Korea Times (Online), 5 May 10.

[36] Pino Cazzaniga, "Fleeing From North Korea To Be Sold in China as Brides or Prostitutes," AsiaNews.it (Online), 15 February 10; Lee Tae-hoon, "Female North Korean Defectors Priced at $1,500," Korea Times (Online), 5 May 10.

[37] Nam You-Sun, "N. Korean Women Up for Sale in China: Activist," Agence France-Presse (Online), 12 May 10; The Rising Stakes of Refugee Issues in China, Staff Roundtable of the Congressional-Executive Commission on China, 1 May 09, Testimony of Suzanne Scholte, President, Defense Forum Foundation.

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[3] Ibid.

[4] Xie Zhenhua, "China's Challenges Limit Control of Emissions (Authority Forum)" [Zhongguo tiaozhan kongzhi paifang jixian (quanwei luntan)], People's Daily (Online), 6 January 10.

[5] Kathrin Hille, "China Sets Date for CO_2 Cut," Financial Times (Online), 15 August 09. The above source notes that Su Wei, Director General of the Department of Climate Change, National Development and Reform Commission of China, reportedly told the Financial Times that "China's emissions will not continue to rise beyond 2050." On the other hand, the source below notes that Wan Gang, the Minister of Science and Technology, reportedly told the Guardian that carbon emissions in China would peak sometime between 2030 and 2040. Jonathan Watts, "China's Carbon Emissions Will Peak Between 2030 and 2040, Says Minister," Guardian (Online), 6 December 09.

[6] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. 7. The Action Plan outlines numerous specific science-based goals related to energy and climate change. The plan calls for "[i]mplementing China's National Plan for Coping with Climate Change by slowing down greenhouse gas emission. While enhancing energy utilization efficiency and developing renewable energy resources to reduce the emission of carbon dioxide, China will strive to maintain the discharge of nitrous oxide in the processes of industrial production at the 2005 level, to increase the forestry coverage to 20 percent, and increase the annual carbon sink by about 50 million tons of carbon dioxide over the level of 2005." Other actions include: "[d]oing all we can to make the ratio of energy consumption per GDP unit in 2010 around 20 percent lower than that in 2005," and "[d]eveloping renewable energy resources, and working toward the goal of increasing their consumption to 10 percent of the total energy consumption by 2010."

[7] See, e.g., State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. 7; Outline of the Economic and Social Development 11th Five-Year Plan of the People's Republic of China [Zhonghua renmin gongheguo guomin jingji he shehui fazhan di shiyi ge wunian guihua gangyao], Xinhua, reprinted in China Net (Online), 16 March 06, chap. 3; National Development and Reform Commission, Medium and Long-Term Development Plan for Renewable Energy in China (Abbreviated Version), China Internet Information Center (Online), September 2007, sec. 3.2(1); "China's National Climate Change Programme," China Climate Change Info-Net (Online), June 2007.

[8] Shi Jiangtao, "Carbon Pledge on Track With Past Performance," South China Morning Post (Online), 28 November 09.

[9] PRC Renewable Energy Law [Zhonghua renmin gongheguo kezaisheng nengyuan fa], enacted 28 February 05, effective 1 January 06, amended 26 December 09, effective 1 April 10.

[10] "National Energy Commission Established New Energy Sources Could Benefit First" [Guojia nengyuanwei chengli xin nengyuan keneng xian shouyi], Daily Economic News, reprinted in China Energy Net (Online), 28 January 10. The establishment of the National Energy Commission was formally approved in 2008. State Council General Office, Circular Regarding Establishment of National Energy Commission [Guowuyuan bangongting guanyu chengli guojia nengyuanweiyuanhui de tongzhi], issued 22 January 10. The National Energy Commission will, among other tasks, participate in energy research projects, devise energy development strategies, and play a coordinating role on some major issues.

[11] "Local Development and Reform Commissions Will Establish Climate Change Response Offices and Issue Emission Reduction Plans" [Gedi fagaiwei jiang she yingdui qihou bianhuachu chu jianpai fangan], Dongfang Net, reprinted in Netease (Online), 3 January 10.

[12] See, e.g., Hui Qi, China Development Brief (Online), "Introducing Chinese Civil Society's Projects To Address Climate Change" [Zhongguo gongmin shehui yingdui qihou bianhua xiangmu], 12 March 10; Greenpeace China (Online), "Greenpeace China, Oxfam Hong Kong, WWF Hong Kong and Twelve Other Community Organizations Ally Against Climate Change," 25 May 09; Huo Weiya, Chinadialogue (Online), "The New Face of Youth Activism in China," 6 December 07; Heinrich Böll Stiftung (Online), "Environment and Climate," last visited 4 October 10.

[13] Friends of Nature et al. (Online), "A Warming China: Thoughts and Actions for the Chinese Civil Society" [Biannuan de zhongguo: gongmin shehui de si yu xing], 20 December 07; Friends of Nature (Online), "How Chinese Civil Society Can Participate in Responding to Climate Change Disasters" [Zhongguo gongmin shehui zuzhi ruhe canyu yingdui qihou zaihai], February 2010. The source above notes that seven Chinese environmental groups issued a report regarding ways in which Chinese citizen groups could participate in climate disaster actions.

[14] Shai Oster, "Not All in China Resist Carbon Caps," Wall Street Journal (Online), 9 December 09. This source discusses the incident in December 2009, where a group of 200 Chinese business leaders issued a statement in which they said they would promote absolute emissions reduction targets for Chinese enterprises.

[15] Jonathan Watts, "Pants for Progress: Chinese Climate Protesters Strip Off on Train," Guardian (Online), 18 January 10.

[16] Transparency in Environmental Protection and Climate Change in China, Staff Roundtable of the Congressional-Executive Commission on China, 1 April 10, Testimony of Deborah Seligsohn, Senior Advisor, China Climate and Energy Program, World Resources Institute. Ms. Seligsohn stated that "[i]n contrast to energy data, China has substantially less experience collecting and reporting greenhouse gas emissions data."

[17] Teng Fei et al., World Resources Institute (Online), "Mitigation Actions in China: Measurement, Reporting and Verification," June 2009, 9.

[18] "China Revises Statistics Law To Curb Data Falsification," Xinhua (Online), 27 June 09.

[19] "China Agrees Energy Data Deal," Radio Free Asia (Online), 3 November 09.

[20] National Development and Reform Commission, China's Policies and Actions for Addressing Climate Change—The Progress Report 2009, reprinted in China Climate Net (Online), November 2009. These include the Circular of the State Council on Approving and Forwarding the Plan and Measures for Implementing the Statistics, Monitoring and Assessment of Energy Conservation and Pollution Reductions jointly issued in 2007 by several ministries. The National Bureau of Statistics established a special department in 2008, the Department of Energy Statistics, which is tasked with organizing the survey, collection, compilation, and publication of energy data.

[21] "China Agrees Energy Data Deal," Radio Free Asia (Online), 3 November 09. Radio Free Asia reported Professor Philip Andrews-Speed, an expert on Chinese energy issues at the University of Dundee in Scotland, as saying Chinese energy data has accuracy problems because of the large number of data sources and the alleged practice by officials of modifying data to meet government targets and advance their personal careers. Transparency in Environmental Protection and Climate Change in China, Staff Roundtable of the Congressional-Executive Commission on China, 1 April 10, Testimony of Deborah Seligsohn, Senior Advisor, China Climate and Energy Program, World Resources Institute. Ms. Seligsohn stated that "[t]here is no doubt data could be improved . . . [w]hile [the National Bureau of Statistics] has become much more willing to revise its data sets . . . Chinese revisions of recent-year data do not always include revisions of prior-year data, making time series analysis difficult."

[22] Coral Davenport, "Kerry's Reality Check in Copenhagen," CQ Today (Online), 17 December 09. In December 2009, Su Wei, China's primary climate change negotiator, said: "It's not necessary for others to have worries about China's reductions commitment, because these have been approved by the National People's Congress . . . [t]he delegates in Congress have the role of supervision . . . ."

[23] Ibid. Su Wei also stated, "[t]he channels of information are open . . . [i]nstitutions and countries who have questions about China's commitment will be answered."

[24] Copenhagen Accord (Decision 2/CP.15), UNFCCC, Conference of Parties, 15th Sess., FCCC/CP/2009/11/Add. 1, 18 December 09, art. 5. Article 5 of the Copenhagen Accord states: ". . . [m]itigation actions subsequently taken and envisaged by Non-Annex I Parties, including national inventory reports, shall be communicated through national communications consistent with Article 12.1(b) every two years on the basis of guidelines to be adopted by the Conference of the Parties. Those mitigation actions in national communications or otherwise communicated to the Secretariat will be added to the list in appendix II. Mitigation actions taken by Non-Annex I Parties will be subject to their domestic measurement, reporting and verification the result of which will be reported through their national communications every two years. Non-Annex I Parties will communicate information on the implementation of their actions through National Communications, with provisions for international consultations and analysis under clearly defined guidelines that will ensure that national sovereignty is respected. Nationally appropriate mitigation actions seeking international support will be recorded in a registry along with relevant technology, finance and capacity building support . . . . These supported nationally appropriate mitigation actions will be subject to international measurement, reporting and verification in accordance with guidelines adopted by the Conference of the Parties."

[25] "Build Consensus and Strengthen Cooperation To Advance the Historical Process of Combating Climate Change," Xinhua (Online), 18 December 09. Wen said China ". . . will further enhance the domestic-statistical, monitoring and evaluation methods, improve the way for releasing emission reduction information, increase transparency and actively engage in international exchange, dialogue and cooperation."

[26] International Energy Agency (Online), Joint Statement by the National Energy Administration of the People's Republic of China and the International Energy Agency, 14 October 09, para. 16. China and the IEA announced China would engage in several programs including one related to energy statistics: "[a]ccurate, complete and timely energy statistics are essential in all countries to inform wise policy choices and foster market stability. Experts from China and of the IEA will continue to work together on capacity building to strengthen China's energy statistical system, and will co-operate in the development of internationally comparable statistics and indicators of energy efficiency in all sectors, to support energy policy making in China."

[27] U.S. Environmental Protection Agency (Online), Memorandum of Cooperation Between the National Development and Reform Commission of the People's Republic of China and the Envi-

ronmental Protection Agency of the United States of America To Build Capacity To Address Climate Change, 17 November 09, sec. 2. The memorandum states: "[t]he cooperative activities undertaken pursuant to this Memorandum of Cooperation, hereinafter referred to as the 'MOC,' may involve the following areas: 1. Capacity building for developing greenhouse gas inventories; 2. Education and public awareness of climate change; 3. The impacts of climate change to economic development, human health and ecological system, as well as research on corresponding countermeasures; and 4. Other areas as determined by the Participants."

[28] U.S. White House (Online), U.S.-China Joint Statement, 17 November 09.

[29] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. 7; National Development and Reform Commission, Medium and Long-Term Development Plan for Renewable Energy in China (Abbreviated Version), China Internet Information Center (Online), September 2007, secs. 3.2, 4, and 4.1.

[30] Peter H. Gleick, "Three Gorges Dam Project, Yangtze River, China" in Peter H. Gleick et al., The World's Water 2008–2009 (Washington: Island Press, 2009), 145–146.

[31] See, e.g., Peter H. Gleick, "Three Gorges Dam Project, Yangtze River, China," in Peter H. Gleick et al., The World's Water 2008–2009 (Washington: Island Press, 2009), 145–146; Jim Yardley, "Chinese Dam Projects Criticized for Their Human Costs, Choking on Growth, Part IV," New York Times (Online), 19 November 07; CECC, 2006 Annual Report, 20 September 06, 103; "Three Gorges Resettlement Activist Paralyzed After Assault," CECC China Human Rights and Rule of Law Update, July 2006, 10–11; Stacy Mosher, "The Case of Fu Xiancai," China Rights Forum, No. 3, 2006, 48–51.

[32] Wan Huazhong, "Dam Forces Relocations of 300,000 More," China Daily (Online), 21 January 10; "Three Gorges Relocated Migrants: Return to Emptiness and Wondering Ever Since" [Sanxia waiqian yimin, guiqu lai xikong paihuai], Southern Daily (Online), 10 March 10.

[33] Wan Huazhong "Dam Forces Relocations of 300,000 More," China Daily (Online), 21 January 10. The article noted that as of January 2010, an additional 300,000 people living in the reservoir area still needed to be relocated to ensure people's safety from geographic hazards, such as landslides. "Central China City Relocates 150,000 People for Three Gorges Project in 17 Years," Xinhua (Online), 10 January 10.

[34] Shi Jiangtao, "Protest Over Dam Project Ends After 20-Hour Stand-Off," South China Morning Post (Online), 26 April 10; "Sichuan Farmers Protest of Dadu Dam Seen To Have Little Impact," South China Morning Post, 4 January 05 (Open Source Center, 4 January 05); "100,000 Protesters Clash With Police Over Dam Project in Sichuan," Tai Yang Pao, 1 November 04 (Open Source Center, 1 November 04). The Pubugou Dam was the site of one of China's most serious outbreaks of rural unrest in 2004 when tens of thousands of citizens protested against the dam's construction.

[35] Shi Jiangtao, "Protest Over Dam Project Ends After 20-Hour Stand-Off," South China Morning Post (Online), 26 April 10.

[36] Shi Jiangtao, "Six Arrested for Defying Eviction Over Dam Work," South China Morning Post (Online), 24 June 10.

[37] Ibid.

[38] Philip Brown and Yilin Xu, Social Science Research Network (Online), "Hydropower Development and Resettlement Policy on China's Nu River," 2010, 13–17.

[39] Qian Haoping, "Shaanxi Weinan Police Go to Beijing To Detain Writer, Say His Book Publication Involves Illegal Business Operations" [Shaanxi weinan jingfang jinjing zhuazou zuojia cheng qi chushu she feifa jingying], Beijing News, reprinted in Phoenix Net (Online), 1 September 10.

[40] Ibid.

[41] Ibid.

[42] Ibid.

[43] He Xin, Liu Chang, Qin Xudong, and Tang Ying, "Yellow River Reportage Lands Writer in Jail," Caixin (Online), 10 September 10.

[44] "In Writer's Arrest, a New Cry for Rule of Law," Century Weekly, reprinted in Caixin (Online), 10 September 10.

[45] Zhou Ze, "Doubts About Relevant Weinan Department's Notifications Regarding the Xie Chaoping Case Communicated by the News" [Dui xie chaoping an xinwen tongji shang weinan youguan bumen tongbao qingkuang de zhiyi], Caijing (Online), 18 September 10; "Police Enter Beijing To Detain a Person, Xie Chaoping 'Guilty of Speech' or 'Illegal Business Activities?'" [Jingcha jinjing zhuaren, xie chaoping "yiyan huozui" haishi "feifa jingying"], Southern Daily (Online), 2 September 10; "Please Let Us Believe Xie Chaoping Is Not 'Guilty of Speech'" [Qing rang women xiangxin xie chaoping bushi "yinyan huozui"], Zhengyi Net (Online), 3 September 10; "Mistakes in the Xie Chaoping Case Should Be Rectified as Soon as Possible" [Xie chaoping an ying jinkuai jiucuo], Century Weekly (Online), 4 September 10; "Regarding the Process of Publishing 'The Great Migration' and Numerous Questions About Weinan Police Involvement" [Guanyu "daqianxi" chuban de jingguo ji dui weinan jingfang jieru de zhuduo bujie], Caixin (Online), 3 September 10.

[46] "Weinan 'Book Case' Procuratorate Rejects Arrest of Xie Chaoping" [Weinan "shu'an" jianfang jubu xie chaoping], Caijing (Online), 17 September 10.

[47] Ibid.

[48] "Weinan 'Book Case' Worker at a Print Shop Detained Because of 'The Great Migration'" [Weinan "shu'an" yi yinshuachang zhigong yin "daqianxi" beizhua], Caijing (Online), 16 September 10; "Tracking Down 'Great Migration' Printer Zhao Shun" [Zhuixun "daqianxi" yinshuaren zhaoshun], Voice of America (Online), 20 September 10.

[49] National Population and Family Planning Commission (Online), "Deputy Director Zhao Baige and Other Leaders Give Lectures at an International Research Forum on Population and Climate Change" [Zhao baige fuzhuren deng lingdao zai renkou yu qihou bianhua guoji yanxiu banshang zuo zhuanti yanjiang], 28 April 10; "China Says Population Controls Help Fight Climate Change," Reuters (Online), 11 December 09.

[50] National Population and Family Planning Commission (Online), "Deputy Director Zhao Baige and Other Leaders Give Lectures at an International Research Forum on Population and Climate Change" [Zhao baige fuzhuren deng lingdao zai renkou yu qihou bianhua guoji yanxiu banshang zuo zhuanti yanjiang], 28 April 10.

[51] See CECC, 2009 Annual Report, 10 October 09, 151.

[52] Ministry of Environmental Protection, First National Pollution Source Survey Report [Diyi ci quanguo wuranyuan pucha gongbao], 6 February 10. The ministry started the survey in December 2007 and incorporated data from 5.93 million sources.

[53] Ministry of Environmental Protection (Online), "Ministry of Environmental Protection: Four Points From Results of First National Pollution Source Survey" [Huanbaobu: diyi ci quanguo wuranyuan pucha gongzuo chengguo you si fangmian], 9 February 10; Shai Oster, "China Sees Vast Pollution," Wall Street Journal (Online), 10 February 10; Emma Graham-Harrison, "China's Water Pollution Level Higher Than Estimated in 2007," Reuters (Online), 10 February 10.

[54] Ministry of Environmental Protection (Online), "Ministry of Environmental Protection: Four Points From Results of First National Pollution Source Survey" [Huanbaobu: diyi ci quanguo wuranyuan pucha gongzuo chengguo you si fangmian], 9 February 10.

[55] Zhang Ruidan, "Widest Pollution Trail Leads to Farm Fields," Caixin (Online), 25 February 10.

[56] Ministry of Environmental Protection, First National Pollution Source Survey Report [Diyi ci quanguo wuranyuan pucha gongbao], 6 February 10; Emma Graham-Harrison, "China's Water Pollution Level Higher Than Estimated in 2007," Reuters (Online), 10 February 10. Greenpeace campaign director Sze Pang Cheung urged the government to give the public access to the survey data.

[57] Lee Liu, Environment Magazine (Online), "Made in China: Cancer Villages," March/April 2010. See section of report titled "How Real Is the Cancer-Village Phenomenon, and Who Is Spreading the Word/" for more information about the various Chinese research projects examining "cancer villages."

[58] Ibid.

[59] Ibid.

[60] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. 7. The action plan states: "[u]pholding the principle of harmonious development between man and nature and the rational exploitation and utilization of natural resources, China will take an active part in international cooperation in an effort to create an environment favorable for human existence and sustainable development and build a resource-conserving and environment-friendly society to guarantee the public's environmental rights."

[61] Ibid. It states "[s]pecial actions will be taken to protect public health by intensifying monitoring over and punishing enterprises that discharge pollutants against the law, and by investigating and severely punishing acts and cases of violating laws and regulations on environmental protection."

[62] Ibid.

[63] Cui Peng, "National Audit Office: False Reports Divert 515 Million Yuan for Water Pollution Prevention" [Shenjishu: shui wuran fangzhi nuoyong xubao 5.15 yiyuan], People's Daily (Online), 29 October 09.

[64] Ibid.

[65] "Main Culprit Behind Jiahe's 'Blood Lead Incident' (2)" [Jiahe "xieqian shijian" beihou yuanxiong (2)], Beijing News (Online), 16 March 10. The news story reported that Jiahe County People's Congress Standing Committee member Luo Jiangbing said some of the new enterprises in the county would open for operations prior to conducting an environmental impact assessment (EIA), some would not even conduct an EIA, and others would open for business without meeting the requirements of an EIA.

[66] Wang Gang et al., "Pollution in the Go: Mistakes During the Transfer of Industries" [Wuran qianzou: chanye zhuanyizhong de fazhan wuqu], in Change: Chinese Environmental Journalists Survey Report [Gaibian: zhongguo huanjing jizhe diaocha baogao], ed. Wang Yongchen (Beijing: SDX Joint Publishing Company, 2007), 198–200; "Main Culprit Behind Jiahe's 'Blood Lead Incident' (2)" [Jiahe "xieqian shijian" beihou yuanxiong (2)], Beijing News (Online), 16 March 10. During the reporting year, Lei Xiangdong, the Director of the Jiahe Environmental Protection Bureau in Hunan province, commented that some enterprises using antiquated equipment had been shut down in neighboring Guangdong province, and then moved to the poorer county of Jiahe. He continued by saying "everyone is developing the economy, Jiahe is backwards, it is not easy to get a few enterprises to move [here], it is not good to discipline them."

[67] Ministry of Supervision (Online), "2009 Discipline Inspection and Supervision Entities Case Investigation and Management Work Situation Press Conference," 7 January 10.

[68] Cui Peng, "National Audit Office Announced 'Three Rivers and Three Lakes' Water Pollution Prevention and Control Achievements Audit Investigation Results," People's Daily (Online), 29 October 09. The article noted that 515 million yuan in project funding had been misappropriated or appropriated using falsified reports; 214.3 million yuan in project funding had not been collected or was [on the books as being] in arrears (as waste management fees or pollution levies) in nine provinces, autonomous regions, or cities; and 151 million yuan in project funding had been misappropriated or held back (retained for one's own use) by enterprises in 13 provinces, autonomous regions, and cities.

[69] "Transparency in China: Implications for the Environment and Climate Change," Staff Roundtable of the Congressional-Executive Commission on China, 1 April 10, Testimony of Barbara Finamore, Senior Attorney and Director, China Program, Natural Resources Defense Council, 7.

[70] Natural Resources Defense Council and Institute for Public and Environmental Affairs, "Breaking the Ice on Open Environmental Information" [Huanjing xinxi gongkai jiannan

pobing], June 2010; Alex Wang, Switchboard (Online), "Assessing the State of Environmental Transparency in China," 7 June 10.

[71] Ministry of Environmental Protection, Ministry of Environmental Protection Open Government Information Work 2009 Annual Report [Huanjing baohubu zhengfu xinxi gongkai gongzuo 2009 niandu baogao], 18 March 10. Citizens requested information primarily about environmental impact assessment reports, environmental monitoring data, and environmental laws and regulations among other items. CECC, 2009 Annual Report, 10 October 10, 198; Ministry of Environmental Protection, Ministry of Environmental Protection 2008 Government Open Information Work Report [Huanjing baohubu zhengfu xinxi gongkai gongzuo 2008 niandu baogao], 20 March 09.

[72] Ministry of Environmental Protection, Ministry of Environmental Protection Open Government Information Work 2009 Annual Report [Huanjing baohubu zhengfu xinxi gongkai gongzuo 2009 niandu baogao], 18 March 10.

[73] Ibid. Six were submitted by the same person in connection with Ministry of Environmental Protection matters (the ministry upheld the original decision in all six) and three in connection with local environmental protection bureau matters.

[74] Ibid.

[75] Ren Xinghui, "Explanation for the Circumstances of My Open Government Information Request Regarding Three Gorges Dam Construction Funding" [Wo shenqing sanxia gongcheng jianshe zijin xiangguan zhengfu xinxi gongkai de qingkuang shuoming], reprinted in China Transparency (Online), 9 December 09. He sent requests to the Ministry of Finance, the Three Gorges Project Construction Committee under the State Council, and the China Yangtze Three Gorges Project Development Corporation.

[76] Ibid.; Opinions on Several Questions Regarding the People's Republic of China Regulations on Open Government Information [Zhonghua renmin gongheguo zhengfu xinxi gongkai tiaoli ruogan wenti de yijian], issued 29 April 08, art. 14.

[77] Shai Oster, "Activists Test China's Openness Vows," Wall Street Journal (Online), 10 March 10.

[78] Three Gorges Watch (Online), "Already Raised Appeal in Case Against Ministry of Finance for Non-Disclosure of Three Gorges Construction Funding Information" [Su caizhengbu sanxia jianshe zijin xinxi bu gongkai an, yitiqi shangsu], 21 April 10.

[79] Ibid.

[80] Cara Anna, "First Details on China Oil Spill's Cause Emerge," Associated Press, reprinted in Google (Online), 23 July 10.

[81] Andrew Jacobs, "Group Says China's Official Oil Spill Figure May Be Too Low," New York Times (Online), 30 July 10.

[82] Shi Jiangtao, "Sludge, Sludge, Wink, Wink: How Collusion Abets Pollution," South China Morning Post (Online), 27 July 10.

[83] "Pollution From Copper Mine Kills Millions of Fish," Agence France-Presse (Online), 12 July 10.

[84] Alex Wang, "Zijin Mining Group's Inadequate Disclosure of China Acid Spill, What Needs To Be Done/" Greenlaw (Online), 24 July 10.

[85] Shi Jiangtao, "Sludge, Sludge, Wink, Wink: How Collusion Abets Pollution," South China Morning Post (Online), 27 July 10. The South China Morning Post reported that because of the June pollution incident, approximately 200 fishermen from several nearby villages obstructed the gate of the county government building with two tons of dead fish on June 23, 2010, but as of the end of July, residents said top local authorities had not taken real action so far to address citizen complaints about the pollution problem.

[86] Alex Wang, "The Real Significance of China's First Environmental Group-Led Lawsuit Against the Government," Switchboard (Online), 10 August 09; "China's First Environmental Administrative Public Interest Litigation Case by a Social Organization Opens in Guiyang" [Quanguo shouli shetuan zuzhi huanjing xingzheng gongyi susongan guiyang kaishen], 3 February 09. On September 1, 2009, one hour into the trial, the All-China Environment Federation agreed to withdraw the case against the Qingzhen City Ministry of Land and Resources in Guizhou province.

[87] Qin Xudong, "China's First Environmental Civil Case Ends in Mediation," Caijing (Online), 30 September 09. The All-China Environment Federation accepted a mediated settlement in its case against the Jiangyin Port Container Company in July 2009 in Wuyi city, Jiangsu province.

[88] "Follow-Up on Jinsha River Environmental Public Interest Rights Defense Incident" [Jinshajiang huanjing gongyi weiquan shijian zhuizong], China Economic Times (Online), 27 August 09.

[89] Ibid. Prior to Wu dropping his request, the Chongqing City Environmental Protection Bureau and the All-China Environment Federation consulted with Wu.

[90] Zhangjiajie Municipal Environmental Protection Bureau (Online), "National Environmental Petition Work: Videoconference Convenes" [Quanguo huanjing xinfang gongzuo, shipin huiyi zhaokai], 14 April 10.

[91] Jinhua Municipal Environmental Protection Bureau (Online), "Ministry of Environmental Protection Convenes First National Environmental Petition Work Videoconference" [Huanbaobu zhaokao di yici quanguo huanjing xinfang gongzuo shipin huiyi], 15 April 10.

[92] Ibid.

[93] Li Jing, "Heavy Metal Pollution To Be Controlled," China Daily (Online), 27 January 10. In January 2010, the Minister of Environmental Protection said the ministry would issue a plan to manage and remediate heavy metal pollution by June 2010 after review by the State Council. Alex Wang, "More Heavy Metal Mania: Another China Pollution Round-Up," Switchboard (Online), 2 November 09; Wang Qian, "China Cracks Down on Heavy Metal Pollution," China Daily (Online), 10 April 10. The Ministry of Environmental Protection conducted a nationwide campaign to investigate enterprises that are sources of heavy metal pollution.

[94] Jinhua Municipal Environmental Protection Bureau (Online), "Ministry of Environmental Protection First National Environmental Petition Work Videoconference" [Huanbaobu zhaokai diyici quanguo huanjing xinfang gongzuo shipin huiyi], 15 April 10.

[95] For more information about the Wugang case, see "Lead Poisoning in Children in Hunan Triggers Protests by Parents and Raises Questions About Governmental Accountability," CECC China Human Rights and Rule of Law Update, No. 1, 8 January 10, 2; Michael Wines, "Lead Sickens 1,300 Children in China," New York Times (Online), 20 August 09.

[96] "Lead Poisoning in Children in Hunan Triggers Protests by Parents and Raises Questions About Governmental Accountability," CECC China Human Rights and Rule of Law Update, No. 1, 8 January 10, 2; "China Detains 15 Over Lead Protest," Associated Press, reprinted in Wall Street Journal (Online), 3 September 09; Song Shengxia, "Police Deny Arresting Parents Over Lead Case," Global Times (Online), 4 September 09; "Parents of Poison Victims Say China Linking Them to Falun Gong," CNN (Online), 3 September 09.

[97] For more information about the Shaanxi lead poisoning case, see "Lead Poisoning Incident in Shaanxi Leads to Protests, Rights Infringements Reported," CECC China Human Rights and Rule of Law Update, No. 6, 9 December 09, 8; Tu Chonghang, "Shaanxi Lead Poisoning Incident From Start to Finish" [Shaanxi fengxiang qian zhongdu shijianshiwei], Beijing News, reprinted in China Law Information Net (Online), 21 August 09.

[98] Jonathan Watts, "China Defends Detention of Lead Poisoning Victims Who Sought Medical Help," Guardian (Online), 16 March 10; "Main Culprit Behind Jiahe's 'Blood Lead Incident' (2)" [Jiahe "xieqian shijian" beihou yuanxiong (2)], Beijing News (Online), 16 March 10.

[99] Choi Chi-yuk, "Landfill at Water Source Stirs Up Unrest in Anhui," South China Morning Post (Online), 28 July 10; "Popular Protest Against Landfill in Shucheng County Met With Police Force" [Shucheng minzhong kangyi lajidui tianqu zaoyu jingcha baoli], Radio Free Asia (Online), 26 July 10; "Shucheng County, Anhui Province Residents Protest Construction of Landfill, Clash Between Police and Citizens Shelves Project" [Anhui shucheng baixing kangyi xingjian lajichang jingmin chongtu jihua gezhi], Radio Free Asia (Online), 27 July 10.

[100] Liu Shuduo, "Guangxi Villagers Resist Re-siting of Landfill, Six People Detained, Eight People's Whereabouts Unknown" [Guangxi cunmin dizhi lajichang gaizhi, 6 ren beiju 8 ren xialuo buming], Global Times (Online), 25 July 10.

[101] "Police Fire Teargas and Arrest Villagers Protesting Chosen Location for Landfill Site" [Cunmin dizhi lajichang xuanzhi jiangfang fashe cuilei waci jincun zhuaren], China Economic Times (Online), 26 July 10.

[102] Ibid.

[103] PRC Criminal Procedure Law, enacted 1 July 79, amended 17 March 96, effective 1 January 97, art. 64. Public security officials are required to notify family members or employers of the reasons for and place of a person's detention within 24 hours.

[104] "Police Fire Teargas and Arrest Villagers Protesting Chosen Location for Landfill Site" [Cunmin dizhi lajichang xuanzhi jiangfang fashe cuilei wacijincun zhuaren], China Economic Times (Online), 26 July 10.

[105] Ibid.

[106] Li Dewen, Chinese Human Rights Defenders (Online), "In Jiangsu Province, Wujiang City, Pingwang Town, Tens of Thousands Join Demonstration" [Jiangsu wujiang pingwanzhen shuwan jumin lianxu juxing kangyi shiwei], 25 October 09; "Wujiang, Jiangsu Waste Cogeneration Power Plant, a 300 Million Yuan Investment, Is Closed Because of Citizen Resistance" [Jiangsu wujiang touzi 3yi laji fadianchang yin qunzhong dizhi beijiaoting], Southern Daily (Online), 2 November 09; "Tens of Thousands of People Continuously Protest in the Streets Against Putting Into Operation a Waste Incineration Cogeneration Plant in Wujiang, Jiangsu" [Jiangsu wujiang laji ranshaochang touchan shuwan ren lianxu jietou kangyi], Radio Free Asia (Online), 22 October 09.

[107] "Oppose Beijing Waste Incineration, Protect Rights: Bieshu District PK Asia's Largest Incineration Plant" [Beijing fan laji ranshao weiquan: bieshuchu pk yazhou zuida ranshaochang], Southern Metropolitan Daily (Online), 3 March 10; Li Jing, "Green NGO Drives Change at Grass Roots," China Daily (Online), 20 April 10; "Officials State Beijing Already Has No Room To Put Garbage, Incineration Plant Construction Plan Will Not Change" [Guanyuan cheng beijing yi wudi mai laji ranshaochang jianshe guihua bu hui gaibian], Beijing Times (Online), 11 May 10. One community of residents, known by the name Aobei, submitted a 25,000-word alternative proposal to authorities.

[108] Chloe Lai, "Stealth Protest Over Waste Burning Takes Off," South China Morning Post (Online), 15 November 09; Fang Zilin, Chinese Human Rights Defenders (Online), "Panyu, Guangdong Residents Opposed to Garbage Incinerator Construction Stage Sit-In Protest" [Guangdong panyu fandui jian laji fenshaochang de shimin kaishi jingzuo kangzheng], 23 November 09. Citizens also used other tactics such as producing t-shirts and bumper stickers and collecting thousands of signatures for a petition.

[109] Chloe Lai, "Stealth Protest Over Waste Burning Takes Off," South China Morning Post (Online), 15 November 09.

[110] "Guangzhou Proprietors Oppose Construction of Waste Incineration Plant in Their District" [Guangzhou yezhu fandui qunei jian laji ranshaochang], Radio Free Asia (Online), 4 November 09.

[111] "China's Guangzhou Suspends Incinerator Project Until Environmental Assessments OK," Xinhua (Online), 23 November 09; Ivan Zhai, "Controversial Incinerator Project on Hold," South China Morning Post (Online), 12 December 09; "Disputed Garbage Incinerator Project Suspended in South China," Xinhua (Online), 21 December 09.

[112] Kristine Kwok, "Tibetans Beaten During Angry Protests," South China Morning Post (Online), 19 May 10; "Enterprise Development Leads to Environmental Disaster Citizen Protest in Tibetan Areas Suppressed" [Qiye kaifa zhi huanjing zainan zangqu minzhong kangyi zao zhenya], Radio Free Asia (Online), 18 May 10.

[113] Ibid.

[114] "Villagers Renew Mine Protests," Radio Free Asia (Online), 12 May 10; "Tibetans Held After Protest," Radio Free Asia (Online), 21 June 10.

[115] "Tibetans Held After Protest," Radio Free Asia (Online), 21 June 10.

[116] "Thousands of Guangxi Villagers Clash With Polluting Factory, Many Detained After Blocking Roads and Protesting" [Guangxi qian cunmin chong wuranchang dulu kangyi duoren beiju], Radio Free Asia (Online), 14 July 10.

[117] Choi Chi-yuk, "How Greed Turned River Into Pea Soup and Left Village in Despair," South China Morning Post (Online), 23 July 10.

[118] "Thousands of Guangxi Villagers Clash With Polluting Factory, Many Detained After Blocking Roads and Protesting" [Guangxi qian cunmin chong wuranchang dulu kangyi duoren beiju], Radio Free Asia (Online), 14 July 10.

[119] "17 Jingxi County Rioters Arrested in Guangxi, Police Seal Village" [Guangxi jingxi xian saoluan 17 ren beibu jingcha fengcun], Radio Free Asia (Online), 15 July 10.

[120] "Rights Defender Xiao Qingshan Detained for Seven Days for Publicizing Environmental Protection" [Weiquan renshi xiao qingshan yin xuanchuan huanbao bei juliu qiri], Radio Free Asia (Online), 07 April 10.

[121] "Beijing Non-Governmental Environmental Protection Forum Prevented, Some Participants Summoned, Houses Searched, and Some Put Under Soft Detention" [Beijing minjian huanbao yantao bei jin zao chuanhuan chaojia ruanjin zhe zong], Radio Free Asia (Online), 12 April 10. At the forum, participants were scheduled to discuss China's drought and the role of non-governmental groups in addressing the problem. Gu reported that the police who questioned him thought that the 30 people who were involved in organizing or were possibly going to attend the forum could be put under surveillance, warned not to go, interrogated, or put under soft detention.

[122] Chinese Human Rights Defenders (Online), "Police Raid Home of Beijing Activist Gu Chuan as Pressure on Human Rights Defenders Increases," 9 April 10. Authorities requested information about his bank account, confiscated his computers, notebooks, and other belongings, without producing a warrant, and interrogated him for seven hours.

[123] Human Rights Watch (Online), "China: Drop Charges Against Tibetan Environmental Philanthropist," 10 June 10.

[124] "Tibetan Environmentalist Jailed for 5 Years," Reuters (Online), 3 July 10.

[125] Human Rights Watch (Online), "China: Drop Charges Against Tibetan Environmental Philanthropist," 10 June 10; Cara Anna, "China Now Pressuring Tibetans Outside Politics," Associated Press, reprinted in Yahoo! (Online), 18 June 10.

[126] Robert Saiget, "China Environmentalist Alleges Brutal Jail Treatment," Agence France-Presse (Online), 11 May 10; "Taihu Lake Defender Wu Lihong Released From Prison, Local Authorities Block People From Greeting Him" [Taihu weishi wu lihong chuyu dangju zuzhi minzhong yingjie], Radio Free Asia (Online), 12 April 10; "Environmental Activist Wu Lihong Released, Alleges Abuse," CECC Human Rights and Rule of Law Update, No. 5, 4 June 10, 2; CECC, 2007 Annual Report, 10 October 07, 138.

[127] Robert Saiget, "China Environmentalist Alleges Brutal Jail Treatment," Agence France-Presse (Online), 11 May 10; "Environmental Activist Wu Lihong Completes Sentence, Publicly Requests Authorities To Restore His Reputation" [Huanbao renshi wulihong xingman huoshi gongkai yaoqiu dangju huifu mingyu], Radio Free Asia (Online), 11 May 10.

Notes to Section III—Civil Society

[1] Civil society organizations in China include a range of groups, such as national mass organizations that Party authorities created and fund, smaller citizen associations registered under national regulations, and loose networks of unregistered grassroots organizations. The Chinese organizational forms that most nearly correspond to the Western concept of a non-governmental organization are social organizations (SOs) [*shehui tuanti*], non-governmental and non-commercial enterprises (NGNCEs) [*minban feiqiye danwei*], and foundations [*jijinhui*]. SOs are voluntary organizations; they include academic, professional, or trade organizations, as well as voluntary associations of individuals with a common interest. NGNCEs are non-governmental service providers, including schools, hospitals, sports organizations, or employment service organizations. Foundations are non-profit and non-governmental organizations managed through the use of funds voluntarily donated by foreign and domestic social organizations. Foundations often promote the development of scientific research, culture, education, social welfare, and social services. The State Council issued the current national regulations governing SOs and NGNCEs in 1998, and those regulating foundations in 2004. The proliferation of different organizational forms stems in part from the fact that China has only recently concentrated on creating a comprehensive system of governance for the large number of private voluntary organizations that have emerged in the wake of the enormous social changes of the 1980s and 1990s. It is also a result of strict registration regulations that drive many civil society organizations to operate without government registration.

[2] Ministry of Civil Affairs, Civil Affairs Statistics, Quarterly Report [Minzheng shiye tongji ji bao], 2010; see also CECC, 2006 Annual Report, 20 September 06, 120; CECC, Topic Paper: Chinese Civil Society Organizations, 12 August 05.

[3] CECC, 2009 Annual Report, 10 October 09, 204.

[4] Ibid. For more detailed definitions of civil society organizations in China, see CECC, Topic Paper: Chinese Civil Society Organizations, 12 August 05.

[5] "How China's NGOs Can Make a Difference," South China Morning Post (Online), 14 December 09; Keith B. Richburg, "China's Crackdown on Non-Profit Groups Prompts New Fears Among Activists," Washington Post (Online), 11 May 10.

[6] China Labour Bulletin (Online), "Beijing Gives Local Governments 30 Days To Implement Anti-HBV Discrimination Measures," 12 February 10.

[7] John Carney, "Vilified Oxfam Points to Good Works in China," South China Morning Post (Online), 21 March 10.

[8] Keith B. Richburg, "China's Crackdown on Non-Profit Groups Prompts New Fears Among Activists," Washington Post (Online), 11 May 10; Chen Xiangyang, "The Current State and Challenges of Non-Governmental Organizations in China" [Fei zhengfu zuzhi zai zhongguo de xianzhang ji tiaojian], China Economic Times, 26 May 05.

[9] Chen Xiangyang, "The Current State and Challenges of Non-Governmental Organizations in China" [Fei zhengfu zuzhi zai zhongguo de xianzhang ji tiaojian], China Economic Times, 26 May 05.

[10] Keith B. Richburg, "China's Crackdown on Non-Profit Groups Prompts New Fears Among Activists," Washington Post (Online), 11 May 10.

[11] PRC Constitution, adopted 4 December 82, amended 12 April 88, 29 March 93, 15 March 99, 14 March 04, art. 35.

[12] International Covenant on Civil and Political Rights (ICCPR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art 22.

[13] For the purposes of this section, the term "NGO" refers to NGOs recognized in Chinese law (of which the various types recognized under Chinese law are sometimes referred to collectively in English as civil society organizations or social organizations), as well as those not registered with the government, or those that operate as a legally recognized organization but are not considered an NGO according to Chinese law.

[14] Regulations for the Registration and Management of Social Organizations [Shehui tuanti dengji guanli tiaoli], issued and effective 25 October 98, art. 6; Yu Fangqiang, "Challenges for NGOs in China," Asia Catalyst (Online), 2 June 09.

[15] Regulations for the Registration and Management of Social Organizations [Shehui tuanti dengji guanli tiaoli], issued and effective 25 October 98, art. 27.

[16] Human Rights Watch (Online), "Restrictions on AIDS Activists in China," 14 June 05, sec. VI, 42–49.

[17] Yu Fangqiang, "Challenges for NGOs in China," Asia Catalyst (Online), 2 June 09.

[18] Asia Catalyst (Online), "Restrictions on AIDS NGOs in Asia," 1 December 09, 10.

[19] Verna Yu, "China's NGOs Fear for the Worst," Asia Times (Online), 15 August 09.

[20] China Human Rights Lawyers Concern Group (Online), "Deeply Concerned About Beijing Civil Organization 'Gongmeng' Being Unreasonably Clamped Down," 17 July 09.

[21] Human Rights in China (Online), "Law Research Center Is Shut Down as Authorities Tighten Control on Civil Society Groups," 17 July 09.

[22] Verna Yu, "China's NGOs Fear for the Worst," Asia Times (Online), 15 August 09.

[23] Gillian Wong, "China AIDS Activist Flees to US After Harassment," Associated Press (Online), 10 May 10.

[24] "Beijing on Alert as Annual Political Session Opens," Associated Press (Online), 2 March 10.

[25] Gillian Wong, "China AIDS Activist Flees to US After Harassment," Associated Press (Online), 10 May 10.

[26] Amnesty International (Online), "China Human Rights Briefing 23–30 March 2010," 1 April 10.

[27] Gillian Wong, "China AIDS Activist Flees to US After Harassment," Associated Press (Online), 10 May 10.

[28] Peking University Department of Social Sciences (Online), "Public Announcement" [Gong gao], 25 March 10; "Rights Defense NGOs Affiliated With Peking University Suddenly Killed" [Beida xia xia weiquan NGO tu bei sha], Ming Pao (Online), 30 March 10.

[29] "RFA Exclusive: Guo Jianmei Says Peking University Should Not Have Removed the Center" [RFA dujia: guo jianmei cheng beida che zhongxin bu ying gai], Radio Free Asia (Online), 29 March 10.

[30] "NGOs Fear Tighter State Curbs After University Cuts Links," South China Morning Post (Online), 30 March 10; Zhang Jieping, "Public Interest Lawyer Guo Jianmei's NGO Faces Pressure" [Gongyi lushi guo jianmei NGO bei daya], Asia Week (Online), 11 April 10.

[31] Ministry of Education, Urgent Notice From the Party Committee of the Ministry of Education Regarding Preventing Oxfam International's Chinese Office in Hong Kong From Recruiting "University Student Volunteers" via the Internet [Guanyu fangzhi xianggang le shi hui zhongguo fen bu tongguo hulianwang zai wo gaoxiao zhaopin daxuesheng zhiyuan zhe de jinji tongzhi], issued 4 February 10; Christopher Bodeen, "China Tells Schools To Shun Relief Agency Oxfam," Associated Press (Online), 23 February 10; He Bei, Chinese Human Rights Defenders (Online), "Ministry of Education Orders College Students Not To Participate in Hong Kong Oxfam" [Zhongguo jiaoyu bu leling daxuesheng bude canyu xianggang le shi hui], 23 February 10.

[32] Christopher Bodeen, "China Tells Schools To Shun Relief Agency Oxfam," Associated Press (Online), 23 February 10; "Mainland Suddenly 'Clamps Down,' Oxfam Will Cease Training Programs" [Neidi tu fengsha le shi hui ting peixun], Sina (Online), 24 February 10.

[33] State Administration of Foreign Exchange, Circular on Issues Concerning the Management of Foreign Exchange Donated to or by Domestic Institutions [Guanyu jingnei jigou juanzeng waihui guanli youguan wenti de tongzhi], issued 30 December 09, effective 1 March 10.

[34] Ibid., art. 2.

[35] Ibid., art. 5(1).

[36] Ibid., art. 5(2).

[37] Ibid., art. 5(3).

[38] Ibid., art. 5(4).

[39] Ibid., art. 5(3).

[40] Zhang Han, "NGOs Feel the Squeeze," Global Times (Online), 19 May 10.

[41] "Hot Topic: China Suppresses NGOs," Radio Free Asia (Online), 17 May 10.

[42] State Administration of Foreign Exchange, Circular on Issues Concerning the Management of Foreign Exchange Donated to or by Domestic Institutions [Guanyu jingnei jigou juanzeng waihui guanli youguan wenti de tongzhi], issued 30 December 09, effective 1 March 10, Intro-

duction; Emma Graham-Harrison, "New Finance Rules Add to Squeeze on China NGOs," Reuters (Online), 12 March 10.

[43] State Administration of Foreign Exchange, Circular on Issues Concerning the Management of Foreign Exchange Donated to or by Domestic Institutions [Guanyu jingnei jigou juanzeng waihui guanli youguan wenti de tongzhi], issued 30 December 09, effective 1 March 10, art. 8; Emma Graham-Harrison, "New Finance Rules Add to Squeeze on China NGOs," Reuters (Online), 12 March 10.

[44] Emma Graham-Harrison, "New Finance Rules Add to Squeeze on China NGOs," Reuters (Online), 12 March 10.

[45] Meg Davis, "China's New Nonprofit Regulations: Season of Instability," Asia Catalyst (Online), 14 June 10.

[46] "Government Advances Civil Society-Related Reforms in Shenzhen," CECC China Human Rights and Rule of Law Update, No. 2, 5 February 10, 3.

[47] Ministry of Civil Affairs and Shenzhen Municipal Government, Cooperation Agreement on Pushing Forward With Integrated Reforms to Civil Affairs Undertakings [Tuijin minzheng shiye zonghe peitao gaige hezno xieyi], issued 20 July 09, item 11.

[48] Karla W. Simon, Professor, the Catholic University of America, at Lecture, "Half a Century of Asian Law: A Celebration of Prof. Jerome Cohen," George Washington University, 20 February 10.

[49] Karla W. Simon, "Two Steps Forward and One Step Back—Developments in the Regulation of Civil Society Organization in China," PowerPoint Presentation, Available at International Center for Civil Society Law (Online), October 2009, slide 12.

[50] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. II(6).

[51] Ibid.

[52] Ibid.

[53] Ibid.

[54] Regulations for the Registration and Management of Social Organizations [Shehui tuanti dengji guanli tiaoli], issued and effective 25 October 98, art. 2.

[55] Ibid., arts. 3–10.

[56] Ibid., art. 4.

[57] Provisional Regulations for the Registration and Management of Non-Commercial Institutions [Shiye danwei dengji guanli zhanxing tiaoli], issued and effective 25 October 98, amended 27 June 04, art. 2.

[58] Regulations for the Management of Foundations [Jijinhui guanli tiaoli], issued 8 March 04, effective 1 June 04, art. 3.

[59] Ibid., arts. 6–10.

[60] Ibid., arts. 8(3), 20, 29.

[61] Ibid., art. 6.

Notes to Section III—Institutions of Democratic Governance

[1] Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A(III) of 10 December 48, art. 21.

[2] International Covenant on Civil and Political Rights (ICCPR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76. China signed the ICCPR in 1998. The Chinese government has committed to ratifying the ICCPR and says it is taking concrete steps to prepare for ratification. In November 2009, a Joint Statement of the 12th EU-China Summit said, "The EU welcomed China's commitment to ratifying the [ICCPR] as soon as possible." Joint Statement of the 12th EU-China Summit, reprinted in China Internet Information Center (Online), 30 November 09. In October 2009, Ambassador Liu Zhenmin, China's Deputy Permanent Representative to the United Nations, said, "At present, legislative, judicial and administrative reforms are under way in China with a view to aligning our domestic legislation with the provisions of the [ICCPR] and paving the way for its ratification." Permanent Mission of the People's Republic of China to the UN (Online), "Statement by H.E. Ambassador Liu Zhenmin, Deputy Permanent Representative of China to the United Nations, at the Third Committee of the 64th Session of the General Assembly on the Implementation of Human Rights Instruments (Item 69A)," 20 October 09. In its 2009–2010 National Human Rights Action Plan issued in April 2009, the Chinese government stated that the ICCPR was one of the "fundamental principles" on which the plan was framed, and that the government "will continue legislative, judicial and administrative reforms to make domestic laws better linked with this Covenant, and prepare the ground for approval of the ICCPR." State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, introduction, sec. V(1). In February 2009, during the UN Human Rights Council's Universal Periodic Review of the Chinese government's human rights record, the Chinese government supported recommendations made by Member States that China ratify the ICCPR. Chinese officials said China was in the process of amending domestic laws, including the criminal procedure law and laws relating to reeducation through labor, to make them compatible with the ICCPR. UN GAOR, Hum. Rts. Coun., 11th Sess., Report of the Working Group on the Universal Periodic Review—China, A/HRC/11/25, 3 March 09, paras. 63, 114(1).

[3] International Covenant on Civil and Political Rights (ICCPR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 25; General Comment No. 25: The Right To Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service, 12 July 96.

[4] Joseph Fewsmith, "Inner-Party Democracy: Development and Limitations," China Leadership Monitor, No. 31, Winter 2010, 1, 9.

[5] "At the End of 2009 Total Number of Party Members Reaches 77,995,000 Nationally" [Jiezhi 2009 niandi quanguo dangyuan zongshu da 7799.5 wan ming], Chinese Communist Party News Net (Online), 28 June 10.

[6] Ibid.

[7] "At the End of 2009 Total Number of Party Members Reaches 77,995,000 Nationally" [Jiezhi 2009 niandi quanguo dangyuan zongshu da 7799.5 wan ming], Chinese Communist Party News Net (Online), 28 June 10. There are 6,629 urban street Party organizations, 34,224 town organizations, 80,000 residential committees, and 598,000 village committees.

[8] Ibid. Over 99 percent of the various types of eligible enterprises have party organizations.

[9] Ibid. Of the country's 570,000 public service organizations, 471,000 have party organizations.

[10] Ibid. The numbers here include 13,000 eligible "social organizations" (*shehui tuanti*), of which 12,000 have Party organizations, and 16,000 eligible "non-profit enterprises" (*minban feiqiyi*), of which 15,000 have Party organizations.

[11] Benjamin Read, "Revitalizing the State's Urban 'Nerve Tips,'" 163 China Quarterly 806, 815 (2000). During the Mao Zedong period (1949 to 1976), these committees were responsible for political campaigns, struggle sessions, and household registry checks, among other unpopular tasks.

[12] Ibid., 806–808 (2000). The residents' committees implement Party and government policies, such as birth control, and engage in a number of other tasks, including providing social services, collecting fees, and mediating disputes. They maintain close ties to police stations. Willy Lam, Jamestown Foundation (Online), "CCPLA: Tightening the CCP's Rule Over Law," China Brief, Vol. IX, No. 7, 2 April 09. The residents' committees also help to organize citizens for security tasks, such as mobilizing residents in the runup to the 2008 Beijing Summer Olympic Games and during the annual meetings of the National People's Congress and Chinese People's Political Consultative Conference.

[13] "During Workshop of the Political and Legislative Affairs Committee of the CPC Central Committee, Zhou Yongkang Stresses That We Should Earnestly Study and Carry Out the Spirit of the Fourth Plenum of the 17th CPC Central Committee and We Should Also Push Forward Political and Legal Work and Construction of Political and Legal Ranks With Party Construction," Xinhua, 10 October 09 (Open Source Center, 10 October 09). In a speech during a workshop of the Political and Legislative Affairs Committee of the Chinese Communist Party Central Committee in October 2009, Zhou Yongkang emphasized that the Party "should focus on party construction" and "should focus on the grassroots level and steadily solve the fundamental problems in political and legal work."

[14] "Hu Jintao: Grasp Well Party Building Work in the Military, Raise the Scientific Standards of Party Building in the Military" [Hu jintao: zhuahao jundui dang de jianshe gongzuo tigao jundui dang de jianshe kexuehua shuiping], Xinhua (Online), 24 July 10.

[15] Li Yajie, "Xi Jinping: Under New Circumstances Comprehensively Strengthen and Improve Building the Party in Institutions of Higher Education" [Xi jinping: quanmian jiaqiang he gaijin xinxingshixia gaoxiaodang de jianshe], Xinhua, reprinted in China Education News Net, 24 December 09; "Summary of the First National Meeting Regarding Party Construction Work in Institutes of Higher Education" [Di yici quanguo gaoxiao dang de jianshe gongzuo huiyi qingkuang gaishu], Xinhua, reprinted in Ministry of Education (Online), last visited 28 September 10. The Central Committee of the Communist Party increased efforts to strengthen Party construction in institutions of higher education in 1990, not long after the June 4, 1989, student-led Tiananmen protests.

[16] "Chinese VP Stresses Party Building in Social Organizations," Xinhua (Online), 29 January 10; Huang Xiaohua, "My Province Puts Forward This Year's New Party Construction Goal; Every Social Organization Will Establish a Party Organization" [Wo sheng tichu jinnian dangjian xin mubiao suoyou shehui zuzhi douyao jianli dang zuzhi], Hainan Daily (Online), 23 June 10. For example, the Hainan Provincial Social Organization Party Work Committee will require each social organization to establish some type of Party organization by the end of the year.

[17] Hu Bi, "(Changes in Chinese 'Way of Governance,' Central Authorities) 'Safeguarding Stability': A System Quietly Takes Shape," Southern Weekend, 3 March 10 (Open Source Center, 17 March 10).

[18] Ibid.

[19] Ibid.; "Interview With Comrade Liu Xingchen, Assistant to the Head of Kailu County, Party Committee Secretary of the Public Security Bureau and Director of the Public Security Bureau" [Kailuxian xianzhang zhuli, gonganju dangwei shuji, juzhang liu xingchen tongzhi], Xinhua (Online), 28 August 09. Informants in these networks try to identify troublemakers and to pinpoint potential social instability problems before they erupt, including problems that may lead citizens to take grievances to higher levels of authority. According to this article, officials in Kailu county in the Inner Mongolia Autonomous Region reportedly established a network of over 12,000 informants for a population of 400,000 citizens. The assistant to the leader of Kailu county, Liu Xingchen, told Xinhua that "[e]very policeman . . . no matter their division or particular police station, has to establish at least 20 informants in their community, village, [or] work unit . . . ."

[20] "DSD Police Recruit and Maintain Informant Networks Among University Students," China Digital Times (Online), 11 April 10. Officials at Dezhou University recruited, managed, and rewarded student security informants for valuable information and directed them to assist in carrying out the university's security and stability work. Tania Branigan, "China Recruits Classroom Snoops To Fight Violence and Pornography," Guardian (Online), 19 March 10. In Kunming, Yunnan province, police and education departments reportedly requested primary and secondary school teachers to choose students to be "little security informants" to collect information and report on a variety of student behaviors, amid concerns regarding school violence.

[21] "Domestic Security To Remain a Challenge in 2010: Police," Global Times, 29 December 09 (Open Source Center, 29 December 09).

[22] "Focus of Efforts To Maintain Stability Is Crackdown on 'Internal Three Forces' Involving Workers, Farmers, Military Personnel," Ming Pao, 13 March 10 (Open Source Center, 16 March 10).

[23] Tsinghua University Sociology Department Social Development Research Group, "New Thinking About 'Stability,' Systematize Interest Articulation, Realize Lasting Stability and Durable Peace" ["Weiwen" xin silu: liyi biaoda zhiduhua, shixian changzhi jiuan], Southern Weekend (Online), 14 April 10.

[24] Ibid.

[25] Ibid.

[26] "Public Security Expenditures Increase Surpass Military Spending" [Gongan zhichu zeng fuchao junfei], Ming Pao, reprinted in Boxun (Online), 6 March 10.

[27] Tsinghua University Sociology Department Social Development Research Group, "New Thinking About 'Stability,' Systematize Interest Articulation, Realize Lasting Stability and Durable Peace" ["Weiwen" xin silu: liyi biaoda zhiduhua, shixian changzhi jiuan], Southern Weekend (Online), 14 April 10.

[28] Ibid. The study suggests that the use of the funds does not promote social equity and "may undermine overall social values, including those of morality and justice."

[29] Shi Zhifeng and Liu Meng, Chinese Human Rights Defenders (Online), "News Flash: Liu Xianbin Officially Arrested" [Kuaixun: liu xianbin yi bei zhengshi daibu], 6 July 10; "China Detains Democracy Advocate for New Activism," Associated Press, reprinted in Washington Post (Online), 30 June 10; Amnesty International (Online), "Chinese Democracy Activist Detained: Liu Xianbin," 5 July 10.

[30] Amnesty International (Online), "Chinese Democracy Activist Detained: Liu Xianbin," 5 July 10; "China Detains Democracy Advocate for New Activism," Associated Press, reprinted in Washington Post (Online), 30 June 10.

[31] Human Rights in China (Online), "Democracy Activist Gets Ten Years for 'Subversion of State Power,'" 16 October 09. See also the Congressional-Executive Commission on China Political Prisoner Database for more information on Guo's case.

[32] "Guo Quan Case: Jiangsu Provincial High People's Court Criminal Judgment" [Guo quan an: jiangsu sheng gaoji renmin fayuan xingshi caidingshu], Boxun (Online), 4 January 10.

[33] "Worker Is Jailed for Joining a Party," South China Morning Post (Online), 11 February 10; Dong Lei, Chinese Human Rights Defenders (Online), "Youth With Mental Disorder Is Tried on Suspicion of 'Subverting State Power'" [Jingshenbing qingnian beiyi shexian "dianfu guojia zhengquan" shenpan], 15 December 09. See also the Congressional-Executive Commission on China Political Prisoner Database for more information on Xue's case.

[34] Dong Lei, Chinese Human Rights Defenders (Online), "Youth With Mental Disorder Is Tried on Suspicion of 'Subverting State Power'" [Jingshenbing qingnian beiyi shexian "dianfu guojia zhengquan" panduan], 15 December 09; "Worker Is Jailed for Joining a Party," South China Morning Post (Online), 11 February 10.

[35] Zhang Zequn, Chinese Human Rights Defenders (Online), "Guangdong Shaoguan Democracy Activist Luo Yongquan Ordered To Serve Two Years Reeducation Through Labor" [Guangdong shaoguan minzhu renshi lou yongquan beichu laojiao liangnian], 3 August 09. See also the Congressional-Executive Commission on China Political Prisoner Database for more information on Luo's case.

[36] Xu Dongmei, Research on Chinese Communist Party Intra-Party Democracy [Zhongguo gongchandang dangnei minzhu yanjiu], (Beijing: Party Construction Reading Materials Press, 2004), 7.

[37] Deng Xiaoping, "Report on the Revision of the Constitution of the Communist Party of China," People's Daily (Online), 16 September 56. According to Deng, "[t]he measures taken for the development of inner-Party democracy are not meant to weaken necessary centralization in the Party, but to supply it with a powerful and vigorous base." Constitution of the Communist Party of China, as amended 21 October 07. According to the Party constitution, "Democratic centralism is a combination of centralism on the basis of democracy and democracy under centralized guidance. It is the fundamental organizational principle of the Party and is also the mass line applied in the Party's political activities. The Party must fully expand intra-Party democracy, safeguard the democratic rights of its members, and give play to the initiative and creativity of Party organizations at all levels as well as its members." Xu Dongmei, Research on Chinese Communist Party Intra-Party Democracy [Zhongguo gongchandang dangnei minzhu yanjiu], (Beijing: Party Construction Reading Materials Press, 2004), 3. Development of inner-Party democracy was all but abandoned during the Cultural Revolution (1966 to 1976), but was revived after 1978 when the concept of "collective leadership" once again became a guiding principle of the Party.

[38] Joseph Fewsmith, "Inner-Party Democracy: Development and Limitations," China Leadership Monitor, No. 31, Winter 2010, 1, 9.

[39] Chen Xinyu, "Yibin: Gong County Establishes Public Opinion Observer System, Raises Public Trust in Candidate Selection" [Yibin: gongxian jianli minyi guanchayuan zhidu tigao xuanren yongren gongxindu], Sichuan News Net (Online), 9 June 10; Chen Xinyu, Shi Xisheng, and Liu Xiaofang, "Suzhou Community Resident's Committees Commonly Elected Through Direct Elections" [Suzhou shequ juweihui huanjie pubian caiyong zhixuan laiyuan], Suzhou Daily, reprinted in Suzhou Hotline (Online), 9 April 10.

[40] Ibid.; Hangzhou Municipality, Yuhang District, Bureau of Civil Affairs (Online), "Speech at the 2010 Annual Community Organization Elections Conference" [Zai 2010 nian shequ zuzhi huanjie xuanju dahuishang de jianghua], 26 April 10; Dai Candong et al., "Binjiang District Smoothly Completes Community Party Organization Election Work" [Bingjiangqu shunli wancheng shequ dang zuzhi huanjie xuanju gongzuo], Hangzhou Daily Net (Online), 2 June 10; Liu Wei, "Gongshu Promotes First Citywide Community Election Observer System" [Gongshu zai quanshi shoutui shequ huanjie xuanju guangchayuan zhidu], Hangzhou Daily (Online), 30 May 10. Other listed eligible professions included members of the eight "approved" democratic parties, students or teachers in law and politics departments at institutes of higher education, and members of law firms or social organizations. Guangdong Province Civil Affairs Department, Circular Regarding Further Efforts To Improve Village (Residents') Committee Election

Monitor Systems [Guanyu jinyibu wanshan cun (ju) weihui xuanju guanchayuan zhidu de tongzhi], issued 13 March 08. Earlier domestic pilot projects with election monitoring systems took place in Guangdong.

[41] State Council Information Office, White Paper on China's Political Party System [Zhongguo de zhengdang zhidu baipishu], Xinhua (Online), 15 November 07, preface.

[42] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. 2(6), (8). The 2009–2010 National Human Rights Action Plan declared in relation to the National People's Congress among other items, that "[t]he people's congress system will be improved. Revisions will be made to the Election Law to improve the election system . . . and the close ties between the deputies and their constituencies will be maintained." In addition, the plan states that "[t]he Law on the Supervision by the Standing Committees of People's Congresses at All Levels shall be implemented to strengthen supervision by the people's congresses over administrative, trial and procuratorial organs, focusing on conspicuous problems that have a bearing on the overall situation of reform, development and stability, affect social harmony or cause strong public resentment."

[43] Ibid., sec. 2(6)–(8). The 2009–2010 National Human Rights Action Plan declared in relation to the Chinese People's Political Consultative Conference (CPPCC), among other items, that "[p]olitical consultation will be incorporated further in the decision-making procedures, and the effectiveness of the participation and deliberation of state affairs by personages from non-Communist parties and people with no political affiliation will be enhanced." The Action Plan also stated that "[t]he proportions of deputies from social organizations to the Chinese People's Political Consultative Conference at all levels will be increased." In addition, the plan states that "[t]he democratic supervision mechanism of the CPPCC will be improved, making institutional improvements in the links of getting information, communication and feedback to guarantee unblocked channels for democratic supervision and enhance the quality and efficiency of democratic supervision. Full play will be given to the role of CPPCC bills and proposals in democratic supervision, and government departments concerned shall handle them seriously, and give formal replies without delay."

[44] "Full Text: Speech on Implementation of National Human Rights Action Plan of China (2009–2010)," Xinhua, 3 December 09 (Open Source Center, 3 December 09).

[45] Ibid.

[46] "Next Step in Equal Rights for Urban and Rural [Areas]" [Chengxiang tongquan xia yibu], Century Weekly, reprinted in Caixin Net (Online), 15 March 10.

[47] "Deyang: The Country's First Professional People's Congress Deputies Will Without Delay Take Office in Luojiang County" [Deyang: quanguo shouge zhuanzhi renda daibiao luojiangxian zou mashang ren], Sichuan People's Net (Online), 12 July 10; Yu Jianrong, "Professional People's Congress Deputies Is Socialist Democracy's New Path" [Zhuanzhi renda daibiao shi shehui zhuyi minzhu de chuangxin], Oriental Morning Post (Online), 19 July 10; "Professionalization of People's Congress Deputies Is the Direction of Basic Level Political Development" [Renda daibiao zhuanzhihua shi jiceng zhengzhi fazhan de fangxiang], Sichuan Daily, 30 June 10 (Open Source Center, 30 June 10).

[48] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. 2(6)–(8). The Human Rights Action Plan states that "[t]he Law on the Supervision by the Standing Committees of People's Congresses at All Levels shall be implemented to strengthen supervision by the people's congresses over administrative, trial and procuratorial organs focusing on conspicuous problems that have a bearing on the overall situation of reform, development and stability, affect social harmony or cause strong public resentment."

[49] "Wu Bangguo: This Year NPC Will Make Inquires of State Council Ministries" [Wu bangguo: renda jinnian jiang dui guowuyuan bumen kaizhan zhixun], Southern Weekend (Online), 10 March 10.

[50] Yang Tao, "'Two Highs' Reports Advance Amid 'High Opposition Votes'" ["Lianggao baogao" zai "gao fandui piao" zhong jinbu], Southern Metropolitan Daily (Online), 15 March 10.

[51] "National People's Congress Closes, Total of 506 Motions Raised" [Quanguo renda huiyi bimu gongti 506 jian yi'an], Southern Weekend (Online), 14 March 10.

[52] Mimi Lau, "Mainland Newspapers Speak Out on Muzzling Delegates on Sensitive Issues," South China Morning Post (Online), 08 March 10.

[53] PRC Constitution, adopted 4 December 82, amended 12 April 88, 29 March 93, 15 March 99, 14 March 04, Preamble ("Multi-party cooperation and political consultation system under the leadership of the Communist Party of China shall continue to exist and develop for a long time to come.").

[54] Guangzhou Municipal Communist Party Central Committee, Rules on Political Consultation (Trial Implementation) [Zhengzhi xieshang guicheng (shixing)], issued 3 September 09, arts. 3–6. Article 3 provides for "consultation before deciding important policies and during the implementation of those policies."

[55] Ibid., arts. 4, 5, 8.

[56] Ibid., arts. 6, 9.

[57] "Guangzhou Issues Political Consultation Regulations in New Political Reform Scheme" [Zhenggai xinyou sui chutai zhengzhi xieshang guicheng], Wen Wei Po (Online), 9 August 09.

[58] PRC Organic Law of the Villagers Committees, enacted and effective on 4 November 98. According to Article 2 of this law, village committees are "the primary mass organization of self-government" through which "villagers manage their own affairs, educate themselves and serve their own needs and in which election is conducted, decision adopted, administration maintained and supervision exercised by democratic means." According to Article 3, the Party branches at the village level should play "the core leading role" [in village governance]. Article 4 states that the village committees "shall assist the said [township] people's government in its work."

[59] Mao Lei and Qin Peihua, "Organic Law of Village Committees Implementation Problems Need To Give Rise to Serious Attention" [Cunmin weiyuanhui zuzhifa shishizhong cunzai wenti

xu yinqi zhongshi], People's Daily, reprinted in National People's Congress (Online), 22 December 09. According to this report, in some villages, "organizations pay little attention to self-governance, do not support, or have delayed holding village committee elections for a long time." In other villages, Party committees have controlled everything and not "brought elected village committees into play" and have held village representative meetings in form only.

[60] Hui Ji, Zhejiang Normal University Village Research Center (Online), Research Report on Guizhou Province Open Government Affairs and Democratic Management "Difficult Villages" Governance Work [Dui guizhousheng cunwu gongkai he minzhu guanli "nandiancun" zhili gongzuo de diaoyan baogao], 11 December 09. Guizhou province reportedly had a total of 542 "difficult villages" with various problems.

[61] Ibid.

[62] "(Ministry of Civil Affairs) National Open Village Affairs and Democratic Management 'Difficult Villages' Governance Work Experience Exchange Conference Opens" [(Minzhengbu) quanguo cunwu gongkai he minzhu guanli "nandiancun" zhili gongzuo jingyan jiaoliuhui zhaokai], People's Daily, reprinted in Wenzhou Bureau of Civil Affairs (Online), 15 December 09.

[63] Ibid.

[64] Central People's Government, Open Village Affairs and Democratic Management Difficult Villages Governance Work Plan (2009–2011) [Cunwu gongkai he minzhu guanli nandiancun zhili gongzuo jihua (2009–2011)], issued 16 July 09; Ministry of Civil Affairs, Opinion Regarding Developing Open Village Affairs and Democratic Management 'Difficult Villages' Governance Work [Guanyu kaizhan cunwu gongkai he minzhu guanli "nandiancun" zhili gongzuo de ruogan yijian], issued 24 February 09.

[65] "China Considers Law To Give Rural Residents More Power in Village Affairs, Elections," Xinhua, reprinted in National People's Congress (Online), 23 June 10; Wei Minli et al., "Guarantee Hundreds of Millions of Villagers Will Be the Masters of Their Own Affairs, Organic Law of Villagers' Committees Draft Revisions To Resolve 'Three Difficulties'" [Baozhang yiwan nongmin dangjiazuozhu cunmin weiyuanhui zuzhifa xiuding caoan pojie "sannan"], Xinhua (Online), 22 December 09; Wang Weibo, "Strengthen Party Leadership: China's Village Self Autonomy Facing a Change?" [Wang Weibo: qianghua dang de lingdao: zhongguo de cunmin zizhi mianlin zhuanze?], China Newsweek, reprinted in China Elections and Governance (Online), 15 July 10; Li Huizi and Yu Xiaojie, "Law Changes To Give Chinese Villagers Greater Say in Removing Officials," Xinhua (Online), 23 December 09.

[66] Wei Minli et al., "Guarantee Hundreds of Millions of Villagers Will Be The Masters of Their Own Affairs, Organic Law of Villagers' Committees Draft Revisions To Resolve 'Three Difficulties'" [Baozhang yiwan nongmin dangjiazuozhu cunmin weiyuanhui zuzhifa xiuding caoan pojie "sannan"], Xinhua (Online), 22 December 09; "China Considers Law To Give Rural Residents More Power in Village Affairs, Elections," Xinhua, reprinted in National People's Congress (Online), 23 June 10; Li Huizi and Yu Xiaojie, "Law Changes To Give Chinese Villagers Greater Say in Removing Officials," Xinhua (Online), 23 December 09.

[67] Wang Weibo, "Strengthen Party Leadership: China's Village Self Autonomy Facing a Change?" [Wang weibo: qianghua dang de lingdao: zhongguo de cunmin zizhi mianlin zhuanze?], China Newsweek, reprinted in China Elections and Governance (Online), 15 July 10.

[68] Chinese Communist Party (Online), "Public Invited To Comment on Draft Revision of Organic Law of Villagers' Committees," 28 December 09.

[69] Yao Lifa and Han Ye, Chinese Human Rights Defenders (Online), "'Village Officials' From Four Chinese Provinces Convene News Conference" [Zhongguo sisheng 'cunguan' zai beijing zhaokai xinwen fabuhui], 27 February 10.

[70] "China To Extend Anti-Corruption Fight to Non-Public Entities," Xinhua, reprinted in People's Daily (Online), 22 February 10.

[71] Transparency International (Online), "Corruption Perceptions Index 2009," November 2009.

[72] Ministry of Supervision (Online), "2009 Discipline Inspection and Supervision Agencies Case Investigation and Management Work Situation Press Conference" [2009 niandu jijian jiancha jiguan chaban anjian gongzuo qingkuang xinwen tongqihui], 07 January 10.

[73] "Chinese Lawmakers Urge Amplified Anti-Corruption Efforts To Maintain Social Stability," Xinhua (Online), 10 March 10.

[74] "China Reveals Stimulus Graft," Associated Press, reprinted in Wall Street Journal (Online), 20 May 10.

[75] Ibid.

[76] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. 2(8). The Human Rights Action Plan states that "[l]aws and regulations on the prevention and punishment of corruption will be strictly implemented, so will rules that require leading cadres to be clean and self-disciplined . . . . Full play will be given to the role of administrative supervision to resolutely stop unhealthy practices that hurt the fundamental interest of the public, and effective measures will be taken to deal with major issues that cause strong public resentment."

[77] Dai Zhiyong, "If the People Can Learn To Compromise, Please Learn To Govern Honestly" [Ruguo minzhong neng tuoxie, qing ni xuezhe zuo qingguan], Southern Weekend (Online), 23 September 09. In September 2009, the Party Central Discipline Inspection Commission reportedly announced that officials must disclose their personal records related to housing, investments, and the employment status of their spouse and children. He Huifeng, "Guangdong Officials To Disclose Assets—But Not to the Public," South China Morning Post (Online), 15 October 09. Several provinces and cities have initiated similar asset reporting requirements for select categories of officials including, a city in the Xinjiang Uyghur Autonomous Region, cities in Hunan and Guangdong provinces, and the municipality of Shanghai, although in many cases reported information remained within the Communist Party unavailable to the public.

[78] Raymond Li, "Liaison Offices Face Closure in Anti-Graft Drive," South China Morning Post (Online), 25 January 10; General Office of the State Council, Opinion Regarding Strengthening

and Standardizing Management of Local Government Liaison Offices in Beijing [Guowuyuan bangongting guanyu jiaqiang he guifan gedi zhengfu zhu Beijing banshi jigou guanli de yijian], 19 January 10, sec. 2. Beijing-based liaison offices reportedly are the source of lobbying efforts of local and regional governments and state-run companies, and according to the South China Morning Post may number as high as 10,000 based on "official media reports." In January 2010, the central government mandated that by June, county-level government "liaison offices" in Beijing must close, city-level offices could remain after approval of the government at the relevant administrative level, and provincial-level government and agency liaison offices could remain open.

[79] "The Party Central Committee Issues Clean Government Norms [With] 52 'Prohibitions' To Standardize Party Cadre Behavior" [Zhongyang banbu lianzheng zhunze 52 "buzhun" guifan dangyuan ganbu xingwei], Xinhua, reprinted in Ministry of Supervision (Online), 24 February 10. See especially Articles 5, 7, 8; "Chinese Communist Party Issues New Ethics Code," Associate Press, reprinted in New York Times (Online), 23 February 10.

[80] Woods Lee, "Party Website Opens To Expose Corruption," South China Morning Post (Online), 30 October 09. The Internet address of this particular Web site is 12388.gov.cn.

[81] Zhao Yang, "Supreme People's Procuratorate: More Than 70 Percent of the Cases of Work-Related Offenses Originate From Citizen Reports" [Zuigaojian: qicheng yishang zhiwu fanzui anjian yuanyu qunzhong jubao], Legal Daily (Online), 21 June 10.

[82] Du Meng, "70% of Whistleblowers Subject to Retribution, Trend Toward Concealed Methods, Difficult To Establish Scope" [70% jubaozhe zaoyu daji baofu shouduan riqu yingbi nanyu jieding], Legal Daily (Online), 17 June 10.

[83] Mandy Zuo, "Amendment To Shield Informants," South China Morning Post (Online), 23 June 10.

[84] Du Meng, "70% of Whistleblowers Subject to Retribution, Trend Toward Concealed Methods, Difficult To Establish Scope" [70% jubaozhe zaoyu daji baofu shouduan riqu yingbi nanyu jieding], Legal Daily (Online), 17 June 10.

[85] Zou Le, "Internet Critic Vows To Zip His Mouth," Global Times (Online), 11 March 10.

[86] Yan Jie, "Detention Order Is Revoked," China Daily (Online), 11 March 10.

[87] Mandy Zuo, "Amendment To Shield Informants," South China Morning Post (Online), 23 June 10.

[88] Wang Jinbao, "Thoughts on Political Reform Behind the Training of 'County-Level Officials,'" China News Weekly, 29 March 10 (Open Source Center, 19 April 10). Other signs include promotion of a personnel system that would have provincial Party committees appoint (or approve of) county-level Party committees (instead of Party committees at the next highest level), continuous rounds of training of county-level officials at the Communist Party School throughout the year, and measures promoting fiscal reform at the county level, among others.

[89] Ibid.

[90] "Supreme Court Requests Elimination of Localities' 'Local Policies' To Resolve Difficulties With Bringing Administrative Lawsuits [Zuigaofa yaoqiu qingchu gedi "tuzhengce" jie xingzheng susong gaozhuang nan], Xinhua (Online), 23 May 10.

[91] "'Hunan Provincial Administrative Procedure Provisions' Appearance Wins Central Approval" ["Hunan sheng xingzheng chengxu guiding" chutai huo zhongyang kending], China News (Online), 14 May 10.

[92] Ibid.

[93] Lian Qingqing, "Guangdong Drafts Provisions on 'Red [Letter] Head Documents,' Effective Period May Not Exceed Five Years" [Guangdong ni guiding "hongtou wenjian" you xiaoqi zuichang 5 nian], Guangzhou Daily, reprinted in Dayang Net (Online), 11 December 09. Trial regulations may only remain effective for two years.

[94] China Transparency (Online), "Experts: Large Advances in Open Budgeting, Distance to Public Expectations Is Still Wide" [Zhuanjia: yusuan gongkai jinbu henda juli gongzhong qidai shanggyuan], 28 March 10.

[95] "National People's Congress Requests State Council Departments Make Budgets Public" [Quanguo renda yaoqiu gongkai guowuyuan ge bumen yusuan], People's Daily, reprinted in Netease (Online), 11 March 10.

[96] Jiang Yanxin, "Next Year Beijing Government Departments Will Make Budgets Completely Public" [Beijing zhengfu bumen mingnian jiang quanbu gongkai yusuan], Beijing News, reprinted in People's Daily (Online), 1 June 10.

[97] Guo Aidi, "Budgets Made Public by Beijing Municipal Ministries and Commissions Considered Too General and Unclear" [Beijingshi buwei gongbu yusuan bei zhi taicu fang kanbudong], Beijing Times, reprinted in Phoenix (Online), 21 May 10.

[98] Liu Zichao, "Pushing Open the Door to Public Budgets" [Tuaikai gonggong yusuan zhimen], Southern Weekend (Online), 7 January 10.

[99] Ibid.

[100] Ibid.

[101] He Yingsi, "Guangzhou Makes Public Online the Financial Budgets of 114 Government Agencies" [Guangzhou wangshang gongkai 114 ge zhengfu bumen caizheng yusuan], Guangzhou Daily (Online), 23 October 09. Li Detao reported that in 2009, the Shenzhen Ministry of Finance allowed citizens to view its budget in its reading room.

[102] Regulations of the People's Republic of China on Open Government Information [Zhonghua renmin gongheguo zhengfu xinxi gongkai tiaoli], issued 5 April 07, effective 1 May 08. For more information, see "China Commits to 'Open Government Information' Effective May 1, 2008," CECC China Human Rights and Rule of Law Update, May 2008, 2.

[103] Ibid.

[104] Opinions on Several Questions Regarding the People's Republic of China Regulations on Open Government Information [Zhonghua renmin gongheguo zhengfu xinxi gongkai tiaoli ruogan wenti de yijian], issued 29 April 08.

[105] State Council General Office, Opinions on Performing Well the Work of Disclosing Government Information on Request [Guanyu zuohao zhengfu xinxi yi shenqing gongkai gongzuo de yijian], issued 12 January 10, art. 1.

[106] Ibid., arts. 2 (scope of government information), 3 (handling a request affecting multiple agencies), 5 (increasing disclosure to decrease volume of requests), 6 (improve services), and 7 (secrecy of information).

[107] Supreme People's Court, Measures on Several Issues Concerning Adjudication of Administrative Cases Involving Open Government Information (Public Comment Draft) [Guanyu shenli zhengfu xinxi gongkai xingzheng anjian ruogan de guiding (zhengqiu yijian gao)], released 3 November 09.

[108] Wang Doudou, "Open Government Information Judicial Interpretation Solicits 411 Suggestions" [Zhengfu xinxi gongkai sifa jieshi zhengqiu yijian 411 tiao], China Court Network (Online), 3 March 10.

[109] Wang Doudou, "Supreme Court States Open Information Scope Will Not 'Shrink'" [Zuigao fayuan cheng xinxi gongkai fanwei buhui "suoshui"], Legal Daily, reprinted in China Court Network (Online), 3 March 10.

[110] Supreme People's Court, Opinion Regarding the Protection of Plaintiffs Right To Sue in Administrative Litigation Cases [Guanyu yifa baohu xingzheng susong dangshiren suquan de yijian], issued 11 November 09, art. 3.

[111] Jamie P. Horsley, China Law Center, Yale Law School, "Update on China's Open Government Information Regulations: Surprising Public Demand Yielding Some Positive Results," 23 April 10. According to this report, "Substantial challenges continue to frustrate realization of the Chinese people's 'right to know,'" including conflicts with China's state secrets laws, and "[w]hat was less predictable was the dynamism of the Chinese people's response to this new channel for interacting with their government, evidence of the increasing awareness of their rights and interests as citizens and taxpayers . . . ."

[112] Beijing officials reported receiving 6,889 OGI requests in 2009. Beijing Municipal People's Government 2009 Open Government Information Work Annual Report [Beijing shi renmin zhengfu 2009 nian zhengfu xinxi gongkai gongzuo niandu baogao], PRC Central People's Government (Online), 6 April 10, 9. Shanghai officials reported receiving 11,773 OGI requests in 2009. 2009 Shanghai Open Government Information Work Annual Report [2009 Shanghai zhengfu xinxi gongkai gongzuo niandu baogao], Shanghai Municipal People's Government (Online), March 2010, 11. Guangzhou officials reported receiving 798,279 OGI requests in 2009. Guangzhou Municipality 2009 Open Government Information Work Annual Report [Guangzhou shi 2009 nian zhengfu xinxi gongkai gongzuo niandu baogao], Guangzhou Municipal People's Government (Online), 25 March 10. The figures from the three Open Government Information reports included above are inclusive of the requests reportedly received by municipal-level government agencies as well as the requests received by district and county administrative areas within the municipality. Jamie P. Horsley, China Law Center, Yale Law School, "Update on China's Open Government Information Regulations: Surprising Public Demand Yielding Some Positive Results," 23 April 10. Guangzhou was the first municipality to adopt Open Government Information provisions.

[113] Liu Zichao, "Pushing Open the Door to Public Budgets" [Tuaikai gonggong yusuan zhimen], Southern Weekend (Online), 7 January 10.

[114] "Tearing Down Your House, It Has Nothing to Do With You?" [Chai ni fangzi, yu ni wuguan?], Southern Metropolitan Daily (Online), 23 June 10.

[115] Alexa Olesen, "China Activist Demands Quake Recovery Budget Info," Associated Press, reprinted in Washington Post (Online), 3 March 10.

[116] Huang Yijun, Chinese Human Rights Defenders (Online), "Lawyer Yan Yiming Seeks the Whereabouts of 40 Billion Yuan Ahead of the 'Two Sessions'" [Yan yiming lushi "lianghui" qian zai zhui 4 wanyi touzi quxiang], 25 February 10.

[117] Han Haikuo and Li Hailing, "Yunnan Province Administrative Transparency Score 0, Response: Relevant Departments Did Not Respond" [Yunnan xingzheng toumingdu de 0 fen, huiying: xiangguan bumen dou mei huihan], China News Net, reprinted in Legal Daily (Online), 18 June 10; Jamie P. Horsley, China Law Center, Yale Law School, "Update on China's Open Government Information Regulations: Surprising Public Demand Yielding Some Positive Results," 23 April 10; Center for Public Participation Studies and Support, Annual Watch Report on China's Administrative Transparency—2008 (Abridged Version) [Zhongguo xingzheng toumingdu niandu guancha baogao—2008 niandu (jieben)], 2 April 10; Suzanne Piotrowski et al., "Key Issues for Implementation of Chinese Open Government Information Regulations," 69 Public Administration Review, Issue 1, 129, 133 (2010).

[118] Center for Public Participation Studies and Support, Annual Watch Report on China's Administrative Transparency—2008 (Abridged Version) [Zhongguo xingzheng toumingdu niandu guancha baogao—2008 niandu (jieben)], 2 April 10; Suzanne Piotrowski et al., "Key Issues for Implementation of Chinese Open Government Information Regulations," 69 Public Administration Review, Issue 1, 129, 133 (2010).

[119] Ibid.

[120] Beijing Municipal People's Government 2009 Open Government Information Work Annual Report [Beijing shi renmin zhengfu 2009 nian zhengfu xinxi gongkai gongzuo niandu baogao], PRC Central People's Government (Online), 6 April 10, 11; 2009 Shanghai Open Government Information Work Annual Report [2009 Shanghai zhengfu xinxi gongkai gongzuo niandu baogao], Shanghai Municipal People's Government (Online), March 2010, 13; Guangzhou Municipality 2009 Open Government Information Work Annual Report [Guangzhou shi 2009 nian zhengfu xinxi gongkai gongzuo niandu baogao], Guangzhou Municipal People's Government (Online), 25 March 10; Chongqing Municipal People's Government 2009 Open Government Information Work Annual Report [Chongqing shi renmin zhengfu 2009 nian zhengfu xinxi gongkai gongzuo niandu baogao], PRC Central People's Government (Online), 6 April 10.

[121] 2009 Shanghai Open Government Information Work Annual Report [2009 Shanghai zhengfu xinxi gongkai gongzuo niandu baogao], Shanghai Municipal People's Government (Online), March 2010, 13.

[122] Ibid.; Beijing Municipal People's Government 2009 Open Government Information Work Annual Report [Beijing shi renmin zhengfu 2009 nian zhengfu xinxi gongkai gongzuo niandu baogao], PRC Central People's Government (Online), 6 April 10, 11.

[123] Jamie P. Horsley, China Law Center, Yale Law School, "Update on China's Open Government Information Regulations: Surprising Public Demand Yielding Some Positive Results," 23 April 10.

[124] Kong Lingquan, "Lawyer Requests Information Disclosure From 80 Provincial and City Governments, Receives Cold Response" [Lushi xiang 80 ge sheng shi zhengfu shenqing xinxi gongkai jiedao lengdan huifu], Democracy & Law, reprinted in Jin Yang Net (Online), 19 June 10.

[125] Li Yizhong, "Wuhan Municipality's First Open Government Information Case Concludes, Illegal Administrative Action Affirmed" [Wuhan shouli zhengfu xinxi gongkai an shenjie queren xingzheng xingwei weifa], Changjiang Daily, reprinted in Eastday (Online), 30 January 10.

[126] "Beijing Resident Sues Environmental Protection Bureau for Illegal Approval, Loses Lawsuit" [Beijing jumin gao huanbao ju weigui shenpi baisu], Jinghua Times, reprinted in Sina (Online), 22 May 10.

[127] Li Li, "Outline of Achievements of 6-Year 'Open Door Legislation' Issued, State Council Solicited Public Comments on 67 Administrative Regulations" [Gangyao banbu 6 nian "kaimen lifa" cheng changtai guowuyuan yi dui 67 jian xingzheng fagui gongkai zhengqiu yijian], Legal Daily (Online), 25 March 10.

[128] Ibid.

[129] Ibid.

[130] U.S.-China Business Council (Online), "PRC Transparency Tracking," updated April 2010.

[131] Ibid.

[132] Ibid.

[133] For more information about public hearing topics in China, see Section III—Institutions of Democratic Governance in CECC, 2009 Annual Report, 10 October 09, 208–216; Peng Zongchao et al., Public Hearing Systems in China: Transparent Policymaking and Public Governance [Tingzheng zhidu: touming juece yu gonggong zhili], (Beijing: Tsinghua University Press, 2004), 3, 5. According to Article 42 of the PRC Law on Administrative Punishment, a qualified party may request a public hearing regarding orders to stop production, revocation of permits or licenses, and administrative fines. PRC Law on Administrative Punishment, enacted 17 March 96, effective 1 October 96, art. 42. In the late 1990s and in the current decade, public hearing systems have been added to a variety of other administrative, legislative, and judicial laws and regulations. By the end of 2004, nearly one-third of China's provinces, cities, and district courts established a public hearing system in state compensation cases. "Public Hearings: Driving Engine of Democracy in China," Xinhua (Online), 5 October 06. One Chinese scholar remarked that "people are more willing to cooperate with the authorities in implementation of public policy if they can contribute to the policy-making process." Human Rights in China (Online), "Chinese Lawyer Challenges Filtering Software Order and Requests Public Hearing," 15 June 09; State Council, Decision Regarding Strengthening Municipal and County Government Law-Based Administration [Guanyu jiaqiang shixian zhengfu yifa xingzheng de jueding], issued 18 June 08. The State Council directive states that government agencies may "hold hearings for issues subject to examination and approval which concern the major public interests or the vital interests of the people." Colin Knox and Zhang Qun, "Building Public Service-Oriented Government in China," 20 International Journal of Public Sector Management, No. 5, 449, 449–464 (2007). One finding of this study is that in the case observed, the decisionmaking process was not "improved" by the hearing process because of the lack of valuable debate.

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Notes to Section III—Commercial Rule of Law

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Notes to Section III—Access to Justice

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[53] Amnesty International (Online), "Chinese Activists Under Threat After Obama Visit," 20 November 09.

[54] China Human Rights Lawyers Concern Group (Online), "Beijing Human Rights Lawyer Jiang Tianyong Illegally Taken Away by Public Security Officers," 11 November 09; Julia Duin, "China Holds Lawyer Who Tried To See Obama," Washington Times (Online), 24 November 09.

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[59] ChinaAid (Online), "Human Rights Lawyer Banned From Entering Linfen Court, Barred From Travel," 13 July 10; "Christians Come Under Attack in China," Toronto Star (Online), 7 August 10.

[60] Ibid.

[61] ChinaAid (Online), "U.S. Ambassador Meets With Chinese Rights Lawyer Zhang Kai Following Ban," 20 July 10.

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[63] Ibid.

[64] China Human Rights Lawyers Concern Group (Online), "Online Petition: Support Human Rights Lawyers Who Failed the 'Annual Assessment and Registration,'" 24 July 09; "Lawyers' Licenses Withheld," Radio Free Asia (Online), 18 July 10; CECC, 2009 Annual Report, 10 October 09, 234.

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[67] "Lawyers' Licenses Withheld," Radio Free Asia (Online), 18 July 10.

[68] Ibid.

[69] Beijing Bureau of Justice, Administrative Penalty Decision—Beijing Bureau Penalty Decision [2010] No. 2 [Xingzheng chufa jueding shu jingsi fajue (2010) 2 hao], issued 30 April 10; Beijing Bureau of Justice, Administrative Penalty Decision—Beijing Bureau Penalty Decision [2010] No. 3 [Xingzheng chufa jueding shu jingsi fajue (2010) 3 hao], issued 30 April 10; Human Rights in China (Online), "Beijing Judicial Bureau Revokes Licenses of Two Rights Defense Lawyers," 7 May 10; Lucy Hornby, "China Disbars Two Rights Defense Lawyers," Reuters (Online), 9 May 10.

[70] Human Rights in China (Online), "Lawyers Facing License Revocation Detail Irregular Courtroom Activities Permitted by Judge," 20 April 10.

[71] Edward Wong, "2 Chinese Lawyers Are Facing Disbarment for Defending Falun Gong," New York Times (Online), 21 April 10.

[72] For commentary on the two measures, see "Ministry of Justice Issues Two Measures To Strengthen the Supervision of Law Firms and Lawyers' Activities" [Sifabu chutai liang banfa jiaqiang dui lushi lusuo zhiye huodong jiandu], Legal Daily, reprinted in Xinhua (Online), 9 April 10; Measures for the Annual Inspection and Evaluation of Law Firms [Lushi shiwu suo niandu jiancha kaohe banfa], issued 7 April 10, effective 9 April 10; Measures on Punishing Illegal Acts of Lawyers and Law Firms [Lushi he lushi shiwu suo weifa xingwei chufa banfa], adopted 7 April 10, effective 1 June 10.

[73] "Ministry of Justice Department of Lawyers and Public Notaries Spokesperson Answers Questions on the Revised 'Measures on Punishing Illegal Acts of Lawyers and Law Firms'" [Sifa bu lushi gongzheng si fuze ren jiu xiuding hou de "lushi he lushi shiwu suo weifa xingwei chufa banfa" da jizhe wen], Legal Daily (Online), 5 April 10.

[74] Chinese Human Rights Defenders, "China Human Rights Briefing April 7–12, 2010," reprinted in Amnesty International UK—Blogs (Online), 14 August 10.

[75] Cara Anna, "2 China Lawyers Who Defended Falun Gong Face Ban," Associated Press, reprinted in Seattle Times (Online), 21 April 10.

[76] Carl Minzner, "Xinfang: An Alternative to Formal Chinese Legal Institutions," 42 Stanford Journal of International Law 103, 104–06, 116–17 (2006). Since the founding of the People's Republic of China, the *xinfang* system, in theory, has ideally functioned to enhance relations among the Communist Party, the government, and the people. Sun Weiben ed., PRC Administrative Management Encyclopedia [Zhonghua renmin gongheguo xingzheng guanli dacidian], (Beijing: Renmin Ribao Chubanshe, 1992), 329. The practice of submitting grievances to local authorities has existed in China since imperial times. Carl Minzner, "Xinfang: An Alternative to Formal Chinese Legal Institutions," 41 Stanford Journal of International Law 103, 111–120 (2006).

[77] According to Article 41 of the PRC Constitution, "Citizens have the right to make to relevant state organs complaints and charges against, or exposures of, violations of the law or dereliction of duty by any state organ or functionary, but fabrication or distortion of facts with the intention of libel or frame-up is prohibited. In case of complaints, charges, or exposures made by citizens, the state organ concerned must deal with them in a responsible manner after ascertaining the facts. No one may suppress such complaints, charges, and exposures, or retaliate against the citizens making them. Citizens who have suffered losses through infringement of their civil rights by any state organ or functionary have the right to compensation in accordance with the law." PRC Constitution, adopted 4 December 82, amended 12 April 88, 29 March 93, 15 March 99, 14 March 04, art. 41. The right is also protected by the more recent 2005 National Regulations on Letters and Visits. Regulations on Letters and Visits [Xinfang tiaoli], issued 5 January 05, effective 1 May 05, arts. 1, 3.

[78] Carl Minzner, "Xinfang: An Alternative to Formal Chinese Legal Institutions," 42 Stanford Journal of International Law 103, 107 (2006).

[79] Regulations on Letters and Visits [Xinfang tiaoli], issued 5 January 05, effective 1 May 05, arts. 9–13, 15; Sun Weiben ed., PRC Administrative Management Encyclopedia [Zhonghua renmin gongheguo xingzheng guanli dacidian], (Beijing: Renmin Ribao Chubanshe, 1992), 257; Human Rights Watch (Online), "'We Could Disappear at Any Time': Retaliation and Abuses Against Chinese Petitioners," December 2005, 17–18.

[80] Jamil Anderlini, "Punished Supplicants," Financial Times (Online), 6 March 09; Human Rights Watch (Online), "An Alleyway in Hell," 12 November 09, 3. According to the Human Rights Watch report, "The majority of black jail detainees are petitioners—citizens from rural areas who come to Beijing and provincial capitals seeking redress for abuses ranging from illegal land grabs and corruption to police torture."

[81] Jamil Anderlini, "Punished Supplicants," Financial Times (Online), 6 March 09.

[82] Zhou Yongkang, "Promote the In-Depth Resolution of Social Contradictions, Be Innovative in Social Management, and Enforce the Law Fairly and Honestly, Providing Even More Powerful Rule-of-Law Support for Both Good and Rapid Economic and Social Development" [Shenru tuijin shehui maodun huajie, shehui guanli chuangxin, gongzheng lianjie zhifa, wei jingji shehui youhao youkuai fazhan tigong gengjia youli de fazhi baozhang], Seeking Truth (Online), 16 February 10.

[83] Ibid. "The center of gravity in the effort to resolve social contradictions is at the grass-roots level. . . . [The] villages and towns (neighborhoods) must integrate their forces with regard to . . . upholding stability, complaints, etc., . . . and striving to see that 'minor matters do not get out of the villages, major matters do not get out of the towns (or townships), and that contradictions are not passed up to higher levels.'"

[84] "78% of Grassroots Courts Have Case Petitioning Offices," People's Daily (Online), 4 November 09.

[85] "New Focus of Efforts To Maintain Stability Strike Hard Against Unions, Farmers, and Military [Internal Three Forces]" [Weiwen xin zhongdian daji gong nong bing (nei sangu shili)], Ming Pao, 13 March 10 (Open Source Center, 13 March 10). The other two threats are military personnel rights protection groups and underground labor unions.

[86] "Central Document Reveals: Reprimands of Petitioners Will Be Intensified" [Zhongyang wenjian baoguang: dui fangmin yao jiada xunjie lidu], Boxun (Online), 16 August 09. The Boxun article revealed that, in May 2009, the Central Prominent Xinfang Problems and Mass Incidents Joint Conference Office issued a circular urging relevant official offices to strengthen implementation of a 2008 opinion mandating increasing admonishments "according to law" for "abnormal petitioning."

[87] "Shenzhen Authorities Issue Circular Outlining Punishments for 'Abnormal Petitioning,'" CECC China Human Rights and Rule of Law Update, No. 2, 5 February 10, 2; Huang Guan, "Handling 'Abnormal Petitioning,' Persuade, Do Not Just Block" [Duidai "feizhengchang shangfang," zaishu buzai du], Xinhua (Online), 13 November 09.

[88] Ibid.

[89] "Shenzhen Expands Measures Against 'Abnormal Petitioning,'" CECC China Human Rights and Rule of Law Update, No. 5, 4 June 10, 3. For examples of measures issued in other cities and provinces, see, e.g., "A Government Document Clearly Shows the Basis for Stern Approach Toward Petitioners: Inner Mongolia Document" [Dui fangmin yanli youyin, zhengfu wenjian mingshi: neimenggu wenjian], Boxun (Online), 13 November 09; "Jiangsu Province Four Departments Take Stage With Secret Document Cracking Down on Petitioners Who Take Grievances to Beijing" [Jiangsusheng sibumen chutai mimi wenjian yanda jinjing shangfang], Boxun (Online), 14 January 09; "Wuhan 'Manage According to Law Abnormal Petitioning Behavior in Beijing Propaganda Statement' Revealed" [Wuhan "yifa chuzhi jin jing fei zhengchang shangfang xing wei xuanchuan ci" puguang], Boxun (Online), 20 July 08.

[90] "Shenzhen Expands Measures Against 'Abnormal Petitioning,'" CECC China Human Rights and Rule of Law Update, No. 5, 4 June 10, 3; "Shenzhen Residential Permit Office: Habitual Petitioners Added to Blacklist" [Shenzhen ban juzaizheng chaoji shangfangzhe bei lieru heimingdan], Radio Free Asia (Online), 18 April 10.

[91] Wang Junxiu et al., "Petitioner Who Went to Higher-Level Authorities Detained Files Administrative Suit Against Police Station for Illegal Detention" [Shangfangzhe beiju zhuanggao gonganju xingzheng weifa], China Youth Daily, 14 November 09 (Open Source Center, 14 November 09).

[92] He Xianwen, Chinese Human Rights Defenders (Online), "Liuzhou, Guangxi Petitioners Sent to One Year Reeducation Through Labor for Petitioning" [Guangxi liuzhou wu fangmin yin shangfang bei liaojiao yinian], 24 January 10; Lei Mingxian, Chinese Human Rights Defenders (Online), "Liuzhou Petitioner Series (9): Zeng Zhaokuang Sent to Reeducation Through Labor for Petitioning in Beijing" [Liuzhou fangmin xilie (9): zeng zhaokuang yin shangfang bei laojiao], 24 February 10; Lei Mingxian, Chinese Human Rights Defenders (Online), "Liuzhou Petitioner Series (8) Petitioner Jin Li Sent to Reeducation Through Labor for One Year" [Liuzhou fangmin xilie (8) fangmin jinli bei laojiao yinian], 10 February 10; Lei Mingxian, Chinese Human Rights Defenders (Online), "Liuzhou Petitioner Series (7) Misdiagnosis and Missed Diagnosis Results in Patient's Death" [Liuzhou fangmin xilie (7) wuzhen louzhen zhizhe siwang], 10 February 10.

[93] Yueyang County Measures on 2010 Xinfang Work Responsibility Target Evaluation [2010 nian xinfang gongzuo mubiao guanli kaohe banfa], 6 April 10. Officials in Yueyang have partial points deducted if there is more than one petition per 10,000 population per month and have 10 points deducted any time mass petitions are taken to Beijing. Human Rights Watch (Online), "An Alleyway in Hell," 12 November 09, 9.

[94] Carl Minzner, "Xinfang: An Alternative to Formal Chinese Legal Institutions," 42 Stanford Journal of International Law 103, 154 (2006); Human Rights Watch (Online), "An Alleyway in Hell," 12 November 09, 9.

[95] "Families of 200 Students Killed in Sichuan Earthquake Storm City Government, Blocked by Special Police" [Chuan zhen liang bai li nan xuesheng jiashu chuang shi zhengfu bei tejing zuzhi], Radio Free Asia (Online), 25 June 10.

[96] Ibid.

[97] "Retribution for Representatives Who Organized Teachers To Kneel and Present Petitions in Hubei" [Hubei zuzhi min shi xia gui qingyuan daibiao zao qiu hou suan zhang], Radio Free Asia (Online), 25 June 10.

[98] Liu Feiyue, Civil Rights and Livelihood, "Gongan County, Hubei Organizer Yang Huanqing Sent to Reeducation Through Labor for Organizing Teachers To Petition" [Hubei sheng gongan xian yang huanqing bei yi zuzhi minshi shangfang laojiao], reprinted in Chinese Human Rights Defenders (Online), 28 November 09.

[99] Tania Branigan, "Shanghai 2010 Expo Is Set To Be the World's Most Expensive Party," Guardian (Online), 21 April 10.

[100] According to Chinese Human Rights Defenders, Shanghai officials estimate that "70–80 percent" of petitioning cases originating in the city are related to forced evictions or housing demolitions. See Tania Branigan, "Shanghai 2010 Expo Is Set To Be the World's Most Expensive Party," Guardian (Online), 21 April 10; Amnesty International (Online), "China Silences Women Housing Rights Activists Ahead of Expo 2010," 30 April 10; Chinese Human Rights Defenders (Online), "Chinese Government Silences Activists Ahead of Shanghai World Expo," 29 April 10.

[101] "China's Forced Evictions Cause Instability," Reuters (Online), 28 March 10; Amnesty International (Online), "China Silences Women Housing Rights Activists Ahead of Expo 2010," 30 April 10; Chinese Human Rights Defenders (Online), "Chinese Government Silences Activists Ahead of Shanghai World Expo," 29 April 10.

[102] Chinese Human Rights Defenders (Online), "China Human Rights Briefing Weekly June 8–14, 2010," 15 June 10.

[103] Article 9 of the Universal Declaration of Human Rights prohibits "arbitrary arrest (and) detention" and guarantees "full equality to a fair and public hearing by an independent impartial tribunal." Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, art. 9. Article 37 of the PRC Constitution stipulates that arrests must be conducted "with the approval or by decision of a people's procuratorate or by decision of a people's court, and arrests must be made by a public security organ. Unlawful deprivation or restriction of citizens' freedom of person by detention or other means is prohibited; and unlawful search of the person of citizens is prohibited." PRC Constitution, adopted 4 December 82, amended 12 April 88, 29 March 93, 15 March 99, 14 March 04, art. 4.

[104] "Veteran Starved in Black Jail," Radio Free Asia, reprinted in Agence France-Presse (Online), 11 June 10.

[105] Qi Wuji, Chinese Human Rights Defenders (Online), "Beijing Activist Li Jinping Detained in Black Jail" [Beijing weiquan renshi li jinping beiguan heijianyu], 10 May 10; Chinese Human Rights Defenders (Online), "China Human Rights Briefing May 4–10, 2010," 11 May 10.

[106] Hu Guohong reported being detained in mental hospitals on multiple occasions during politically sensitive dates in China. "British Journalist Detained in Wuhan, Interviewee Doesn't Dare Return Home" [Yingmei jizhe wuhan caifang bei kou bei fangzhe bugan huijia], Radio Free Asia (Online), 2 December 09. Peng Baoquan was committed to a mental hospital for several days after he was detained for taking pictures of a petitioner protest. "The Truth Behind Petitioning, Taking Pictures and Being Labeled as 'Mentally Ill'" [Shangfang, paizhao, "bei jingshenbin" de zhenxiang], Huangqiu Net (Online), 28 April 10; "Shiyan 'Psychiatric Patient' Discusses Before and After the Hospital, Hopes To Take Off the [Mental Illness] Hat" [Shiyan "jingshenbingren" jianshu ruyuan qianhou xiwang zhaidiao "maozi"], Nanfang Daily Net (Online), 17 April 10. Yang Jia's mother, Wang Jingmei, reportedly was detained in a mental institution in Beijing for months while authorities investigated and interrogated her son. "Sending Petitioners to Psychiatric Hospitals Is One Way To Pressure Them" [Song jingshenbingyuan shi daya fangmin de yizhong fangshi], Radio Free Asia (Online), 15 February 10. For a case of a petitioner being committed for a longer period of time, see Wang Yibo, "Suit Against the Township Government; Luohe Peasant Locked in Psychiatric Hospital for Six-and-a-Half Years" [Zhuang gao xiang zhengfu luohe yi nongmin bei guan jingshen bing yuan liunian ban], China Youth Daily (Online), 23 April 10; "Nation Rapt by Detained Petitioner's Story," South China Morning Post (Online), 22 May 10.

[107] Wang Yibo, "Suit Against the Township Government; Luohe Peasant Locked in Psychiatric Hospital for Six-and-a-Half Years" [Zhuang gao xiang zhengfu luohe yi nongmin bei guan jingshen bing yuan liunian ban], China Youth Daily (Online), 23 April 10; Wang Yibo, "Henan Luohe Villager Sued Township Government for Being Locked in Psychiatric Hospital Six-and-a-Half Years" [Henan Luohe nongmin zhuanggao xiang zhengfu beiguan jingshenbingyuan 6 nianban], Xinhua (Online), 23 April 10.

[108] "Hundreds of Lawyers Sign Proposal for Prosecution To Stop False 'Mentally Ill' Judgements" [Baiyu lushi qianming jianyi jiancha jiguan daji "jingshenbing" zaojia], Xinhua (Online), 27 April 10.

[109] "Sending Petitioners to Psychiatric Hospitals Is One Way To Pressure Them" [Song jingshenbingyuan shi daya fangmin de yizhong fangshi], Radio Free Asia (Online), 15 February 10; Chinese Human Rights Defenders (Online), "Silencing Complaints: Human Rights Abuses Against Petitioners in China," 14 March 09. This report presents findings from a previous survey of more than 3,300 petitioners in October 2007 that asserts approximately 3.1 percent of them had been sent to psychiatric institutions at some point because of their petitioning activities.

Notes to Section IV—Xinjiang

[1] For detailed information, including information on China's domestic obligations toward ethnic minorities, see Section II—Ethnic Minority Rights, as well as the section on "Ethnic Minority Rights" in CECC, 2007 Annual Report, 10 October 07, 105–106, and "Special Focus for 2005: China's Minorities and Government Implementation of the Regional Ethnic Autonomy Law," CECC, 2005 Annual Report, 11 October 05, 13–23.

[2] See the subsections that follow, as well as Section II—Freedom of Religion—Islam—Islam in the Xinjiang Uyghur Autonomous Region—for examples of violations of such rights as those to free expression, assembly, religion, and fair criminal trials and the linguistic, religious, and cultural rights of ethnic minorities. For protections in international law, see, e.g., Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, arts. 11, 18, 19, 20; International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, arts. 9, 18, 19, 21, 27. For detailed information, see also Section II—Ethnic Minority Rights, as well as the section on "Ethnic Minority Rights" in CECC, 2007 Annual Report, 10 October 07, 105–108, and "Special Focus for 2005: China's Minorities and Government Implementation of the Regional Ethnic Autonomy Law," CECC, 2005 Annual Report, 11 October 05, 13–23.

[3] See, e.g., "Hu Jintao's Important Speech Delivered at the Xinjiang Uyghur Autonomous Region Cadre Meeting" [Hu jintao zai xinjiang weiwu'er zizhiqu ganbu dahui shang fabiao zhongyao jianghua], Xinhua (Online), 25 August 09; Cheng Lixin, Wang Xinhong, and Li Hua, "Eighth (Enlarged) Plenary Session of Seventh Regional CPC Committee Calls for Unifying Thinking, Enhancing Understanding, Firming Up Confidence, and Clearing Away Difficulties To Forge Ahead," Xinjiang Daily, 25 October 09 (Open Source Center, 20 November 09); "Painstakingly Prepare for Central Work Forum on Xinjiang" [Jingxin choubei zhongyang xinjiang gongzuo zuotanhui], Xinhua, reprinted in Tianshan Net (Online), 28 January 10; "Government Work Report Made by Nur Bekri (Summary)" [Nu'er baikeli suo zuo zhengfu gongzuo baogao (zhaiyao)], Xinjiang Daily, reprinted in China Xinjiang (Online), 13 January 10.

[4] "Main Restructuring of Duties for Leading Comrades in Xinjiang Uyghur Autonomous Region Party Committee" [Xinjiang weiwu'er zizhiqu dangwei zhuyao lingdao tongzhi zhiwu tiaozheng], Xinhua (Online), 24 April 10.

[5] Cheng Lixin, "Zhang Chunxian Stresses: Stability Is the Expectation of People of All Ethnicities" [Zhang chunxian qiangdiao: wending shi ge zu renmin de qipan], Xinjiang Metropolitan News, reprinted in China Xinjiang (Online), 7 May 10. On past statements, see, e.g., CECC, 2009 Annual Report, 10 October 09, 245.

[6] See box titled Free Expression Punished in Xinjiang for information on cases of people detained on security-related charges for criticizing the government or otherwise exercising their right to free expression. For information on efforts to politicize security concerns and single out Western human rights organizations and advocates in the aftermath of events in July 2009, see, e.g., CECC, 2009 Annual Report, 10 October 09, 245–248.

[7] Cui Jia, "Xinjiang Security Funding Increased by 90 Percent," China Daily (Online), 13 January 10; Su Junya, "40.6 Billion in Financing Budgeted for Projects To Protect People's Livelihoods" [Xinjiang 406 yi caizheng yusuan bao minsheng gongcheng], Tianshan Net (Online), 14

January 10; Han Xiaoyi, Huang Yan, and Zhang Xinjun, "3rd Session of 11th Xinjiang Autonomous Region People's Congress Concludes" [Xinjiang zizhiqu shiyi jie renda sanci huiyi bimu], Tianshan Net, reprinted in China Xinjiang (Online), 17 January 10.

[8] Compare the most recent version of the Xinjiang Uyghur Autonomous Region Regulation on the Comprehensive Management of Social Order [Xinjiang weiwu'er zizhiqu shehui zhi'an zonghe zhili tiaoli], issued 21 January 94, amended 11 December 97 and 29 December 09, effective 1 February 10, arts. 5, 11, 16, 25, 31, 42, to the 1997 version of the Xinjiang Uyghur Autonomous Region Regulation on the Comprehensive Management of Social Order [Xinjiang weiwu'er zizhiqu shehui zhi'an zonghe zhili tiaoli], issued 21 January 94, amended 11 December 97, effective 11 December 97. For a detailed comparison between the two versions, see "Revised Regulation From Xinjiang Places New Emphasis on State Security," CECC China Human Rights and Rule of Law Update, No. 3, 16 March 10, 3.

[9] For examples of such cases, see, e.g., "Number of Trials for State Security Crimes in Xinjiang Increases in 2009," CECC China Human Rights and Rule of Law Update, No. 2, 5 February 10, 3.

[10] For a detailed comparison between the XUAR regulation and other provincial-level regulations, see "Revised Regulation From Xinjiang Places New Emphasis on State Security," CECC China Human Rights and Rule of Law Update, No. 3, 16 March 10, 3.

[11] "Xinjiang Beefs Up Special Police Unit for Safety," Xinhua (Online), 3 February 10.

[12] "At End of This Year Video Cameras in Urumqi Proper To Reach 60,000" [Jinnianmo wulumuqi chengqu shipin shexiang tou jiang dadao 6 wan zhi], China News Service (Online), 15 January 09.

[13] "Urumqi To Establish 10,000 Person Full-Time Patrol Team" [Wulumuqi shi jiang jian wan ren zhuanzhi xunluodui], Xinjiang Daily, reprinted in China Xinjiang (Online), 24 September 09.

[14] "Urumqi Public Security Organs Deploy Special Social Order Prevention and Control Operation" [Wu shi gong'an jiguan bushu zhi'an fangkong zhuanxiang xingdong], Xinjiang Daily (Online), 18 June 10.

[15] Li Xing, "Wang Lequan Speaks at Meeting To Summarize, Commend Stability Maintenance Work in the Autonomous Region, Stresses Need To Consolidate and Expand Further What Has Been Achieved," Xinjiang Daily, 9 February 10 (Open Source Center, 25 February 10).

[16] Based on Commission search of legal databases in China.

[17] See, e.g., Xinjiang Uyghur Autonomous Region Regulation on Ethnic Unity Education [Xinjiang weiwu'er zizhiqu minzu tuanjie jiaoyu tiaoli], issued 29 December 09, effective 1 February 10, arts. 12, 18, 22. For detailed analysis of the regulation, see "'Ethnic Unity' Regulation Imposes Party Policy, Restricts Free Expression," CECC China Human Rights and Rule of Law Update, No. 3, 16 March 10, 2.

[18] Ibid., art. 37.

[19] "Those Who Fabricate and Spread Harmful Information Will Be Severely Punished in Accordance With Law" [Bianzao chuanbo youhai xinxizhe jiang yifa yancheng], Urumqi Online, reprinted in Xinhua (Online), 26 January 10; "Public Security Organs at All Levels in Xinjiang Strike Hard Against Cases of Fabricating and Intentionally Spreading Harmful Information" [Xinjiang geji gongan jiguan yanli daji bianzao guyi chuanbo youhai xinxi anjian], Tianshan Net (Online), 7 February 10.

[20] See, e.g., "Xinjiang To Strengthen Education on National Unity Among Youth," Xinhua (Online), 12 October 09; "Xinjiang Normal University Uses Various Means To Launch Ethnic Unity Education, Over 10,000 Students and Staff Participate in the Studies" [Xinjiang shida duozhong jucuo kaizhan minzu tuanjie jiaoyu wan yu xuesheng zhigong canjia xuexi], Legal Daily, reprinted in State Ethnic Affairs Commission (Online), 15 October 09; Wang Fei, "Content on Ethnic Unity Education Brought Into Next Year's High School Entrance Exams" [Minzu tuanjie jiaoyu neirong mingnian naru wulumuqi zhongkao], Xinhua (Online), 21 October 09.

[21] See analysis in "Xinjiang Authorities Continue Detentions, Announce Arrests Connected to July 5 Incident," CECC China Human Rights and Rule of Law Update, No. 5, 2009, 2.

[22] See, e.g., Andrew Jacobs, "Countering Riots, China Rounds Up Hundreds," New York Times (Online), 19 July 09; David Eimer, "As China Reels From 184 Deaths in Urumqi Riots, a Beaten Woman Fears for Her Husband," Telegraph (Online), 11 July 09; "Tight Security in Xinjiang," Radio Free Asia (Online), 6 July 09; Kathrin Hille, "Xinjiang Widens Crackdown on Uighurs," Financial Times (Online), 19 July 09. See also analysis in "Xinjiang Authorities Continue Detentions, Announce Arrests Connected to July 5 Incident," CECC China Human Rights and Rule of Law Update, No. 5, 2009, 2.

[23] Ibid.

[24] Human Rights Watch (Online), "'We Are Afraid To Even Look for Them': Enforced Disappearances in the Wake of Xinjiang's Protests," October 2009, 5.

[25] Uyghur Human Rights Project (Online), "Can Anyone Hear Us? Voices From the 2009 Unrest in Urumqi," 1 July 10, 28–30.

[26] "Xinjiang High People's Court Establishes Leading Group for Trying '7–5' Cases" [Xinjiang gaoyuan chengli shenli "7–5" anjian lingdao xiaozu], Legal Daily, reprinted in Gansu Daily (Online), 16 July 09.

[27] "Xinjiang Completed Trials Last Year in 437 Cases of Endangering State Security" [Xinjiang qunian shenjie weihai guojia anquan fanzui anjian 437 qi], Xinhua (Online), 15 January 09.

[28] Beijing Judicial Bureau Lawyer Work Management Division (Online), "Beijing Judicial Bureau Lawyer Work Management Division's Urgent Notice Regarding Requiring All Lawyers in the City To Be Cautious in Offering Legal Services in the Urumqi 'July 5' Beating, Smashing, Looting, and Burning Serious Violent Criminal Incident" [Beijing shi sifaju lushi gongzuo guanlichu guanyu yaoqiu quanshi lushi shenzhong wei wulumuqi shi '7.5' da za qiang shao yanzhong baoli fanzui shijian tigong falu fuwu de jinji tongzhi], 8 July 09; "Xinjiang Lawyers Indicate All Legal Arrangements in Relation to July 5 Incident Will Be Made by Authorities"

[Xinjiang lushi zhi 7.5 shijian xiangguan susong you guanfang tongyi anpai], Radio Free Asia (Online), 14 July 09; China Human Rights Lawyers Concern Group (Online), "Concern over Mainland Lawyers' Freedom To Legal Practice [sic] on Urumqi Protest Cases," 15 July 09. See also "Defense Attorneys Free for Riot Suspects," Global Times (Online), 24 July 09. Following the first set of trials in October, Li Fangping, a human rights lawyer in Beijing, said he was not aware of any Beijing lawyers who were representing defendants in the Xinjiang trials. "China's Xinjiang Trials Fail Global Standards: Rights Group," Agence France-Presse, reprinted in Yahoo! (Online), 16 October 09.

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[35] "Xinjiang Completed Trials Last Year in 437 Cases of Endangering State Security" [Xinjiang qunian shenjie weihai guojia anquan fanzui anjian 437 qi], Xinhua (Online), 15 January 09; Cui Jia, "Xinjiang Courts Handle Rising Security Cases," China Daily (Online), 16 January 09. For additional background and analysis, see "Number of Trials for State Security Crimes in Xinjiang Increases in 2009," CECC China Human Rights and Rule of Law Update, No. 2, 5 February 10, 3.

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[37] See generally analysis of the July trials, including information on the charges involved, in "198 People in Xinjiang Reportedly Sentenced in Trials Marked by Lack of Transparency," CECC China Human Rights and Rule of Law Update, No. 4, 21 April 10, 2. For Chinese reporting on the trials, including information on charges involved, see, e.g., "Judgment Pronounced in Three Cases in Urumqi Incident of Serious Violent Crimes of Beating, Smashing. Looting, and Burning" [Wulumuqi da za qiang shao yanzhong baoli fanzui shijian san anjian yishen xuanpan], Xinhua (Online), 12 October 09; Rena Wubuli, "Urumqi Openly Tries Three Cases of Serious Violent Crimes of Beating, Smashing, Looting, and Burning" [Wulumuqi gongkai shenli sanqi da za qiang shao yanzhong baoli fanzui anjian], Xinjiang Daily, reprinted in Xinhua (Online), 15 October 09; "Urumqi Intermediate Court Openly Tries and Pronounces Judgment in Five Serious Violent Criminal Cases of Beating, Smashing, Looting, and Burning" [Wulumuqi zhongyuan gongkai shenli xuanpan wu qi da za qiang shao yanzhong baoli fanzui anjian], Xinhua (Online), 3 December 09; "Urumqi Intermediate Court Again Openly Tries and Pronounces Judgment in Five Serious Violent Criminal Cases of Beating, Smashing, Looting, and Burning" [Wulumuqi zhongyuan you gongkai shenli xuanpan wu qi da za qiang shao yanzhong baoli fanzui anjian], Xinhua (Online), 4 December 09; Cao Huijuan, "Urumqi Intermediate Court Publicly Pronounces Judgment in Five Serious Violent Criminal Cases" [Wulumuqi zhongyuan gongkai xuanpan wu qi yanzhong baoli fanzui anjian], Xinjiang Daily, reprinted in Xinjiang Bingtuan Net (Online), 24 December 09.

[38] As discussed in this section, it appears likely that not all trials related to July 2009 events were reported in the media, meaning some trials related to alleged crimes committed in July 2009 could have involved state security crimes but were not publicized. It is also possible that the number of trials connected in some way to events in July 2009 exceeds the number officially categorized as related to the July events and publicized as such.

[39] See, e.g., CECC, 2008 Annual Report, 31 October 08, 168–171; CECC, 2009 Annual Report, 10 October 2009, 243–248.

[40] "Official: Internet Cut in Xinjiang To Prevent Riot From Spreading," Xinhua (Online), 7 July 09.

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[43] International Covenant on Civil and Political Rights (ICCPR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 19.

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[49] For a comparison of the XUAR regulation to regulations elsewhere in China, see "Xinjiang Government Issues Internet Regulation, Keeps Strict Controls on Information," CECC China Human Rights and Rule of Law Update, No. 6, 9 December 09, 3–4.

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[103] See generally Urumqi Municipality Regulation on the Management of Room Rentals [Wulumuqi shi fangwu zulin guanli tiaoli], adopted 23 April 10, issued 10 June 10, effective 1 July 10.

[104] "Urumqi Puts Forth Regulation To Standardize Management of Rental Housing" [Wulumuqi chutai fagui guifan fangwu zulin guanli], Tianshan Net (Online), 26 April 10.

[105] Compare the most recent version of the Xinjiang Uyghur Autonomous Region Regulation on the Comprehensive Management of Social Order [Xinjiang weiwu'er zizhiqu shehui zhi'an zonghe zhili tiaoli], issued 21 January 94, amended 11 December 97 and 29 December 09, effective 1 February 10, arts. 5(7), 14, 19, 36 to the 1997 version of the Xinjiang Uyghur Autonomous Region Regulation on the Comprehensive Management of Social Order [Xinjiang weiwu'er zizhiqu shehui zhi'an zonghe zhili tiaoli], issued 21 January 94, amended 11 December 97, effective 11 December 97, art. 29. For a comparison between the XUAR regulation and other provincial-level regulations, see "Revised Regulation From Xinjiang Places New Emphasis on State Security," CECC China Human Rights and Rule of Law Update, No. 3, 16 March 10, 2.

[106] "Slum, Shanty Towns To Be Removed From Urumqi," Xinhua (Online), 11 July 10.

[107] "Heijiashan, Urumqi, Realizes Total Coverage in Management of Floating Population" [Wulumuqi heijiashan shixian quan fugai guanli liudong renkou], Tianshan Net (Online), 6 July 10; Mao Yong, "Rectification Activities in Areas Heavily Hit in Urumqi '7–5' Incident, Over 900 'Uninvited Tenants' Advised To Leave" [Wu shi '7–5' shijian zhong zaiqu zhengzhi quan li 900 yu ming 'busu fangke'], Xinhua (Online), 23 November 09.

[108] "Slum, Shanty Towns To Be Removed From Urumqi," Xinhua (Online), 11 July 10.

[109] Autonomous Region Party Committee, Autonomous Region People's Government Opinion Concerning Employment Promotion Work [Zizhiqu dangwei, zizhiqu renmin zhengfu guanyu cujin jiuye gongzuo de yijian], issued 11 September 09, art. 2(2).

[110] Ibid.

[111] Ibid., art. 1(5).

[112] National Bureau of Statistics of China (Online), "Communiqué of Main Data for Xinjiang Uyghur Autonomous Region From 2005 National 1 Percent Population Sampling" [Xinjiang weiwu'er zizhiqu 2005 nian quanguo 1% renkou chouyang diaocha zhuyao shuju gongbao], 20 March 06.

[113] Autonomous Region Party Committee, Autonomous Region People's Government Opinion Concerning Employment Promotion Work [Zizhiqu dangwei, zizhiqu renmin zhengfu guanyu cujin jiuye gongzuo de yijian], issued 11 September 09, art. 2(2). See also descriptions of the opinion in, e.g., Zhang Xinyu and Liu Yuexian, "'Autonomous Region Party Committee, People's Government Opinion Concerning Employment Promotion Work' Put Into Effect in October" ["Zizhiqu dangwei, renmin zhengfu guanyu cujin jiuye gongzuo de yijian" 10 yue shishi], Xinjiang Daily, reprinted in Xinjiang Economic Net (Online), 24 September 09; "China's Xinjiang Orders Businesses To Recruit More Locals," Xinhua, reprinted in People's Daily (Online), 24 September 09.

[114] See references to adhering to the opinion, which do not include reference to taking steps to promote hiring of ethnic minorities, at, e.g., "Baicheng County Vigorously Implements Activity for 'Year for All the People To Undertake Pioneering Work'" [Baicheng xian dali shishi "quanmin chuangye nian" huodong], Tianshan Net (Online), 23 February 10; "Xinjiang's Kashgar District Urgently Requires 50,000 Construction Workers From Interior This Year" [Xinjiang kashi diqu jinnian jixu neidi wu wan ming jianzhu gongren], China News Service, reprinted in Xinjiang News Service (Online), 8 March 10.

[115] See, e.g., Bingtuan Personnel Testing Authority, "Introduction to General Situation for 2010 Xinjiang Production and Construction Corps Public Recruitment of Civil Servants" [2010

nian bingtuan mianxiang shehui zhaolu gongwuyuan zongti qingkuang jieshao], reprinted in Huatu Education (Online), 15 May 10; Xinjiang PetroChina Pipe Engineering Co., Ltd., "Ordinary Workers, Description and Qualifications for Positions" [Pugong zhiwei miaoshu ji yaoqiu], Internet Recruiting Association (Online), 11 August 10. Also see analysis in "Discriminatory Job Hiring Practices Continue in Xinjiang," CECC China Human Rights and Rule of Law Update, No. 8, 2010 (forthcoming). For reports from past years, see, e.g., CECC, 2007 Annual Report, 10 October 07, 107; CECC, 2009 Annual Report, 10 October 09, 264.

[116] See analysis in "Discriminatory Job Hiring Practices Continue in Xinjiang," CECC China Human Rights and Rule of Law Update, No. 8, 2010 (forthcoming). See also Bingtuan Personnel Testing Authority, "Introduction to General Situation for 2010 Xinjiang Production and Construction Corps Public Recruitment of Civil Servants" [2010 nian bingtuan mianxiang shehui zhaolu gongwuyuan zongti qingkuang jieshao], reprinted in Huatu Education (Online), 15 May 10.

[117] For detailed information on the program and reports from previous years on the use of coercion to gain participation and on exploitative working conditions, see CECC, 2009 Annual Report, 10 October 09, 264–266. For a report from the past year, see Choi Chi-Yuk and Ng Tze-Wei, "Broken Promises, Broken Dreams for Migrant Workers in Guangdong," South China Morning Post, 30 December 09 (Open Source Center, 30 December 09). For information on the program as described in official Chinese sources, see, e.g., State Council Information Office, White Paper on Development and Progress in Xinjiang, 21 September 09; "Urumqi July 5 Incident Will Not Influence Xinjiang's Labor Export Policy" [Wulumuqi "7–5" shijian buyingxiang xinjiang laowu shuchu zhengce], China News Service (Online), 10 July 09.

[118] See, e.g., A.S. Bhalla and Shufang Qiu, Poverty and Inequality Among Chinese Minorities (London: Routledge, 2006), 139; James A. Millward, "Introduction: Does the 2009 Urumchi Violence Mark a Turning Point?" 28 Central Asian Survey No. 4, 347, 349 (2009).

[119] "Nu'er Bekri Refutes the Allegation That Women of Uyghur Ethnic Group 'Are Forced To Work in the Interior of the Country,'" Xinhua, 18 July 09 (Open Source Center, 20 July 09).

[120] A description of the Guangdong program as government sponsored is in Liang Qiwen, "Rape Rumor Led to Brawl, 2 Killed," China Daily (Online), 30 June 09. For additional information, see "Xinjiang Authorities Forcefully Suppress Demonstration, Restrict Free Flow of Information," CECC China Human Rights and Rule of Law Update, No. 4, 2009, 2.

[121] "Urumqi '7–5' Incident Will Not Influence Xinjiang's Labor Export Policy" [Wulumuqi "7–5" shijian buyingxiang xinjiang laowu shuchu zhengce], China News Service (Online), 10 July 09; "Resolutely Drive Ahead With Projects for the People's Livelihood for On-the-Spot Labor Transfers and Employment in the Interior" [Jiandingbuyi tuijin jiudi zhuanyi he neidi jiuye zhe xiang minsheng gongsheng], Xinjiang Daily, reprinted in Xinhua (Online), 30 July 09.

[122] "Isolated Xinjiang Ethnic Minority Rural Workers March Toward Openness" [Xinjiang shaoshu minzu nongmin'gong cong fengbi maixiang kaifang], Xinhua, reprinted in China Ethnicities News (Online), 25 January 10.

[123] "Urumqi '7–5' Incident Will Not Influence Xinjiang's Labor Export Policy" [Wulumuqi "7–5" shijian buyingxiang xinjiang laowu shuchu zhengce], China News Service (Online), 10 July 09.

[124] The XUAR Human Resources and Social Security Department replaced the XUAR Labor and Social Security Department. "Xinjiang Uyghur Autonomous Region Human Resources and Social Security Department Hangs Out Its Shingle" [Xinjiang weiwu'er zizhiqu renli ziyuan he shehui baozhang ting guapai], Tianshan Net (Online), 23 June 09.

[125] "Isolated Xinjiang Ethnic Minority Rural Workers March Toward Openness" [Xinjiang shaoshu minzu nongmingong cong fengbi maixiang kaifang], Xinhua, reprinted in China Ethnicities News (Online), 25 January 10.

[126] Liu Shihe, "Qaba County: Earned Income From Transfer of Surplus Woman Labor Force Exceeds Ten Million Yuan" [Habahe xian: funu fuyu laodongli zhuanyi chuangshou chao qianwan yuan], Xinhua (Online), 19 November 09.

[127] Zhao Jun, "69 Girls From Peyziwat Go to Zhejiang To Work" [Jiashi 69 ming guniang fu zhejiang wugong], Tianshan Net, reprinted in China Xinjiang (Online), 31 January 10.

[128] For general developments from the past year and background on the project, see "Chinese Media Reports on Continued Demolition in Kashgar, Resettlement Numbers Vary," CECC China Human Rights and Rule of Law Update, No. 2, 5 February 10, 3, and "Demolition of Kashgar's Old City Draws Concerns Over Cultural Heritage Protection, Population Resettlement," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2.

[129] Abulimiti Suopiaji, "Reconstruction of Kashgar's Old City Achieves Zero Petitions to Higher Authorities" [Kashi shi laocheng qu gaizao shixian ling shangfang], Xinjiang Daily, reprinted in Xinhua (Online), 4 March 10. For analysis of this development, see "Kashgar Authorities Announce 'Zero Tolerance' for Petitioning Higher Level Authorities About Old City Demolition," CECC China Human Rights and Rule of Law Update, No. 4, 21 April 10, 2.

[130] Abulimiti Suopiaji, "Reconstruction of Kashgar's Old City Achieves Zero Petitions to Higher Authorities" [Kashi shi laocheng qu gaizao shixian ling shangfang], Xinjiang Daily, reprinted in Xinhua (Online), 4 March 10.

[131] Ibid.

[132] Zhu Mingjun, "Kashgar Makes Files of Historic Architecture, Excavates and Protects Traditional Local Cultural Buildings" [Kashi shi wei lishi jianzhu jiandang wajue baohu chuantong wenhua de minjian jianzhu], Xinjiang Daily, reprinted in Xinhua (Online), 1 November 09.

[133] See, e.g., Kashgar District Government (Online), "District Launches Meeting To Report on the Comprehensive Administration of Kashgar Old City" [Diqu zhaokai kashi shi laocheng qu zonghe zhili xiangmu huibaohui], 13 August 09; Michael Wines, "To Protect an Ancient City, China Moves To Raze It," New York Times (Online), 27 May 09. See analysis in "Demolition of Kashgar's Old City Draws Concerns Over Cultural Heritage Protection, Population Resettlement," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2.

[134] For assessments of the area's cultural heritage, see, e.g., "Demolition of Kashgar's Old City Draws Concerns Over Cultural Heritage Protection, Population Resettlement," CECC China Human Rights and Rule of Law Update, No. 3, 2009, 2. For information on subsequent demolitions of historic property, see "Xanliq Madrassa—Level-One Protected Cultural Relic in Kashgar—Is Destroyed" [Qeshqerde 1-derijilik qoghdilidighan medeniy yadikarliq—xanliq medrisi chéqiwétildi], Radio Free Asia (Online), 17 June 09; Ng Tze-wei, "Uygurs Decry 'Reconstruction Project' Set To Change the Face of Old Town in Kashgar," South China Morning Post (Online), 30 December 09.

[135] See, e.g., "Kashgar, Xinjiang, Old City Reconstruction Completely Conforms to International Practice" [Xinjiang kashi laocheng qu gaizao wanquan fuhe guoji guanli], China News Service, reprinted in Xinjiang News Service (Online), 8 March 10; Kathleen E. McLaughlin, "Unesco, China and a Uighur Mystery," Global Post (Online), 13 January 10.

[136] Kathleen E. McLaughlin, "Unesco, China and a Uighur Mystery," Global Post (Online), 13 January 10.

[137] See past examples in CECC, 2008 Annual Report, 31 October 08, 176; CECC, 2009 Annual Report, 10 October 09, 261–262. See also cases cited in Amnesty International (Online), "Open Letter on Uighur Asylum Seekers in Cambodia," 16 December 09.

[138] See, e.g., Sebastian Strangio, "Uighurs' Fate Seen as Stain on Kingdom," Phnom Penh Post (Online), 21 December 09 (reporting three children among those deported, ages not provided); World Uyghur Congress (Online), "World Uyghur Congress 'Outraged' by Cambodia's Return of Uyghurs to China," 22 December 09 (noting the group included a one-year-old infant and a six-month-old infant); Frank Brennan, "Uighurs Failed by Cambodia's Sham Refugee Law," Eureka Street (Online), 3 March 10 (citing information from the Jesuit Refugee Service, which assisted the Uyghurs in Cambodia, and noting that two infants were in the group).

[139] In condemning the deportation of the group, the United Nations High Commissioner for Refugees (UNHCR) noted that the deportation violated the principle of non-refoulement, which applies to refugees and asylum seekers, and breaches refugee law for returning the group before the UNHCR had made a refugee status determination. "UN Refugee Agency Deplores Forced Return of Uighur Asylum-Seekers From Cambodia," UN News Centre (Online), 21 December 09. On the principle of non-refoulement, see Convention Relating to the Status of Refugees, adopted 28 July 51 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under UN General Assembly resolution 429 (V) of 14 December 50, art. 33(1). In addition, under the Convention Against Torture, "No State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by UN General Assembly resolution 39/46 of 10 December 84, entry into force 26 June 87, art. 3(1). UN Special Rapporteur Manfred Nowak described the deportation as a violation of the Convention against Torture. Office of the High Commissioner for Human Rights (Online), "UN Expert on Torture Seriously Concerned About Forcible Return of Ethnic Uyghurs From Cambodia to China," 22 December 09.

[140] Sebastian Strangio, "Uighurs' Fate Seen as Stain on Kingdom," Phnom Penh Post (Online), 21 December 09; John Pomfret, "Uighur Protesters Land in Cambodia," Washington Post (Online), 3 December 09; "Deported Uyghur Had Cambodian Visa," Radio Free Asia (Online), 23 December 09.

[141] "PRC FM Spokesman Warns Against UN 'Haven' for Criminal Uyghurs in Cambodia," Agence France-Presse, 15 December 09 (Open Source Center, 15 December 09).

[142] See, e.g., "UN Refugee Agency Deplores Forced Return of Uighur Asylum-Seekers From Cambodia," UN News Centre (Online), 21 December 09; Sebastian Strangio, "Uighurs' Fate Seen as Stain on Kingdom," Phnom Penh Post (Online), 21 December 09.

[143] Seth Mydans, "After Expelling Uighurs, Cambodia Approves Chinese Investments," New York Times (Online), 21 December 09.

[144] "China Says Handling With [sic] Citizens Deported From Cambodia Its Own Affair," Xinhua (Online), 22 December 09.

[145] Zhou Yingfeng and Cui Qingxin, "Our Country Busts Major Terrorist Group Case, Details on Public Security Bureau Announcement" [Woguo pohuo zhongda kongbu zuzhi an gong'anbu gongbu xiangqing], Xinhua (Online), 24 June 10.

[146] United Nations High Commissioner for Refugees (Online), "The Exclusion Clauses: Guidelines on their Application," December 1996, II(i)(10). See also Monette Zard, "Exclusion, Terrorism and the Refugee Convention," Forced Migration Review (Online), June 2002.

[147] "Uyghur Asylum Bid in Cambodia," Radio Free Asia (Online), 3 December 09.

Notes to Section V—Tibet

[1] For more information on Chinese Government plans, see CECC, Special Topic Paper: Tibet 2008–2009, 22 October 09, 39–51.

[2] See, e.g., "Chinese Vice Premier Urges U.S. To Respect China's Core Interests," Xinhua (Online), 15 March 10; Zhang Shuo, "Exclusive Interview With China's Former Diplomat on Three Questions in China-US Relations," Xinhua, 9 March 10 (translated in Open Source Center, 9 March 10); Ministry of Foreign Affairs, "Transcript of Regular News Conference by PRC Foreign Ministry on 23 February 2010, Moderated by Spokesman Qin Gang," 23 February 10 (translated in Open Source Center, 23 February 10). See also CECC, Special Topic Paper: Tibet 2008–2009, 22 October 09, 5–8.

[3] Zhang Shuo, "Exclusive Interview With China's Former Diplomat on Three Questions in China-US Relations," Xinhua, 9 March 10 (translated in Open Source Center, 9 March 10) ("The US side should particularly handle the Taiwan and Tibet issues appropriately . . . stop doing anything that harms China's core interests and major interests . . . ."); "China Expects Positive Results From Obama's Visit," Xinhua (Online), 10 November 09 ("In response to questions concerning Taiwan and Tibet, Qin . . . [said] the two countries should respect each other's core

interests and concerns."); Prepared Statement of Dai Bingguo, State Councilor of the People's Republic of China, "Address at the Dinner Marking the 30th Anniversary of the Establishment of China-US Diplomatic Relations Hosted by the Brookings Institution," reprinted in The Brookings Institution (Online), 11 December 08 ("Taiwan and Tibet-related issues concern China's core interests.").

[4] "Policy on Tibet Is Consistent," China Daily (Online), 17 October 09 (United Front Work Department Executive Deputy Head Zhu Weiqun stated, "However, the so-called 'middle line' is still in nature 'Tibet independence.'"); "Claiming 'Fear in Tibet', Dalai Lama Tells Lies Again," People's Daily, reprinted in China Tibet (Online), 6 November 09 ("50 years have passed since the 14th Dalai Lama fled abroad. During that period, the Dalai Lama claimed himself to be a 'religious leader,' but engaged himself in many political events aiming at splitting China and disrupting the development of Tibet."); "China Urges U.S. To Respect Its Stance on Tibet," Xinhua (Online), 12 November 09 ("[Foreign Ministry Spokesman Qin Gang] characterized the Dalai Lama as 'the ringleader of feudal serf system,' saying his acts separated the motherland and breached the country's unity and territorial integrity.").

[5] "China Urges U.S. To Respect Its Stance on Tibet," Xinhua (Online), 12 November 09 (Foreign Ministry Spokesman Qin Gang: "China is firmly opposed to the Dalai Lama's acts in international arena and opposed to any contact between the Dalai Lama and leading officials of foreign governments in whatever name or capacity."); Wang Wei and Ge Xiangwen, "Obama's Upcoming Visit to China Will Promote the Development of China-US Relations in the New Period—Exclusive Interview With Chinese Ambassador to the United States Zhou Wenzhong," Xinhua, 8 November 09 (translated in Open Source Center, 8 November 09) (Zhou Wenzhong [implied reference to the Dalai Lama and other Tibetan and Uyghur entities]: "The Chinese side also hopes that the US side will fulfill its commitment with actual deeds on not providing any support or convenience for anti-Chinese separatist forces."); "China Urges U.S. To Respect Its Stance on Tibet," Xinhua (Online), 12 November 09 ("[Foreign Ministry Spokesman Qin Gang] characterized the Dalai Lama as 'the ringleader of feudal serf system,' saying his acts separated the motherland and breached the country's unity and territorial integrity.").

[6] Office of the Press Secretary, The White House (Online), "Statement From the Press Secretary on the President's Meeting With His Holiness the XIV Dalai Lama," 18 February 10.

[7] See, e.g., "China Urges U.S. To Respect Its Stance on Tibet," Xinhua (Online), 12 November 09 (Foreign Ministry Spokesman Qin Gang: "China is firmly opposed to the Dalai Lama's acts in international arena and opposed to any contact between the Dalai Lama and leading officials of foreign governments in whatever name or capacity."); "If the United States Challenges China's Core Interests, It Will Pay a Heavy Price," Hong Kong China News Agency, 7 January 10 (translated in Open Source Center, 10 January 10) ("But viewing from the current China-US relations, the US Government has acted willfully regardless of China's interests. The United States may pay a heavy price for this, heavier than any time in the past."); "China-U.S. Relationship Enters 'Dalai Round,'" People's Daily, reprinted in China Tibet Online (Online), 5 February 10 ("The China-U.S. relationship has undergone drastic changes within a period of only 1 month in early 2010. The Dalai Lama, who is just like an old drum that has nearly been cracked by the west and China, is likely to bring this round of the China-U.S. conflict to a climax.").

[8] Office of the Press Secretary, The White House (Online), "Press Briefing by Press Secretary Robert Gibbs," 6 October 09.

[9] "Factbox: Obama Has Busy Itinerary on Whirlwind Asian Tour," Reuters (Online), 12 November 09.

[10] Office of the Press Secretary, The White House (Online), "Briefing by White House Press Secretary Robert Gibbs and CEA Chair Christina Romer, 2/11/10," 11 February 10.

[11] See, e.g., "What's the Purpose of Dalai Lama's Incitement/" People's Daily, reprinted in China Tibet Online (Online), 5 November 09 ("Recently, the Dalai Lama is going through a dramatically tough time in the international arena. He has been given the silent treatment, even U.S. President Barack Obama had quietly refused to meet him."); "Wen Wei Po: Why 'Dalai Card' Depreciated," People's Daily, reprinted in China Tibet Online (Online), 5 November 09 ("Certainly, the White House couldn't admit the open secret that President Obama bent to China's pressure, and said Obama hadn't refused to meet with the Dalai Lama and would do that later.").

[12] See, e.g., "Transcript of Regular News Conference by PRC Foreign Ministry on 27 March 2008, Moderated by Spokesman Qin Gang," Xinhua, 27 March 08 (translated in Open Source Center, 27 March 08) (Ministry of Foreign Affairs Spokesman Qin Gang: "Tibet affairs are China's internal affairs." Qin also said, "I would like to point out here that the Tibet issue falls entirely within China's internal affairs and brooks no interference by foreign countries.").

[13] "The CPC Central Committee and the State Council Hold the Fifth Tibet Work Forum; Hu Jintao and Wen Jiabao Deliver Important Speeches," Xinhua, 22 January 10 (translated in Open Source Center, 25 January 10); "Communist Party Leadership Outlines 2010–2020 'Tibet Work' Priorities at 'Fifth Forum,'" CECC China Human Rights and Rule of Law Update, No. 3, 16 March 10, 2.

[14] "Political Bureau Done Mapping Out New General Strategy for Governing Tibet," Xinhua, 10 January 10 (translated in Open Source Center, 10 January 10); "Communist Party Leadership Outlines 2010–2020 'Tibet Work' Priorities at 'Fifth Forum,'" CECC China Human Rights and Rule of Law Update, No. 3, 16 March 10, 2.

[15] "CPC Central Committee Political Bureau Convenes Meeting To Study, Promote Work on Tibet's Development by Leaps and Bounds and Long-Term Order and Stability," Xinhua, 8 January 10 (translated in Open Source Center, 8 January 10).

[16] "Political Bureau Done Mapping Out New General Strategy for Governing Tibet," Xinhua, 10 January 10 (translated in Open Source Center, 10 January 10); "Communist Party Leadership Outlines 2010–2020 'Tibet Work' Priorities at 'Fifth Forum,'" CECC China Human Rights and Rule of Law Update, No. 3, 16 March 10, 2.

[17] "Political Bureau Done Mapping Out New General Strategy for Governing Tibet," Xinhua, 10 January 10 (translated in Open Source Center, 10 January 10). CECC staff have determined that the phrase "Tibetan traits" is more suitable than "Tibetan characters" as provided in the OSC translation. "Hu Calls for Great Wall of Stability in Tibet," Xinhua (Online), 9 March 09. President Hu Jintao used similar language in March 2009 when he told Tibetan deputies to the National People's Congress that the TAR "must stick to the development road with Chinese characteristics and Tibetan features."

[18] See, e.g., CECC, Special Topic Paper: Tibet 2008–2009, 22 October 09, 25–28; Section IV—Tibet: Special Focus for 2007 in CECC, 2007 Annual Report, 10 October 07, 187–191; Monitoring Compliance with Human Rights—Special Focus for 2005: China's Minorities and Government Implementation of the Regional Ethnic Autonomy Law in CECC, 2005 Annual Report, 11 October 05, 13–23.

[19] "List of Political Bureau Members of 17th CPC Central Committee," Xinhua (Online), 22 October 07. Of the 25 Politburo members, one is listed as an ethnic Hui.

[20] "The CPC Central Committee and the State Council Hold the Fifth Tibet Work Forum; Hu Jintao and Wen Jiabao Deliver Important Speeches," Xinhua, 22 January 10 (translated in Open Source Center, 25 January 10); "Communist Party Leadership Outlines 2010–2020 'Tibet Work' Priorities at 'Fifth Forum,'" CECC China Human Rights and Rule of Law Update, No. 3, 16 March 10.

[21] "The CPC Central Committee and the State Council Hold the Fifth Tibet Work Forum; Hu Jintao and Wen Jiabao Deliver Important Speeches," Xinhua, 22 January 10 (translated in Open Source Center, 25 January 10). In addition to Hu Jintao and Wen Jiabao, the other seven members of the Standing Committee are: Chairman of the National People's Congress Standing Committee Wu Bangguo; Chairman of the National Committee of the Chinese People's Political Consultative Conference Jia Qinglin; Head of the Party Leading Group for Publicity and Ideological Work Li Changchun; Vice President of China Xi Jinping; Vice Premier of the State Council Li Keqiang; Secretary of the Party Central Commission for Discipline Inspection He Guoqiang; and Secretary of the Party Central Committee's Politics and Law Commission Zhou Yongkang. Xinhua reported that a total of 332 officials representing the Communist Party and central government, the Tibet Autonomous Region (TAR), other provincial-level areas, the People's Liberation Army, and the People's Armed Police attended the meeting.

[22] "Jiang Zemin, Zhu Rongji Address CPC, State Council Tibet Work Meeting in Beijing," Xinhua, 29 June 01 (translated in Open Source Center, 29 June 01).

[23] Tabulation on Nationalities of 2000 Population Census of China, Department of Population, Social, Science and Technology Statistics, National Bureau of Statistics, and Department of Economic Development, State Ethnic Affairs Commission (Beijing: Ethnic Publishing House, September 2003). Based on 2000 census data, 87.2 percent of Tibetans were classified as "rural" population: Table 1–2 shows the total Tibetan population in 2000 as 5,416,021; Table 1–2a shows the "city" population of Tibetans in 2000 as 221,355; Table 1–2b shows the "town" population of Tibetans in 2000 as 473,467; Table 1–2c shows the "rural" population of Tibetans in 2000 as 4,721,199.

[24] For more information on the wave of protests (and some rioting) that began on March 10, 2008, in Lhasa then spread across the Tibetan areas of China, see Section V—Tibet in CECC, 2008 Annual Report, 31 October 08, 182–204; "Protests Fueled by Patriotic Education Continue Amidst Lockdowns," Congressional-Executive Commission on China (Online), 10 April 08.

[25] National Bureau of Statistics of China (Online), China Statistical Yearbook 2008, last visited 26 March 10, Table 9–21. The national average per capita net income of rural households in 2007 was 4,140 yuan; the Tibet Autonomous Region average per capita net income of rural households in 2007 was 2,788 yuan (67 percent of the national average).

[26] "The CPC Central Committee and the State Council Hold the Fifth Tibet Work Forum; Hu Jintao and Wen Jiabao Deliver Important Speeches," Xinhua, 22 January 10 (translated in Open Source Center, 25 January 10).

[27] "The CPC Central Committee and the State Council Hold the Fifth Tibet Work Forum; Hu Jintao and Wen Jiabao Deliver Important Speeches," Xinhua, 22 January 10 (translated in Open Source Center, 25 January 10). For information on the compulsory settlement of Tibetan nomadic herders, which, according to the Chinese Government, makes improved government services available to the herders, see Human Rights Watch (Online), "'No One Has the Liberty To Refuse'—Tibetan Herders Forcibly Relocated in Gansu, Qinghai, Sichuan, and the Tibet Autonomous Region," June 2007.

[28] Ibid.

[29] "Tibet Parliament Session Announces Leadership Changes," Xinhua (Online), 15 January 10. Xinhua reported that Pema Choling (Padma Choling, Baima Chilin) was Vice Chairman of the TAR government until the TAR People's Congress "unanimously elected" him to the post of Chairman of the government. Pema Choling replaced Jampa Phuntsog (Xiangba Pingcuo) as head of the TAR government. ("Elections" of officials by deputies to people's congresses are procedural formalities, not electoral contests.)

[30] "Tibet Chairman Baima Chilin: It Is Necessary To Continuously and Vigorously Implement the Strategy of 'Making the People Well-Off and of Invigorating Tibet,'" Xinhua, 9 March 10 (translated in Open Source Center, 20 March 10).

[31] See, e.g., CECC, Special Topic Paper: Tibet 2008–2009, 22 October 09, 46–53; "Sichuan-Tibet Railway Work To Start, Impact May Far Surpass Qinghai-Tibet Railway," CECC China Human Rights and Rule of Law Update, No. 5, 2009, 1.

[32] "China To Achieve Fast-Paced Development, Lasting Stability in Tibet," Xinhua (Online), 23 January 10.

[33] "The CPC Central Committee and the State Council Hold the Fifth Tibet Work Forum; Hu Jintao and Wen Jiabao Deliver Important Speeches," Xinhua, 22 January 10 (translated in Open Source Center, 25 January 10). Xinhua reported that the forum called on "central authorities" to "provide greater policy support and promote new steps forward in the development of the Ti-

betan-inhabited areas in these four provinces" and for provincial Party and government officials to "grasp [Tibet work] as a key task in their respective economic and social development, and mobilize forces of various quarters of the whole province to support the development of these areas."

[34] Ibid.

[35] Tabulation on Nationalities of 2000 Population Census of China, Department of Population, Social, Science and Technology Statistics, National Bureau of Statistics, and Department of Economic Development, State Ethnic Affairs Commission (Beijing: Ethnic Publishing House, September 2003), Table 10–4. The following are figures for the 2000 Tibetan population in the Tibet Autonomous Region and the Tibetan autonomous prefectures (TAPs) and Tibetan autonomous counties (TACs) in other provinces. Tibet Autonomous Region (2,427,168). Qinghai province: Haibei (Tsojang) TAP (62,520); Hainan (Tsolho) TAP (235,663); Haixi (Tsonub) Mongol and Tibetan AP (40,371); Huangnan (Malho) TAP (142,360); Guoluo (Golog) TAP (126,395); and Yushu (Yushul) TAP (255,167). Gansu province: Gannan (Kanlho) TAP (329,278), and Tianzhu (Pari) TAC, Wuwei prefecture (66,125). Sichuan province: Ganzi (Kardze) TAP (703,168); Aba (Ngaba) Tibetan and Qiang AP (455,238); and Muli (Mili) TAC (40,312). Yunnan province: Diqing (Dechen) TAP (117,099).

[36] Steven Marshall and Susette Cooke, Tibet Outside the TAR: Control, Exploitation and Assimilation: Development With Chinese Characteristics (Washington, DC: self-published CD–ROM, 1997), Table 7, citing multiple Chinese sources. Tibet Autonomous Region (TAR) (1.2 million square kilometers, or 463,320 square miles). Qinghai province: Haibei (Tsojang) TAP (52,000 square kilometers, or 20,077 square miles), Hainan (Tsolho) TAP (41,634 square kilometers, or 16,075 square miles), Haixi (Tsonub) Mongol and Tibetan AP (325,787 square kilometers, or 125,786 square miles), Huangnan (Malho) TAP (17,901 square kilometers, or 6,912 square miles), Guoluo (Golog) TAP (78,444 square kilometers, or 30,287 square miles), and Yushu (Yushul) TAP (197,791 square kilometers, or 76,367 square miles). Gansu province: Gannan (Kanlho) TAP (45,000 square kilometers, or 17,374 square miles) and Tianzhu (Pari) TAC (7,150 square kilometers, or 2,761 square miles). Sichuan province: Ganzi (Kardze) TAP (153,870 square kilometers, or 59,409 square miles); Aba (Ngaba) Tibetan and Qiang Autonomous Prefecture (86,639 square kilometers, or 33,451 square miles); and Muli (Mili) TAC (11,413 square kilometers, or 4,407 square miles). Yunnan province: Diqing (Dechen) TAP (23,870 square kilometers, or 9,216 square miles). The Table provides areas in square kilometers; conversion to square miles uses the formula provided on the Web site of the U.S. Geological Survey: one square kilometer = 0.3861 square mile. Based on data in the Table, the 10 TAPs and 2 TACs have a total area of approximately 1.04 million square kilometers (402,000 square miles). The TAR and the Tibetan autonomous prefectures and counties are contiguous and total approximately 2.24 million square kilometers (865,000 square miles). Xining municipality and Haidong prefecture, located in Qinghai province, have a total area of 20,919 square kilometers, or 8,077 square miles, and are not Tibetan autonomous areas.

[37] Prepared Statement of Lodi Gyaltsen Gyari, Special Envoy of His Holiness the Dalai Lama, "The Way Forward on Tibet," reprinted in Center for Strategic and International Studies (Online), 5 March 10. In his statement, Lodi Gyari refers to "the Memorandum on Genuine Autonomy for the Tibetan People that we had presented during the Eighth Round in November 2008." "Statement of Special Envoy Kasur Lodi Gyari, Head of the Tibetan Delegation, Following the 8th Round of Discussions With Representatives of the Chinese Leadership," Tibetan Government-in-Exile (Online), 6 November 08. The eighth round of dialogue took place in China on October 30 to November 5, 2008. For analysis of the Memorandum, see CECC, Special Topic Paper: Tibet 2008–2009, 22 October 09, 17–28.

[38] "Memorandum on Genuine Autonomy for the Tibetan People," Tibetan Government-in-Exile (Online), 16 November 08.

[39] For information on the Chinese and Tibetan dialogue positions, see, e.g., CECC, Special Topic Paper: Tibet 2008–2009, 22 October 09, 13–29; CECC, 2009 Annual Report, 10 October 09, 273–277; "China Demands That the Dalai Lama Fulfill Additional Preconditions to Dialogue," Congressional-Executive Commission on China (Online), 17 November 08; Section IV—Tibet: Special Focus for 2007 in CECC, 2007 Annual Report, 10 October 07, 184–191.

[40] For more information on the Communist Party's anti-Dalai Lama campaign and efforts to end the Dalai Lama's influence on Tibetans in China, see, e.g., CECC, 2009 Annual Report, 10 October 09, 270, 278, 283; CECC, 2008 Annual Report, 31 October 08, 185–186; CECC, 2007 Annual Report, 10 October 07, 192–205; and CECC, 2006 Annual Report, 20 September 06, 83–84.

[41] "The CPC Central Committee and the State Council Hold the Fifth Tibet Work Forum; Hu Jintao and Wen Jiabao Deliver Important Speeches," Xinhua, 22 January 10 (translated in Open Source Center, 25 January 10).

[42] The explanation is available in an academic abstract available on the Web site of Sun Yat-sen University in Guangzhou city, Guangdong province. Liu Senlin, "Abstract: Contradictions Within Modern Dialectics—Reflecting on the Marxist Dialectic Group" [Maodun de xiandai xingsi—dui makesizhuyi qunti bianzhengfa de yi zhong sikao], Sun Yat-sen University (Online), Department of Philosophy, 6 May 03. (Scroll down the Web page for an English translation.)

[43] "State Council Information Office Holds News Conference on Contacts and Discussions Between Concerned Central Departments and the Dalai Lama's Private Representatives," Xinhua, 2 February 10 (translated in Open Source Center, 3 February 10). Zhu Weiqun, Executive Deputy Head of the Party's United Front Work Department, used the term "separating the motherland" (i.e., splittism, separatism) in listing the Party's principal demands of the Dalai Lama.

[44] "The CPC Central Committee and the State Council Hold the Fifth Tibet Work Forum; Hu Jintao and Wen Jiabao Deliver Important Speeches," Xinhua, 22 January 10 (translated in Open Source Center, 25 January 10).

[45] "Jiang Zemin, Zhu Rongji Address CPC, State Council Tibet Work Meeting in Beijing," Xinhua, 29 June 01 (translated in Open Source Center, 29 June 01) ("The CPC Central Committee and the State Council held the Fourth Tibet Work Forum in Beijing on 25–27 June.").

[46] Cao Deshung, "Tibet Rail Construction Completed," China Daily (Online), 15 October 05; CECC Staff Analysis. Building several additional railways through rugged, high-elevation terrain, and paying costs that may be higher than during the 2001 to 2005 construction period of the Qinghai-Tibet railway, could reach a total cost that is a multiple of the cost of the Qinghai-Tibet railway. For information on planned railways linking Tibetan autonomous areas to adjacent provincial-level administrative areas, see "Sichuan-Tibet Railway Work To Start, Impact May Far Surpass Qinghai-Tibet Railway," CECC China Human Rights and Rule of Law Update, No. 5, 2009, 1; CECC, Special Topic Paper: Tibet 2008–2009, 22 October 09, 45–51; CECC, 2009 Annual Report, 10 October 09, 285–286; and CECC, 2008 Annual Report, 31 October 08, 193.

[47] CECC, 2008 Annual Report, 31 October 08, 184–185 ("Peaceful Tibetan protesters called for Tibetan independence, the Dalai Lama's return to Tibet, the release of the Panchen Lama, and freedom of religion generally.").

[48] "China To Achieve Fast-Paced Development, Lasting Stability in Tibet," Xinhua (Online), 23 January 10. The Fifth Forum took place from January 18 to 20.

[49] Office of His Holiness the Dalai Lama (Online), "Press Statement," 25 January 10. According to the January 25 press statement, the Dalai Lama's envoys would arrive in China "tomorrow" (i.e., January 26).

[50] "Press Conference on Central Govt's Contacts With Dalai Lama (Text)," China Daily (Online), 11 February 10 (UFWD Deputy Head Zhu Weiqun: "This was the longest interval after we resumed contact and talks in 2002."). "China-Dalai Lama Dialogue Round Ends: Party Restates Hard Line, Tibetans Begin Meeting," CECC China Human Rights and Rule of Law Update, November 2008, 2. The report discusses the seventh round of dialogue in July 2008 and the eighth round in November 2008. "Dalai Lama's Envoys To Begin China Visit on May 3," Congressional-Executive Commission on China (Online), 5 May 08. The report lists the first six sessions of dialogue: September 2002, May–June 2003, September 2004, June–July 2005, February 2006, and June–July 2007. All of the rounds of dialogue took place in China except in 2005, when the envoys met their counterparts in Bern, Switzerland.

[51] "Du Qinglin Receives Dalai Lama's Private Representatives," Xinhua, 1 February 10 (translated in Open Source Center, 1 February 10).

[52] For information on the Chinese and Tibetan dialogue positions, see, e.g., CECC, Special Topic Paper: Tibet 2008–2009, 22 October 09, 13–29; CECC, 2009 Annual Report, 10 October 09, 273–277; "China Demands That the Dalai Lama Fulfill Additional Preconditions to Dialogue," Congressional-Executive Commission on China (Online), 30 July 08; Section IV—Tibet: Special Focus for 2007 in CECC, 2007 Annual Report, 10 October 07, 184–191.

[53] "Statement by Special Envoy of His Holiness the Dalai Lama, Kasur Lodi Gyari, Head of the Delegation Which Visited China in January 2010," Tibetan Government-in-Exile (Online), 2 February 10 ("[The Chinese side] also provided us with a detailed briefing on recent developments relating to Tibet, particularly on the important Fifth Tibet Work Forum."). "Press Conference on Central Govt's Contacts With Dalai Lama (Text)," China Daily (Online), 11 February 10. UFWD Deputy Head Zhu Weiqun said that UFWD Head Du Qinglin told the Dalai Lama's envoys that the "Fifth National Conference on Work in Tibet" (Fifth Tibet Work Forum) "established the strategic target for Tibet to achieve leap-forward development and long-lasting peace and stability."

[54] "Zhu Weiqun: The Recent Talks With the Dalai Lama's Private Representatives Had One Thing Different From the Past," Zhongguo Tongxun She, 4 February 10 (translated in Open Source Center, 4 February 10).

[55] Prepared Statement of Lodi Gyaltsen Gyari, Special Envoy of His Holiness the Dalai Lama, "The Way Forward on Tibet," reprinted in Center for Strategic and International Studies (Online), 5 March 10.

[56] "State Council Information Office Holds News Conference on Contacts and Discussions Between Concerned Central Departments and the Dalai Lama's Private Representatives," Xinhua, 2 February 10 (translated in Open Source Center, 3 February 10); "Statement by Special Envoy of His Holiness the Dalai Lama, Kasur Lodi Gyari, Head of the Delegation Which Visited China in January 2010," Tibetan Government-in-Exile (Online), 2 February 10. In his statement, the Special Envoy referred to the new conditions as "the four not to indulge in," but he did not list them.

[57] "Statement by Special Envoy of His Holiness the Dalai Lama, Kasur Lodi Gyari, Head of the Delegation Which Visited China in January 2010," Tibetan Government-in-Exile (Online), 2 February 10; "Memorandum on Genuine Autonomy for the Tibetan People," Tibetan Government-in-Exile (Online), 16 November 08.

[58] "Statement by Special Envoy of His Holiness the Dalai Lama, Kasur Lodi Gyari, Head of the Delegation Which Visited China in January 2010," Tibetan Government-in-Exile (Online), 2 February 10.

[59] "Press Conference on Central Govt's Contacts With Dalai Lama (Text)," China Daily (Online), 11 February 10.

[60] "State Council Information Office Holds News Conference on Contacts and Discussions Between Concerned Central Departments and the Dalai Lama's Private Representatives," Xinhua, 2 February 10 (translated in Open Source Center, 3 February 10).

[61] Cui Jia, "Tibet's Development on Course," China Daily (Online), 11 March 10.

[62] "The CPC Central Committee and the State Council Hold the Fifth Tibet Work Forum; Hu Jintao and Wen Jiabao Deliver Important Speeches," Xinhua, 22 January 10 (translated in Open Source Center, 25 January 10).

[63] Regulation on Religious Affairs [Zongjiao shiwu tiaoli], issued 30 November 04, effective 1 March 05, translated in China Elections and Governance (Online).

[64] Tibet Autonomous Region Implementing Measures for the "Regulation on Religious Affairs" (Trial Measures) [Xizang zizhiqu shishi "zongjiao shiwu tiaoli" banfa (shixing)], issued 19 September 06, effective 1 January 07; State Administration for Religious Affairs, Measures for Putting Professional Religious Personnel on Record [Zongjiao jiaozhi renyuan bei'an banfa], issued 29 December 06, effective 1 March 07; State Administration for Religious Affairs, Measures on the Management of the Reincarnation of Living Buddhas in Tibetan Buddhism [Zangchuan fojiao huofo zhuanshi guanli banfa], passed 13 July 07, issued 18 July 07, effective 1 September 07.

[65] Tibet Autonomous Region Implementing Measures for the "Regulation on Religious Affairs" (Trial Measures) [Xizang zizhiqu shishi "zongjiao shiwu tiaoli" banfa (shixing)], issued 19 September 06, effective 1 January 07. For more information on the measures, see CECC, 2007 Annual Report, Section IV—Tibet: Special Focus for 2007, 10 October 07, 193–196.

[66] State Administration for Religious Affairs, Measures for Putting Professional Religious Personnel on Record [Zongjiao jiaozhi renyuan bei'an banfa], issued 29 December 06, effective 1 March 07, arts. 2–8.

[67] State Administration for Religious Affairs, Measures on the Management of the Reincarnation of Living Buddhas in Tibetan Buddhism [Zangchuan fojiao huofo zhuanshi guanli banfa], passed 13 July 07, issued 18 July 07, effective 1 September 07. For more information on the measures, see CECC, 2007 Annual Report, Section IV—Tibet: Special Focus for 2007, 10 October 07, 196–197; "New Legal Measures Assert Unprecedented Control Over Tibetan Buddhist Reincarnation," Congressional-Executive Commission on China (Online), 22 August 07.

[68] The Buddhist Association of China is a "patriotic religious organization" established under Chinese Government regulation and charged with serving as a "bridge" linking Buddhists to the Chinese Government and the Communist Party. See, e.g., "At the CPC Central Committee Political Bureau's Second Collective Study, Hu Jintao Stresses the Need To Comprehensively Implement the Party's Basic Policy on Religious Work and Actively Do a Good Job in Religious Work Under the New Situation," Xinhua, 19 December 07 (translated in Open Source Center, 20 December 07). Communist Party General Secretary Hu Jintao discussed the role of "patriotic religious organizations" in performing the Party's "religious work." Regulation on Religious Affairs [Zongjiao shiwu tiaoli], issued 30 November 04, effective 1 March 05, art. 6, translated in China Elections and Governance (Online) ("The establishment, alteration, or cancellation of registration, of a religious body shall be registered in accordance with the provisions of the Regulations on Registration Administration of Associations. The articles of association of a religious body shall comply with the relevant provisions of the Regulations on Registration Administration of Associations."). Lazhen, "Tibet Leader Speaks on Dalai, Regional Stability," Tibet People's Radio, 27 October 99 (translated in Open Source Center, 27 October 99). Jiabao, Vice Chairman of the TAR government, told "regional leaders" attending the seventh congress of the Tibet Branch of the Buddhist Association of China (BAC), "The BAC is a patriotic religious organization under the leadership of the party and the government and is a bridge for linking believers with the party and the government."

[69] Buddhist Association of China, Measures for Confirming the Credentials of Tibetan Buddhist Professional Religious Personnel [Zang chuan fojiao jiaozhi renyuan zige rending banfa], issued 8 May 09, effective 10 January 10.

[70] Regulation on Religious Affairs [Zongjiao shiwu tiaoli], issued 30 November 04, effective 1 March 05, art. 17, translated in China Elections and Governance (Online).

[71] Buddhist Association of China, Measures for Confirming the Credentials of Tibetan Buddhist Professional Religious Personnel [Zang chuan fojiao jiaozhi renyuan zige rending banfa], issued 8 May 09, effective 10 January 10, arts. 3, 14. Article 3 lists, among other things, political prerequisites: "Support the leadership of the Chinese Communist Party and the Socialist system, love the country and love religion, uphold the laws, regulations, rules and policies of the state, have a clear-cut stance on upholding the unification of the Motherland, oppose ethnic splittism, and uphold concord between religions and a harmonious society." Article 14 stipulates: "The professional religious personnel already confirmed prior to the implementation of this Measure do not need to perform anew the confirmation procedures. The 'Tibetan Buddhist Professional Religious Personnel Certificate' may be issued after the professional religious personnel's Democratic Management Committee had put forth an examination opinion according to the provisions of Article 3 of this Measure, reported to the local Buddhist Association for approval, and reported to the local county-level People's Government Religious Affairs department for recording."

[72] Ibid., art. 14.

[73] "Tibet To Complete Registration and Record Keeping of Places of Religious Activities and Qualifications of Living Buddhas This Year," Xinhua, 10 January 10 (translated in Open Source Center, 11 January 10). According to the article, then-Chairman of the TAR government, Jampa Phuntsog (Xiangba Pingcuo) "disclosed" that authorities would complete "registration and record filing of places of religious activities and the qualifications of living Buddhas, monks and nuns this year." (Chinese officials and media often refer to a *trulku,* a teacher whom Tibetan Buddhists believe is part of a lineage of reincarnations that can span centuries, as a "living Buddha.")

[74] State Council Information Office, White Paper on Freedom of Religious Belief in China [Zhongguo de zongjiao xinyang ziyou zhuangkuang], 16 October 97. "Currently China has 13,000-some Buddhist temples and about 200,000 Buddhist monks and nuns. Among them are 120,000 lamas and nuns, more than 1,700 Living Buddhas, and 3,000-some temples of Tibetan Buddhism and nearly 10,000 Bhiksu and senior monks and more than 1,600 temples of Pali Buddhism."

[75] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, International Religious Freedom Report 2009, China (includes Tibet, Hong Kong, and Macau), 26 October 09. According to the report: "According to the June 21, 2009, People's Daily, there are 3,000 Tibetan Buddhist monasteries with 120,000 monks and nuns in the TAR and Gansu, Qinghai, Sichuan

and Yunnan Provinces. In the TAR, there are 1,789 religious venues with 46,000 monks and nuns."

[76] The Chinese Government accuses the Dalai Lama of "splittism," a crime under China's Criminal Law. PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 103. CECC Staff Interview, September 2003. A Chinese judicial official explained that a photograph of Gedun Choekyi Nyima is illegal because the Chinese Government had already approved a legal Panchen Lama (Gyaltsen Norbu). According to the official, disseminating photos of an illegal Panchen Lama can endanger the sovereignty and unity of the country, and aims to split the country.

[77] P. Jeffrey Hopkins, "The Identification of the Eleventh Panchen Lama," University of Virginia, Center for South Asian Studies Newsletter, Fall 1995. "May 14, 1995. After extensive analysis of over thirty children is performed, four prophecies are consulted from oracles, and nine divinations including the dough-ball ritual are performed, the Dalai Lama formally recognizes a six-year-old boy, Dedhun [Gedun] Choekyi Nyima, born on April 25, 1989, in the Lhari District of Nagchu, Tibet, as the eleventh Panchen Lama."

[78] The Welcome message on the home page of the 17th Karmapa contains this greeting: "Welcome to the site of H.H. 17th Karmapa Trinley Thaye Dorje, the spiritual head of the Karma Kagyu tradition of Tibetan Buddhism."

[79] The Dalai Lama has made a statement on the anniversary of the 1959 Lhasa uprising on March 10 of every year that he has lived in exile, beginning in 1960. Office of His Holiness the Dalai Lama (Online), "Chronology of Events," last visited 1 April 10 (refers to the March 10, 1959, events as the beginning of the "Tibetan People's Uprising"); Office of His Holiness the Dalai Lama (Online), "Statement of His Holiness the Dalai Lama on the 51st Anniversary of the Tibetan National Uprising Day," 10 March 10 (title of speech refers to the March 10, 1959, events as the "Tibetan People's Uprising").

[80] Office of His Holiness the Dalai Lama (Online), "Statement of His Holiness the Dalai Lama on the 51st Anniversary of the Tibetan National Uprising Day," 10 March 10.

[81] "China Says Missing Panchen Lama Is Living in Tibet," Associated Press, reprinted in New York Times (Online), 7 March 10.

[82] Ibid.

[83] "Baima Chilin: Dalai's Designated So-Called Reincarnation Soul Boy Is a Victim and Now Lives Like an Ordinary Citizen," Xinhua, 7 March 10 (translated in Open Source Center, 8 March 10).

[84] "New Panchen Lama Enthroned at Ceremony, 8 December Events Summarized," Xinhua, 8 December 95 (Open Source Center, 8 December 95). The enthronement ceremony in Rikaze (Shigatse) was on December 8, 1995. "The ceremony was jointly presided over and monitored by Li Tieying, the representative of the State Council and a State Councilor, Gyalcan Norbu [Gyaltsen Norbu], special commissioner and chairman of the Tibet Autonomous Regional People's Government, and Ye Xiaowen, special commissioner and director of the State Council's Religious Affairs Bureau." (The Chairman of the TAR government and the boy whom Chinese officials installed as the Panchen Lama were both named Gyaltsen Norbu.)

[85] "11th Panchen Lama Makes Debut in China's Political Arena," Xinhua (Online), 4 March 10.

[86] "Lama Feared China's Control," Radio Free Asia (Online), 13 January 10.

[87] Kagyu Office of His Holiness the 17th Gyalwang Karmapa (Online), "Press Statement From His Holiness the 17th Karmapa Ogyen Trinley Dorje," 27 April 01 (flight into exile); Kagyu Office of His Holiness the 17th Gyalwang Karmapa (Online), "His Holiness the 17th Gyalwang Karmapa," last visited 27 May 10 (age at flight into exile).

[88] "The CPC Central Committee and the State Council Hold the Fifth Tibet Work Forum; Hu Jintao and Wen Jiabao Deliver Important Speeches," Xinhua, 22 January 10 (translated in Open Source Center, 25 January 10). For more information, see "Communist Party Leadership Outlines 2010–2020 'Tibet Work' Priorities at 'Fifth Forum,'" CECC China Human Rights and Rule of Law Update, No. 3, 16 March 10, 2.

[89] "The CPC Central Committee and the State Council Hold the Fifth Tibet Work Forum; Hu Jintao and Wen Jiabao Deliver Important Speeches," Xinhua, 22 January 10 (translated in Open Source Center, 25 January 10). "By 2015 . . . the construction of the infrastructure will have made great progress . . . . By 2020 . . . the conditions of the infrastructure will have been comprehensively improved . . . ." (Reports seen by Commission staff on Hu's Fifth Forum remarks did not include mention of a network of railways planned for the Tibetan plateau.)

[90] Ibid. "Hu Jintao pointed out that in promoting Tibet's development by leaps and bounds, it is all the more necessary to . . . turn Tibet into . . . an important strategic resources reserve base. . . . Hu Jintao emphasized that it is necessary to . . . strengthen the construction of the infrastructure and the development of the energy resources . . . ."

[91] Ibid. "Continue to push forward the building of a socialist new countryside with the comfortable housing project as a breakthrough point . . . ." For more information on compulsory settlement, see "Communist Party Leadership Outlines 2010–2020 'Tibet Work' Priorities at 'Fifth Forum,'" CECC China Human Rights and Rule of Law Update, No. 3, 16 March 10, 2; Human Rights Watch (Online), "'No One Has the Liberty To Refuse'—Tibetan Herders Forcibly Relocated in Gansu, Qinghai, Sichuan, and the Tibet Autonomous Region," June 2007.

[92] State Council Office for the Development of the West Region, Opinions on the Implementation of Certain Policy Measures for the Large-Scale Development of the West Region, issued 28 August 01 (translated in Open Source Center, 20 December 01). (The opinion provides 2000 as the date of a State Council circular on implementation of the Great Western Development campaign.)

[93] "Political Bureau Done Mapping Out New General Strategy for Governing Tibet, Tibet Finishes Painting 'Warm Spring Picture' of New Year," Xinhua, 10 January 10 (translated in Open Source Center, 10 January 10); "Communist Party Leadership Outlines 2010–2020 'Tibet Work'

Priorities at 'Fifth Forum,'" CECC China Human Rights and Rule of Law Update, No. 3, 16 March 10, 2.

[94] PRC Regional Ethnic Autonomy Law, enacted 31 May 84, effective 1 October 84, amended 28 February 01, effective same day. For information on implementation of the Regional Ethnic Autonomy Law, see, e.g., CECC, Special Topic Paper: Tibet 2008–2009, 22 October 09, 25–28; Section IV—Tibet: Special Focus for 2007 in CECC, 2007 Annual Report, 10 October 07, 187–191; Section III—Monitoring Compliance With Human Rights—Special Focus for 2005: China's Minorities and Government Implementation of the Regional Ethnic Autonomy Law in CECC, 2005 Annual Report, 11 October 05, 13–23.

[95] See, e.g., subsection titled Officials Acknowledge Tibetan Resentment Against the "Floating Population," but Call for More, Better Migrant Services in CECC, Special Topic Paper: Tibet 2008–2009, 22 October 09, 43–46; subsection titled Economic Development vs. Ethnic Minorities' Autonomous Rights in CECC, 2008 Annual Report, 31 October 08, 192–194; subsection titled Tibetan Culture Under Chinese Development Policy and Practice in CECC, 2007 Annual Report, 10 October 07, 200–207; subsection titled Culture, Development, and Demography in CECC, 2006 Annual Report, 20 September 06, 165–170.

[96] The Crisis in Tibet: Finding a Path to Peace, Hearing of the Committee on Foreign Relations, U.S. Senate, 23 April 08, Written Statement Submitted by Steven Marshall, Senior Advisor, Congressional-Executive Commission on China ("Increasing Tibetan resentment against Chinese policies that impact diverse areas of Tibetan life—religious and economic, urban and pastoral—sheds light on why monks, townsfolk, and nomads risked participating in protests across a wide swath of the Tibetan plateau.").

[97] CECC, Special Topic Paper: Tibet 2008–2009, 22 October 10, 46–53; CECC, 2009 Annual Report, 10 October 09, 285–286.

[98] Sichuan Provincial People's Government (Online), "A Series of Major Projects To Kick Off in 2010," 25 January 10; "Work on the Chengdu-Kangding Railway Planned To Start Next Year, Travel Time From Chengdu to Erlang Shan To Be 1.5 Hours" [Chengkang tielu yuji mingnian donggong cong chengdu dao erlangshan 1.5 xiaoshi], Huaxi Metropolitan News, reprinted in Sichuan Online (Online), 2 April 10. According to the Huaxi Metropolitan News report, the length of the Chengdu-Kangding link would be 344 kilometers.

[99] "Work on the Chengdu-Kangding Railway Planned To Start Next Year, Travel Time From Chengdu to Erlang Shan To Be 1.5 Hours" [Chengkang tielu yuji mingnian donggong cong chengdu dao erlangshan 1.5 xiaoshi], Huaxi Metropolitan News, reprinted in Sichuan Online (Online), 2 April 10.

[100] Du Qingfeng and Zhang Mingha, "Pre-feasibility Study Underway for Lhasa-Linzhi Railway Construction" [Lasa zhi linzhi tielu jianshe jinxing yu kexingxing yanjiu], Tibet Daily, 13 April 10, reprinted in China Tibet News (Online), 15 April 10.

[101] Ibid.

[102] Edward Wong, "Dalai Lama To Visit Indian Region Claimed by China," New York Times (Online), 22 October 09. The article describes the area as "heavily militarized" and "the focus of an intense territorial dispute between China and India." Wang Yueh, "India Plans To Independently Develop a Disputed Area of Southern Tibetan Region," Wen Wei Po, 20 August 09 (translated in Open Source Center, 24 August 09). Michael Richardson, "Assuaging China's Expanding 'Core' Concerns," Japan Times (Online), 14 March 10 ("Beijing insists that around 90,000 square kilometers of territory in India's mountainous northeast, covering virtually the whole of the state of Arunachal Pradesh, is part of China."). For information on the link between the China-Dalai Lama dialogue and the China-India territorial dispute over Arunachal Pradesh, see, e.g., "China Demands That the Dalai Lama Fulfill Additional Preconditions to Dialogue," Congressional-Executive Commission on China (Online), 30 July 08.

[103] Du Qingfeng and Zhang Mingha, "Pre-feasibility Study Underway for Lhasa-Linzhi Railway Construction" [Lasa zhi linzhi tielu jianshe jinxing yu kexingxing yanjiu], Tibet Daily, 13 April 10, reprinted in China Tibet News (Online), 15 April 10.

[104] "Tibet Starts Building 5th Civil Airport," Xinhua (Online), 30 April 09 ("China is also building a 254-km railway linking Xigaze with the regional capital Lhasa. Construction on the 11-billion-yuan [US$1.61 billion] Qinghai-Tibet railway's extension line started in 2008 and was expected to be completed in 2010."). See also "Government Announces Extension of Qinghai-Tibet Railway to Rikaze," CECC China Human Rights and Rule of Law Update, September 2006, 15.

[105] Baqiao Wangjie, "An Expert From the Ministry of Railways Conducts On-Site Inspection of Preparatory Work for Lhasa-Shigatse Railway" [Tiedaobu zhuanjia shidi kaocha la ri tielu qianqi gongzuo], Tibet Daily, reprinted in China Tibet News (Online), 10 March 10 ("Shigatse Prefecture administration office leaders pointed out when reporting on preparatory work for the Lhasa-Shigatse Railway that the Lhasa-Shigatse route plan has already been confirmed and that they fully support it, and that they would do a good job of coordination, propaganda, land acquisition, demolition, relocation and compensation, logistical support and security management etc in order to create a good external environment for the project's construction.").

[106] "China Begins Extending Plateau Railway to Tibet's Second Largest City," Xinhua (Online), 26 September 10.

[107] "Tibet To Step Up Exploitation of Mineral Resources, Vowing To Be 'Rational,'" Xinhua (Online), 12 March 10.

[108] Ibid. According to the report, Dorje, a senior official with the TAR Land and Resources Department, said that resource exploitation would be "rational" and "minimize its impact on the environment."

[109] "Clash Over Cement Factory," Radio Free Asia (Online), 18 May 10. According to RFA sources, 15 Tibetans were injured and 4 were detained. The factory began operation in 1985 but processing and excavation areas have been expanded recently. Villagers petitioned government authorities in May 2010 for redress, claiming that the factory was "polluting the environ-

ment, severely damaging farms and pastures, disrupting villagers' normal life, blocking village roads, and forcibly annexing village property, roads, religious sites, etc."

[110] "Villagers Renew Mine Protests," Radio Free Asia (Online), 12 May 10. According to an RFA source, "thousands" of Tibetans had "attempted to block the Chinese from resuming mining activities," and 5,000 People's Armed Police were in the area. For information on the 2009 agreement to cease mining, see CECC, 2009 Annual Report, 10 October 09, 287; "Mine Standoff Said Resolved," Radio Free Asia (Online), 28 May 09.

[111] Qin Jiaofeng, Gama Duoji, and Quan Xiaoshu, "Make Every Effort To Promote Leapfrog Development in Tibet Through Adherence to 'Chinese Characteristics and Tibetan Traits'—Interview With National People's Congress Deputy and Tibet Autonomous Region Chairman Padma Choling," Xinhua, 10 March 10 (translated in Open Source Center, 10 March 10).

[112] "Claiming 'Fear in Tibet,' Dalai Lama Tells Lies Again," People's Daily, reprinted in China Tibet Online (Online), 6 November 09.

[113] Tibet Statistical Yearbook 2008 (Beijing: China Statistics Press, June 2008), Table 3–4, "Population Nationality." In 2007, Tibetans made up 2,602,788 (95.1 percent) of the total TAR population of 2,735,867. "Claiming 'Fear in Tibet,' Dalai Lama Tells Lies Again," People's Daily, reprinted in China Tibet Online (Online), 6 November 09. According to the report, approximately 1.33 million TAR farmers and herders would have been moved into new housing by the end of 2009.

[114] State Council Information Office, White Paper on China's Ethnic Policy and Common Prosperity and Development of All Ethnic Groups, 27 September 09.

[115] International Campaign for Tibet (Online), "Top-Level Meeting in Beijing Sets Strategy on Tibet," 29 January 10 (settlement threatening livelihoods); International Campaign for Tibet (Online), "'An eco-friendly tourist city': China's Emerging Reconstruction Plans for Kyegu," 5 May 10 ("ghetto-like" conditions arising in settlements).

[116] Cui Jia, "'Tibet's Development on Course,'" China Daily (Online), 11 March 10. Lhasa Mayor Dorje Tsedrub (Doje Cezhug) made the remarks.

[117] CECC Staff Analysis. The mayor's remarks do not indicate whether official concern was focused mainly on non-Tibetan itinerant workers, whose presence some Tibetans resent, or on Tibetan itinerant workers, whom government officials may suspect of having participated in the rioting. See, e.g., subsection titled Officials Acknowledge Tibetan Resentment Against the "Floating Population," but Call for More, Better Migrant Services in CECC, Special Topic Paper: Tibet 2008–2009, 22 October 09, 43–46.

[118] For a discussion of official Chinese reports on the number and characterization of passengers traveling on the Qinghai-Tibet railway into the Tibet Autonomous Region, and of the views of some Tibetan residents of Lhasa toward the increase in non-Tibetans in Lhasa, see subsection titled Qinghai-Tibet Railway Carries 1.5 Million Passengers Into the TAR in First Year in Section IV—Tibet: Special Focus for 2007, CECC, 2007 Annual Report, 10 October 07, 203–204.

[119] "Transcript of Tibet Officials' 6 Mar Interview With Reporters During NPC Session," Xinhua, 6 March 09 (translated in Open Source Center, 15 March 09); Lan Jinshan, "Zhang Yijiong's Emphasis on the Promotion of Services and Management for Floating Population Sets a New Platform" [Zhang yijiong qiangdiao tuidong liudong renkou fuwu he guanli mai shang xin taijie], China Tibet News (Online), 3 September 08. See also "Unavoidable Internal Problems, Separatists Blamed for Lhasa Riot," China Daily (Online), 19 March 09.

[120] Xu Changan, "Wen Jiabao Explains China's Ethnic Policy With Its Firm, Soft Aspects in Work Report," Xinhua, 5 March 10 (translated in Open Source Center, 14 March 10).

[121] Ibid. According to the report, "Analysts say this is the first government work report that raises the issue of reviewing services for and the management of the minority floating population."

[122] CECC Political Prisoner Database. Based on Political Prisoner Database data as of September 3, 2010, 98 political detentions of Tibetans were recorded for the portion of the Commission's 2010 reporting year included in September 2009 through August 2010. In comparison, the PPD records the political detention of 181 Tibetans during the same period included in the Commission's 2009 reporting year (September 2008 through August 2009).

[123] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 103 ("splitting the State or undermining unity of the country"), art. 111 ("unlawfully [supplying] State secrets or intelligence for an organ, organization or individual outside the territory").

[124] PRC Constitution, adopted 4 December 82, amended 12 April 88, 29 March 93, 15 March 99, 14 March 04, arts. 35 ("freedom of speech, of the press, of assembly, of association"), 36 ("freedom of religious belief").

[125] "China Jails Tibetan Filmmaker," Radio Free Asia (Online), 6 January 10. According to RFA, Tibetans discussed on camera "their views on Tibet's exiled leader the Dalai Lama, the Beijing Olympics, and Chinese laws."

[126] International Campaign for Tibet (Online), "Founder of Tibetan Cultural Website Sentenced to 15 Years in Closed-Door Trial in Freedom of Expression Case," 16 November 09; Woeser, "Tibetans Currently Suffering the Calamity of Imprisonment" [Zhengzai jingshou laoyuzhizai de zangren], Middle Way Blog, 19 December 09; Tibetan Centre for Human Rights and Democracy (Online), "A Tibetan Writer-Photographer Sentenced," 19 November 09; "Chinese Courts Use 'Secrets' Law To Sentence Tibetan Online Authors to Imprisonment," CECC China Human Rights and Rule of Law Update, No. 2, 5 February 10.

[127] Human Rights Watch (Online), "China: Drop Charges Against Tibetan Environmental Philanthropist," 10 June 10 ("These people embody the characteristics the government says it wants in modern Tibetans . . . yet they, too, are being treated as criminals."); TibetInfoNet (Online), "Landmark Sentencing/" 30 June 10 (". . . potentially a hard blow for the further development of the vigorous grassroots social and ecological activism that has spread over many parts of Ti-

betan regions."); Cara Anna, "China Now Pressuring Tibetans Outside Politics," Associated Press, reprinted in Yahoo (Online), 18 June 10 (". . . activist groups say a growing number of Tibetan intellectuals are coming under pressure from authorities determined to squelch all forms of dissent.").

[128] CECC Political Prisoner Database. See also International Campaign for Tibet (Online), "Fears for School Founder in Prison," 12 September 05; Dui Hua Foundation (Online), "Clemency Granted to Tibetan Monk, Labor Activist," 28 February 06.

[129] CECC Political Prisoner Database. See also Dui Hua Foundation, "Criminal Verdict of the Sichuan Province Ganzi Tibetan Minority Autonomous Prefecture Intermediate People's Court, 2000. Ganzi Intermediate Court Verdict No. 11," in Selection of Cases from the Criminal Law, August 2003, 42–55; "Party Congress Promotes Officials Linked to Harsh Policies Toward Tibetans," CECC China Human Rights and Rule of Law Update, January 2008, 2.

[130] CECC Political Prisoner Database. See also "Relatives Visit Imprisoned Buddhist Teacher Tenzin Deleg, Officials Report Ill Health," CECC China Human Rights and Rule of Law Update, No. 6, 12 July 10, 4; CECC, Topic Paper: The Execution of Lobsang Dondrub and the Case Against Tenzin Deleg: The Law, the Courts, and the Debate on Legality, 10 February 03.

[131] CECC Political Prisoner Database. See also CECC, 2009 Annual Report, 10 October 09, 142; CECC, Special Topic Paper: Tibet 2008–2009, 22 October 09, 79–81; International Campaign for Tibet (Online), "Influential Tibetan Lama Sentenced to Eight and a Half Years in Prison," 4 January 10.

[132] TibetInfoNet (Online), "Landmark Sentencing/" 30 June 10 (Karma Samdrub "establishment of an ambitious museum of Tibetan culture, in partnership with the [Party's United Front Work Department]"); Andrew Jacobs, "Tibetans Fear a Broader Crackdown," Associated Press, reprinted in New York Times (Online), 23 June 10 (Karma Samdrub was the "kind of [Tibetan] who put the Chinese Communist Party at ease"); Cara Anna, "China Now Pressuring Tibetans Outside Politics," Associated Press, reprinted in Yahoo (Online), 18 June 10 (Karma Samdrub "won national awards and praise, and he stayed out of the region's highly charged politics"; Tagyal was "was seen by fellow Tibetans as an 'official intellectual' for usually toeing the Communist Party's line"); "Tibetan Quake Critic Still Held," Radio Free Asia (Online), 30 April 10 (Tagyal "has written books that largely aligned with the Chinese government's views on modernization, religion, and culture in Tibet."); High Peaks Pure Earth (Online), "Earthquake in Tibet, Leading Tibetan Intellectual 'Shogdung' Detained in Xining," 26 April 10 (Tagyal "argued that Tibetans should embrace modernisation and disassociate from traditional Buddhism learning as a means of overcoming their present condition.").

[133] CECC Staff Analysis.

[134] Some reports observed that in Karma Dondrub's case, charges may have been revived as retribution for his efforts to obtain release from detention or imprisonment of his two brothers who founded an environmental organization that criticized local officials for hunting protected wildlife. In Taygal's case, detention followed veiled advice in a blog posting to which he was a signatory urging Tibetans who wished to contribute to relief funds for victims of the April 14, 2010, Yushu earthquake to do so through non-Party, non-government channels. See, e.g., Human Rights Watch (Online), "China: Drop Charges Against Tibetan Environmental Philanthropist," 10 June 10 ("relatives and friends believe revival of the decade-old charges stems from his efforts to gain the release of his two brothers"); High Peaks Pure Earth (Online), "Earthquake in Tibet, Leading Tibetan Intellectual 'Shogdung' Detained in Xining," 26 April 10 ("do not send your donations to the accounts of a certain organisation or a certain group as if you were paying taxes").

[135] "Old Charge Resurfaces Against Prominent Tibetan," Reuters (Online), 1 June 10; "Tibetan Activist on Trial," Radio Free Asia (Online), 22 June 10; Andrew Jacobs, "Tibetans Fear a Broader Crackdown," Associated Press, reprinted in New York Times (Online), 23 June 10.

[136] Human Rights Watch (Online), "China: Drop Charges Against Tibetan Environmental Philanthropist," 10 June 10. According to the report, Karma Samdrub founded the Qinghai Three River Environmental Protection Group which won awards including "a one million yuan (about US$130,000) grant as a 'Model Project' from the One Foundation, a charity created by the Chinese martial art movie star Jet Li; and the Earth Prize, an environmental prize jointly administered by Friends of the Earth Hong Kong and the Ford Motor company."

[137] Christopher Bodeen, "China Puts on Hold Trial of Tibet Environmentalist," Associated Press, reprinted in Yahoo! (Online), 21 June 10 ("accused local officials in eastern Tibet of poaching endangered species"). Human Rights Watch (Online), "China: Drop Charges Against Tibetan Environmental Philanthropist," 10 June 10 (environmental organization; Jigme Namgyal's sentence). According to the report, security officials accused Jigme Namgyal of offenses including "interfering with state power organizations" and "harming social stability" and ordered him on November 13, 2009, to serve one year and nine months' reeducation through labor. "Tibetan Environmentalist Jailed for 5 Years," Reuters (Online), 3 July 10. The Changdu (Chamdo) Intermediate People's Court reportedly sentenced Rinchen Samdrub to five years' imprisonment for "inciting splittism" because an article supportive of the Dalai Lama was posted on his Web site. "China 'Jails Tibet Activist for Five Years,'" BBC (Online), 3 July 10. Rinchen Samdrub reportedly denied posting the article to his Web site.

[138] High Peaks Pure Earth (Online), "Earthquake in Tibet, Leading Tibetan Intellectual 'Shogdung' Detained in Xining," 26 April 10 ("embrace modernisation and disassociate from traditional Buddhism learning"); Andrew Jacobs, "Tibetans Fear a Broader Crackdown," Associated Press, reprinted in New York Times (Online), 23 June 10 ("previously derided by many Tibetans for being 'an official intellectual'").

[139] "Quake Critic Arrested," Radio Free Asia (Online), 4 June 10; High Peaks Pure Earth (Online), "Earthquake in Tibet, Leading Tibetan Intellectual 'Shogdung' Detained in Xining," 26 April 10. The High Peaks Pure Earth article provides a translation of a statement in a blog post to which Shogdung (Tagyal) was a signatory. The statement advised would-be contributors to Yushu quake victims, "However, do not send your donations to the accounts of a certain

organisation or a certain group as if you were paying taxes. The best thing to do is to send somebody one can fully trust to send one's contributions."

[140] See, e.g., International Campaign for Tibet (Online), "A 'Raging Storm': The Crackdown on Tibetan Writers and Artists After Tibet's Spring 2008 Protests," 18 May 10.

[141] "Filmmaker's Family To Appeal," Radio Free Asia (Online), 7 January 10. According to the RFA article, which cited Reporters Without Borders (RSF), security officials detained Dondrub Wangchen on March 23, 2008. "China Jails Tibetan Filmmaker," Radio Free Asia (Online), 6 January 10. RFA sources reported that a "secret" trial convicted Dondrub Wangchen of "splitting the motherland." See PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, art. 103 ("splitting the State or undermining unity of the country"). See the CECC Political Prisoner Database for more information on the case.

[142] International Campaign for Tibet (Online), "Founder of Tibetan Cultural Website Sentenced to 15 Years in Closed-Door Trial in Freedom of Expression Case," 16 November 09; "Chinese Courts Use 'Secrets' Law To Sentence Tibetan Online Authors to Imprisonment," CECC China Human Rights and Rule of Law Update, No. 2, 5 February 10, 2. CECC Staff Analysis. Based on the ICT report that "disclosing state secrets" was involved, the charge may have been based on Article 111 of China's Criminal Law ("unlawfully [supplying] State secrets or intelligence for an organ, organization or individual outside the territory").

[143] Woeser, "Tibetans Currently Suffering the Calamity of Imprisonment" [Zhengzai jingshou laoyuzhizai zangren], Middle Way Blog, 19 December 09. According to Tibetan blogger Woeser (Oezer, Weise), "Kunchok Tsephel was both a co-founder and editor of the first Tibetan literary website in China. . . . The accusations against [Konchog Tsephel] are connected to essays he published on his website . . . ." See the CECC Political Prisoner Database for more information on the case.

[144] Tibetan Centre for Human Rights and Democracy (Online), "A Tibetan Writer-Photographer Sentenced," 19 November 09; "Chinese Courts Use 'Secrets' Law To Sentence Tibetan Online Authors to Imprisonment," CECC China Human Rights and Rule of Law Update, No. 2, 5 February 10, 2. CECC Staff Analysis. Based on the TCHRD report that "disclosing state secrets" was involved, the charge may have been based on Article 111 of China's Criminal Law ("unlawfully [supplying] State secrets or intelligence for an organ, organization or individual outside the territory"). See the CECC Political Prisoner Database for more information on the case.

[145] Tibetan Center for Human Rights and Democracy (Online), "Chinese Court Sentences Serthar Monk to Lengthy Prison Term," 25 March 10 (detained "on suspicion of leaking information about Tibet's situation to the 'separatist forces' outside [Tibet]); "Nephew of Deceased Buddhist Master Held for Almost a Year," Phayul (Online), 23 June 09 ("held on charges of leaking information to 'separatist forces' through phone and other means"). CECC Staff Analysis. Based on TCHRD and Phayul reports of "leaking information" to "separatist forces" outside of China, the charge may have been based on Article 111 of China's Criminal Law ("unlawfully [supplying] State secrets or intelligence for an organ, organization or individual outside the territory"). See the CECC Political Prisoner Database for more information on the case.

[146] "Tibetan Singer Gets Prison," Radio Free Asia (Online), 5 March 10.

[147] International Campaign for Tibet (Online), "Tibetan Singer Tashi Dhondup Detained," 8 December 09. According to the ICT report, the lyrics of the CD entitled "Torture Without Wounds" expressed Tashi Dondrub's "pain over the situation in Tibet" and "the widely-held desire of the Tibetan people for the Dalai Lama to return home."

[148] Human Rights Watch (Online), Trials of a Tibetan Monk: The Case of Tenzin Delek, 9 February 04, 12 ("Dalai Lama recognized him as a tulku (reincarnated lama)"); "Two Tibetans Sentenced to Death in SW China," Xinhua (Online), 26 January 03 ("death sentence with a two-year reprieve for inciting the split of the country and scheming explosions"; "court did not hold an open hearing because some of the defendants' criminal acts were related to state secrets"); "Tibetan Monk Death Penalty Commuted to Life in Prison," Xinhua (Online), 26 Jan 05 ("commuted the death penalty with a two-year reprieve"). See also CECC, Topic Paper: The Execution of Lobsang Dondrub and the Case Against Tenzin Deleg: The Law, the Courts, and the Debate on Legality, 10 February 03; Human Rights Watch (Online), Trials of a Tibetan Monk: The Case of Tenzin Delek, 9 February 04. See the CECC Political Prisoner Database for more information on the case.

[149] High Peaks Pure Earth (Online), "From Woeser's Blog: The People of Yajiang in Kham Petition for the Retrial of Tenzin Delek Rinpoche," 9 December 09. The High Peaks Pure Earth article provides a translation of the petition that contains three sections describing objections to the verdict: "No proof," "A'an Zhaxi himself refuses to admit his guilt," and "Officials plotted to frame." International Campaign for Tibet (Online), "Tibetans Defy Security Crackdown To Demonstrate in Support of Imprisoned Tibetan Lama," 17 December 09. The report states that the petition was "signed by thousands of Tibetans, often with a thumbprint." "Tibetan Monk Protests Innocence in Smuggled Audiotape," Radio Free Asia (Online), 21 January 03. The RFA report states that the smuggled tape contains Tenzin Deleg's statement, "Whatever [the authorities] do and say, I am completely innocent."

[150] "Tibetan Protest Numbers Grow," Radio Free Asia (Online), 10 December 09 ("Between 500 and 600 Tibetans from the Golok and Othok areas of Nyakchukha who were detained during protests beginning Dec. 5 are being held by Chinese forces . . . ."); Tibetan Centre for Human Rights and Democracy (Online), "Tibetans Continue With Fasting and Protest, Situation Extremely Volatile in Nyachuka: Update," 11 December 09 (". . . the Tibetans are still pressing the County government officials, although the deadline for petitioners and protesters to retreat to their respective villages was expired on (3:00 PM, yesterday, 10 December 2009) . . ."; "Seven Released in Nyagchuka, Situation 'Tense,'" Phayul (Online), 18 December 09 ("Around twenty Tibetans are still held in detention following protests by hundreds of local Tibetans . . . ."). See also "Tibetan Protest Over Monk," Radio Free Asia (Online), 7 December 09; Tibetan Centre for

Human Rights and Democracy (Online), "Sixty Tibetans Detained in Kardze for Petitioning," 8 December 09; Tibetan Centre for Human Rights and Democracy (Online), "China Sends Additional Military Forces To Contain the Situation in Nyachuka: Update," 9 December 09; International Campaign for Tibet (Online), "Tibetans Defy Security Crackdown To Demonstrate in Support of Imprisoned Tibetan Lama," 17 December 09.

[151] International Campaign for Tibet (Online), "Tibetans Defy Security Crackdown To Demonstrate in Support of Imprisoned Tibetan Lama," 17 December 09 ("dozens of Tibetans have been detained and beaten after peaceful demonstrations"); Tibetan Centre for Human Rights and Democracy (Online), "Sixty Tibetans Detained in Kardze for Petitioning," 8 December 09; "Seven Released in Nyagchuka, Situation 'Tense,'" Phayul (Online), 18 December 09 ("Around twenty Tibetans are still held in detention following protests by hundreds of local Tibetans . . . .").

[152] International Campaign for Tibet (Online), "Tibetans Mark Uprising Anniversaries Despite Crackdown: Lhasa Like a 'War-Zone,'" 22 March 10 ("20–30 students from the Machu Tibetan Middle School began a peaceful protest"; "students were soon joined by more than 100 local Tibetans (some sources say several hundred)"); "Tibetan Students Stage Protest," Radio Free Asia (Online), 16 March 10 ("about 30 students from the Tibetan Middle School in Machu protested in streets close to the county center"; "The student protesters were joined by 500 to 600 [other] Tibetans.").

[153] "Tibetan Students Stage Protest," Radio Free Asia (Online), 16 March 10.

[154] International Campaign for Tibet (Online), "Tibetans Mark Uprising Anniversaries Despite Crackdown: Lhasa Like a 'War-Zone,'" 22 March 10. According to the report, "Tibetan students from two middle schools in Tsoe . . . demonstrated peacefully in the streets on March 16. . . . [Around] 30 or 40 students took part in the protest [which was] quickly broken up after the students were surrounded by armed police. More than 20 students . . . were detained, and are believed to be still in custody for questioning and 'education.'"

[155] "Primary School Students Stage Protest in Kham Driru," Phayul (Online), 24 March 10.

[156] International Campaign for Tibet (Online), "Tibetans Mark Uprising Anniversaries Despite Crackdown: Lhasa Like a 'War-Zone,'" 22 March 10; "Primary School Students Stage Protest in Kham Driru," Phayul (Online), 24 March 10.

[157] Phurbu Tsering's case has been reported on by news agencies including the New York Times (25 April 09), the Wall Street Journal (27 April 09), the Associated Press (21 April 09), Reuters (28 April 09, 31 December 09), BBC (1 January 10), and Times Online (London, 27 April 09, 30 December 09).

[158] For more information on Phurbu Tsering and his case, see CECC, Special Topic Paper: Tibet 2008–2009, 22 October 09, 79–81.

[159] Tibetan Centre for Human Rights and Democracy (Online), "China Sentences Tulku Phurbu Tsering Rinpoche to 8 Years, 6 Months in Jail," 29 December 09; "Tibetan 'Living Buddha' Phurbu Tsering Jailed by China," BBC (Online), 1 January 10.

[160] Gillian Wong, "Tibetan Lama on Trial for Weapons Charge in China," Associated Press, reprinted in Google (Online), 21 April 09 ("illegally possessing weapons, his Beijing-based lawyer Li Fangping told The Associated Press in a phone interview"); Edward Wong, "Senior Tibetan Cleric Faces Prison in China," New York Times (Online), 25 April 09 ("charges of weapons possession and embezzlement, according to his two lawyers [Jiang Tianyong and Li Fangping]"); PRC Criminal Law, enacted 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, arts. 128(1), 271. Article 128(1): "Whoever, in violation of the regulations governing control of guns, illegally possesses or conceals any guns or ammunition shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention or public surveillance . . . ." Article 271: "Any employee of a company, enterprise or any other unit who, taking advantage of his position, unlawfully takes possession of the money or property of his own unit . . . if the amount is huge, he shall be sentenced to fixed-term imprisonment of not less than five years and may also be sentenced to confiscation of property."

[161] CECC, Special Topic Paper: Tibet 2008–2009, 10 October 10, 79–81; International Campaign for Tibet (Online), "Verdict on Tibetan Lama Deferred: Chinese Lawyers' Statement on Charges Against Phurbu Rinpoche," 27 April 09. The ICT report describes the defense statement as "a document presented to the court."

[162] International Campaign for Tibet (Online), "Influential Tibetan Lama Sentenced to Eight and a Half Years in Prison," 4 January 10. The ICT report cited a December 30, 2009, entry on the Tibetan writer Woeser's blog.

[163] Office of the UN High Commissioner for Human Rights (Online), Working Group on Arbitrary Detention, Report of the Working Group on Arbitrary Detention: Addendum, Mission to China, 29 December 04, 22; CECC, 2005 Annual Report, 11 October 05, 112. Jigme Gyatso was sentenced in 1996 to 15 years' imprisonment for counterrevolution. Chinese officials told a UN Working Group on Arbitrary Detention (UNWGAD) delegation in September 2004 that he was guilty of "planning to found an illegal organization and seek to divide the country and damage its unity." Office of the UN High Commissioner for Human Rights (Online), Working Group on Arbitrary Detention, Opinions Adopted by the Working Group on Arbitrary Detention, Opinion No. 8/2000, adopted 17 May 00, 67–70. The UNWGAD opinion on the case found that "there is nothing to indicate that the 'illegal organization' . . . ever advocated violence, war, national, racial, or religious hatred" and that Jigme Gyatso was "merely exercising the right to freedom of peaceful assembly with others in order to express opinions . . ."

[164] CECC, 2005 Annual Report, 11 October 05, 111–112. Choeying Khedrub, a monk of Tsanden Monastery in the TAR, was sentenced in 2000 to life imprisonment for his role in a group of men who allegedly printed pro-independence leaflets. According to information that the Chinese Government provided to the UN Working Group on Arbitrary Detention (UNWGAD), he was found guilty of endangering state security and "supporting splittist activities of the Dalai clique." The UNWGAD reports that the Chinese response "mentions no evidence in support of

the charges, or if they used violence in their activities," and finds that the government "appears" to have misused the charge of endangering state security.

[165] CECC, 2007 Annual Report, 10 October 07, 210. Bangri Chogtrul (Jigme Tenzin Nyima), who lived as a householder in Lhasa and managed a children's home along with his wife, was convicted of inciting splittism and sentenced to life imprisonment in a closed court in Lhasa in September 2000. "Lhasa Court Commutes Life Sentence for Children's Home Director to 19 Years," CECC China Human Rights and Rule of Law Update, April 2006, 18. The sentencing document lists evidence against Bangri Chogtrul that includes meeting the Dalai Lama, accepting a donation for the home from a foundation in India, and a business relationship with a Tibetan contractor who lowered a Chinese flag in Lhasa in 1999 and tried to blow himself up. Jigme Tenzin Nyima acknowledged meeting the Dalai Lama, accepting the contribution, and knowing the contractor, but he denied the charges against him and rejected the court's portrayal of events.

[166] CECC Political Prisoner Database. On August 1, 2007, Tibetan nomad Ronggye Adrag climbed onto a stage at a horse-racing festival in Litang (Lithang) county, Ganzi (Kardze) TAP, Sichuan province, and shouted slogans calling for the Dalai Lama's return to Tibet, freedom of religion, Tibetan independence, and the releases of Gedun Choekyi Nyima (the Panchen Lama identified by the Dalai Lama) and Tenzin Deleg (a Buddhist teacher from the same area imprisoned in 2002 on charges of splittism and involvement in a series of bombings). The Ganzi Intermediate People's Court sentenced him on November 20, 2007, to eight years' imprisonment for inciting splittism (Criminal Law, Article 103(2)). "CECC Political Prisoner Data Shows Rise in Tibetan Detentions in 2007," Congressional-Executive Commission on China (Online), 31 January 08; "China Sentences 4 for Spying, Secessionist Activities," Xinhua (Online), 20 November 07; "Tibetan Sentenced for 'Inciting To Split Country' at Sports Event," Xinhua (Online), 20 November 07; "Tibetan Nomad Calling for Dalai Lama's Return Convicted of Subversion and Splittism," Congressional-Executive Commission on China (Online), 1 November 07. The CECC report cites an October 30, 2007, Radio Free Asia report that the Ganzi Intermediate Court convicted Ronggye Adrag on charges of splittism and subversion (Criminal Law, arts. 103, 105). (The court, however, did not sentence Ronggye Adrag on the charge of subversion.)

[167] In addition to the 732 Tibetan political prisoners believed to be currently detained or imprisoned and who were detained on or after March 10, 2008, the Commission's Political Prisoner Database recorded as of June 10, 2010, an additional 63 Tibetan political prisoners detained or imprisoned on or after March 10, 2008, who are known or believed to have been released, or who reportedly escaped or died.

[168] For the purpose of calculating average sentences, the Political Prisoner Database provides 20 years as a nominal length of a life sentence. Official Chinese information about the actual average time served by prisoners sentenced to life imprisonment is not available.

[169] Ibid.

[170] Ibid.

[171] Ibid.

Notes to Section VI—Developments in Hong Kong and Macau

[1] U.S.-Hong Kong Policy Act of 1992, Public Law No. 102–383, enacted 5 October 92; Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, enacted by the National People's Congress 4 April 90, effective 1 July 97; Joint Declaration of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, adopted 19 December 84.

[2] U.S.-Macau Policy Act of 2000, Public Law No. 106–570, enacted 27 December 2000; Joint Declaration of the Government of the People's Republic of China and the Government of the Republic of Portugal on the Question of Macau, adopted 13 April 87; Basic Law of the Macau Special Administrative Region of the People's Republic of China, enacted by the National People's Congress 31 March 93, effective 20 December 99, art. 83.

[3] Basic Law of the Macao Special Administrative Region of the People's Republic of China, enacted by the National People's Congress 31 March 93, effective 20 December 99, art. 83; Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, enacted by the National People's Congress 4 April 90, effective 1 July 97, art. 85.

[4] Basic Law of the Macao Special Administrative Region of the People's Republic of China, enacted by the National People's Congress 31 March 93, effective 20 December 99, arts. 27, 34; Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, enacted by the National People's Congress 4 April 90, effective 1 July 97, arts. 27, 32.

[5] Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, enacted by the National People's Congress 4 April 90, effective 1 July 97, chap. IV, art. 45 (selection of chief executive), art. 68 (election of Legislative Council), and chap. 1, art. 2 ("high degree of autonomy").

[6] Basic Law of the Macao Special Administrative Region of the People's Republic of China, enacted by the National People's Congress 31 March 93, effective 20 December 99, art. 23. For a discussion of the passage and terms of the legislation, see CECC, 2009 Annual Report, 10 October 09, 302–304.

[7] Fanny W.Y. Fung and Gary Cheung, "Macau Security Law Praised at Handover Event," South China Morning Post (Online), 5 December 09.

[8] Keith Bradsher, "Emboldened Hong Kong Protesters Call for Free Elections," New York Times (Online), 9 July 03; "Hong Kong Withdraws National Security Bill," China Daily (Online), 5 September 03.

[9] For additional information on the proposals, see "Hong Kong Government Releases Proposals for Constitutional Reform," CECC China Human Rights and Rule of Law Update, No. 5, 4 June 10, 2.

[10] National People's Congress Standing Committee, Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive

of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage, issued 29 December 07.

[11] Government of the Hong Kong Special Administrative Region, "Package of Proposals for the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012: Consultation Document," reprinted in Hong Kong Economic and Trade Office in the United States, 14 April 10.

[12] Tom Mitchell, "Hong Kong By-Election Thwarted by Beijing," Financial Times (Online), 16 May 10.

[13] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2009, China (includes Tibet, Hong Kong, and Macau), 11 March 10.

[14] Robert Keatley, "Universal Suffrage Remains the Goal—but Not Yet in Sight," Hong Kong Journal (Online), April 2010.

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