



Chinese Human Rights Defenders (CHRD)

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Persistent Torture, Unaccountable Torturers

A Report on China's Implementation of

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Chinese Human Rights Defenders (CHRD)

November 5, 2008



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EXECUTIVE SUMMARY

The report finds that except for some progress in the promulgation of legislation and administrative documents, China has made no clear and discernible improvement in prohibiting the use of torture or of cruel, inhuman and degrading treatment. Twenty years after China ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in 1988, all are routinely practiced by government personnel with a wide variety of official duties as well as by persons affiliated with or working on behalf of the state to such a wide extent that their practice must be considered systematic.

This report was submitted to the UN Committee against Torture ((hereafter referred to as “the Committee”) in early October as it considers China’s state report (CAT/C/CHN/4) during its 41st session on November 7 and 10 in Geneva. The Chinese government has not been transparent in the process of preparing its current state report or previous state reports. It has not invited the participation or contribution of civil society, or invited members of civil society to participate in or observe the review process at the United Nations. This report is unique as it has been submitted by members of Chinese civil society and prepared by lawyers, independent legal experts, and human rights activists in China.

Many aspects of current Chinese law still provide fertile grounds for torture. China’s legal definition of “torture” is much narrower than that of CAT and it has not been amended to include all elements of the practice as defined in the Convention.

The use of violence and abuse of power by the police and other law enforcement officials such as Urban Inspection Officers (*chengguan*) and family planning officials are common. Officials who use such violence are rarely investigated or held accountable.



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China has made little attempt to abolish the official system of administrative punishment, Re-education through Labor (*laojiao*), a form of arbitrary detention about which the Committee has raised serious concerns. The police have also made use of vague provisions in the Criminal Law to subject individuals to involuntary hospitalization in psychiatric institutions. In addition, China has developed an illegal network of interceptors and secret detention facilities commonly referred to as “black jails” (*heijianyu*) and “law education classes” (*xuefaban*) to persecute and arbitrarily detain petitioners. Torture and ill-treatment are routinely practiced in these extra-legal detention facilities. This combination of official and unofficial arbitrary detention systems has been used to punish human rights activists, petitioners and Falun Gong practitioners. In theory, individuals have recourse to challenge their incarceration by applying for an administrative review or filing an administrative lawsuit against the relevant government officials or agencies, but these remedies are rarely effective in challenging decisions on arbitrary detention.

Conditions in detention facilities remain poor. Incarcerated individuals are often forced to labor under poor and dangerous working conditions. Detention authorities tolerate and even promote inter-prisoner violence. Prisoners on death row are subjected to cruel treatment.

The lack of protection of the right to fair trial increases the risk of torture and other mistreatment in China’s detention facilities. Investigators and prosecutors rely heavily on confession, often without the presence of a lawyer, as evidence. Confession obtained by torture is still admissible in court. A suspect’s access to legal counsel is routinely limited and arbitrarily denied by the Public Security Bureau (PSB) while lawyers are often reluctant to defend certain criminal cases due to a number of reasons including a fear of prosecution according to intimidating laws regarding lawyers’ speech in court. Suspects can be legally detained for months before being brought in front of a judge. Because the provisions stipulating the legal limit of pretrial detention are numerous and complex and there is no habeas corpus in Chinese law, the PSB and the Procuratorate can easily extend the period of pretrial detention multiple times while making it difficult for the detainee to challenge the legality of their detention. Meanwhile, the right to appeal is often curtailed,



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and appeals, rather than being taken up by the higher court, are routinely sent back to the original court for “re-trial”, often leading to the same if not harsher sentences.

Perpetrators of torture are almost never held criminally accountable, largely because there are no independent complaint mechanisms to which victims of torture have recourse. The PSB and Procuratorate, under intense pressure to “strike hard” on crime, have little incentive to investigate allegations of torture against their own employees who use torture to “solve” cases quickly. The Procuratorate and the judiciary, which in theory might provide some institutional safeguards against torture, are unable to genuinely and independently supervise law enforcement agencies. The Procuratorate is ineffective in supervision of the conduct of the police because its primary purpose—prosecution of accused individuals—is aligned with that of the police. The judiciary lacks independence, being subordinate to other organs of government administration and under the control of the Chinese Communist Party’s (CCP’s) Political-Legal Committees. It is unwilling to seriously investigate allegations of torture and hold perpetrators of torture accountable especially in sensitive cases in which the verdict has been pre-determined by the Political-Legal Committees. In addition, evidence needed to prosecute perpetrators of torture is very difficult to obtain due to a number of factors, such as the increased use of means of torture that do not leave physical traces.

Victims of torture almost never receive adequate compensation. There is a lack of effective mechanisms to ensure that victims of torture are properly compensated. In the few cases in which compensation is granted, the amount is a pittance especially considering the painful and long process victims must go through to receive it.

Recommendations of specific measures the Chinese government can and should take to address the significant deficiencies in China’s fulfillment of its obligations under CAT are presented at the end of this report.



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Common methods of torture in China

Common methods of torture and other cruel, inhuman or degrading treatment or punishment in China can be divided into the following categories:

- Beatings
 - The victim is kicked or beaten with bare fists, batons, electric batons or belts. The victim can also be hung up and beaten.
- Handcuffing in painful positions
 - The victim's hands or feet are handcuffed and then s/he is hung by his/her wrists or ankles. The victim may be left hanging in this position for days, during which the handcuffs cut into his/her bones.
 - A similar and especially painful method is to handcuff the victim's hands together behind his/her back, then fix the handcuff on chains on a wall and hang the victim off the ground.
 - Another method is to pull one hand back over one shoulder, pull the other hand up from behind, and handcuff both hands together before hanging the handcuff to chains on the wall.
- Burning with fire or cigarette butts
- Exposing to extreme cold or heat
 - The victim is made to stand under the sun for hours.
 - After beatings, the torturer pours cold water on the victim to wake him/her up, turns the air-conditioner to a very low temperature and places an electric fan to blow directly on the victim.
- Shining strong blinding light into the victim's eyes from a close distance.
- Forcing the victim to stand or kneel on a hard uneven surface or hold a "dunmabu" position for hours.



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- In “*dunmabu*” (also known as “*zhanmazhuang*” or “*kaimotuoche*”), the victim is forced to hold a half-sitting position without chairs or any other support, putting ever-increasing strain on thigh and leg muscles.
- Tiger bench
 - The torture victim is made to sit upright on a long bench with her hands tied behind her back. Her thighs are fastened with a rope to the bench while her feet are raised off the floor by bricks placed under her feet. This puts extreme strain on the knees and is a very painful form of torture, especially when conducted for an extended period of time.
- Sexual abuse
 - The victim’s reproductive organs are kicked or beaten using bamboo, batons or electric batons.
 - The torturer thrusts foreign objects into the victim’s anus or vagina.
- Depriving the victim of food and drink for long periods of time
- Force-feeding excrement or unsanitary objects
- Forced labor in dangerous working conditions
- Arbitrary detention
 - The victim is held in illegal detention facilities such as a “black jail”, an “educational class” and Re-education through Labor camp without charge or trial, or incarcerated without due process or for exercising basic human rights.
- Using or threatening to use trained dogs to attack the victim
- Mock executions
- Solitary confinement
- Sleep deprivation
 - The victim is prevented from sleeping for days. The torturer might use noise or smear red chili on the victim’s eyes to keep him/her awake.
- Threatening the safety of the victim’s family
 - During interrogation, the victim is told that if s/he does not cooperate, his/her family might be arrested or tortured.
- Humiliating treatment such as spitting on the victim’s face



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Definition of Torture

China's definition of "torture" is narrower than that of the Convention against Torture.

As the Committee noted in paragraph 1 of its List of Issues (CAT/C/CHN/Q/4) concerning China's Fourth and Fifth Periodic Report (CAT/C/CHN/4) on the implementation of CAT, the definition of torture in current Chinese laws and regulations is extremely narrow and does not include all elements of the definition as articulated in Article 1 of CAT.

"The Supreme People's Procuratorate Regulations on Standards for Filing Criminal Cases of Dereliction of Duty and Rights Infringement"², the latest government edict elaborating on torture-related concepts outlined in the Criminal Law³, defines "torture to extract confession" (*xingxun bigong*) as "the use of corporal punishment...by judicial staff to extract confessions from criminal suspects or defendants". It defines the "use of violence to obtain evidence" (*baoli quzheng*) as "the use of violence to extract witness testimonies by judicial staff" and "abuse of individuals under supervision" (*nuedai bei jianguanren*) as "beatings or other corporal punishments by supervisors [of official detention facilities] of incarcerated individuals".

The Chinese definition only recognizes torture when it is practiced by specific officials (members of the judiciary and guards at detention facilities), at particular locations (official detention facilities) for particular purposes (extracting confession or witness testimonies). Excluded from the definition is the use of torture outside of official detention facilities, for purposes other than those stated in the Regulations, and by other public officials such as members of the PSB and paramilitary police. Neither is torture by individuals acting "at the instigation of or with the consent or acquiescence of a public official", such as members of Joint Security Brigade (*lianfang duiyuan*)⁴, private security guards, chengguan and hired thugs, considered torture in Chinese law.



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Moreover, Chinese law does not recognize psychological torture such as sleep deprivation, lengthy interrogation sessions, threatening individuals with attack by police dogs, threatening the safety of individuals' families, solitary confinement or mock executions as torture. These methods of torture are widely practiced for they leave no apparent physical trace, thus rendering it more difficult for the victim to collect evidence to seek legal redress.

The Use of Violence by Government Officials

The use of excessive force by the police is common.

The Committee mentioned the use of excessive force by the police (CAT/C/CHN/Q/4 para. 34). Despite regulations such as the Public Order Administration Punishment Law⁵ that prohibit the use of beatings, mistreatment and degrading treatment in law enforcement, without effective means to implement these regulations, those who violate the regulations are rarely held accountable.

The use of excessive force by the police is not just incidental to legal enforcement; the police intentionally and actively use excessive force in the interception of petitioners (*shangfangren*), an illegal practice. Policemen work as interceptors (*jiefang ren yuan*) and often join others in hunting down petitioners and in the process humiliate, beat and otherwise mistreat those they intercept. They also transfer petitioners whom they have apprehended to local interceptors who forcibly send the petitioners back to their home provinces.

The case of Shanghai petitioner, Duan Huimin (段惠民), a laid-off worker who petitioned for appropriate compensation following his dismissal from a state-owned company, illustrates these abuses. While petitioning in Beijing with his sister, Duan was intercepted and severely beaten by a dozen Shanghai interceptors (including policemen such as Yan Jianguo (严建国)) on November 3, 2006. The day after, Duan was sent back to Shanghai and criminally detained at Shanghai PSB Huangpu District Detention Center for "provoking and making trouble." While in detention, Duan bled and vomited blood. Duan and his family repeatedly requested that he be allowed to see a doctor, but their requests were denied by the head of the detention center. On November 29, Duan was



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sent to one year of RTL for “disturbing social security and order.” Duan was finally allowed access to medical treatment on December 28, about 60 days after he was severely beaten by the interceptors. However, by then he was so seriously ill that he died soon after on January 2, 2007.

Other law enforcement officials, such as the Urban Inspection Officers (*chengguan*) who are responsible for enforcing a plethora of regulations in cities ranging from illegal structures to illegal hawking, are notorious for their use of excessive violence in carrying out their duties. For example, Li Siqiao (李四桥), a farmer from Yangliu Village, Jiangjun Road, Dongxihu District, Wuhan City, Hubei Province died on June 5, 2008 following severe beatings by dozens of Urban Inspection Officers. On May 23, Li was mending a shed on his farm when the officers arrived and disputed the legality of the structure. The officers pushed the shed over and roughly handled and beat Li's parents. Li tried to stop the officers, and the latter started beating him. Li was rushed to Wuhan Xiehe Hospital where he died twelve days later. (See Appendix on p.33 for more cases of the use of excessive force in law enforcement)

Officials who use extensive violence in the implementation of the family planning policy are rarely investigated or held accountable.

The Committee asked in paragraph 6 of its List of Issues about the investigation, prosecution and conviction of officials who use violence against citizens in the implementation of the population policy.

In implementing the national family planning policy, local governments are pressed to accomplish the policy's objectives, which often include fulfilling quotas for births, contraceptive use and sterilizations. When the number of births in a local area goes above quota, local officials may face demotion, reduced bonuses, or a less promising political future. To ensure that the quota is met, local governments typically dispatch medical personnel, local officials and police officers to villages to conduct searches for “illegal pregnancies.” In cases in which an alleged “illegal pregnancy” is reported or discovered, they take women to hospitals for abortion or sterilization. The pregnant woman is persuaded, or more often coerced, to abort the fetus. If a woman goes into hiding to evade



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capture, her relatives may be questioned, fined, detained, beaten, or have their property confiscated unless they are able to persuade the woman to return and comply with family planning officials. CHRD has received reports that many local government officials, such as those in Linyi City and Zaozhuang City in Shandong Province, Guannan County in Jiangsu Province, Bobai County in Guangxi Province and numerous others localities have employed such violence.

Family planning officials and those acting with their consent act with impunity. When one victim confronted a Linyi official, the latter said, “Feel free to go and complain! You can complain to the county government or to Linyi government, [I don’t care] because it costs me at most RMB 10,000 to beat you to death!”⁶

The above quotation was documented by Teng Biao, a lawyer and legal scholar, and Chen Guangcheng, a human rights activist now imprisoned in Linyi Prison. In 2005, the two conducted an investigation of the implementation of population policy in Linyi. They also provided legal advice to victims and assisted them in filing lawsuits against the relevant government officials, as such practices violate the Population and Family Planning Law.⁷ The vocal complaints of Chen, Teng and other activists, documented by human rights groups and widely reported in the international press and to a lesser extent in the domestic press, eventually reached the State Family Planning Commission (*guojia jihua shengyu weiyuanhui*), a central government agency. It issued a statement criticizing Linyi government for its use of violence, but local officials ignored it. The Commission had planned to send officials to Linyi to investigate the allegations, but it soon gave up after Linyi officials reported that the activists exposing the violence were “criminals.” Eventually, some activists, Chen among them, found themselves the targets of retaliation by local officials. Chen was convicted of “intentionally damaging property and gathering crowds to disturb transport order” and sentenced to four years and three months imprisonment on March 11, 2006. Those in Linyi who filed lawsuits against local officials were forced to withdraw their cases and suffered retaliation from officials.



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CHRD has documented many other cases in which officials are not held legally accountable for their misconduct. In these cases, victims either do not lodge complaints because they do not know how to or are too afraid to do so for fear that they will be punished for the alleged “illegal” pregnancies or children, or they complain to the local Office of Population Policy (*jishengban*) and their complaints are ignored. Some victims petition local government and higher authorities for redress, and are subsequently subjected to even more violence and persecution by interceptors from their local areas.

Arbitrary Detention

Re-education through Labor continues to be widely used despite calls for its abolition.

The Committee is correct to note that the Chinese government has taken no action to abolish the Re-education through Labor System (RTL, CAT/C/CHN/Q/4 para. 2(h)), an administrative system under which about 230,000 individuals are held annually without charge or trial, according to one estimate in 1997 by the U.N. Working Group on Arbitrary Detention. Not only has the Chinese government not taken any action to abolish the practice, the system has been used as a major tool to punish Falun Gong practitioners, petitioners and human rights activists in recent years.

Individuals may challenge the decision to send them to RTL by first applying for an administrative review by the local RTL Management Committee, an administrative organ dominated by the PSB. They can submit their application for review to the People’s Government at the same level as the Committee or to the RTL Management Committee at a level higher than the Committee that made the decision.

If through the review, the decision is upheld, according to Article 2 of the Administrative Litigation Law,⁸ the individual can then file an administrative lawsuit against the RTL Management Committee which made the decision. Thus, an individual may only have her/his case reviewed by a judge after the decision has been made to send the individual to RTL and after he/she has served time in an RTL camp, and even then, only those who file an administrative lawsuit and whose cases are accepted by the court may have their cases reviewed by a judge. Until recently, the courts rarely accepted or dealt seriously



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with such lawsuits. Even in rare cases when the courts do agree to hear the lawsuit, the RTL decision is almost always upheld.

Few individuals actually make use of the two remedies to challenge the RTL decision. A report by the UN Working Group on Arbitrary Detention dated 1998 concurs that the effectiveness of administrative lawsuits is “very relative, as can be seen from the very small number of such proceedings.” This situation has changed very little in the passing years. CHRD’s survey in 2008 shows that only 5% of the one-thousand interviewees who are petitioners sent to RTL applied for administrative review or filed an administrative lawsuit.⁹ Out of those 50 individuals, only one was granted a shorter punishment—shortened from two years to one year—largely because she was a green-card holder and supported by the U.S. government in her administrative review. None of the fifty managed to overturn the initial RTL decision using the two remedies.

Individuals do not make use of the two remedies because of a combination of factors. Some barriers to using the remedies are: lack of knowledge about them, lack of access to legal counsel due to high cost and fear of retaliation especially by the PSB. They also feel the remedies are ineffective because the government agencies which review the decision lack independence from the RTL Management Committee which made the original decision.

The case of Liu Jie (刘杰), a Heilongjiang petitioner and human rights defender, is a classic example of the near-total futility of these two remedies against RTL decisions.

On November 12, 2007, Liu was sent to 18 months of RTL by Heilongjiang Nongken RTL Management Committee for “instigating trouble and disturbing social order”. On November 28, 2007, Liu filed an administrative review with the Heilongjiang RTL Management Committee, but it was rejected on February 19, 2008, because the Committee could not find “anything wrong” with the original decision. Liu then filed an administrative lawsuit suing the Heilongjiang Nongken RTL Management Committee, but both Nangang District People’s Court and Heilongjiang Military Farm Bureau



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Intermediate People's Court in Heilongjiang Province verbally refused to accept the case without any explanation.¹⁰ (See Appendix on p.33 for more case studies of individuals sent to RTL.)

Government officials exploit general and vague provisions in the article of the Criminal Law regarding involuntary hospitalization to incarcerate dissidents in psychiatric hospitals.

The Committee asks about “the legal safeguards of persons in health institutions subjected to involuntary hospitalization, particularly in psychiatric hospitals” (CAT/C/CHN/Q/4 para. 2(p)). The main legal basis for involuntary hospitalization is Article 18 of the Criminal Law, which states,

“A mentally ill person who causes dangerous consequences at a time when he is unable to recognize or unable to control his own conduct is not to bear criminal responsibility after being established through accreditation of legal procedures; but his family or guardian shall be ordered to subject him to strict surveillance and arrange for his medical treatment. *When necessary, he will be given compulsory medical treatment by the government*” (Italics added for emphasis).

The provisions of this article are very general and vague. They include no concrete details as to the circumstances under which the individual should be subjected to compulsory medical treatment. As a result, interpretation of this Article varies widely across the country. Local governments develop their own regulations on involuntary hospitalization, many of which have few safeguards to protect the human rights of individuals incarcerated. In some provinces and cities, involuntary hospitalization has been used as a means to restrict civil liberties. In Tianjin and Shanghai for example, the relevant regulations stipulate that individuals who “disturb public order”, another general and vague term, can be subjected to involuntary hospitalization.



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Police have wide powers in determining “mental illness” and incarcerating people in mental hospitals. Article 14 of the Police Law¹¹ states,

“...the people’s policemen of public security organs may take protective measures to restrain a mental patient who seriously endangers public security or other people’s personal safety. If it is necessary to send the patient to a designated institution or place for guardianship, the matter shall be reported for approval to the public security organ of a people’s government at or above the county level, and his or her guardian shall be notified without delay.”

The police are not required by law to arrange an independent mental health evaluation of the individual and can subject her/him to involuntary hospitalization following approval from a higher PSB. Even when the individual’s mental state is evaluated, it is questionable how independent and professional the mental health “experts” are who carry out the evaluation.

The system is full of loopholes and provides much room for arbitrary interpretation. It has been used to hospitalize “Falun Gong practitioners and Tibetans...not for medical reasons”, as the Committee has noted in paragraph 2(p) of its List of Issues. It is important to point out that petitioners are also frequent victims. In a CHRD report¹², it was found that 3.1% of the surveyed petitioners had been imprisoned in psychiatric institutions. Many had suffered this fate more than once. The mental health of the individuals was generally not evaluated. There was no evidence to suggest that they were mentally ill or posed any threat to society. In the psychiatric institutions, they were often beaten and forced to take unknown medication that could be harmful to them.



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Hu Jing (胡敬), a workers' rights activist and member of the banned Pan-Blue Alliance of Chinese Nationalists, has thrice been subjected to involuntary hospitalization since 2005.

In 2005, while on his way to Tiananmen Square in Beijing where he had planned to burn a Chinese Communist Party (CCP) flag in protest, he was intercepted and sent to Chongqing Jiulongpo District Mental Health Center by Chongqing Police. Before his admission, the police dispatched two psychiatrists to evaluate Hu's mental state. Hu refused to answer the questions. However, the psychiatrists claimed that Hu suffers from "extreme psychosis" and admitted him to the hospital, where he was reportedly mistreated.

Between November 2007 and January 2008, Hu was again sent to the psychiatric institution for petitioning about workers' rights in Beijing. Reportedly, after his release from the first detention, Hu was confirmed to be mentally healthy when he went for an independent assessment. The reason the Chongqing Police forcibly confined him to the psychiatric institution a second time was that they were unhappy about him getting an independent mental assessment.

In early July 2008, Chongqing police sent him to the local psychiatric institution to prevent him from petitioning during the Olympics. Hu was released on September 19.

Hu claims that Chongqing Jiulongpo District Mental Health Center has refused to give him his mental health record despite repeated requests.

For more case studies of individuals forcibly detained in psychiatric institutions by the



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police, please see Appendix on p.33. Appendix II in CHRD's recent report, *Dancing in Shackles: A Report on the Situation of Human Rights Defenders in China (2007)*¹³ also contains such cases.

The legal framework regulating involuntary hospitalization is incomplete and complex. It does not spell out the mechanisms to challenge decisions of involuntary hospitalization. Chinese lawyers generally find it difficult to intervene effectively in aiding individuals sent to psychiatric hospitals. This is complicated by the fact that the PSB often persuades or coerces the family into signing an agreement to commit the individual against her/his will to a psychiatric hospital.

Petitioners are ill-treated and arbitrarily detained for lodging complaints.

The Committee raised the issues of “retrievers” or “interceptors” (*jiefang renyuan*) in paragraph 2(j) and illegal detention facilities used to detain petitioners (or “black jails,” *heijianyu*) in paragraph 2(k) of the List of Issues. The two interrelated issues are serious human rights violations that deserve greater attention as they are illegal and secret measures targeting petitioners, who bring complaints about lower levels of government to higher authorities and who are amongst those most vulnerable to human rights abuses in China today. (See also CHRD's recent report, *Silencing Complaints: Human Rights Abuses Against Petitioners in China*¹⁴)

Interception does not exist legally or publicly, but evidence points to rapidly expanding operations, extensive in scope. In recent years, because the number of petitions has continued to rise, interception has become a major area of responsibility for various local governments, and many departments at different levels are involved. Government agencies which are involved in and contribute staff to interception operations include Letters and Visits Offices (*xinfang bangongshi*), the PSB, the Procuratorate, the judiciary, the police, local government offices located in provincial capitals and in Beijing (“liaison offices”) and the government units directly responsible for the alleged rights violations



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described in the petitions. Criminal gangs and thugs are also hired by these government agencies to intimidate, beat and even kill petitioners on their behalf.

Interceptors harass, monitor, kidnap and beat petitioners. After petitioners are kidnapped, some are beaten, even to death in several documented cases. They are often detained in Beijing or in their home areas after being forcibly returned. They may be imprisoned or detained in psychiatric institutions, RTL camps, “black jails” or “educational classes” (*xuefaban* or *xuexiban*) without charge or trial.

“Black jails” are temporary detention and interrogation centers where detainees face further interrogation, beatings, mistreatment, imprisonment and arbitrary detention. In Beijing, black jails are usually rented space or liaison offices used by local interceptors before they escort petitioners back to their home provinces. A CHRD report released in September 2007 identified the locations of a number of black jails in Beijing established by local governments. A follow-up report released in October 2008¹⁶ finds that they are still in operation, while more have sprung up in Beijing and elsewhere in the country. Petitioners are also sent to black jails in their hometowns. The detainees can be incarcerated in the black jails for days or months without any legal procedures. They are crowded into small rooms, poorly fed, and without proper sanitation facilities or health care. Many are elderly and some have children, while a significant number have medical conditions or are disabled. They are prohibited from contacting the outside world.

In addition, there are many reported cases of illegal detention in local “law education classes.” According to CHRD’s sources, such “education classes” are found nationwide.¹⁷ These “classes” are similar to black jails in that petitioners are detained in secret and well-guarded locations. They are usually held incommunicado and their families have no knowledge of their whereabouts. Detainees in these classes are also often mistreated and beaten.¹⁹

Interception, black jails and educational classes do not officially exist. Thus, there is no official means to hold interceptors accountable and no official institution has oversight over individuals detained in these illegal facilities. In theory, petitioners can apply for an administrative review or file an administrative lawsuit against the relevant government



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officials or agencies, but the courts always refuse to accept such cases. (See Appendix on p.[33](#) for case studies of individuals incarcerated in black jails and law education classes.)

The Committee also asked about the whereabouts of Ye Guoqiang (叶国强) and Ye Guozhu (叶国柱) (CAT/C/CHN/Q/4 para. 2(k)). The Ye brothers are petitioners-turned-activists who had petitioned the government to compensate them for forcibly demolishing their home and restaurant to make way for construction for the Olympics. For their activities to defend human rights, the two have been repeatedly detained and imprisoned. The particulars of their cases are given below.

Ye Guoqiang:

- In October 2003, after the brothers had repeatedly petitioned authorities for compensation without success, Ye Guoqiang attempted suicide in desperation. For that, he was sentenced to two years in jail between 2003 and 2005 for “provoking and making trouble.”
- On September 29, 2007, Ye was again taken into police custody after he staged a protest calling on the CCP to help disabled people in front of the Beijing Xuanwu District government building. Ye was detained on suspicion of “inciting subversion of state power” and was released on bail on January 9, 2008.²⁰ Authorities placed conditions on Ye's release, including that he not make contact with anyone overseas or petition and that he report to the police whenever summoned.



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Ye Guozhu:

- Ye Guozhu was sentenced to four years in prison for “provoking and making trouble” on December 18, 2004 after he applied for permission to organize a protest against forced evictions.
- On July 22, 2008, four days before he was due to be released, Ye was taken away from Chaobai Prison by Xuanwu police. Ye was detained on suspicion of “gathering crowds to disturb the order of public places.” It is believed that Ye Guozhu was detained to prevent him from speaking out against, or organizing public protests during, the Olympics.²¹ Ye is now held at Beijing PSB Xuanwu District Sub-division Detention Center.

Wang Guilan (王桂兰), whom the Committee mentioned in paragraph 2(l) of the List of Issues, has been sent to RTL. Wang was taken into police custody on February 28, 2008 immediately after the release of an open letter, which Wang had helped to organize, signed by 12,709 petitioners calling on the Chinese government to improve the human rights situation. Wang was released in March. However, on April 17, Beijing police picked Wang up off the street and handed her to interceptors from Enshi City. Wang was escorted back to Enshi, where she was held at an isolated black jail. On July 29, Wang was criminally detained on suspicion of “disturbing social order.” According to the authorities, Wang was detained for accepting a phone interview with foreign journalist during the Olympics. On August 28, Wang was sent to fifteen months of RTL for “disturbing social order.” Wang is currently held at Enshi Detention Center. It is believed that she will soon be to be transferred to Wuhan RTL camp.²²



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Prevalence of Torture in Detention Facilities and Prisons

Detention of suspects can last months before they appear before a judge.

Criminal suspects can be detained for a very long time before being presented to a judge, much longer than the 37 days noted in paragraph 2(f) of the Committee's List of Issues. The period of pre-trial detention is not only longer than what observers often think, but the provisions stipulating the legal limit are numerous and complex.

According to Article 92 of the Code of Criminal Procedure (or Criminal Procedure Law, CPL), the liberty of a criminal suspect can first be restricted by summons (*juchuan*) for up to twelve hours. After this initial period, the police must either free the suspect or detain (*juliu*) her/him. Under normal circumstances (CPL Article 65), police must interrogate the suspect within twenty-four hours, after which the police can either free the suspect or apply to the Procuratorate for her/his formal arrest (*daibu*). However, in the case of crimes that were "committed from one place to another, repeatedly, or in a gang," a suspect can be detained for up to thirty days (CPL Article 69). When the Procuratorate receives an application for formal arrest from the police, it has up to seven days to approve the arrest. At this point, the total number of days for which a suspect may be detained is 37.

After the suspect is formally arrested, the police have a maximum of two months to investigate the case (CPL Article 124). In a particularly complex or "sensitive" case, this period can be extended for a month with the approval of the Procuratorate at the next highest level (CPL Article 124). Then, for "a particularly grave and complex case," this period can again be extended for two more months with the approval of the "People's Procuratorate of a province, autonomous region or municipality directly under the Central Government" (CPL Article 126). If the suspect might be sentenced to a minimum fixed-term imprisonment of ten years, another two-month extension is possible with the approval of, again, "the People's Procuratorate of a province, autonomous region or municipality directly under the Central Government" (CPL Article 127).



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Following this period of investigation, which could last up to seven months, the police then either must release the suspect or transfer her/his case to the Procuratorate for public prosecution. The Procuratorate has a month to decide whether or not to prosecute her/him (CPL Article 138). However, this period can be extended to a month and a half for major or complex cases. If the Procuratorate decides that supplementary investigation is needed, it can either send the case back to the PSB or conduct the investigation itself. In either case, the supplementary investigation can take up to one month (CPL Article 140). After the Procuratorate receives the supplementary information, it has up to one and a half months in which to consider whether or not to prosecute the case. The Procuratorate can send the case back for supplementary investigation up to two times. The period for public prosecution thus can last up to six and a half months.

Altogether, the period following formal arrest (including investigation and public prosecution periods) can last up to 13.5 months. And adding these two periods (*juliu* and *daibu*) together, a suspect can be held for up to an astonishing 14.5 months before being brought before a judge.

Most criminal offenses are investigated by the PSB and the legal limit of 14.5 months applies to cases investigated by the PSB. However, offenses committed by government officials are handled directly by the Procuratorate. Criminal investigations by the Procuratorate follow a different set of time limits. After a suspect is taken into custody, the Procuratorate must interrogate the suspect within twenty-four hours. The Procuratorate then has up to 14 days to formally arrest (*daibu*) the suspect (CPL Articles 133 and 134). Following formal arrest, the case enters the public prosecution phase directly, which, as discussed above, could last up to six and a half months. Therefore, in cases investigated by the Procuratorate, the legal limit for pre-trial detention is seven months.

However, a number of provisions in the CPL stipulate other circumstances under which a suspect could be legally detained beyond 14.5 months before being brought before a judge. Article 128 states that if “during the period of investigation a criminal suspect is



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found to have committed other major crimes, the time limit for holding the criminal suspect in custody during investigation shall be recalculated...from the date on which such crimes are discovered.” Article 122 states that “the period during which the mental illness of a criminal suspect is under verification shall not be included in the period of time for handling the case.” Article 128 states that in the case of a suspect who does not give her/his true name and address and whose identity is unknown, “the time limit for holding him in custody during investigation shall be calculated from the date on which his identity is discovered.”

From the moment a detainee is taken into custody, s/he is held in detention centers (*juliushuo*) under the jurisdiction of the PSB. Detention centers hold both criminal suspects and individuals who are subject to administrative punishment. Once individuals are convicted of a crime, they are then sent to prisons. In detention centers, women are held separately from men, but minors might or might not be separated from adults depending on the conditions of the detention centers.

Detainees have no legal recourse to challenge the legality of their detention. Habeas corpus does not exist in China’s legal system. Detainees can, however, submit complaints to the PSB and the Procuratorate. According to Chapter III of the Provisions on the Application of the Term of Criminal Custody by Public Security Organs²³, suspects, their legal representatives, relatives or their lawyers can submit complaints regarding detention beyond the legal limit to the PSB or to the prosecutors stationed at the centers.²⁴ The PSB should then investigate the complaints within three days of submission. Some detention centers are also equipped with computer systems holding a record of all detainees. The computer system records the cases of detainees who are detained beyond the legal limit. Such cases should be reported to the presiding officer and the detainees should be released. However, since the PSB is responsible for investigating the legality of its own actions and the Procuratorate is not independent from the PSB, there is no independent investigation of a complaint, and the system provides much room for abuse. (See Appendix on p.[33](#) for more cases of prolonged pre-trial detention.)



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Conditions are poor in detention facilities. Detention authorities tolerate and even promote inter-prisoner violence.

The Committee asked about conditions in detention and prisons (CAT/C/CHN/Q/4 para. 11, 12 and 30). Labor is often compulsory, and working conditions often dangerous. Detainees are allowed to engage in simple recreational activities such as watching TV, running and reading. As for punishment, prison guards have the power to subject detainees to solitary confinement and assault by fellow prisoners and bar detainees from family visits. The extent of restrictions over the practice of religion varies depending on the detention facilities. However, Falun Gong practitioners are always severely punished for practicing their religion in all detention facilities. They are severely beaten, handcuffed and put into leg irons.

The Committee is correct to note (para. 12) that in detention centers, “conditions vary considerably across” China. In some detention centers, detainees’ basic dignity is generally respected, but in some others detainees are scolded and beaten, sometimes causing disability or death. The variation is largely due to uneven socio-economic development in China, with detention centers situated in the more developed areas comparatively better equipped (e.g. interrogation rooms have closed-circuit cameras) and governed by stricter rules. The variation is also due to the quality of the guards and heads of detention centers. When the head of a Detention Center decides to persecute a particular group of individuals, they are treated particularly badly. The facts that prosecutors are stationed in detention centers and that the Ministry of Public Security and the Ministry of Justice occasionally send teams of investigators to the detention centers help to remedy to some extent the inequalities in the treatment of detainees in these facilities.

The Committee mentioned the issue of inter-prisoner violence (CAT/C/CHN/Q/4 para. 31) and indeed such violence is common and tolerated in detention centers. Although guards are fully aware of the existence of violent bullies and inter-prisoner violence in detention facilities, they do not take effective measures against such individuals. For example, Jia Xiaobing (贾小兵), a detained suspect at Xicheng Detention Center in



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Beijing, died following successive beatings by eight fellow detainees, but the guards were not punished or held legally accountable.²⁵

Prison guards often assign fellow prisoners to watch, harass or punish “problematic individuals”, such as dissidents and human rights defenders. Prisoners who successfully carry out their assignments are rewarded while those who refuse to cooperate are punished. For example, imprisoned human rights defender, Hu Jia (胡佳), has been watched by four prisoners who stand to be docked points for good behavior if they fail to monitor and regularly report on Hu.²⁶ Imprisoned reproductive rights activist, Mao Hengfeng (毛恒凤), has been repeatedly tortured, mistreated and monitored by fellow prisoners at the prison hospital (More information regarding Mao’s case can be found in Appendix on p.[33](#)).²⁷

Forced labor under poor working conditions persists in detention facilities.

The Committee asks a series of questions regarding conditions in detention and prisons (CAT/C/CHN/Q/4 para.11 and 12). CHRD has limited information concerning these aspects, but would like to highlight the system of forced labor in detention facilities such as detention centers (*kanshuosuo*), RTL camps and prisons. CHRD has received many reports of appalling conditions of labor in detention facilities.

Below are some examples:

“I was criminally detained on April 19 [2001] in Futian Detention Center. The first thing I was made to do was assemble plastic flowers...from 7 a.m. to 11 p.m. without any afternoon breaks. Soon my hands were bloody. Due to the side effects of the toxic glue used, the wounds [in my hands] turned quickly into ulcers...among about thirty suspects in one cell, the few who worked the slowest were beaten by the head of the cell using an iron strip wrapped in plastic.



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Someone is beaten everyday. Those who resist [the beatings] were beaten by the police with iron straps, which sliced open the skin and revealed the flesh..." said an activist who was sentenced to three years of imprisonment in 2001.²⁸

"At Puyang RTL camp in Henan Province, we worked between 6:30 a.m. and 9:30 p.m. with three meal breaks each of thirty minutes...our main task is to strip the wires out of used tires...on March 12, 2008, Zhang Jianjian, one of the detainees at the camp, was working when four of his right hand fingers were accidentally wound into the machine. His thumb and middle finger were injured particularly badly but the RTL camp did not send him to the hospital but bandaged his fingers at the camp. The accident today was caused by a lack of [adequate] rest as well as almost no labor protection at the camp" said a labor activist currently serving 18 months of RTL.²⁹

Prisoners on death row are subjected to cruel treatment.

The Committee asks about the conditions of detention for prisoners on death row (CAT/C/CHN/Q/4 para. 13 and 29). On this issue, CHRD interviewed a number of lawyers who worked on death penalty cases. The lawyers confirmed that prisoners on death row are usually shackled 24 hours a day from the time of their conviction until their execution. This treatment is sometimes applied as well to detained suspects who, if convicted, could face the death penalty. One lawyer described what he saw at a detention center in Fu'an City in Fujian Province recently:

"One suspect facing charges for a serious crime was shackled and handcuffed 24 hours a day. He was detained in the same cell with other suspects. One fellow suspect was ordered to feed him and help him with defecation, urination and other necessary actions. When asked, the guards at the detention center justified this



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treatment as preventive – to prevent suspects from escaping or harming others. When the same detainee later appeared in court to stand trial, the handcuffs and leg irons were taken off.”

One Chinese lawyer also confirmed that the practice of harvesting organs of executed prisoners without their own or their families’ consent has continued. However, CHRD finds it very difficult to obtain more detailed information about the situation of prisoners on death row because lawyers and families of those sentenced to death are often denied visits to the prisoners. Often, lawyers and families are not informed of the execution until after it has happened.

Statistical data on the number of prisoners sentenced to death and awaiting execution and the number of executions carried out continue to be classified as state secrets, unavailable to the public.

Shooting continues to be the main method of execution in China, though some provinces such as Yunnan and Sichuan have replaced bullets with lethal injections. There is no evidence suggesting that China has systematically taken any specific procedures to reduce to a minimum unnecessary suffering during execution.

Lack of Legal Safeguards to Prevent Torture

Confession is heavily relied on as evidence.

The Committee is correct to note that criminal investigations still rely heavily on verbal statements and admission of guilt in paragraph 2(d) of its List of Issues. Investigators favor verbal statements because they are the easiest form of evidence to obtain. Torture is often used to extract confession from those taken into custody.



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Investigators rely on confessions because of a number of factors.

1. China has high rates of crime and police are pressed to solve a large number of cases.
2. There is a shortage of resources for criminal investigation and the equipment and technology for investigation remain backward.
3. The strong emphasis within the legal and judicial departments on “striking hard” on crime mean little regard is given to the rights of the suspects. In cases of serious crimes, officials high in the hierarchy often set strict deadlines for solving them. In recent years, there have even been campaigns to ensure that all homicides are solved. Criminal investigators are thus under intense pressure. The prevailing attitude amongst them is that wrongful convictions are better than no convictions at all. As a result, there is a lack of effort to prevent wrongful conviction and to protect the rights of suspects.
4. Police officers are given incentives to solve cases quickly. The investigator’s job performance, opportunity for promotion and the amount of bonuses are directly linked to the number of cases s/he solves.
5. The legitimization of “chuangshou” by state agencies —making money on the side to supplement government funding and support routine operations, a practice tolerated since the 1980s —means that fines are a major source of income for local PSBs. In June this year, *Youth Daily* exposed a shocking incident in Henan Province where police officers tortured a young woman to confess to prostitution in order to fine a man for soliciting prostitutes.³⁰

As a result of both the pressures and the incentives to solve criminal cases quickly, investigators either do not register the cases which cannot be solved or they “solve” the cases by taking in a few suspects and then forcing them to confess, often employing torture. Although the Procuratorate is supposed to supervise the conduct of the police, because the latter has greater power in general and when detaining individuals in



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particular, the Procuratorate does not have sufficient power to regulate police treatment of suspects and detention of individuals in practice.

Confession obtained by torture is admissible in court.

Generally, confession obtained by torture is still admissible in court. Many courts do not make the distinction between confession obtained by torture and other kinds of evidence but allow the former be used as evidence. Although according to Article 43 of the CPL it is “strictly forbidden to extract confessions by torture and to collect evidence by threat, enticement, deceit or other unlawful means,” the CPL does not stipulate that evidence obtained by such means is inadmissible in all judicial proceedings. Article 61 of the Supreme People’s Court Explanation of Several Issues on the Implementation of the People’s Republic of China Code of Criminal Procedure³¹ stipulates that “witness testimonies, statements by the victims and the accused obtained through torture...cannot be used as the basis for conviction,” but again, it does not categorically declare that such evidence is inadmissible. Furthermore, the Explanation is not a legally-binding document and its focus on statements and testimonies does not preclude the use of *physical* evidence obtained through torture. Similarly, Article 79 of the Public Order Administration Punishment Law of the People's Republic of China³² prohibits the use of evidence obtained by torture only when it is used as “the basis for punishment”.

Access to legal counsel is routinely limited and arbitrarily denied.

China’s state report (CAT/C/CHN/4) to the Committee claims that the administrative edict, “Regulations of People’s Procuratorates to Ensure the Lawful Practice of Lawyers in Criminal Procedures”, strengthens “the role of lawyers in criminal prosecutions in regard to protecting the legitimate rights and interests of criminal suspects” (para.21). In addition, Article 33 of the Lawyers Law³³ states, “From the day a criminal suspect is taken into custody or questioned for the first time by investigative authorities, the



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entrusted lawyer...has the right to meet with the suspect / defendant... The meeting...is not to be monitored or eavesdropped upon.”

However, the basic right of the detainee to access to a lawyer is in practice far from being protected, especially in cases deemed “sensitive” by the government. As noted by the Committee in paragraph 2(a) of its List of Issues, in “sensitive” cases, citing CPL 96, police tell lawyers that because the cases involve “state secrets”, permission of the investigative organs (that is, in most cases, the PSB³⁴) is needed before they can be granted access to their clients. No explanation is provided in regard to the question of what kinds of cases may be considered to involve “state secrets”; rather, lawyers are told that the investigative organ needs to review any cases under discussion. Thus in practice, the permission of the PSB is always required in order for lawyers to be given access to their clients. Because there are no clear legal parameters to determine when and under what circumstances the police can claim a case involves “state secrets,” police can use this exemption at will.

For example, human rights defenders, Chen Daojun (陈道军) and Huang Qi (黄琦), who have been detained since May 9 and June 10 respectively, have been forbidden access to legal counsel.³⁵ The two were taken into custody for posting dissident articles online and reporting on official corruption related to the May 12 Sichuan Earthquake. Chen and Huang’s lawyers have been told that they are not allowed to meet the two because their cases involve “state secrets”.

Lawyers are deterred from defending detained clients

The Committee is correct to note in paragraph 2(p) of its List of Issues that Chinese lawyers can be imprisoned for defending their clients in criminal cases according to Article 306 of the Criminal Law. As a result, many lawyers avoid handling criminal cases, leaving most detainees in China with no legal representation and exposing them to increased risk of torture and mistreatment.



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According to Article 306 of the Criminal Law,

“During the course of criminal procedure, any defense lawyer and legal representative who destroys or falsifies evidence, or assists parties concerned in destroying or falsifying evidence, or threatening or luring witnesses to contravene facts, change their testimony or make false testimony is to be sentenced to not more than three years of fixed-term imprisonment or criminal detention...”

According to Chinese criminal lawyers, the Procuratorate has used Article 306 to investigate and prosecute lawyers in recent years. It is unclear how many lawyers have been convicted. Even when the Procuratorate has no intention of proceeding towards conviction of a lawyer on such charges, it makes use of this article to threaten him/her. As a result of the Article’s use to intimidate and dissuade lawyers from taking “sensitive” cases, the number of lawyers handling criminal cases has not increased even though the overall number of lawyers has grown. Many lawyers are afraid of handling criminal cases. According to one estimate, on average, each Chinese lawyer handles fewer than one criminal case a year and over 70% of criminal cases have no involvement of lawyers at all.³⁶ In some highly publicized criminal cases, the court appoints a lawyer for the defendant, but often without the defendant’s consent or the defendant having the chance to meet the lawyer before trial.

CHRD wishes to bring to the attention of the Committee an especially worrying development in Chinese law—the addition of Article 37 to the newly amended Lawyers Law. Article 37 states, “When a lawyer is acting on behalf of, and speaking in defense of, a defendant, s/he will not be legally responsible. However, *this does not apply to lawyers whose speech endangers the national security, or who maliciously slanders others and seriously disturbs the order of the court*” (italics added for emphasis). Article 37 provides opportunity for the state to characterize lawyers’ speech as dangerous, maliciously slanderous, and a disturbance of the order of the court. CHRD is worried that the newly amended Lawyers Law will have the effect of curbing criminal lawyers and lawyers in



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general in their efforts to defend their clients as well as of discouraging lawyers from taking cases which may bring the wrath of powerful authorities down upon them. CHRD is also concerned that the Lawyers Law will be used as a tool to infringe upon the independence of lawyers and to persecute human rights lawyers.

The right to appeal is often violated, and cases are sent back to original courts for “re-trial”.

When higher courts receive appeals of cases in which the facts are unclear or the evidence is insufficient, they send the cases back to the original courts for re-trial rather than reviewing and adjudicating the cases themselves. The original courts tend to deliver the same or even harsher sentences because they, together with the local police and Procuratorate which participate in the investigation and prosecution, do not want to admit any wrongdoing. On rare occasions, the original court may deliver a lighter sentence following re-trial. In some cases, for fear of a harsher sentence, the defendants and their lawyers decide not to appeal the court's verdict.

This practice is in direct contradiction to the Chinese government's claim that “in cases where the facts were not clear, where evidence was insufficient and where it was not possible to determine the guilt of the accused, a verdict of innocent should be resolutely declared in accordance with the law, without hesitation or indecision” (CAT/C/CHN/4 para.30). The right to appeal, which aims to ensure at least two layers of judicial scrutiny of any case, the second of which must be conducted by a higher court, is therefore frequently violated in practice.



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Investigation of Torture and Accountability for Torture

Judicial independence and restraints on police power are lacking.

At the root of the prevalence of torture is a lack of effective restraints on the coercive powers of law enforcement agencies. This has several main causes, including the priority given to political considerations over individual rights and the lack of genuine independent oversight or checks on these agencies.

The prioritization of political considerations over individual human rights is most clearly demonstrated by the case of Falun Gong. After the Chinese government decided to crack down on Falun Gong, it established Office 610 to persecute Falun Gong adherents. As a political office, it has higher status than the judiciary, the PSB and the Procuratorate. In theory, Falun Gong practitioners can petition its Letters and Visits Office or sue Office 610 for torture. In practice, even these limited complaint mechanisms are closed to Falun Gong practitioners because they are treated as a “special category” and their complaints are not accepted by government offices. Falun Gong practitioners rarely lodge official complaints for fear of being subjected to even worse persecution due to their membership in the so-called “evil cult”. It is believed that Office 610 is responsible for the torture and cruel treatment of many Falun Gong practitioners and that its officers are never punished or held legally responsible for their crimes.

The Procuratorate and the judiciary, which might have otherwise provided some institutional safeguards against torture, are unable to genuinely and independently supervise law enforcement agencies for several reasons.

Firstly, the Procuratorate, which serves the contradictory functions of prosecution of accused individuals and supervision of the conduct of the police, is unlikely to be



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effective in carrying out the latter function because its primary purpose is aligned with that of the PSB—that is, to solve a case quickly and render punishment.

Secondly, the CCP's Political-Legal Committee (*zhengfawei*) is responsible for directing and controlling the judiciary, the PSB and the Procuratorate. In many local areas, the Secretary of the Political-Legal Committee is also head of the PSB. Under this arrangement, heads of the Procuratorate and the judiciary are both under the control of the PSB and thus have less power than the PSB, rendering it in effect impossible for the judiciary or the Procuratorate to hold police officers accountable for torture. The Political-Legal Committee requires the Procuratorate, the judiciary and the PSB to “cooperate” in solving major cases rather than acting as checks on each others’ misconduct.

Thirdly, during court proceedings involving “sensitive” cases, the presiding judge has to follow the guidance of the court’s Judicial Committee (*shenpan weiyuanhui*). Made up of the head and other main judges of the court, it ensures that the “guidance” from the Political-Legal Committee is implemented. Thus, the power of presiding judges to make independent rulings based on the merits of a case is highly constrained, also in regard to dismissing evidence obtained by torture.

Finally, the local Procuratorate and Court, which according to Article 5 of the CPL are to be “free from interference by any administrative organ, public organization or individual”, are in fact under the control of the local government in addition to being subjected to the influence of the Political-Legal Committee. Among other forms of subordination, the local Procuratorate and Court are dependent on the local government for funding of their routine operations. The local government has decision-making power over not only the funding of the Procuratorate and Court but also over promotion and other personnel matters, as well as the working conditions (such as the purchase of new equipment) at the Procuratorate and Court. The local government therefore frequently interferes with the Procuratorate’s and the Court’s decisions regarding investigation, arrest, prosecution, conviction and sentencing of individuals. The local government often presses the Procuratorate to give up investigation of local cadres or orders it to arrest or prosecute individuals based on political considerations.



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Perpetrators of torture are rarely punished or held legally accountable.

Perpetrators of torture are rarely punished or held legally accountable. Victims of torture, their lawyers, families or anyone with knowledge of the commission of an act of torture can submit a complaint to the PSB Superintendent's Office (*jingwuduchashi*) or the Procuratorate. In both cases, the complainants usually receive some form of response, either verbal or written, stating that after "investigation" no evidence of torture to extract confession was found.

Victims of torture and their lawyers often complain about torture to presiding judges during trial, but presiding judges either ignore the complaint or quickly dismiss it after the police deny the allegation in court. In a number of trials involving the death penalty, defendants complained about torture to extract confession and in some cases even showed the judges their scars. Such cases include those of Chen Guoqing (陈国清) and three other villagers from Chengde City, Hebei Province who were sentenced to death³⁷ for "robbery"; Cheng Fagen (程发根) and three other villagers from Leping City in Jiangxi Province convicted of "murder, robbery and rape";³⁸ and Yang Ming (杨明), an official from Guizhou Province convicted of "corruption and bribery". However, the courts invariably ignored the allegations of torture as well as contradictions and other dubious aspects in the evidence, convicted the defendants and sentenced them to death.

At times, some officials are held legally accountable for torture, but their sentences are generally light considering the gravity of the crime. For example, Liu Han (刘翰), a former chief of investigation at Jiuqiang City PSB Gongqing Subdivision in Jiangxi Province, was sentenced to one year in prison in 2005 for torturing a suspect to death in 1997. Two other policemen who participated in the torture were sentenced to ten and six months of imprisonment each and both sentences were commuted to one year of probation.³⁹ Three policemen from Qiubei PSB in Wenshan Zhuang and Miao Autonomous Prefecture, Yunnan Province, Li Guangxing (李光兴), Liu Zichun (刘自春) and Lu Liangjia (卢梁甲), were sentenced to only 18 months of imprisonment for torturing to extract confession. The victim, Wang Shuhong (王树红), was beaten by electric batons and wooden rods which led to permanent disability.⁴⁰



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Victims and their lawyers face difficulties in obtaining evidence to prosecute torture.

When the authorities ignore or deny complaints of torture, there is very little victims of torture or their lawyers can do because it is often difficult to obtain evidence of torture.

Investigators often make use of methods of torture and mistreatment that do not leave physical traces, making it difficult to collect evidence against the alleged torturers. In some cases, when torture left physical wounds, police delayed granting permission to lawyers to meet the detainee or delayed trial until the wounds became less visible.

Closed-circuit cameras are installed in some detention centers and prisons to deter inter-prisoner violence and the police from using torture and other mistreatment, but not all detention centers are so equipped. In detention centers where cameras are installed, the police have full control over the filming and the disposal of filmed material. The police can therefore easily delete and edit the footage at will. Thus, the cameras lose their supervisory function of police conduct.

Official detention centers are not the only facilities where police use torture. It is a common practice of local police stations to maintain temporary detention facilities such as rented hostels, basements and offices. Individuals are often detained in their homes as well. In these informal detention facilities, it is even less likely that evidence of torture will be filmed or otherwise documented. Torturers sometimes use “creative” combinations of official detention centers and unofficial detention facilities to avoid leaving evidence of their deeds. For example, Yang Maodong (杨茂东, a.k.a. Guo Feixiong [郭飞雄])⁴¹, an imprisoned human rights defender from Guangdong Province, was blindfolded and taken away from the detention center where he was held to an unknown location in Shenyang, Liaoning Province where police tortured him to extract confession. After torture, police returned Guo to the detention center for further interrogation. Police could then deny torturing him at the detention center.

Victims of torture almost never receive adequate compensation.



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Most victims of torture are often unable to win compensation, even when they try. Song Dewen (宋德文), a Heilongjiang villager released in 2002 following seven years of detention without trial, has not yet received compensation for having been arbitrarily detained. Even if victims are compensated, they usually receive a pitiful amount after going through a painstaking process. For example, Wang Weifa (王威发), a Hunan villager wrongfully convicted of robbery and rape based on a confession extracted by torture, received RMB 33,000 (USD 4,836) in compensation from the local government after thirty years in prison. Dissatisfied with the compensation, Wang went to the local courts to seek compensation in accordance with the Law on State Compensation,⁴² but the courts refused to accept his case.

In theory, victims of torture must be compensated. According to the Law on State Compensation, the victim can either apply to the government agency accused of torture, or raise the issue when filing an administrative review and lawsuit concerning the case. The government agency accused of torture needs to compensate the victim within two months of the receipt of the application. If the government agency fails to deliver the compensation within the legal limit or if the victim is dissatisfied with the compensation allocated, s/he can then sue the government agency.

In other words, the government unit charged with processing the application and delivering compensation is the very one that was responsible for the torture. Although the victim can sue the government unit for failure to deliver compensation, the lack of independence of the judiciary means that there is a lack of effective mechanisms to ensure that victims of torture are properly compensated.

Victims of torture sometimes receive free medical care for a certain period of time from the government unit responsible for torture when the latter wants to cover up its illegal act. However, there appears to be no explicit provision in Chinese law that ensures that victims receive appropriate medical attention.

Harassment and arbitrary detention of human rights defenders are not investigated.



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Human rights defenders (HRDs) are frequently subjected to various kinds of persecution and retaliation, including arbitrary detention, torture and other cruel, inhuman or degrading treatment or punishment, forced disappearance and police monitoring. Even after such cases are reported to the police and other relevant government departments, the Chinese government rarely, if ever, investigates them, much less holds the perpetrators accountable or takes steps to prevent such practices.

The Committee mentioned the case of Teng Biao (滕彪, CAT/C/CHN/Q/4 para. 2(n)), a well-known human rights lawyer who was kidnapped and arbitrarily detained by police from the National Security Unit of Beijing PSB on March 6.⁴³ About six months prior to Teng's arbitrary arrest, on September 29, 2007, another well-known human rights lawyer, Li Heping (李和平), was kidnapped under very similar circumstances. He was brought to an undisclosed location for interrogation and received severe beatings by unidentified men in plain clothes before he was dumped in the woods outside Beijing.⁴⁴ Li reported the abduction to his local PSB, which told him that the case would be investigated. To date, Teng's and Li's kidnappers have not been held accountable for their crimes, and CHRD is not aware that any investigations into the incidents have been conducted. The police have never even acknowledged responsibility for Li's kidnapping and assault. After their releases, Li and Teng continued to be harassed by Beijing police.

The Committee also raised questions (CAT/C/CHN/Q/4 para. 2(n)) about the case of Chen Guangcheng (陈光城), the blind reproductive rights activist from Linyi City, Shandong Province convicted of "intentionally damaging property and gathering crowds to disturb transport order" and sentenced to four years and three months imprisonment on March 11, 2006. Chen continues to languish in Linyi Prison. During his imprisonment, Chen has been insulted, fed poor quality food, given insufficient bedding and barred from accessing the books brought by his family. In June 2007, Chen was beaten by fellow inmates under the instructions of the prison authorities. Since September 2007, the authorities have barred Chen's wife, Yuan Weijing (袁伟静), from visiting him. As for the attacks on and harassment and arbitrary detention of the lawyers and activists who defended and supported Chen during his trial, such as Li Fangping (李方平), Li Subin (李苏滨), Xu Zhiyong (许志永), Hu Jia (胡佳), Li Jinsong (李劲松), Zhang Lihui (张立辉) and Gao Zhisheng (高智晟), CHRD documented them extensively in our



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communiqué to the UN's Special Procedures.⁴⁵ CHRD is not aware that any official investigations to investigate these incidents have been conducted.

The Committee mentioned the case of Yang Chunlin (杨春林, CAT/C/CHN/Q/4 para. 20), the Olympics Prisoner who was convicted of “inciting subversion of state power” and sentenced to five years’ imprisonment for collecting signatures for a petition entitled “We Want Human Rights, not the Olympics”. According to Yang, he was tortured and coerced to confess while in detention. Yang, his family and lawyers are not aware of any investigations launched in response to the allegations of torture. Not only did the Chinese government not investigate Yang’s alleged torture while in detention, Yang was subjected to further torture and degrading treatment. In his trial on February 19, 2008, Yang, in handcuffs and heavy leg irons, was made to wear a black hood and walk up six flights of stairs to reach the courtroom. During the trial, Yang was released from the leg irons, but his legs were fastened to an iron seat, rendering him unable to stretch, move or stand up during the five-hour trial.⁴⁶ At his sentencing hearing on March 24, court police hit Yang several times with electric batons when he attempted to speak with his family who attended the sentencing hearing.⁴⁷ On March 28, Yang told his lawyers that he was beaten by guards at the detention center on March 5 after he had publicly pointed out the misconduct of some prison cadres.⁴⁸ When Yang’s sister brought a complaint letter about his beating during the sentence hearing to Jiamusi Intermediate People’s Court, the head of the Court not only admitted the incident, he even told her that the beating was “planned and permitted [by the Court] following careful study”.⁴⁹

Other issues

The Chinese government actively prohibits human rights education in China.



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The Chinese government may have allowed international agencies to conduct some limited human rights training of government officials, the impact of which is yet to be assessed. However, it is clear that the government has not fulfilled its obligations to widely educate its employees and citizens about human rights or the international prohibition against torture. It has in fact actively blocked access to information and training courses for civil society actors on human rights. Websites reporting on human rights violations, such as those of CHRD, Independent Chinese PEN, Rights Defense China (*weiquan zhongguo*) and Citizens' Rights and Livelihood (*minsheng guancha*) are either blocked, censored or closed by the authorities. Police have barred activists from distributing copies of the Universal Declaration of Human Rights to fellow citizens, and have confiscated the Declaration from activists, referring to it as an “illegal publication”. Between 2006 and 2008, several NGO activists, such as Liu Zhengyou (刘正有), Yao Lifa (姚立法), Zan Aizong (詹爱宗), and Zeng Jinyan (曾金燕), have been barred from leaving the country for training courses on human rights in Geneva.



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Recommendations to the Chinese government

Amend the definition of torture.

- Amend the definition of torture so that it conforms to that of the Convention and includes all elements of the practices of torture and cruel, inhuman and degrading treatment and punishment as described in the Convention.
 - The revised definition should
 - include perpetrators of torture who are government officials and those acting with the consent or acquiescence of a public official;
 - clearly include the infliction of mental suffering, such as the forms listed in paragraph 1 of this report; and
 - clearly state that if the act can be defined as torture under the new definition, then it is torture no matter where it is committed and no matter what the purpose.

Reform the detention system.



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- Increase the incidence of granting of bail by revising Article 51 of the CPL to ensure that pretrial detention should be restricted to individuals who are suspected of committing violent, major or serious offenses.
- Revise the CPL in order to guarantee the right of detainees to challenge the legality of their detention before an independent court.
- Transfer the power to approve arrest and various legal extensions to pretrial detention from the Procuratorate to independent courts.
- Transfer the power to control detention centers holding suspects awaiting trial from the PSB to a different government agency, as suggested by the Special Rapporteur on Torture in his 2006 report on China (E/CN.4/2006/Add.6), in order that “no further unsupervised contact with the interrogators or investigators is permitted”.
- Revise Articles 122 and 128 in the CPL, which allow indefinite pretrial detention under certain circumstances, such that clear time limits are imposed.
- Equip all detention centers with closed-circuit cameras.
- Hold guards at detention facilities responsible for beatings and other mistreatment to which detainees under their supervision are subjected, whether such treatment is inflicted by officials or other detainees or prisoners.
- Do not review or examine correspondence sent by detainees unless under special circumstances as stipulated in the law, and under no circumstances inspect detainees’ correspondence with lawyers or offices which receive complaints.
- Allow prisoners and detainees to labor voluntarily in a safe working environment and pay prisoners and detainees for their labor.



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Abolish all forms of arbitrary detention.

- Abolish the RTL system and subsume any punishment that involves deprivation of liberty under the Criminal Law system.
- Close immediately all “black jails”, “law education classes” and all other illegal and unofficial detention facilities.
- Adopt a Mental Health Law which outlines explicitly the requirements and procedures for subjecting individuals to involuntary hospitalization to protect their legal and human rights.

Abolish the death penalty and respect the rights of individuals sentenced to death.

- Draft a timetable to abolish the death penalty. In the meantime, put safeguards in place to end abuses associated with the death penalty and drastically curtail death sentences.
 - Declare a moratorium on executions. Replace the death penalty with “death with suspended execution” (sihuan).
 - Drastically reduce the list of crimes punishable by death to only very grave and violent crimes.
 - Individuals who have committed non-violent crimes, such as economic crimes, should not be sentenced to death.
 - Cease classifying statistics on the death penalty as state secrets and make such information publicly available.
 - Respect the basic human rights and dignity of individuals who have been sentenced to death.



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- Do not subject them to other cruel, inhuman or degrading treatment or punishment, such as public executions and forcing them to wear handcuffs and leg irons around the clock.
- Prohibit secret executions.
- Guarantee the visitation rights of families and legal representatives of individuals sentenced to death.
- Prohibit the removal of the organs of those executed unless they have consented in writing in the presence of their lawyer or family to donate their organs.

Hold government officials legally accountable for torture.

- Hold officials legally accountable for torture if found guilty.
- Investigate complaints of torture against all government officials and individuals employed by the government or working on the government's behalf, and in particular, government and CCP officials responsible for detention centers, Urban Inspection Officers, and officials responsible for implementing the population policy.

Strengthen the independence of the judiciary.

- Abolish the Political-Legal Committee.



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Render all evidence obtained through torture inadmissible.

- Amend the Criminal Procedure Law so that it explicitly prohibits the use of all evidence obtained through torture.
 - The CPL should explicitly state that any evidence obtained through torture is inadmissible in all proceedings.

Establish an agency under the People's Congress to receive complaints of torture and to oversee investigations of torture.

- Establish a sub-committee under the Standing Committee of the People's Congress to receive complaints of alleged abuses and torture at detention facilities and to oversee investigations by the Procuratorate and the court.
 - The Procuratorate should investigate complaints and prosecute perpetrators. The court should bring the accused to trial in accordance with criminal procedures, as well as process compensation for victims of torture. Both Procuratorate and court should report to the supervisory sub-committee
- Make publicly available information and statistics regarding the cases of torture reported to the sub-committee, investigations conducted under its supervision, and the results of such investigations.



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Protect the rights of lawyers.

- Abolish Article 306 of the Criminal Law and Article 37 of the Lawyers Law to ensure that lawyers enjoy the right to freedom of expression during trial
- Protect the right of a lawyer to be present during the interrogation of the suspect.
- Revise Article 96 of the CPL such that the clause barring the lawyer's access to her/his clients because the case involves "state secrets" is deleted.

Allow greater supervision of detention facilities by members of the public.

- Allow the media, interested members of the public and civil society groups unhindered access to its prisons and detention facilities for inspections.
- Establish effective channels for these individuals and groups to make suggestions to officials responsible for these facilities.
- Strengthen and protect the right of deputies to the People's Congresses at all levels to supervise and inspect detention facilities.
 - Officials responsible for these facilities must also answer queries and complaints raised by these deputies.
 - To ensure that deputies play an effective role in monitoring these facilities, elections to these positions must be free and fair.



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Appendix: CHRD Case Files of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment

Because of their sheer number, it is impossible to include in this report all cases of torture and other cruel, inhuman or degrading treatment or punishment documented by CHRD⁵⁰ Below is a selection of typical cases about which there has emerged the most detailed information. These cases generally concern individual human rights activists and petitioners, two groups whose situation we closely monitor for their role in promoting human rights in China. However, they are not the sole victims of torture. The cases below were documented between October 2007 and October 2008.

Arbitrary detention and torture and other cruel, inhuman or degrading treatment or punishment in arbitrary detention facilities

Re-education through Labor

1. **Chen Yuping** (陈玉平), a representative of 12,000 dismissed workers of Jilin Oilfields in Songyuan City, Jilin Province, was criminally detained on April 10, by police from Songyuan City PSB Songjiang Sub-division. Chen was initially accused of “leaking state secrets” for “accepting interviews by foreign media” but was later charged with “inciting and creating trouble” and “disturbing social order”. However, instead of being brought before a judge, on May 6, Chen was sent to 18 months of RTL by the Songyuan City RTL Management Committee. He is currently held at Baicheng City RTL camp in Jilin Province.

At the time of his detention, Chen and other representatives had been preparing to apply to establish an independent union for the dismissed workers. They were summoned and warned not to establish the union by police from the National Security Unit of Songyuan City PSB. Around the time Chen was arrested, two other representatives were administratively detained for ten days for “accepting interviews with foreign media”.



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2. **Li Guohong** (李国宏), from Chongqing City, Sichuan Province, is a representative of laid-off workers at Zhongyuan Oil Field. Li and other representatives had been petitioning higher authorities for proper compensation for the dismissed workers. On October 31, 2007, Li went to Puyang City, Henan Province, where Zhongyuan Oil Field is headquartered, to learn about a lawsuit the dismissed workers were planning to file in Beijing against the oil field. While there, Li was promptly administratively detained for fifteen days. He was due to be released on November 16, but the Puyang City RTL Management Committee instead sent him to 18 months of RTL for “gathering crowds to create trouble”.

At the RTL camp, Li sued the Puyang City RTL Management Committee. On May 30, 2008, Hualong District People's Court in Puyang City, Henan Province, upheld the decision to send Li to RTL. Li appealed. On September 26, his appeal was heard by Puyang City Intermediate People's Court but no verdict was delivered. On October 8, the RTL authorities released Li for medical treatment. While in RTL, Li had repeatedly complained of an eye illness that required urgent treatment. Puyang City Intermediate People's Court still has not delivered a verdict on Li's appeal.

3. **Wang Guilan** (王桂兰), a petitioner and human rights activist from Enshi City, Hubei Province, was sent to fifteen months of RTL for "disturbing social order" on August 28. Wang had been petitioning because she believed that the local court had acted illegally in processing a dispute in which she was involved. For her petitioning, Wang was repeatedly detained and beaten. Wang also became vocal about the violations of other petitioners' rights, for which she suffered additional persecution.

On April 17, on the pretext of "checking identification cards", Beijing police picked up Wang while she was walking on the street. They handed her to interceptors from Enshi City. Wang was escorted back to Enshi, where she and a fellow petitioner, Tan Jinghua (谭京花), were held at an isolated "black jail" near Wangcheng Village, Xiaoduchuan Street Office. On May 6, Wang was told by the Secretary of Enshi City Political and Legal Affairs Committee that she was to be detained until after the Olympics. On July 29,



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Wang was criminally detained on suspicion of "disturbing social order" and she was transferred from the black jail to Enshi City PSB Detention Center. It is suspected that the impetus for the criminal detention was that she answered a phone call from a foreign journalist on July 27. On August 28, Wang was sent to fifteen months of RTL for "disturbing social order" by Enshi City RTL Management Committee.

Wang is currently held at Enshi City PSB Detention Center before being transferred to a RTL camp.

4. **Luo Shubo** (罗淑波), a petitioner from Heilongjiang Province, died on August 24 after she was repeatedly denied medical treatment by the local government both before and during her confinement in an RTL camp.

In October 2007, the local government barred Luo from seeking medical attention in order to prevent her from petitioning during the 17th Party Congress held in that month. Luo, of Renmin Township, Anda City, Heilongjiang Province, had been petitioning after having won a Court case for which she did not receive the compensation she had been awarded. On October 30, Luo was sent to two years of RTL for "extortion". There, in spite of her requests, she was denied medical treatment by the Qiqihaer RTL Camp and the Anda City Political and Legal Committee. In March 2008, Luo was finally sent to the hospital, but she was shackled and handcuffed while receiving treatment. Luo was released on April 12, but she was already too ill for the treatment she received after her release to be effective.

5. **Liu Jie** (刘杰), from Beian City in Heilongjiang Province, is a petitioner. Since 2003, Liu annually organized petitioners to submit open letters advocating legal and political reforms. On October 8, 2007, Liu released a public letter signed by 12,150 petitioners calling on leaders at the 17th Party Congress being held that month to reform. Three days later, Liu was seized by the Beijing Police and sent back to Beian City for detention by interceptors from Beian City Military Farm Bureau PSB. During her detention, Beian City PSB sent her case to the Procuratorate, but the latter refused to prosecute her due to lack of evidence. Liu was then sent to 18 months of RTL for "instigating trouble and disturbing social order" on November 12, 2007.



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On December 20, 2007, a doctor who examined Liu reported that she would go blind if she did not receive proper treatment immediately. Liu's family requested her release from the RTL camp on the basis of her medical condition. The authorities continued to delay a decision over Liu's application for release.

Liu was repeatedly tortured. In late May, soon after she was transferred from Qiqihar RTL camp to Harbin Drug Rehabilitation Center on May 17, 2008, Liu was reportedly forced to sit on a "tiger bench" for five consecutive days.

On August 15, Liu was beaten by an RTL camp guard when she confronted the guard about the mistreatment of a fellow detainee. During the beating, Liu pushed the guard in an act of self-defense. The RTL camp then accused Liu of attacking its staff. As punishment, Liu was forced to sit on a "Tiger Bench" for five consecutive days.

Liu is currently held at Harbin Drug Rehabilitation Center.

Black Jails

6. **Cao Xiaoli** (曹晓丽) was an accountant at a meat factory in Zigong City, Rong County, Sichuan Province, and had been persecuted for years for her refusal to make fraudulent accounts to cover up the theft of state money and for petitioning to expose local corruption.

To prevent her from petitioning higher authorities during the 17th Party Congress, on September 28, 2007, interceptors from Rong County including the county's policemen and the Party Secretary forcibly sent Cao to a black jail located at Rong County Assistance Station. Cao was released on October 6 after staging an eight-day hunger strike.



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On October 29, 2007, Cao was apprehended by Beijing police while petitioning in Beijing. The police then handed Cao to Zigong interceptors stationed in Beijing. On December 1, the interceptors forcibly sent Cao back to Rong County, where she was again secretly detained at Rong County Assistance Station. When Cao's family visited her at the black jail on December 15, Cao was found to be seriously ill. Doctors at Rong County Chinese Medical Hospital who examined her recommended that she be admitted to hospital, but the black jail authorities denied medical treatment. Cao was eventually released following two months' illegal detention.

7. **Yang Peiqun** (杨培群), a representative of earthquake victims from Guilin Village, Xujia Township, Dujiangyan City, Sichuan Province, was taken into custody on September 22 for petitioning. Yang wanted to expose the use of falsified accounts to misappropriate relief funds and materials by the local cadres in the village.

On September 22, Yang was petitioning at the Letters and Visits Office at the Central Commission for Discipline Inspection of the CCP when she was apprehended by five interceptors from Sichuan Province and Dujiangyan City. Yang was forcibly dragged into a mini-van, where she was beaten, kicked and scolded by the interceptors. Yang was then held at the Beijing Liaison Office of Sichuan Province, where other Sichuan petitioners were also held. When the guards discovered that she was calling her husband, Yang was brought to a room at the farmers' market in Fengtai District, where she was again beaten and kicked by four guards from the Liaison Office. After the beating, Yang was transferred to an unknown inn in Beijing where she was detained for three days.

On September 25, the four guards escorted Yang back to Dujiangyan City. When Yang again attempted to make a call at a restaurant where they had stopped, she was beaten and kicked. In Dujiangyan City, Yang was first brought to the Juyuan Township Police Station. She was interrogated and beaten by the police officers. Yang was then brought to a black



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jail or “educational class” where she was guarded by ten hired guards under the supervision of Dujianyan City CCP Political-Legal Committee. At the black jail, she was forced to make statements admitting that she was illegally petitioning higher authorities, that she voluntarily attended this “class” and would pay RMB 15,000 for it. Yang was also repeatedly beaten at the black jail. Yang was finally released in mid-October after her husband paid the head of the Dujianyan City CCP Political-Legal Committee RMB 5,000.

8. **Zheng Dajing** (郑大靖), a petitioner and human rights defender from Hubei Province, has been repeatedly beaten at the “black jail” at Yancao Station, Hongtai Yuansigou Village, Hubei Province. Zheng has been held in the black jail without charge or trial since September 2007, when he was intercepted in Beijing and sent back to Hubei.

Because Zheng has been held incommunicado except for one visit by a relative in January 2008, it is difficult to get a full picture of the torture he suffered in the black jail. According to the relative who saw Zheng, his health had visibly deteriorated and the authorities had increased their mistreatment and beating of him.

CHRD was able to obtain more detailed information regarding Zheng’s torture from petitioners who were released. One petitioner detained at Yancao Station between October 2007 and May 2008 reported having witnessed Zheng being beaten at least four times. During one of the worst beatings on March 21, 2008, Zheng was beaten by four security guards. After the beating, Zheng, who was bleeding and had fallen unconscious, was placed in solitary confinement. When the petitioner saw him a few days later, Zheng complained of chest injuries so severe that even drinking water was too painful. However, Zheng was given no medical attention following the beating.



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Other petitioners released in October 2008 said Zheng was in poor health, and that he complained of constant headaches and fatigue due to beatings.

Zheng also complained of vomiting, bloating and stomachaches. Zheng believes that the poor diet (left-over food from the jail's guards) and the utensils used in the black jail (which are reportedly made of toxic industrial plastic) contribute to his abdominal problems. Because Zheng was unable to digest food properly, the authorities at the black jail finally allowed him access to medical attention on October 8, 2008. Zheng's physical examination, which was done at his own expense, revealed a plethora of medical illnesses—swelling of the stomach, esophagitis due to acid reflux and duodenal ulcer. However, Zheng was unable to afford a thorough check-up that would enable the doctor to effectively diagnose all of the symptoms, especially the head and chest injuries that were sustained due to torture.

9. On July 15, **Li Ailing** (李爱玲), a petitioner from Yuanshi County, Shijiazhuang City in Hebei Province, was waiting for a friend at Beijing South Station when she was seized by a handful of policemen and sent to Ma Jia House, a "black jail" in Beijing. Li was then forcibly escorted back to Yuanshi County where she was held at the County Letters and Visits Office. Guards at the Office refused Li's requests to use the toilet. Out of desperation, Li urinated on the floor. For that, she was sent to Luquan Detention Center in Luquan City, Hebei Province, where she was administratively detained for ten days. At Luquan Detention Center, Li was handcuffed, gagged and forced to sit for an evening on a "tiger bench". Li was then sent to another "black jail", the Yuanshi County Xincheng Hostel, where she was held for two months. Li escaped on September 29.



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Psychiatric Institutions

10. Since late July **Hu Guohong** (胡国红), a worker from Xincun Street Office, Jiangnan District in Wuhan City, Hubei Province, has been subjected to involuntary hospitalization. Hu, a worker at Wuhan Jiangnan Car Factory, was severely beaten in 1989 in retaliation for a dispute at the factory. Hu and his wife, Cheng Xue, started to petition after repeated requests that the assailants be held accountable and that Hu be compensated for the beating were rejected by the relevant authorities. It is believed that Hu was sent to Wuhan City No. 2 Psychiatric Hospital by officials from Xincun Street Office, police officers from Wuhan City PSB and staff at Wuhan Jiangnan Car Factory. According to Hu's wife, Cheng Xue (程雪) who visited him twice, Hu was force-fed medication, subjected to electric shock treatment and tied to a chair. The hospital told Cheng that Hu could not be released without orders from those who sent him there. Officials at Xincun Street Office, which showed a letter of judicial expertise certifying that Hu was mentally ill, told Cheng that Hu could be released if the couple promised that they would not petition again.

11. Since September 20, 2007, petitioner **Yang Fengtai** (杨丰太) has been subjected to involuntary hospitalization at No.1 Psychiatric Hospital in Hengyang City, Hunan Province. On that date, Yang was petitioning in Beijing when he was intercepted by police from Wangfujing Police Station in Beijing. Police and government officials from Hengdong County forcibly sent him back to Hunan where he was forcibly hospitalized for "paranoid psychosis" without evaluation of his mental state. The hospital has refused to release Yang unless ordered by the interceptors. Yang is a villager from No.2 Committee, Ouyanghai Village, Xintang Township, Hengdong County in Hunan Province who was petitioning because his home had allegedly been forcibly appropriated by a relative with the help of the local government.

12. On August 1, 2007, cyber activist and writer, **He Weihua**, was forced to undergo psychiatric tests at the Hunan Provincial Mental Hospital, followed by one month of confinement at the Department of Mental Illness in the No. 2 Xiangya Hospital in Hunan.



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He was reportedly released in late September following the one month of psychiatric “treatment”.

Prior to his incarceration, in July 2007, he had received a verbal warning from police that if he did not stop writing "nonsense articles", he would be put into a psychiatric hospital. He wrote and posted an article on the internet in early July that criticized the government's economic policies. On July 19, He was arrested in Shenzhen, near the border with Hong Kong, by police from Hunan on suspicion of "inciting subversion of state power." On July 23, He was taken back to Hunan and detained at the local detention center, before being sent to the psychiatric institution.

Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Detention Centers and Prisons

13. **Mao Hengfeng** (毛恒凤), an imprisoned reproductive rights and housing rights activist, has been repeatedly tortured and mistreated at Shanghai Women's Prison.

On September 24, 2007, against her will, Mao was forcibly taken to the Nanhui District Prison Hospital in Shanghai. A number of female prisoners accompanied her and beat her on the way. At the hospital, Mao was stripped naked and tied to a bed, where she was left for some twenty days. Mao was force-fed, beaten, humiliated and nearly suffocated. Inmates told her that the prison officials had told them to mistreat her. On October 15, Mao was released from the hospital and returned to the prison. The prison officer, together with the female prisoners, lifted Mao's shirt up, exposing her body to passersby on the street as they dragged her away from the hospital.



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On June 3, 2008, against her will, Mao was again taken to the prison hospital in Nanhui district, Shanghai. For fourteen days, Mao was stripped naked, tied tightly to a bed and forcibly injected with an unknown medication which left her in pain. Mao was also beaten, nearly suffocated and not allowed to wash.

Then on October 14, 2008, CHRD learned from Mao's family, who spoke with her on the phone on September 25, the prison authorities made a recording of fellow prisoners humiliating and scolding Mao and played the recording incessantly for days. The prison authorities also made other prisoners dress a mannequin in white, the color of mourning and death in China, and write "this is Mao's mother" on the mannequin. The death of Mao's mother was a subject of deep pain for her.

14. **Ni Yulan** (倪玉兰), a disabled housing rights activist and former lawyer detained on suspicion of "obstructing official business", was beaten and mistreated at Xinjiekou Detention Center in Beijing soon after she was taken into police custody on April 15. Police confiscated Ni's crutches and made her crawl when she had to use the bathroom. They kicked her so severely that she fell unconscious for two days.

Ni was detained after she resisted forced demolition of her home by Beijing authorities. On April 15, dozens of workers and police knocked down a wall of Ni's home, and Ni tried to stop them. Police detained Ni, alleging that she beat a member of the demolition crew. On April 29, Ni was formally arrested on suspicion of "obstructing official business" by the Beijing PSB Xicheng District Sub-division. She is currently held at the Beijing Xicheng District Detention Center.



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Prolonged Pre-trial Detention

15. **Qi Chonghuai** (齐崇淮/齐崇怀), a *Legal System Morning Post* (*fazhiribao*) reporter known for his articles exposing local corruption, was detained on June 25, 2007. On August 2, Qi was formally arrested on suspicion of "extortion and blackmail". Qi was held at a Detention Center until eleven months later, on May 13, 2008, when Qi was convicted of "extortion and blackmail" and sentenced to four years in prison by Tengzhou City Court, Shandong Province.

The police repeatedly violated the relevant legal limits outlined by the CPL during Qi's 11-month pre-trial detention. For example, after Qi was formally arrested on August 2, 2007, the police did not transfer his case to the Procuratorate until November 2, two months over the maximum limit stipulated by CPL Article 124. On February 14, the Procuratorate returned the case to the PSB for further investigation, at least two months after the legal limit allowed for the Procuratorate to either prosecute the individual or return the case to the PSB as stipulated by CPL Article 138.

In late October 2007, Qi's lawyer contacted the police regarding the violation of legal limits and sought to have Qi released on bail while awaiting trial. The police refused, citing that "leaders from above are concerned" about Qi's case and therefore rejected the application for bail. The police even told Qi's wife that because of the concern from the leadership, Qi would have to be sentenced.

During his pre-trial detention, Qi reported having been threatened and beaten. In August, Qi told his lawyers that police slapped his face continuously about twenty times to force him to confess to the crime.



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16. On May 20, 2007, **Sun Lin** (孙林 a.k.a. Jie Mu (子木)), a journalist for Boxun, and his wife, He Fang (何芳), were detained on suspicion of "storing explosive materials" and "illegal possession of firearms". On July 6, Sun and He were formally arrested by the Nanjing PSB Xuanwu Sub-division. On May 3, 2008, the couple was tried at the Nanjing Xuanwu District No.1 People's Court. On June 26, Sun was convicted of "illegal possession of firearms" and "gathering crowds to disturb social order" by the Nanjing Xuanwu District People's Court and sentenced to four years of imprisonment. His wife was sentenced to fifteen months of imprisonment immediately commuted to 18 months of probation.

Sun was detained for over a year prior to his trial. His case was twice sent from the Procuratorate back to the PSB for further investigation due to insufficient evidence. During his incarceration, Sun complained to his lawyers that he had been beaten and forced to confess by the police.

Sun was the former editor of *Metropolis*, a publication he started in 2000. It was later closed because its views were deemed too critical by the authorities. Sun then started working as a reporter for US-based Boxun. In 2006, Sun's reporting on alleged forced evictions at a Nanjing spice factory drew wide attention. In March 2007, authorities told Sun to cease his "illegal reporting". Yet, despite mounting pressure and harassment by the Nanjing government, Sun continued to report on important social justice issues.



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Use of Excessive Force in Law Enforcement

17. On August 26, **Sun Yongbiao** (孙永标), a farmer from No.5 Committee, Ma'anshan Village, Xinjie Township, Jiayu County, Hubei Province, was beaten by five Urban Inspection Officers (changguan). Sun was on his way to sell watermelons in town when he briefly parked his motorbike loaded with the fruit on the roadside in order to buy plastic bags. The Officers, who accused Sun of illegal hawking, confiscated Sun's scale. When the Officers proceeded to take Sun's motorbike, Sun resisted and was beaten and pushed to the ground.

18. On April 20, a bloody confrontation occurred in **Saixi Village**, Mengdong Township, Malipo County, Wenshan Zhuang and Miao Autonomous Prefecture, Yunnan Province. Zijin Mining Group, one of China's main mining companies, had negotiated with the villagers about building a tungsten mine on their land. The villagers, mainly members of the ethnic Miao minority, refused the offer citing insufficient compensation.

On April 20, protected by security guards, police and paramilitary police dispatched by the Malipo County government, miners started excavation on village land. The villagers were angry. They attempted to block the operation and film the process using video cameras. Police and mining staff seized the cameras and the confrontation grew more heated and chaotic. Paramilitary police then fired on the crowd. Chen Changfa (陈昌发), a villager, was shot and died immediately. Five others were shot and admitted to Wenshan Prefecture Hospital. Another twenty villagers were beaten and injured and were sent to Malipo County Hospital.



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19. On June 11, villagers from **Yufeng Village**, Yulong Township, Dazu County in Chongqing Municipality were suppressed by the local police for resisting the construction of a glue factory. Under the leadership of the head and party secretary of the township, about fifty policemen and government officials from Yulong Township beat the villagers when the latter attempted to prevent workers from connecting the factory to the electrical grid. Two villagers, Zhang Changying (张昌英) and Tao Zuguo (陶祖国), had to be hospitalized following the beatings. Eight villagers were detained. It is unclear whether they were released. Villagers alleged that the glue factory uses carcinogenic substance that would harm their health. They had clashed with police and local government on May 29 over the same issue.

20. On September 22, about one-hundred anti-riot police accompanied private security guards and workers of Zhangtai Development Company to start construction on the contested land of **Ziran Village**, Chuanshanyuan, Qixing District, Guilin Province. The developer had bought sixty-six acres of the village land in 2006 from the Guilin government without the approval of the villagers. The villagers were beaten by the police and the security guards when they attempted to stop the construction. Thirty-four villagers were reportedly injured and two were sent to the hospital. The day after, four- to five-hundred police officers surrounded the village and took eight villagers away. Three villagers were released after signing an agreement to sell the land, but five who refused were criminally detained on suspicion of "interference with public function and assaulting police officers".

Beaten by Individuals on Orders of Government Officials

21. On August 1, **Xie Shulin** (谢树林), a petitioner and brother of democracy activist, Xie Fulin (谢福林), was beaten by a group of thugs on the orders of Jian, the Vice Secretary of the Political-Legal Committee in Furong District, Changsha, capital of



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Hunan Province. Xie was visiting three friends and fellow petitioners, who were intercepted while petitioning in Beijing and forcibly returned to Changsha. The three friends were incarcerated at a "black jail" at Changsha Jintian Inn. While Xie was at the inn, Jian ordered a group of thugs to beat him.

22. On July 30, **Xi Guozhen** (奚国珍) and **Ma Yalian** (马亚莲), two petitioners from Shanghai, were beaten by security guards at the Shanghai Municipal Letters and Visits Office. Xi was confronting one of the security guards, Wang Feng (王峰), about an earlier beating when she was dragged by dozens of security guards into a room. Ma was also dragged away when she tried to hold Xi back. Ma and Xi were kicked and beaten by eight security guards. Following the beating, police brought Xi and Ma to Renmin Guangchang Police Station, where they were investigated. When Xi and Ma asked the police to investigate the beatings and hold the guards accountable, police refused to accept the case.