



Chinese Human Rights Defenders (CHRD)

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Promoting human rights and empowering grassroots activism in China

“We can dig a pit and bury you alive”¹

Annual Report on the Situation of Human Rights Defenders in China, 2011

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1 The title of this report has become a symbol of how human rights defenders are being treated in China today. Before the ceremony to award the Nobel Peace Prize to Liu Xiaobo in December 2010, dissident author **Yu Jie** was dragged into a car, detained and tortured. After Yu was released, he was subjected to soft detention during “sensitive dates” throughout 2011. In January 2012 he and his family fled to the United States. In a statement released after his arrival, he described his ordeal, saying that a national security officer told him that “If the order comes from above, we can dig a pit and bury you alive within half-an-hour, and no one on earth would know.”

Introduction

The state of human rights in China continued to deteriorate in the year 2011. As documented in this annual report from CHRD, it has been a year of harsh crackdowns for human rights defenders (HRDs), characterized by lengthy prison sentences, extensive use of extralegal detention, and enforced disappearance and torture.

Against the backdrop of the wave of protests that swept across North Africa and the Middle East and brought down entrenched dictatorships, anonymous online calls in China for “Jasmine rallies” clearly unnerved the government. Large numbers of security personnel were deployed in the areas where protests were expected to take place; an unknown number of people (estimated in the thousands) who had spoken out on the subject or posted related information online, or who participated in the rallies, were seized and taken away for interrogation. Dozens of human rights activists, lawyers, and outspoken intellectuals were disappeared and tortured, and several veteran democracy advocates were sentenced to long prison terms.

This “Jasmine Crackdown,” felt most keenly by HRDs, marked yet another low point in China’s human rights, making 2011 the most repressive year since the rights defense (*weiquan*) movement began in the early 2000s. Among the rights defenders surveyed for this report, over half said that in comparison to the previous year freedoms of expression and assembly—essential prerequisites for the defense of human rights—had deteriorated in 2011. The crackdown impacted not only the individual activists, but also menacingly conveyed a warning to ordinary Chinese citizens: anyone who challenges the government will be punished.

One of the most alarming developments in 2011 was the extensive use of enforced disappearance against HRDs. Although thousands of citizens are routinely held in illegal “black jails”² for complaining about government misconduct, the use of enforced disappearance, which occurred only rarely before the Jasmine Crackdown, was stepped up: at least two dozen high-profile activists across the country were disappeared and held for weeks or months at a time. In August, in an initiative designed to legalize enforced disappearance, the government announced draft amendments to the Criminal Procedure Law (CPL) that would allow for detainees suspected of offenses “endangering state security” to be held incommunicado for six months, without any notification being provided to their families. It is expected that this legislation will be rubber-stamped by the National People’s Congress during its annual March meeting in 2012.

A disturbing development in 2011 for China’s 250 million registered users of microblogging services (“weibo”) was the introduction of the “real-name registration system.”³ In December

2 Black jails are secret and illegal detention facilities; as well as being located in Beijing they are found across the country and are used by local governments to detain petitioners. For more information, see CHRD’s reports, “Black Jails: China’s Growing Network of Illegal and Secret Detention Facilities,” October 19, 2008; and “Black Jails in the Host City of the ‘Open Olympics’: Secret Detention Facilities in Beijing are Illegally Incarcerating Petitioners,” September 21, 2007.

3 According to official figures by the China Internet Network Information Centre (CNNIC), “The 29th Statistical Reports on the Internet Development in China,” January 2012,

the Beijing municipal and Guangdong provincial governments, where major internet companies are based, announced that new users would be required to register for an account using their real names, with existing users expected to comply with this new requirement in the near future. This measure is probably one of the most effective yet in reining in the power of microblogs to expose rights abuses and put pressure on the authorities.

In December 2011, just days before the end of human rights lawyer **Gao Zhisheng's** five-year suspension of a prison term for subversion imposed in December 2006, a Beijing court cancelled the suspension and ordered him to serve his full three-year sentence in a Xinjiang prison. Disappeared for 20 months, Gao's whereabouts remain unclear as he was not allowed to see his family when they tried to visit him in prison in January 2012. In December 2011 and January 2012, as the anniversary of the beginning of the Arab Spring approached, the government sent a clear warning that it would not tolerate any activities promoting democratic transition by imposing heavy custodial sentences on three democracy activists: **Chen Wei**, **Chen Xi** and **Li Tie**.

Ending 2011 on a slightly more positive note, in November the Guangzhou government announced "innovative reforms" intended to make it easier for certain categories of "social organizations" to legally register, with such reforms possibly being rolled out to the rest of China later. However, organizations which focus on the promotion of human rights are unlikely to benefit from such measures and will continue to suffer from close monitoring and forced closure.

Other key findings of this report

- In 2011, CHRD documented 3,833 cases of arbitrary detention of people engaged in defense of human rights and 159 cases of torture of such persons.
- Of this total, the vast majority were held in forms of detention with no basis in Chinese law or regulations,⁴ particularly black jails and soft detention.
- According to a survey of 57 HRDs conducted for this report, one in four activists suffered torture or enforced disappearance; half were detained; and two out of three were monitored or harassed in 2011 for their activities.

About this report

CHRD's fifth annual report on HRDs in China examines their situation in China during 2011, the conditions in which their work was conducted, and the extent to which the government has or has not fulfilled its obligations to protect their rights as articulated in the UN Declaration on Human Rights Defenders⁵ (hereafter referred to as "the Declaration"), which includes principles and rights already enshrined in other international human rights instruments and

<http://www.cnnic.cn/dtygg/dtgg/201201/W020120116337628870651.pdf>.

4 These include black jails, soft detention, forced travel, detention in psychiatric institutions and other forms of deprivation of liberty which have no basis in law.

5 The Declaration's full name is the "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms".

which are legally binding.⁶ The report focuses on some of the key protections specified in the Declaration for individuals and groups working to promote human rights, such as:

- The right to freedom of expression (Articles 6 & 7);
- The right to freedom of assembly and association (Articles 5 & 13); and
- The right to an effective remedy for human rights violations (Article 9).

The report has been compiled based on a review of data gathered during 2011.⁷ In addition, a survey was conducted with 57 human rights activists (53 males; 14 females) based in 13 provinces and municipalities across China.⁸ International and domestic media reporting and the work of other human rights organizations on the situation of human rights in China during 2011 were also consulted.

The report covers the period from January - December 2011. All events referred to occurred in 2011, unless otherwise stated. The report is not exhaustive in that it highlights only typical examples and key events that affected the conditions under which Chinese HRDs worked to promote human rights.



The persecution of human rights defenders

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.
2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.
3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to

6 The previous four annual reports are: "Dancing in Shackles: A Report on the Situation of Human Rights Defenders in China (2007)", April 30, 2008; "Annual Report on the Situation of Human Rights Defenders in China (2008)", June 26, 2009; "Annual Report on the Situation of Human Rights Defenders in China (2009)", April 26, 2010; "Annual Report on the Situation of Human Rights Defenders in China 2010," March 2, 2011.

7 These include news reports on CHRD's Chinese website (<http://wqw2010.blogspot.com/>) as well as the press releases (Urgent Actions) and research reports on CHRD's English website (www.chrdnet.com).

8 The survey was conducted in November - December 2011. At least 10 HRDs in each of the following categories were surveyed: 1) those active in defending civil and political rights; 2) those active in defending economic, social and cultural rights; 3) those who have had more than 10 years experience as rights activists; 4) those who have between 5 - 10 years experience as rights activists; and 5) those who have fewer than 5 years experience as rights activists.

States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.”

Declaration on Human Rights Defenders, Art.12

In 2011, CHRDR documented nearly four thousand cases of arbitrary detention and more than a hundred cases of individuals tortured because of their human rights work.⁹ HRDs were routinely exposed to “violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, [and] pressure” for their promotion of human rights, and not only did the state fail to protect them, it was centrally involved in such abuses. Particularly alarming was the widespread use of extralegal detention and enforced disappearance, while the harsh sentences handed down to veteran democracy activists sent a warning to the greater circle of HRDs of the consequences of engaging in activities promoting a transition to democracy. Official harassment and monitoring of HRDs remained prevalent among HRDs. Details of these abuses are presented below.

Arbitrary detention and enforced disappearance

- In 2011, CHRDR documented 3,833 cases of individuals arbitrary detention for defending human rights (see Table 1).¹⁰ According to our data, the numbers of those extralegally detained far outstripped cases of individual deprivation of liberty that had some basis in Chinese law and regulations, with black jails and soft detention¹¹ being the most common types of illegal detention.
- Of the HRDs surveyed, 45% reported being detained at some point in 2011, and for the majority either soft detention or confinement in a black jail was the method used to restrict their liberty.

9 According to the UN Working Group on Arbitrary Detention (WGAD), deprivation of liberty is defined as arbitrary if a case falls into one of the following three categories: A) Category I: When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his sentence or despite an amnesty law applicable to him); B) Category II: When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by Articles 7, 13, 14, 18, 19, 10 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights; C) Category III: When the total or partial non-observance of the international norms relating to the right to a fair trial, spelled out in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character.

10 The statistics were compiled by examining past issues of CHRDR's weekly Chinese briefing, Rights Defense Development Brief (维权动态), in 2011.

11 Individuals subjected to soft detention are guarded by police stationed outside their homes. Though some individuals may be allowed to leave their homes during this kind of detention, they are closely followed and monitored, or are required to travel in police vehicles and are often barred from meeting other “sensitive” individuals. Some individuals detained in this manner may not be allowed to leave their homes at any time during their soft detention. The length of the detention period will usually last until the “sensitive period” which triggered the detention has passed, or in rare cases it may be extended for a period of months, or even years. For the purposes of this report, “house arrest” has been subsumed under “soft detention.” This form of detention has no basis in law and does not include “residential surveillance” (*jianshi juzhu*), which is authorized under the CPL.

Figure 1: Incidence of arbitrary detention for defending human rights

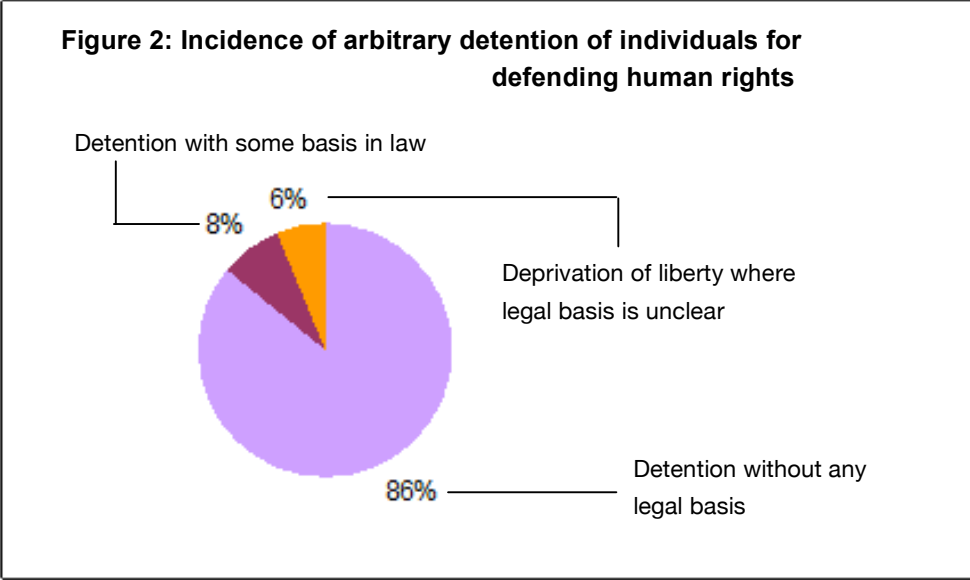
Type of arbitrary detention		Incidences
Detention without any basis in Chinese law or regulations	Black jails	2795
	Soft detention	163
	Enforced travel ¹²	25
	Psychiatric institutions	7
	Other ¹³	299
Detention with some basis in Chinese law or regulations	Administrative detention	89
	Criminal detention	72
	Re-education through Labor	60
	Imprisonment	17
	Residential surveillance	10
	Other ¹⁴	57
Other forms of deprivation of liberty where the legal basis for it was unclear ¹⁵		239
TOTAL		3833

12 Individuals subjected to enforced travel are usually pressured into leaving their home and taken on a “tour” accompanied by police or guards.

13 The use of detention against HRDs can take many different forms. Thus the “other” category typically involves government officials who have no legal power to deprive citizens of liberty detaining HRDs in locations other than their homes, black jails, tourist spots or psychiatric institutions, or when the detention was carried out by police officers who refused to provide any legal justification for the detention, or that the justification given has no basis in Chinese law or regulations.

14 These were individuals who were summoned or interrogated in police stations for a period of hours, often without any legal procedures or documentation.

15 These were detentions where the legal status was unclear. Typically, the individuals were taken into custody by the police, but CHRD was unable to follow up with them about the type of detention they were subjected to, or whether the police provided legal justification for the detention.



The widespread use of the different forms of extralegal detention is particularly disturbing. As the police or officials involved were not legally obliged to provide any details to families about those being confined, the secrecy surrounding the detention made torture and mistreatment of detainees more likely. In some cases, when government officials were contacted by the individuals' families and friends, officials even denied knowledge of the detainees whereabouts or refused to disclose where they were held.

A shocking development during the Jasmine Crackdown was the extensive use of enforced disappearance against well-known activists. Prior to the Crackdown, human rights lawyer **Gao Zhisheng** (高智晟) was the only high-profile activist who had been repeatedly disappeared for extended periods of time. During the Crackdown, at least two dozen activists were forcibly disappeared.¹⁶ Many were held for weeks and others for months, such as human rights lawyers **Tang Jitian** (唐吉田), **Teng Biao** (滕彪), **Jiang Tianyong** (江天勇), activists **Gu Chuan** (古川), and **Li Hai** (李海), and the artist **Ai Weiwei** (艾未未). After their reappearance, it was clear that they had been warned against revealing what they had endured, but when some eventually ended their silence, they told of psychological and physical torture.

¹⁶ According to the International Convention for the Protection of All Persons from Enforced Disappearance, "enforced disappearance" is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the state or by persons or groups of persons acting with the authorization, support or acquiescence of the state, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

The toll of the “Jasmine Crackdown”: what we know

CHRD documented a total of 82 individuals criminally detained (see Figure 3), held in psychiatric institutions, placed under illegal residential surveillance, and disappeared during the government’s Jasmine Crackdown, but the real total is likely to be higher.

Figure 3

Criminally detained	52	Forcibly disappeared	24
Under Residential surveillance	4	Detained in psychiatric institutions	2

At least 16 of these individuals remain in detention, are missing or are under residential surveillance at home. Two of them, Sichuan activist **Chen Wei** and Hangzhou activist **Zhu Yufu**, were convicted of “inciting subversion” and sentenced, respectively, to nine and seven years in prison.¹⁷

Figure 4: Cases of political imprisonment & enforced disappearance in the Jasmine Crackdown

NAME	LOCATION	CRIMINAL CHARGE	TYPE OF DETENTION
CHENG LI	Beijing	Creating a disturbance	Sent to reeducation through labor
YANG QIUYU	Beijing	Creating a disturbance	Sent to reeducation through labor
NI YULAN	Beijing	Creating a disturbance, fraud	Formally arrested
DONG JIQIN	Beijing	Creating a disturbance	Formally arrested
GAO CHUNLIAN	Hubei	Inciting subversion of state power	Released on bail
CHEN WEI	Sichuan	Inciting subversion of state power	Sentenced to prison
DING MAO	Sichuan	Inciting subversion of state power	Formally arrested; under residential surveillance
RAN YUNFEI	Sichuan	Inciting subversion of state power	Released without charge
HUANG CHENGCHENG	Chongqing	Inciting subversion of state power	Sent to reeducation through labor
LIANG HAIYI	Heilongjiang	Inciting subversion of state power	Formally arrested
YU YUNGFENG	Heilongjiang	Inciting subversion of state power	Sent to reeducation through labor
XUE MINGKAI	Shandong	Inciting subversion of state power	Formally arrested
ZHANG HAIBO	Shanghai	Not known	Missing
TAN YANHUA	Guangdong	Not known	Missing
WEI SHUISHAN	Zhejiang	Inciting subversion of state power	Formally arrested
ZHU YUFU	Zhejiang	Inciting subversion of state power	Formally arrested

¹⁷ For more information, see: http://chrdnet.com/2011/08/17/jasmine_crackdown/.

Of even greater concern is the government's preparations to legalize enforced disappearance. Draft amendments to China's Criminal Procedure Law, if enacted as drafted, would allow the police to disappear suspects under the guise of "residential surveillance." Article 73 of the proposed amendments would authorize police to detain suspects away from their homes in a "designated place of residence." The crimes covered include "endangering state security," a designation used in political prosecutions.¹⁸ While Article 73 contains a notification provision, police are not required to inform relatives of a family member's detention within the stipulated 24-hour period if the suspected crime involves "endangering state security," as such notification may hinder the official investigation.

The practice of soft detention was also widely used against HRDs during 2011. After imprisoned activist **Liu Xiaobo** (刘晓波) was announced as the winner of the Nobel Peace Prize in October 2010, the government's reaction was a nationwide crackdown, swiftly putting more than 100 activists under soft detention, which lasted into 2011, and in some cases still continues.¹⁹ The soft detention of **Chen Guangcheng** (陈光诚) and his family in their home in Linyi City, Shandong Province, since September 2010 exemplifies the degree to which this extralegal measure has been used. While the government maintains that Chen is a "free man" living "a normal life," more than a hundred hired thugs surround the family home and resort to violence and intimidation to prevent activists and concerned citizens from visiting Chen.²⁰

Many HRDs were shocked at the 10-year sentences given to activists **Liu Xianbin** (刘贤斌) and **Chen Xi** (陈西), and the nine-year sentence given to **Chen Wei** (陈卫), all for the crime of "inciting subversion of state power" and for purportedly writing articles critical of the government. Prior to this new trend of handing down severe punishments, activists convicted of "inciting subversion" in the past decade usually received sentences of up to five years duration, as in the cases of **Hu Jia** (胡佳) in 2008 and **Tan Zuoren** (谭作人) in 2009, and anything substantially lengthier, as in the case of **Liu Xiaobo**, who received an 11-year term for the same crime at the end of 2009, was considered rare at the time. But the lengthy prison sentences handed out in 2011, like the use of enforced disappearance against high-profile activists, appear to be intended to normalize what has previously been rare or exceptional. The harshness of these jail terms corresponds to a pattern observed by the Dui Hua Foundation, which recorded a "historic high" number of individuals being tried for "endangering state security" crimes since 2008.²¹

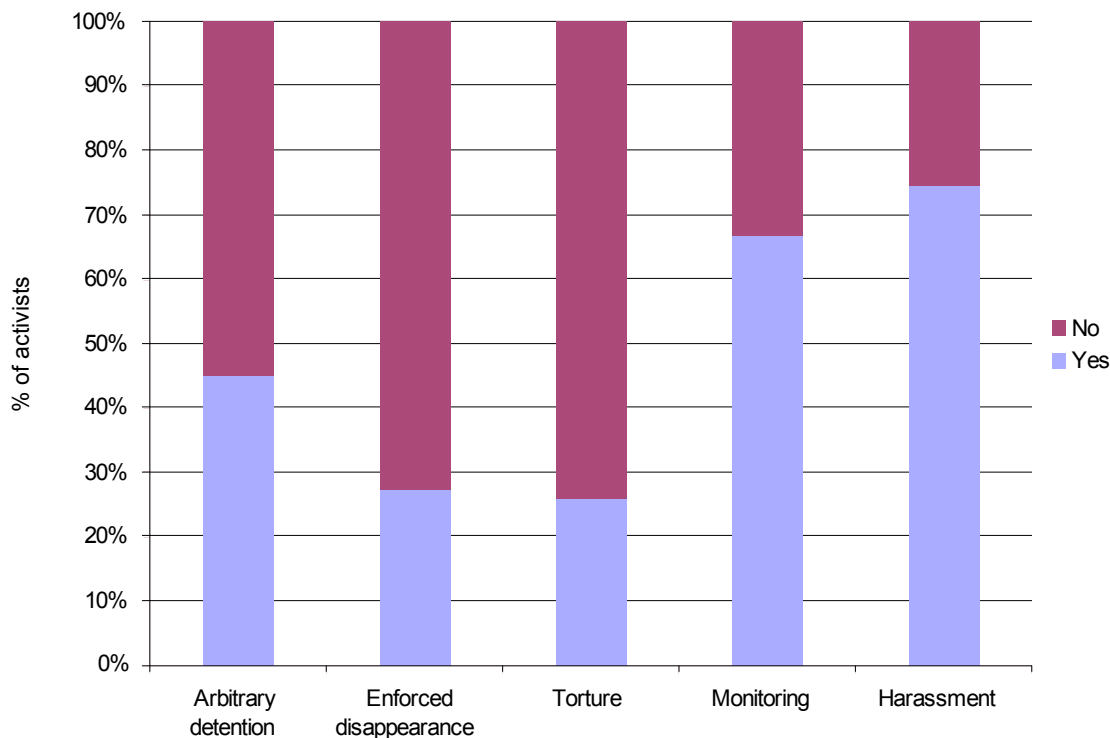
18 For the full text of the draft amendments to the CPL, please see National People's Congress, "Criminal Procedure Law Draft Amendments and Explanation" (刑事诉讼法修正案(草案)条文及草案说明), August 30, 2011, http://www.npc.gov.cn/npc/xinwen/lfgz/2011-08/30/content_1668503.htm.

19 CHRD, "The Chinese Government Reacts," updated on December 9, 2010. Some individuals who remained under soft detention in 2011 in relation to the awarding of the Nobel Peace Prize included Zhang Zuhua (张祖桦), Liu Xia (刘霞), and Yu Jie (余杰).

20 CHRD, "Let there be light, let there be sincerity: the illegal house arrest of Chen Guangcheng and the unprecedented grassroots campaign to end it," November 11, 2011.

21 Dui Hua, "State Security Indictments Remain at Historic Highs," October 3, 2011,

Figure 5: Have you been subjected to abusive treatment by officials for defending human rights?



Another development of note, in June 2011, was the release for public comment of the draft Mental Health Law by the State Council Legislative Affairs Office. The draft, 26 years in the making, is controversial as it provides a basis for the abusive use of involuntary psychiatric confinement, which is increasingly being used by police and officials against HRDs and petitioners whom they wish to detain indefinitely and without legal process.²² Meanwhile, abuse and arbitrary detention in psychiatric institutions went on as before in 2011. CHR D has documented seven cases of individuals being held in psychiatric institutions as retaliation for their human rights activism.²³

<http://www.duihuahrjournal.org/2011/10/state-security-indictments-remain-at.html>.

22 Aizhixing, "Letter of Recommendations on 'Mental Health Law (Draft)' to the State Council Legislative Affairs Office," (就《精神卫生法(草案)》致国务院法制办公室的建议信), June 24, 2011, http://aidslaw2010.blogspot.com/2011/06/blog-post_24.html; China Daily, "Mental health law requires details," September 21, 2011, http://www.chinadaily.com.cn/opinion/2011-09/21/content_13745891.htm; China Law & Policy, "Analysis of China's Draft Mental Health Law – An Interview," October 24, 2011, <http://chinalawandpolicy.com/2011/10/24/analysis-of-china%E2%80%99s-draft-mental-health-law-%E2%80%93-an-interview/>.

23 The seven individuals were Zhang Jun (张军) from Shandong Province, who has been active exposing local forced evictions and corruption; Luo Yinghua (罗映华) from Guangdong Province, who has been petitioning about her forced eviction and beating; Hu Dongsheng (胡东圣), from Anhui Province, who has been petitioning about forced eviction; Jin Guanghong (金光鸿), from Beijing, a human rights lawyer; Huo Zhihong (霍之洪), from Chongqing, who has been petitioning about a court judgment pertaining to a property dispute that has not been implemented for years; Hu Di (胡荻, aka 胡庆 [Hu Qing]), a netizen from Anhui Province; and Qian Jin (钱进), a dissident and pro-democracy activist from Anhui Province.

The use of torture and violence against HRDs

CHRD documented 159 cases of torture of human rights activists being held in detention or in police custody. Among the HRDs surveyed, 26% said they were subjected to some form of torture. Common abuses included beatings, being forced to remain in stress positions for long periods of time, sleep deprivation, and denial of access to medical treatment. Activists also routinely faced violence from government personnel while carrying out their work. Below are three examples of such cases from 2011:

- While he was detained at the Santai County Detention Center between April 2010 and November 2011, veteran democracy activist **Zuo Xiaohuan** (左晓环), of Sichuan Province, suffered escalating violence from fellow detainees and guards. In July 2011, prison guards ordered eight prisoners to beat and kick Zuo, one of whom was told to get hold of Zuo's head and bang it against a wall. Zuo was shackled to his bed for a total of 11 days; after this torture, he was unable to stand, and more than 10 days later he was still barely able to walk.²⁴
- On October 25, after being sentenced to a year in prison, village activist **Xiang Songmei** (向松梅) became seriously ill, but the Hongjiang City Detention Center in Hunan Province where she was being held refused to provide her with adequate medical treatment. Xiang's sister was told that Songmei had become very ill from an unspecified disease and was too weak to ingest food and was asked to provide medication for her.²⁵
- When held in an unofficial detention facility as part of the Jasmine Crackdown, Guangzhou-based human rights lawyer **Tang Jingling** (唐荆陵) was subjected to severe sleep deprivation. Three rotating teams of interrogators questioned him non-stop for more than a week, and prevented him from sleeping or resting. When Tang experienced trembling, numbness in his hands, and chest pains, he was then allowed to sleep for one to two hours each day. Tang told his guards that such treatment violated provisions of the UN Convention against Torture, and said he would bring a lawsuit against the perpetrators, but was told that they were acting on "orders from above."²⁶

24 CHRD, "Sichuan Rights Activist Zuo Xiaohuan Tortured, Abused in Detention Center" (四川异议人士左晓环在看守所受酷刑迫害), December 8, 2011.

25 CHRD, "Hunan Hongjiang City Rights Activist Xiang Songmei Seriously Ill in Detention Center" (湖南省洪江市维权人士向松梅在看守所病危), November 24, 2011.

26 CHRD, "Human Rights Lawyer Tang Jingling Deprived of Sleep for Days During Residential Surveillance," (人权律师唐荆陵监视居住期间多日被禁睡眠), August 5, 2011.

- Also seized during the Jasmine Crackdown, Beijing human rights lawyer **Jiang Tianyong** (江天勇) was severely beaten over two nights, deprived of sleep for five days and forced to sit motionless for up to 15 hours a day in a room where the curtains were permanently closed. He was subjected to relentless interrogation, with brainwashing techniques used to “educate” him into repenting his so-called “mistakes.” Jiang said he was not permitted to reply “I don’t know” to any questions neither was he allowed to make any “errors” in his responses, otherwise he would be subjected to further threats and humiliation. During his incarceration his family were not informed of his whereabouts; Jiang was released two months after being seized, when his interrogators believed their brainwashing of him had succeeded. Before being freed he was made to sign eight pledges relating to good behavior; he was warned that if they were broken he could be disappeared again at any time, and also that his wife would be taken into detention.²⁷

Harassment of activists

Of the HRDs surveyed 75% said they suffered harassment as a result of their human rights work, often being telephoned or receiving visits from the police or government officials to warn them against planning or participating in activities with fellow activists, or meeting with foreign diplomats, especially during “sensitive” periods such as the anniversary of the Tiananmen

My phone is often monitored. During sensitive periods the noise on the line noticeably increases; I’m often cut off, or I connect OK but there is no answer [when somebody calls].

An activist surveyed by CHR D

Massacre, or International Human Rights Day.²⁸ Activists’ families were also contacted by officials, as well as employers or acquaintances, as a means of exerting pressure to dissuade them from continuing their human rights work or to terminate relationships with other activists.²⁹ HRDs were also routinely prevented from leaving the country to attend rights-related activities abroad.³⁰

Of the HRDs surveyed, 67% said they were monitored by security personnel during 2011: such monitoring included having their phones were tapped, being watched and followed by

27 CHR D, “Communiqué on behalf of Jiang Tianyong, citizen of People’s Republic of China, Alleging Torture,” October 24, 2011.

28 See for example, CHR D, “Netizen Questioned By Police Over Posting of ‘Information for Linyi City Folks’” (赴临沂张贴《告临沂市父老乡亲》的网友被警方约谈), November 29, 2011.

29 See for example, CHR D, “Farmers’ Association Secretary General Zhao Fengsheng Asked by Beijing Police to Return to Hometown” (农会秘书长赵枫生被北京警方清理回原籍), May 15, 2011.

30 CHR D, “Human Rights Lawyer Barred from Leaving the Country” (人权律师李仁宾出境被拦截), November 5, 2011.

police officers, and having surveillance cameras installed near their homes and offices. Some pointed out that neighbors recruited to monitor their activities were approached by plain clothes police whose purpose was to elicit information from them about the activists. For the second year in a row, Google reported attacks on its some of its users' accounts, including on those of Chinese activists using its gmail services, which could be traced back to computers based in China.³¹ Surveillance of e-mail was less obtrusive, with 56% of HRDs surveyed, saying they had no way of knowing if their e-mail was being monitored. By comparison, 32% responded that they were not sure whether their phones were tapped.

Freedom of expression

Everyone has the right, individually and in association with others:

- (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- (b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Declaration on Human Rights Defenders, Article 6

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

Declaration on Human Rights Defenders, Article 7

Fearful of the way the internet contributed to the downfall of repressive regimes in the Middle East and North Africa at the beginning of 2011, the Chinese government made it a priority to tighten control over the internet, especially the use of microblogs. The Chinese Communist Party Central Committee (CCCCP) underscored the importance of "the building and management of an internet culture" during its annual plenum in 2011. The government was to "strengthen the management of social networks and instant messaging tools" and "punish the

The emergence of microblogs, Twitter, Skype groups, mailing lists and other tools, and the fact that more and more people use them, make information blockades increasingly difficult, despite the authorities' increased efforts at preventing the dissemination of information about human rights.

An activist on the use of the internet in defending human rights

³¹ The Guardian, "Google phishing: Chinese Gmail attack raises cyberwar tensions," June 1, 2011, <http://www.guardian.co.uk/technology/2011/jun/01/google-hacking-chinese-attack-gmail>.

spread of harmful information in accordance with the law,” according to a communiqué approved at the meeting.³²

The government continued to obstruct free expression online and to attempt to block the dissemination of human rights information. Censorship was kept up by authorities issuing lists of banned key words, promulgating edicts to control, or “guide,” media reporting and internet discussions, closing down websites, blogs and microblogs, and staging crackdowns during “sensitive periods,” as well as by purportedly rooting out “pornography” and “rumors.”³³

During 2011, the government upgraded some of the methods it uses to control digital communication. It experimented with new and better ways to plug holes in the Great Firewall by, for example, disrupting VPNs and other circumvention tools.³⁴ Yet another office was set up—the State Internet Information Office—to strengthen online policing, reportedly by strengthening coordination between the various agencies responsible for controlling the internet.³⁵ As noted in CHRD’s 2010 annual report on HRDs, the government established the

32 Xinhua, “CCP Central Committee Proposes that Major Commercial Websites Play Constructive Roles”(中央提出发挥主要商业网站建设性作用), October 25, 2011, <http://news.sina.com.cn/c/2011-10-25/235123361312.shtml>; Bloomberg News, “China Communists Vow to Strengthen Management of Internet,” October 26, 2011, <http://www.bloomberg.com/news/2011-10-26/china-s-communists-vow-to-strengthen-management-of-internet.html>; AFP, “China mulls reforms to tighten grip on media, web,” September 27, 2011, <http://chinadigitaltimes.net/2011/09/china-mulls-reforms-to-tighten-grip-on-media-web/>.

33 For CHRD’s reports on media and internet censorship, see “Tug of War over China’s Cyberspace: A Sequel to Journey to the heart of Internet censorship,” March 13, 2009; “Follow the Principles of the Party”: State Control of the Media (and What the Media is Doing to Fight Back), December 9, 2008; “Journey to the heart of Internet censorship,” October 26, 2007. For media and CHRD reports from 2011 detailing methods of online censorship, see: Associated Press, “China web firms vow to curb ‘harmful’ information,” November 6, 2011, <http://www.google.com/hostednews/afp/article/ALeqM5g5R9ieDBffOKhsFx6634QrLBbPBA?docId=CNG.51c99c753539f484b515987a01ad6a9f.b51>; China Digital Times, “50 Microblogs Shuttered as Web Crackdown Continues,” October 31, 2011, <http://chinadigitaltimes.net/2011/10/50-microblogs-shuttered-as-web-crackdown-continues/>; *South China Morning Post*, “Net tightens on online rumours,” October 7, 2011, <http://topics.scmp.com/news/china-news-watch/article/Net-tightens-on-online-rumours>; China Realtime Report, “China Shuttters 6,600 Websites for Manipulating Information Online,” August 31, 2011, <http://blogs.wsj.com/chinarealtime/2011/08/29/china-shuttters-6600-websites-for-manipulating-information-online/>; *The New York Times*, “China Tightens Censorship of Electronic Communications,” March 21, 2011, <http://chinadigitaltimes.net/2011/03/china-tightens-censorship-of-electronic-communications/>; *The New York Times*, “Wary of Egypt Unrest, China Censors Web,” January 31, 2011, <http://www.nytimes.com/2011/02/01/world/asia/01beijing.html>; China Digital Times, “Two New Lists of Sina Weibo’s Banned Search Terms,” November 7, 2011, <http://chinadigitaltimes.net/2011/11/two-new-lists-of-sina-weibos-banned-search-terms/>; CHRD, “Prominent Media Figure Chang Ping Asked to Leave Southern Media Group”, China Human Rights Briefing January 25-February 1, 2011, February 4, 2011; CHRD, “List of Nine Prohibitions for Media in 2011 Circulated Following Publicity Department Meeting,” China Human Rights Briefing January 19-24, 2011, January 25, 2011.

34 CHRD, “Difficulties With Proxy Software Reported by Activists Across China,” China Human Rights Briefing September 13-20, 2011, September 21, 2011; Global Voices, “China: Cracking down circumvention tools,” May 13, 2011, <http://advocacy.globalvoicesonline.org/2011/05/13/china-cracking-down-circumvention-tools/>; Forbes, “China’s Great Firewall Tests Mysterious Scans On Encrypted Connections,” November 17, 2011, <http://www.forbes.com/sites/andygreenberg/2011/11/17/chinas-great-firewall-tests-mysterious-scans-on-encrypted-connections/>.

35 Xinhua, “China sets up office for Internet information management,” May 4, 2011, http://news.xinhuanet.com/english2010/china/2011-05/04/c_13857911.htm; Reuters, “China sets up agency to tighten grip on Internet,” May 4, 2011, <http://www.reuters.com/article/2011/05/04/us-china-internet-idUSTRE7436SA20110504>.

Internet News Coordination Bureau to strengthen the coordination of online portals such as microblogs.

The most alarming development in 2011 was the government's introduction of the requirement that microbloggers use their real names when registering to open an account. The thriving domestic microblog sphere has proved highly effective in exposing government misconduct during the past few years, but it is now threatened with curtailment as a result of this requirement.³⁶ After much speculation about its introduction, it was announced at the end of the year that it would be implemented in Beijing, Shanghai, Tianjin, Guangzhou, and Shenzhen. Since the two main internet companies operating microblogs in China—Sina and Tencent—are based in Beijing and Shenzhen, the new measure is likely to affect most of China's 250 million registered microblog users. Among the HRDs who responded to CHRD's survey, 48% said that they used their Sina microblogs every day for human rights activities.³⁷ One activist noted that with the spread of microblogs, "information has become ever more transparent." Activists reported that they had had many success stories employing microblogs in the defense of human rights:

"Last month, a young netizen from Kunming, **Cao Haibo**, was arrested by the authorities while accessing the internet at an internet café. I read about the news on QQ and I immediately sent out information and forwarded lots of messages to others, which enabled lawyers to quickly get involved."

"Earlier this year, I was illegally arrested by the police for helping someone in the community to obtain identity papers. After we protested about it on microblogs and the internet, it received the attention of netizens, resulting in the police officer in charge of my case being officially criticized as a result of the pressure of public opinion."

Activists also noted increased difficulty accessing and using microblogs, but they said there were ways to circumvent this and other censorship measures. For example, they "set up multiple websites, blogs and microblogs" and "continuously changed... their means of communication and email addresses" so that it was harder for the authorities to keep track of their activities. When microblogs were deleted, netizens were quick to "reincarnate" by registering for new accounts:

"There has been greater effort to block Twitter. There are fewer and fewer third-party websites [for accessing Twitter] that work, and even if they do work, they are blocked after a few days. With Sina microblog, there has been a greater effort to close user accounts, so you have to keep 'reincarnating'."

36 Xinhua, "China tightens microblog supervision as real-name registration expands to more cities," December 22, 2011, http://news.xinhuanet.com/english/china/2011-12/22/c_131322231.htm.

37 Twenty-seven out of 42 respondents said they use Sina microblog every day for their work defending human rights. Sina microblog was the most popular social media tool, compared to QQ, Tencent microblogs, Twitter and Facebook.

Given the logistical difficulties, some observers question whether the government will succeed in pushing ahead with the “real-name registration” measure. A similar effort to control the use of cell phones in 2010 went largely unenforced;³⁸ small vendors of SIM cards, for example, bypassed the registration system as it negatively effected their business. However, microblogs are operated by several giant internet companies who have a strong track record of avoiding trouble by complying with censorship requirements.

For now, only new microblog users are required to register with their real names. However, it is the government’s intention to extend it to other areas and to existing microblog accounts; some existing users have already been asked to supply their real names if they wish to keep their accounts open.³⁹ In October 2011, in a measure designed to further limit the impact of microblogs in fomenting social discontent, the government banned the media from using “unverified” reports from the internet in media stories.⁴⁰

More than half of the HRDs surveyed—61%—felt that compared to the previous year the general climate for freedom of expression in China deteriorated in 2011. Many attributed this to increased control of the internet, as well as the detention and harassment of activists and netizens for expressing their ideas about human rights, especially during the Jasmine Crackdown:

“Compared with last year, the difference is obvious: groups of people have been arrested for making remarks critical of the government. The use of violence and torture is more flagrant and widespread.”

“...you can be punished just for a single line in your microblog.”

In particular, the heavy sentences handed down in March to Sichuan activists **Liu Xianbin** and **Chen Wei**, and in December to Guizhou activist **Chen Xi**, for “inciting subversion of state power” (Criminal Law Art. 105(2)) are grim reminders that human rights activists are paying a heavy price for expressing opinions critical of the government. In its judgment in Chen Wei’s case, the Suining Municipal Intermediate People’s Court cited as evidence of inciting subversion four articles Chen Wei allegedly wrote and published online, referencing specific phrases in these essays as evidence: “The death knell for the one-party dictatorship has been sounded”; “This system must be changed”; and “Use street protests to promote politics among the people.”⁴¹ The court sentenced Chen to nine years in prison. Similarly, Liu Xianbin and Chen Xi were given 10-year sentences for expressing their political views online.⁴²

38 Penn-Olson, “One Year Into China’s Real-Name System for Cell Phones, Things Aren’t Going Well,” August 29, 2011, <http://www.penn-olson.com/2011/08/29/one-year-into-chinas-real-name-system-for-cell-phones-things-arent-going-well/>.

39 The Guardian, “China to expand real-name registration of microbloggers,” January 18, 2011, <http://www.guardian.co.uk/world/2012/jan/18/china-real-name-registration-microblogging>.

40 General Administration of Press and Publications, “Provisions on Preventing False News Reports,” (关于严防虚假新闻报道的若干规定), effective since October 19, 2011, <http://www.gapp.gov.cn/cms/html/21/508/201111/727111.html>; The New York Times, “China Rolls Out Tighter Rules on Reporting,” November 11, 2011, <http://www.nytimes.com/2011/11/12/world/asia/china-tightens-reporting-rules-for-journalists.html>.

41 CHR, “Full text of court judgment convicting Chen Wei of the crime of ‘inciting subversion of state power’”

Figure 6: Compared with 2010, what do you think was the overall state of the following freedoms in 2011?

▼	Deteriorated Visibly	Some deterioration	Same	Some improvement	Improved Visibly	Don't know
Freedom of Expression	46%	15%	26%	13%	0%	0%
Freedom of Association	35%	13%	36%	8%	0%	8%
Freedom of Assembly	42%	13%	30%	0%	2%	13%

Though some other activists and netizens, especially lesser known ones, received less severe punishments for exercising their right to free speech, such criminal convictions still had a chilling effect. For distributing written materials containing his thoughts on the Chinese Communist Party and the socialist system, a Guangxi man convicted of "inciting subversion of state power," the same offense as Chen Wei, Chen Xi and Liu Xianbin, was sentenced to just 18 months in prison. In October three netizens were given 15-day administrative detentions for "rumor mongering."⁴³ By punishing a variety of individuals for exercising their right to speak freely, the government put netizens and others on notice that it does not regard freedom of expression as a human right.

Freedom of assembly and association

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations.

Declaration on Human Rights Defenders, Article 5

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with Article 3 of the present Declaration.

Declaration on Human Rights Defenders, Article 13

(陈卫“煽动颠覆国家政权罪”判决书全文(图)), January 12, 2012.

42 CHRD, "Prisoner of Conscience – Liu Xianbin," "Prisoner of Conscience – Chen Xi."

43 CHRD, "Guangxi Man Sentenced to 1.5 Years in Prison for "Inciting Subversion," China Human Rights Briefing, January 25-February 1, 2011, February 4, 2011; Xinhua, "Three people punished for spreading rumors online," October 25, 2011, http://news.xinhuanet.com/english2010/china/2011-10/25/c_131212021.htm.

Freedom of assembly

The denial of the right to freedom of assembly was thrown into sharp relief in mid-February 2011: in a preemptive strike against protests with overt political demands, police swamped areas that netizens had designated as sites for protests. The authorities were equally jittery when protests erupted in ethnic minority areas, such as Inner Mongolia, in May this year, cutting off access to those places where protests might occur.⁴⁴ In one of the most widely reported incidents of 2011, provincial government officials in Guangdong promised to address



Petitioners protest against land grabs

the grievances of Wukan villagers after dramatic protests were staged and corrupt local officials chased out of their village in a dispute over a land grab case.⁴⁵ In most cases, however, organizers of protests and other forms of resistance have been routinely detained or beaten.⁴⁶

Among the HRDs surveyed, a little more than half (55%) felt that freedom of assembly had deteriorated in comparison to the year before, though about a third (30%)

thought it had not changed. Activists continued to meet in informal gatherings: over a meal, at house church gatherings, academic seminars, book club discussions and outings, where rights issues were discussed or actions planned. Some noted that after the Jasmine Crackdown the authorities became increasingly vigilant and were intolerant of even informal get-togethers:

“Before October 2010, we were often able to meet by going to restaurants or eating together, but this became very difficult in 2011. If several activists planned to get together for a meal, they would be prevented from going and even subjected to soft detention at home.”

But ways were found to evade police obstruction:

44 Reuters, “China tightens grip on Inner Mongolia before protests” May 29, 2011, <http://www.reuters.com/article/2011/05/29/us-china-protest-idUSTRE74S15C20110529>.

45 Asia Times Online, “Guangdong boss bets on velvet glove,” January 7, 2012, <http://atimes.com/atimes/china/na07ad02.html>.

46 See for example: CHR, “300 Demonstrated Outside City Government in Changsha City, Many Taken Away” (长沙市300余名被拆迁户到市政府示威多人被抓), May 24, 2011; CHR, “Nearly 3,000 Laid-Off Bank Workers Go to Beijing to Defend Their Rights, More Than 300 Taken Into Custody at Black Jail in Jiujingzhuang” (近3千名银行买断职工进京维权, 300余人被抓进久敬庄), October 26, 2011.

“Before each gathering, we would decide on several different meeting places; if one was cancelled because the police had found out about it, we quickly went to another location reserved for such contingencies.”

“We insist on carrying out various forms of gathering, but we no longer have a convener who arranges meetings regularly in the same place and at the same time. Our security has improved, as have our strategies for ensuring privacy when we are in communication.”

“...We usually don’t bring our mobile phones, or we take out the batteries to block the police from discovering our whereabouts.”

Freedom of association

As noted in CHRD’s 2010 annual report on HRDs, the government continues to require civil society groups to undergo a stringent administrative process in order to register legally.⁴⁷ Currently, such groups are still required to first obtain the sponsorship of a government agency before they can be registered with the Ministry of Civil Affairs (MCA), making it impossible for organizations to register as a social organization without approval from the authorities. In November, Guangzhou Municipality announced “innovative reforms” in the registration process, which would allow certain organizations to bypass the need for sponsorship from a government agency and register directly with the MCA.⁴⁸ However, one activist noted that this reform might not be such a positive development:

“Although the authorities stress that certain charity organizations would have an easier time registering, the documents issued show that following registration such NGOs are subjected to even more stringent control!”

For organizations deemed “sensitive” by the authorities, changes in registration rules matter little as long as the government remains suspicious of them; if they are perceived to be a threat to “stability” they are liable to be shut down. For example, in December the Guizhou Human Rights Forum (GHRF), founded in 2005, was closed down, having been declared an “illegal organization” by the Guizhou Civil Affairs Department due to its failure to register. The GHRF was a loose group of activists in Guiyang City who met to discuss human rights and distribute educational materials, including copies of the Universal Declaration of Human Rights, to the general public. The GHRF had experienced official harassment for some years prior to its closure, as noted in CHRD’s 2010 annual report on HRDs.⁴⁹ Around the time of the closure, one of GHRF’s members, **Chen Xi** (陈西), was taken into custody for writing articles critical of the government, was swiftly tried and convicted of “inciting subversion of state power” and sentenced to 10 years imprisonment.⁵⁰ *(continued on page 19)*

47 CHRD, “Reining in Civil Society: The Chinese government’s use of laws and regulations to persecute freedom of association,” August 7, 2009.

48 CHRD, “Guangdong to Relax Registration for Civil Society Organizations,” China Human Rights Briefing November 30-December 6, 2011, December 7, 2011.

49 CHRD, “Annual Report on the Situation of Human Rights Defenders in China 2010,” March 3, 2011.

50 CHRD, “Guizhou Activist Chen Xi Jailed for Ten Years for “Inciting Subversion,”” December 26, 2011.

“You might endanger state security if you leave the country”

The government violated activists’ right to “meet or assemble peacefully” “at the... international level” as well as their right to “develop and discuss new ideas and principles” “in association with others” when they were prevented from traveling abroad to take part in international human rights activities. For example, in November 2011 a number of HRDs were barred from leaving the country to participate in a UN training program on human rights mechanisms:

- On November 5, immigration control at Beijing International Airport prevented Beijing human rights lawyer **LI Renbing** (李仁兵) from boarding his flight. Officials informed him that he might “endanger state security” if he was allowed to leave.
- Another activist, who did not wish to be named, was similarly stopped by officials at a land border, where she was taken to a room and told they had been instructed by “higher level leaders” to stop her from traveling outside the country. When pressed for a reason, officers declined to give one but told her, “You know the reason why.” Her request for documentation justifying the travel ban was refused.
- Prior to the training, two activists (who wish to remain anonymous) were repeatedly contacted by local security police to warn them that if they attended the training there would be “serious consequences” for them and their families. A few days before their anticipated departure date they decided not to go.

In addition to the individuals referred to above, officials in local bureaus of justice and law firm directors pressured a number of lawyers to give up their plan to participate in the training. One of them was threatened with the possible revocation of his lawyers’ license if he attended.

Other types of official interference and harassment were also common.⁵¹ Among the HRDs surveyed for this report, 79% of those who were involved in such groups reported government harassment and retaliation against their organizations:

- “Without any sensible reason, they prevented me from participating in international trainings.”
- “They would not let property owners rent housing to us; they banned our meetings; staff members received visits from officials and pressure was put on them to leave the organization.”
- “The police require that I notify them in advance about my NGO’s upcoming meetings, otherwise they force us to cancel them.”
- “We experience a great deal of trouble during tax inspections and annual evaluations by the State Administration for Industry & Commerce,” said an activist about the government’s use of the tax authorities to intimidate civil society organizations.

More than half of survey respondents reported harassment of themselves or their organizations for receiving funding for doing human rights related, public interest or social service types of work during 2011. HRDs’ right to “solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means”⁵² was violated by the authorities in a number of ways. Activists’ homes were routinely searched by the police, cash or bank documents confiscated and bank accounts frozen. The fact that activists were in receipt of funding for their human rights activities was often used as “evidence” in criminal prosecutions: in Sichuan Province the Suining City Court cited the fact that **Chen Wei** had instructed family members to receive “foreign remittances” as evidence of his crime of “inciting subversion.”⁵³

Figure 7: Incidence of harassment related to exercise of freedom of association

▼	YES	NO
In 2011 did officials harass or retaliate against the NGO or organization to which you belong?	79%	21%
In 2011 did officials harass or retaliate against you or your organization for receiving funding?	53%	47%

51 Rights Campaign, “Report Regarding the Beating of AIDS Welfare Worker Chang Kun by Subdistrict Cadres, Damaging of Youth Activity Center” (关于艾滋公益人士常坤遭社区 干部殴打、青年活动中心遭破坏的举报信), April 5, 2011, http://rightscampaign.blogspot.com/2011/04/blog-post_1042.html

52 Article 13 of the Declaration.

53 CHRD, “the Sentencing Statement of Chen Wei for the Crime of ‘inciting subversion’” (陈卫 “煽动颠覆国家政权罪” 判决书全文), January 12, 2012.

Right to an effective remedy

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights... everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.
2. ...everyone whose rights or freedoms are allegedly violated has the right... to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law...
3. To the same end, everyone has the right, individually and in association with others, inter alia:
 - (a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;
 - (b) To attend public hearings... so as to form an opinion on their compliance with national law and applicable international obligations and commitments;
 - (c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

Article 9 of the Declaration on Human Rights Defenders

I was beaten, forced to maintain a fixed position for long periods of time, repeatedly brainwashed and not allowed to sleep for five days.

An activist on her experience in a black jail

Despite Premier Wen Jiabao's high-profile visit to the State Letters and Visits Bureau at the beginning of the year to show empathy towards the petitioners who were there asking the government to address their grievances, petitioners generally continued to suffer many forms of abuse for complaining about official misconduct.⁵⁴ Government officials, or unidentified individuals working on their behalf, have seized petitioners outside government offices, foreign embassies, the United Nations Development Program office in Beijing, and other locations where they congregated with the purpose of attracting attention to their cause. Many petitioners were detained in extralegal makeshift facilities, known as black jails, but some

⁵⁴ Reuters, "China's Wen meets petitioners in show of worry over discontent," January 25, 2011, <http://www.reuters.com/article/2011/01/25/us-china-rights-wen-idUSTRE70O2L920110125>.

were also held in police stations and detention centers, and in some cases, incarcerated in psychiatric institutions and Re-education through Labor facilities.⁵⁵ Detention for some has extended over a period of days, but for others it has lasted for months, and even years.⁵⁶ In black jails, petitioners have been tortured and subjected to various kinds of mistreatment by guards.⁵⁷ Especially prior to and during “sensitive dates” or important state functions, interceptors have forcibly removed petitioners en masse from Beijing or the cities where important events were scheduled to take place, or detained them at home, to prevent them from “causing trouble.”⁵⁸

Submitting petitions to government agencies is one way HRDs draw the authorities’ attention to human rights abuses. However, 59% of HRDs surveyed reported that they were harassed or retaliated against for submitting petitions to government agencies, while 22% said they had been detained in black jails.

Filing lawsuits against the government for rights violations is another popular means for seeking redress. However, in 2011, 52% of the HRDs surveyed who tried to do this reported that their cases were not accepted by the courts; 60% reported being harassed or retaliated against for filing lawsuits:

“After I filed for an administrative review, National Security stepped up surveillance of me; they would not even allow friends to visit me.”

“I was warned that if I sued the government I would be immediately disappeared.”

Lawyers continued to face serious obstacles if they tried to “offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.”⁵⁹ During the Jasmine Crackdown, human rights lawyers and legal advocates, including **Jiang Tianyong** (江天勇), **Liu Shihui** (刘士辉), **Tang Jingling** (唐荆陵), and **Tang Jitian** (唐吉田), were disappeared and tortured. **Jin Guanghong** (金光鸿), lawyer for activist **Li Tie**, was disappeared just prior to Li’s trial in April, and Li was later

55 See CHR, “Jiangsu Petitioner Hao Xiuxia Detained in Black Jail, Beaten” (江苏访民郝秀侠被关黑监狱、拘留毒打), May 10, 2011; CHR, “Pujiang County, Chengdu City, Sichuan Province is Still Holding Petitioners in Detention following the Two Meetings” (四川成都蒲江仍然关押着一批两会上访的访民), May 21, 2011; CHR, “Another Hubei Petitioner, Zhao Kefeng, Detained in Psychiatric Institution” (湖北又一访民赵克凤被关入精神病院), May 31, 2011; CHR, “Guangxi April 21 Violent Incident: Feng Dacheng, Shot 11 Times, Arrested” (广西4·21征地血案: 中11弹的冯达成被捕), June 1, 2011; CHR, “Li Hongwei Sent to RTL, Had Sued Over Detention in Jinan Black Jail,” (曾经起诉济南黑监狱的李红卫被劳教), July 11, 2011.

56 CHR, “Chengdu Petitioner Liu Cunqin Released After More Than Nine Months of Illegal Detention” (成都访民刘存钦在被非法关押9个多月后获释), January 1, 2012; CHR, “71-Year-Old Petitioner Jiao Yanshou Held For 12 Years in Psychiatric Hospital” (山东71岁访民焦延寿关精神病医院12年), December 14, 2011.

57 See CHR, “Jiangxi Petitioner Guo Jinying Hospitalized after Being Insulted and Beaten by PSB Director” (江西访民郭金英被公安局长污辱打伤住院), May 14, 2011; CHR, “Henan Petitioner Wang Qunfeng Sent Back Home, Illegally Detained,” (河南访民王群凤被押回地方非法关押), August 30, 2011.

58 See CHR, “Thousands of Petitioners Detained Around Chinese Communist Party Anniversary,” China Human Rights Briefing June 29-July 6, 2011, July 6, 2011; CHR, “Authorities Detain, Harass Petitioners in Beijing, Elsewhere Around National Day,” China Human Rights Briefing September 29-October 5, 2011.

59 Article 9 (3c) of the Declaration.

represented by another lawyer handpicked by the authorities.⁶⁰ In June, four defense attorneys in Beihai City, Guangxi Province were detained on charges of “suborning perjury” for submitting evidence during pre-trial proceedings that revealed police had tortured the defendants to extract confessions. One of the lawyers, **Yang Zaixin** (杨在新), was arrested in late June and remains in detention; the others were released on bail.⁶¹

Figure 8: HRD’s experience of attempting to seek legal remedies

▼	Accepted	Did not Accept	Accepted some cases
Did the court accept the lawsuits you filed?	20%	52%	28%
▼	YES	NO	
Were you harassed or retaliated against for filing lawsuits against the government?	60%	40%	

The authorities also continued to use the lawyers’ annual review to revoke or suspend licenses as a way to punish those who handled “sensitive” cases. In 2011, the Beijing Municipal Bureau of Justice, which conducts the annual review of lawyers in Beijing, refused to renew the license of the law firm where human rights lawyer **Liu Xiaoyuan** (刘晓原) practices law. The excuse offered was that the firm’s office “did not meet official requirements.” However, in July after the firm had relocated, the Bureau continued to delay the renewal of the firm’s license. In November, the landlord of the building where the office had moved to notified Liu that they would have to move out because he “could not withstand the pressure” he was getting from the authorities.⁶² At the time of writing the law firm’s license has still not been renewed.

Local bureaus of justice also threatened lawyers with suspension or disbarment for engaging in activities of which local officials disapproved. A lawyer among the HRDs surveyed said that for filing an administrative lawsuit and an administrative review,

“...the Beijing Bureau of Justice, through the director at my law firm, confiscated my lawyer’s license. I have been without it for nearly five months, and have not even been given a notice about it; the situation has not been resolved.”

60 CHRDR, “Court Refuses to Inform about Li Tie Case, Lawyer Jin Guanghong Missing” (法院拒不告知李铁案, 代理律师金光鸿失踪), April 13, 2011.

61 CHRDR, “Guangxi Beating Death Case Embroiled in Questions About Evidence, Violence Against Defense Lawyers,” China Human Rights Defenders October 21-26, 2011, October 27, 2011.

62 CHRDR, “Qi Jian Law Firm, Directed by Liu Xiaoyuan, Is Being Evicted by the Landlords” (刘晓原担任主任的旗鉴律师事务所遭租赁方驱逐), November 3, 2011.

Recommendations

As documented in this report, the conditions under which HRDs have conducted their work worsened dramatically in 2011. Not only did the government fail to fulfill its responsibility to protect them, HRDs were targeted for monitoring, harassment, arbitrary detention, and torture.

CHRD calls on the Chinese government to cease its ongoing crackdown on dissent and human rights activism, and fulfill its international obligations to protect human rights defenders as set forth in the United Nations' Declaration on Human Rights Defenders. In particular, it should:

- Take immediate action to end the persecution and harassment of HRDs, their families and the organizations they form, and to ensure the rights and freedoms essential to the defense of human rights, as outlined in Articles 1, 5, 6, 7, 8, 9, 11, 12, and 13 of the Declaration.
- Honor the obligations as outlined in Articles 2, 3, 9, 12, 14, 15 to “protect, promote and implement all human rights,” which includes protecting HRDS from “violence, threats, retaliation,” ensuring that investigations take place in cases of human rights violations, promoting public knowledge of human rights and implementing human rights education, including the training of lawyers, police officers and other government officials.
- Investigate government officials suspected of violating provisions of the Declaration and hold them accountable according to the law.
- Release all detained and imprisoned HRDs including, but not limited to, **Liu Xiaobo**, **Gao Zhisheng** and **Chen Guangcheng**.
- Amend the current draft of the Criminal Procedure Law (CPL) to ensure that it complies with the International Covenant on Civil and Political Rights (ICCPR), and in particular, revise Article 73 of the proposed amendments which would effectively legalize enforced disappearance.
- Conduct a constitutional review of the Regulations for Registration and Management of Social Organizations, particularly the requirement that an organization must be formally associated with a governmental sponsor.

Members of the international community are in a position to play active roles in pressing the government to fulfill its obligations to protect the rights of HRDs, as well as in providing support to individuals engaged in the promotion of human rights. CHRD's recommendations to the international community are as follows:

- The UN High Commissioner for Human Rights should visit China before the end of her term in September 2012.
- The UN Special Rapporteur on the Situation of Human Rights Defenders should submit another request to visit China, following up on the last such request made in November 2008.

- Governments should publicly call for the release of HRDs mentioned in this report at all levels of diplomatic interactions with the Chinese government, especially when making high-level visits to China or when receiving state leaders.
- Governments should promote internet freedom, especially by passing legislation to ensure that internet technology and social media companies cannot aid censorship in China or in other countries with repressive governments.
- Foreign diplomats in China should attempt to visit **Chen Guangcheng** and his family, and **Liu Xia**, the wife of **Liu Xiaobo**, to contest the government's claim that they are "free" or "living a normal life."
- At press conferences of state leaders foreign journalists should continue to inquire about the HRDs mentioned in this report.
- The UN, EU and other governments should consider increasing the resources devoted to HRDs in China, giving more funding and training opportunities and translating appropriate materials into Chinese as a means of strengthening Chinese citizens' ability to promote human rights in China.

