



Promoting human rights and empowering grassroots activism in China

In the Name of “Stability”

*2012 Annual Report on the Situation
of Human Rights Defenders in China*

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Introduction

With a major change of the guard at the top echelon of China's one-party power, 2012 was marked by authorities' intensified attempts to thwart human rights activism but also impressive civil society campaigns that fought for rights protections. As human rights defenders (HRDs) expanded their footholds and made use of new advocacy strategies, the government deployed its extensive "stability maintenance" apparatus to intimidate and punish Chinese citizens who tried to exercise basic liberties and defend fundamental human rights.

According to partial data gathered by the CHRDR network, the year proved no less challenging for HRDs than 2011, which has been regarded as the most repressive year since rights activism in China's civil society gained momentum a decade ago.¹ Similarly, activists interviewed by CHRDR indicated that the rights defense environment has grown both more promising and more treacherous—in cyberspace and in public places—with HRDs becoming more emboldened while facing relentless and more sophisticated political suppression.²

Though actual cases are likely far greater, data from 2012 for certain forms of harassment and detention used against HRDs—such as administrative detention, criminal detention, and forced psychiatric commitment—were similar to 2011 or increased slightly. Recorded instances of "enforced disappearance" also rose, though CHRDR's data from 2011 was limited to cases from the Jasmine Crackdown on civil society.³ Notably, recorded cases of "soft detention," a form of house arrest or "residential surveillance," more than doubled from 2011 to 2012 (from 163 to 387).⁴ While it is not possible to draw solid conclusions on the basis of limited data, elevated use of soft detention may partly be explained by repressive measures taken around the 18th Chinese Communist Party (CCP) Congress in November, when the country's new top leaders were unveiled.

At the same time, recorded cases of HRDs being sent to Re-education through Labor (RTL) decreased (from 60 to 37), according to our partial data, which is consistent with the perception that officials sent fewer activists to RTL as the system has come under unprecedented public scrutiny. Authorities may have instead detained HRDs using residential surveillance in unknown locations, which saw an increase (from 10 to 24), or other methods of restricting movements like those listed above.

In 2012, there were more reports than ever of Han Chinese physically harming themselves in desperation and frustration over unresolved grievances. Some individuals ingested pesticide in suicide attempts or to bring urgent attention to their plights, and others set themselves ablaze or leaped to their deaths to protest forced property demolitions. Others were killed while trying to protect housing or farmland that the government had authorized developers to destroy or take over.⁵ Reports by activists and interviews done by CHRDR suggest that demolitions and land grabs grew more violent in 2012 despite government regulations that took effect in April that have been partially intended to lessen confrontations during such incidents.⁶

"The suppression of rights activism has been unrelenting. This year, due to the Communist Party Congress, authorities stepped up their monitoring and preventive measures against rights advocacy efforts, and the space for such work was further compressed."

—A human rights activist

More than 80 ethnic Tibetans self-immolated in 2012—and thousands took to the streets—to boldly oppose government suppression of their religion and culture. By the end of the year, the spike in self-immolations brought the sobering total to nearly 100 Tibetans, including both monks and lay people, who had set themselves on fire in political protest since March 2011, with most of these individuals having burned to death. The response by the government to peaceful demonstrations and self-immolations has been to crack down only more severely against Tibetans. Authorities ramped up campaigns to cut off channels of information coming from outside Tibetan areas, arbitrarily detained large numbers of Tibetans, and issued guidelines criminalizing alleged involvement in self-immolations, such as charging so-called “instigators” with “intentional homicide.”⁷

Civil society groups in China, while growing into a stronger force for rights advocacy, were under steady assault. In Shenzhen, where police commonly disrupt the work of labor rights non-governmental organizations (NGOs), authorities ordered Xiao Xiao Cao (“Little Grass”) Workers’ Home to cease operations and pay a fine for alleged fire code violations. For years, the NGO has provided services to migrant workers in China’s booming factory sector. In another incident, officials in Jiangsu Province pressured a hotel to cancel rooms booked by the Nanjing-based NGO Justice for All, forcing the group to call off an event that was to bring together lawyers to discuss public interest law. In telling the group that their reservations had been cancelled, the hotel falsely claimed that the space would instead be used by the local government.⁸

During 2012, police continued to use a relatively new cyber-surveillance system—called “movement management and control”—to monitor individuals and specific groups, like drug users infected with HIV/AIDS, and also HRDs. As described in a new report by Aizhixing, an NGO working on rights issues affecting people with HIV/AIDS, the system has the ostensible goal of “anticipating and obstructing criminal activity” and “preserving social stability.” But based on public documentation, Aizhixing has concluded that it in fact has more far-reaching utility and objectives that can infringe on human rights: it not only seeks to monitor individual movements but also concentrates on events and organizations—like NGO work on social issues—and can conceivably target anyone, not only those who police believe pose threats to “social order” or who authorities are already monitoring closely.⁹

On a positive note, HRDs have been encouraged by the emergence of several rights advocacy campaigns, including the “Free **Chen Guangcheng** (陈光诚)” campaign; efforts calling for the release of detained activists **Zhu Chengzhi** (朱承志) of Hunan Province and **Chen Pingfu** (陈平福) of Gansu Province; and the mobilization to demand an investigation into the death of former political prisoner **Li Wangyang** (李旺阳), who died under mysterious circumstances in June, with an official claim that he committed “suicide” raising suspicion of police retaliation. A bright spot for public awareness of political rights and emboldened efforts at democratization was the record number of citizens who tried to run as independent candidates in local People’s Congress elections. A civil society push for the government to publicly disclose information about the wealth of high-ranking officials had also gathered momentum by the end of the year.

In addition, more activists used China’s Constitution and laws to fight police abuses and government infringement on human rights. During 2012, CHRD observed that HRDs made

greater efforts to press for administrative reviews or lawsuits against officials over decisions ranging from RTL punishments to forced evictions and demolitions. Many activists leveraged laws and international human rights standards—and particularly the government’s commitments to such rights—to empower their pursuits of justice. Also, more activists and lawyers than ever organized trainings inside China to share advocacy strategies with HRDs and other members of civil society. These efforts benefited from more sophisticated and innovative use of the Internet and social media tools.

Even under a harsh political climate, HRDs achieved some impressive and positive outcomes. Quietly, yet in sufficiently discernible patterns, local governments provided compensation for demolished housing, and in some cases even removed officials from office for ordering the destructive acts. Though the government has largely failed to close down “black jails,” as it has vowed to do, authorities have punished a few hired thugs involved in operating these temporary and makeshift holding cells. Several prominent HRDs have been released from RTL camps before their punishments were complete, and fewer petitioners have been sent to RTL in some cities where lawyers have sued police committees in charge of RTL decisions. In 2012, Chinese courts appeared to have docketed more lawsuits against officials accused of rights abuses—cases that courts would have categorically refused to hear in the past—and some human rights lawyers won such suits. Websites and weibo, China’s microblogging tool equivalent to Twitter, have proven to be potent tools in shaming and even toppling government officials over corruption scandals and abuses.

While raising awareness of high-profile cases of HRDs serving prison sentences in retaliation for exercising their constitutionally-protected rights (see next section), this report focuses on developments in four areas that had significant impact on the situation of HRDs in 2012:

- “Enforced disappearance,” which has become an increasingly common fate of HRDs and in effect became codified with the adoption of the revised Criminal Procedure Law;
- “Re-education through Labor,” the system of extrajudicial detention and forced labor that received enormous public criticism, and was eventually addressed by government officials pressured into breaking years of political taboo on the issue;
- Forced psychiatric commitment, which China’s first-ever Mental Health Law fails to prohibit as a tool of repression against HRDs whom police and other officials wish to silence; and
- Flawed elections for local People’s Congress delegates, which concluded in 2012 and made a mockery of what passes today as “participatory governance” for Chinese citizens, as seen in the harassment of citizens who tried to run as “independent candidates” unaffiliated with the Chinese Communist Party.

Prisoners of Conscience Languish Behind Bars

As testament to the current Chinese government's intolerance of free expression of political views and dissent, prisoners of conscience remained behind bars in 2012. The world's only imprisoned Nobel laureate, the dissident writer **Liu Xiaobo** (刘晓波), served his fourth year of an 11-year sentence for "inciting subversion of state power" in Liaoning Province, a harsh punishment for his role in "Charter 08," a manifesto calling for human rights and democratic reform. His wife **Liu Xia** (刘霞) has also been under house arrest ever since her husband was awarded the Nobel Peace Prize.¹⁰ In addition, human rights defenders **Chen Wei** (陈卫) of Sichuan Province and **Chen Xi** (陈西) of Guizhou Province each served the first year of heavy sentences—of 9 and 10 years, respectively—after being convicted of "inciting subversion" in December 2011. Convicted in early 2012, dissident **Li Tie** (李铁) of Hubei Province was given a 10-year sentence for "subversion." And **Guo Quan** (郭泉), a founder of the "New People's Party of China" from Jiangsu Province, remains imprisoned for "subversion" after being sentenced to 10 years in 2009.

HRDs swept up during the Jasmine Crackdown in the spring of 2011 were sent to prison after being tried in 2012. **Ni Yulan** (倪玉兰), a housing rights activist from Beijing, is serving a 30-month sentence issued for "creating a disturbance," and her husband, **Dong Jiqin** (董继勤), is serving two years on the same charge. Zhejiang dissident **Zhu Yufu** (朱虞夫), a veteran of the Democracy Wall movement of the 1970s, was given a seven-year sentence in February 2012 for "inciting subversion" in retaliation for his activism, including writings he had done related to "Jasmine Rallies." Both Zhu and Ni, who suffers from chronic illnesses and cannot use her legs due to past torture, are dealing with deteriorating health in prison.¹¹

"The overall environment seems to have improved on the surface, but suppression of human rights activists has intensified, so the activist environment essentially is deteriorating."

—A human rights activist

Human rights lawyer **Gao Zhisheng** (高智晟) continued serving a three-year sentence for "inciting subversion" in the Xinjiang Uyghur Autonomous Region after allegedly violating terms of his probation and being imprisoned in December 2011. Although it was reported in May 2012 that Gao had refused legal assistance in his case and did not wish to file an appeal, there is no way to confirm this was his own decision, given the intimidation that he has faced, including being periodically disappeared and tortured since 2006.¹²

Authorities in Shandong Province took apparent retaliation against activist **Chen Guangcheng**, who fled house arrest in April and went to the United States weeks later, by handing his nephew **Chen Kegui** (陈克贵) a 39-month prison sentence in November. Tried in closed proceedings and with access only to government-appointed lawyers, Chen Kegui was convicted of "intentional injury," a charge tied to an altercation that broke out when officials invaded his family home after his uncle's daring escape.¹³

Shanghai activist **Feng Zhenghu** (冯正虎) was held under house arrest from February to November—for a total of 268 days—and was still being closely monitored by police even after

some restrictions had been lifted. During Feng's house arrest, police prevented him from leaving his apartment, and relatives, friends, and supporters were blocked from visiting him. In order to further isolate and harass Feng, police tapped his phone, confiscated his cell phone, computers, and many other items, and cut off his Internet connection.¹⁴

“Enforced Disappearance” Codified in Law

The year saw no reversal in one of the most alarming developments in China—the increased use of “enforced disappearance” against HRDs. Since the crackdown on civil society in 2011, when at least two dozen HRDs were disappeared for weeks or months, enforced disappearance has been routinely used during “sensitive periods” and to suppress activism around prominent human rights cases and events. HRDs who have been disappeared have often been threatened with retaliation if they reveal what they endured, and many eventually have told of brutal psychological and physical torture.¹⁵ In passing a revised Criminal Procedure Law (CPL) in 2012, Chinese authorities in effect codified enforced disappearance under the rubric of “residential surveillance,” previously a form of pre-trial non-custodial detention served at home that has been legalized to hold HRDs incommunicado.

The whereabouts of two HRDs seized during the Jasmine Crackdown still remain shrouded in mystery. Sichuan dissident **Wei Shuishan** (魏水山) has been out of contact since he was criminally detained in March 2011. There is speculation that Wei has been secretly tried and imprisoned or is simply being illegally detained. Also, despite a rumor that she was freed, the fate of netizen **Liang Haiyi** (梁海怡) has been uncertain since October 2011, when friends went to see her in a detention center in Heilongjiang Province only to find that she was no longer there. Liang was taken in for questioning by Harbin police in February 2011 for allegedly posting information online about the Jasmine Revolution, and then arrested on suspicion of “inciting subversion.”¹⁶

Several HRDs disappeared for periods of time ranging from weeks to months in 2012. Guangdong-based freelance writer **Liao Zusheng** (廖祖笙) was seized in January and then held incommunicado for several weeks. Liao's disappearance may have been tied to his writings about problems involving “sensitive” topics, such as education, health care, and housing.¹⁷ Guangzhou netizen **Xu Lin** (徐琳) was criminally detained in April on a charge of “inciting subversion” and then held under illegal residential surveillance in a secret location for two months before being released in July. Police blocked his lawyers and family from seeing him under the pretext that his case involved “state secrets.” Xu was apparently detained for composing the song “It's Time Now,” whose lyrics are based on “It's Time!,” a poem by dissident **Zhu Yufu** that was circulated during online calls for Jasmine Rallies in 2011.¹⁸

Beijing activist **Guo Qinghua** (郭清华) went missing for more than a month from early May, after indicating in a text message to fellow HRDs that police were planning to take her to a detention facility. From late May, Heilongjiang human rights lawyer **Wei Liangyue** (韦良玥) went missing for nearly a month. Police in Harbin did not disclose either his place of detention or a reason for his being held, only telling Wei's wife that he was in a secret location and undergoing a period of “study.” **Zhu Jindi** (朱金娣), from Shanghai, went missing for nearly

three months after security personnel from her hometown seized her in Beijing in late August when she was petitioning at the Supreme People’s Court.¹⁹

Guangxi human rights lawyer **Yang Zaixin** (杨在新) disappeared into police custody in March, after he was illegally ordered to serve residential surveillance in a “designated location” instead of in his home. Yang, a member of the defense team in a controversial beating death case in Beihai City, was criminally detained on suspicion of “suborning perjury” in June 2011. He was released on bail in September 2012, and in very poor health. In total, Yang was held for more than 450 days, and his family members and others were prevented from visiting him during his lengthy detention.²⁰

Legal advocate **Song Ze** (宋泽), a volunteer for the Open Constitution Initiative (Gongmeng), disappeared after he was criminally detained in Beijing in May 2012. Authorities maintained that he was under residential surveillance but refused to disclose Song’s whereabouts to his family and lawyer. In December, Song’s family confirmed that he had been sent home but was prohibited from contacting anyone. Song was taken into custody on a charge of “creating a disturbance” after trying to assist the wife of **Chen Kegui**, the detained nephew of activist **Chen Guangcheng**.²¹

“Prolonged forced disappearance is one of the noteworthy new trends in government suppression on civil society.”

A human rights lawyer

Guizhou democracy rights activist **Mi Chongbiao** (糜崇彪) revealed torture and mistreatment he was subjected to during a period of enforced disappearance. Mi was held incommunicado for five weeks after being seized in May while staging an event in Guiyang City People’s Square to mark the anniversary of the Tiananmen Massacre. In his 70s, Mi described that he had been interrogated at length with his hands tied to a chair; he was not allowed to rest or eat during the questioning, causing him to faint several times. Fearing Mi’s family would expose these abuses, officers also detained his wife and two sons with Mi. He later fell ill and was beaten by a policeman in a hospital, suffering a broken nose and concussion. After letting the family go home in early July, police placed them under 24-hour residential surveillance for six months.²²

With revisions to the CPL approved by the National People’s Congress in March of 2012, government officials have touted how changes will better protect the rights of criminal suspects. Indeed, some apparent improvements have been made in the text of the law, but their implementation depends on the extent of enforcement. For example, the revised law now explicitly states that forced confessions, such as those obtained through torture, are illegal and that related evidence is inadmissible in court. As written, the law provides defense lawyers better access to criminal suspects and case materials.

The new CPL also stipulates that a criminal suspect’s family be notified of their detention within 24 hours. However, a contentious provision—Article 73—allows for residential surveillance in unknown locations for up to six months, tantamount to codifying a black hole of enforced disappearance that may be used to silence and incarcerate HRDs. The CPL allows for individuals charged with certain crimes, including endangering state security offenses, to be placed under

residential surveillance at a “designated location” if serving residential surveillance at home would be deemed by police to “hinder the investigation.”

Once the revised CPL went into effect on January 1, 2013, Chinese authorities spared little time in making use of Article 73, thus confirming the fears of many in what would become the first “legalized” use of enforced disappearance under Chinese law. On January 4, police in Hunan ordered **Zhu Chengzhi** to serve six months of residential surveillance outside his home. Zhu, who had already been held incommunicado since June 2012, was issued the punishment by police who, in exercising their broadened power, merely notified his family of the decision but did not disclose Zhu’s whereabouts. Zhu had been arrested in July 2012 on a charge of “inciting subversion” after refusing to guarantee that he would stop investigating the cause of death of labor activist **Li Wangyang**. (On February 1, 2013, Zhu was sent to serve residential surveillance at home, as authorities perhaps yielded to online campaigns demanding Zhu’s release and to international outcries against “legalized” enforced disappearance.)²³

Re-education through Labor Very Much Alive Despite Talk of Reform

Over the past two decades, members of China’s intellectual establishment and its civil society have called for reform or abolition of Re-education through Labor (RTL), a form of administrative detention managed by police committees within the public security bureaus, where detainees are locked up for up to four years without a trial or little chance to appeal, and forced to perform hard labor.²⁴

The year 2012 may have marked a turning point in building momentum for making changes to RTL, as official talk finally began to echo longstanding public outrage over the system. In October, the head of a government judicial reform committee noted a consensus in favor of addressing RTL’s shortcomings. And the *People’s Daily*, the CCP’s principal mouthpiece, stated in November that RTL had become “a tool of retaliation” for local officials.²⁵

While mostly holding what authorities refer to as “petty criminals” and members of the banned spiritual sect Falun Gong and underground churches, RTL is widely viewed as a convenient way to punish Chinese citizens who exercise constitutionally-protected civil liberties, including the rights to free expression when criticizing the government. According to government data, approximately 170,000 individuals were held in 320 RTL camps at the time of a review of China’s human rights record by the UN Human Rights Council in 2009.²⁶ However, Chinese officials reportedly stated that just over 60,000 detainees were being held in RTL camps in 2012.²⁷ This could be a sign that, under domestic and international pressure, RTL detainees may have been transferred to other detention facilities, or that more people are being sent to black jails or “illegal behavior correction” centers, another form of administrative detention, instead of RTL.

Although perhaps using RTL less than in the past, Chinese authorities still sent many HRDs to labor camps in 2012. Several of those HRDs had been sent to RTL before, even multiple times, reflecting how the system can be a handy way to lock away Chinese citizens who police and other officials find “troublesome.” On the other hand, several prominent HRDs were released

early from RTL camps in 2012 (and in early 2013), perhaps indicating a loosening of the system as rumors of reform became more public.

During the year, HRDs were put away in RTL around “sensitive” periods, which typically provide a ready pretext of “stability maintenance” for authorities to retaliate against activists. Inner Mongolia petitioner **Song Cuirong** (宋翠荣) was sent to RTL in March for 18 months—reportedly for “undermining the harmony and stability of the Two Meetings” in Beijing²⁸—after she was found to be sending instant messages to others to seek help in getting freed from a black jail. Before the Party Congress, Shanghai HRDs **Cui Fufang** (崔福芳) and **Tong Guojing** (童国菁) were each issued one-year RTL punishments in October on charges of “gathering a crowd to disrupt public order.” **Mao Hengfeng** (毛恒凤), a reproductive rights and housing activist from Shanghai, was sent to RTL for 18 months in October after being taken into custody in Beijing, on a charge of “gathering a crowd to disrupt public order.” (Based on CHRD’s reporting about Mao’s detention, international NGOs submitted an appeal for urgent intervention in her case to high-ranking Chinese officials. Mao was subsequently released from RTL in February 2013, reportedly due to her poor health, and ordered to “serve out” her punishment at home.)²⁹

“In terms of demands to change the Re-education through labor system via legal adjustments, there was official silence on the surface, but public opinion was unleashed.”

A human rights lawyer

Among the most prominent HRDs sent to RTL was **Xiao Yong** (肖勇) of Hunan, who was issued 18 months of RTL in July. In March, Xiao was among several activists detained in Guangzhou for “illegal assembly, procession, or demonstration” for marching and holding signs calling for official transparency and political reforms, and he was later placed under soft detention for questioning the death of **Li Wangyang**. Around the same time that Xiao was punished, Beijing-based artist **Hua Yong** (华涌) was sent to RTL on a charge of “causing a disturbance” for performing an art piece memorializing the Tiananmen Massacre. Reflecting the often nebulous nature of RTL, the precise charges against Xiao and Hua were at first not disclosed to their families or lawyers, neither detainee was given ready access to attorneys, and even the lengths of the punishments were not made immediately clear. (In February 2013, Xiao was released from an RTL facility and required to “serve out” his term at home, though the reason for his release remains unknown.)³⁰

As in years past, some officials used RTL to punish some of the most vulnerable members of Chinese civil society: petitioners seeking to lodge grievances or demand compensation to alleviate devastating hardships. In February, **Li Zhongying** (李忠英) of Yunnan Province was given a 21-month RTL detention for “disturbing work order” for seeking compensation for severe injuries caused by a forced birth control surgery ordered by officials in 1994. After she was intercepted in Beijing, **Zhao Guixiang** (赵桂香) of Jilin Province was given 18 months of RTL in March for pursuing justice over a disabling traffic accident. **Liu Li** (刘丽), from Liaoning Province, was given a one-year RTL punishment in May after seeking relief from overwhelming debts. In June, **Dai Yuequan** (戴月权) of Chongqing was sent to serve a 15-month RTL punishment for “disrupting social order” after trying to get compensated for a

debilitating work injury. (Dai was released from RTL in December 2012, when his punishment was dismissed.)³¹

Two petitioners whose persecution by authorities dates back to the Cultural Revolution were sent to RTL camps in 2012. **Li Huiyin** (李辉银) of Hunan was given a one-year punishment in January on a charge of “disrupting public order” after petitioning in Beijing. Li had previously served other RTL stints and also a five-year spell in a Reform through Labor camp in the 1970s for allegedly expressing political views. During that lengthy past punishment, Li’s leg became disabled in a mine accident and, after he was released, he began petitioning over what had happened to him. In addition, **Zhao Zhenjia** (赵振甲) of Liaoning was issued an 18-month RTL punishment in February, reportedly for organizing a Chinese New Year gathering for fellow petitioners. Zhao was handed a death sentence with reprieve for “counterrevolution” in 1974—for his writings—and went to prison. In 1981, a court declared him innocent of any crime and he was released. Ever since, Zhao has unsuccessfully sought compensation for his unjust imprisonment.³²

HRDs sent to RTL as part of the Jasmine Crackdown in 2011 remained in labor camps in 2012. **Yu Yunfeng** (于云峰) of Heilongjiang was still serving a two-year term that began in the summer of 2011, on an “inciting subversion” charge for allegedly “spreading rumors against the Party and against socialism.” Activist **Yang Qiuyu** (杨秋雨) has been serving a two-year RTL term in Beijing since April 2011. It was learned in 2012 that his wife, **Wang Yuqin** (王玉琴), was given a 21-month RTL punishment in July 2011, for allegedly “disturbing social order” after organizing others to petition and seeking an explanation for Yang’s detention. **Huang Chengcheng** (黄成诚) of Chongqing also continued serving a two-year punishment for “inciting subversion,” and even had seven days added to it in May on the purported grounds of “poor performance” in forced labor. Huang reportedly had been unable to complete work tasks due to worsening hand injury suffered during his detention. (Huang was eventually released in December—a few months early—after the RTL decision against him was dismissed.)³³

Public calls for abolishing RTL reached a fever pitch with the exposure of the plight of a woman, **Tang Hui** (唐慧), who was sent to RTL in August after petitioning about the abduction and rape of her young daughter. Once news about Yang’s experience spread online, widespread outrage quickly led to her release. Tang’s story inspired a group of Chinese human rights lawyers to send a letter to China’s Ministry of Justice and Ministry of Public Security calling for “adjustments” to RTL. Notably, the lawyers’ action was reported in official government media, which up to then had largely avoided coverage of RTL. In their letter, the lawyers recommended procedural improvements for hearings, increased openness about secretive decisions, more accountability for RTL authorities, and greater involvement of lawyers in RTL cases, including the right to meet with clients.³⁴

Another RTL case that went viral on Chinese cyberspace and was picked up by the Chinese media was that of **Ren Jianyu** (任建宇), an elected village committee director from Chongqing, who was sent to RTL for two years in September 2011 for “inciting subversion” after using a QQ group and his weibo account to share others’ opinions about political reforms. Following the media exposure and pressure generated by public opinion, Ren was released early—in November

2012—in a case that showcased how RTL can be used to punish Chinese citizens who exercise their free speech rights online, especially if they criticize local officials.³⁵

Despite even some officials' questioning of RTL's legitimacy and future, Chinese authorities stifled grassroots activism that pushed for an end to the system. Just as one example, in December, police in Hunan issued a death threat to a retired teacher and long-time rights activist, **Luo Hongzhong (罗洪中)**, who was urging petitioners to support an online campaign calling for RTL's abolition. Police reportedly pressured Luo, who himself has served five years in RTL, to cease his advocacy work and to not cause trouble for the local government, warning that they would "find some thugs to get rid of him" if he continued.³⁶

In what has been viewed as a response to the growing and vocal opposition to RTL, the Chinese government announced in October that RTL "reform" was being piloted in four cities.³⁷ But rather than introducing substantive judicial or legislative changes, the main "reform" disappointingly has appeared to be cosmetic—renaming RTL as "Illegal Behavior Correction," which may mean that extralegal detention would just go on as before with no significant differences. More optimism was felt in early January of 2013, when a high-ranking official was reported as saying that the government would halt the use of RTL by the end of the year, upon approval of the Standing Committee of the National People's Congress. However, official Chinese news sources did not corroborate the report and the official's remarks were immediately erased from CCTV and other government-run websites, leaving observers to only speculate about what, if any, solid plans were afoot to alter or do away with RTL.³⁸

Forced Psychiatric Commitment Used to Silence HRDs as China's Passes First Mental Health Law

The longstanding problem of involuntary psychiatric commitment in China persisted in 2012. A report released by CHRD chronicled dozens of cases of HRDs who have been held in psychiatric hospitals in retaliation for irking officials, often after petitioning over personal grievances or publishing articles critical of the government.³⁹ Forced psychiatric commitment drew heightened attention during the year, both in the passage of the county's first Mental Health Law⁴⁰, and the review by the UN Committee on the Rights of Persons with Disabilities of China's compliance with the international Convention on the Rights of Persons with Disabilities.⁴¹

When committed by authorities against their will in psychiatric hospitals, HRDs are routinely forced to take medication, receive injections or electric shocks, and endure other forms of inhumane treatment. Hospitals often restrict or prevent institutionalized HRDs from communicating with family members and legal counsel. Police and other authorities are granted "guardianship" rights when they forcibly bring HRDs to psychiatric hospitals. Wielding a high degree of power, guardians can decide when individuals are released, and some guardians even foot the bill for HRDs' detention, treatment, and living expenses in order to keep them locked up and silenced.

"I was required to take medication the first night I entered the hospital. I refused and continued my hunger strike. Then four or five guards tied me to a bed. The guards threatened to force feed me and use electric shocks."

•A dissident

CHRD made formal appeals in 2012 to UN Special Procedures on behalf of HRDs who were forcibly sent to psychiatric institutions. **Yang Yamei** (杨雅梅), a petitioner-activist from Inner Mongolia, was seized in Beijing in March and then forcibly committed to a psychiatric hospital. **Lin Xiuli** (林秀丽) of Shandong was involuntarily committed in May after she managed to hand Premier Wen Jiabao petitioning materials in Beijing. **Gu Xianghong** (辜湘红), a petitioner from Hunan, was involuntarily committed in July after being seized in Beijing—the tenth time since 1999 that she has been forcibly institutionalized. On orders of police or other officials, petitioners remained held in psychiatric institutions in 2012 after several years, including **Li Qidong** (李启东) of Liaoning (since 2010), **Peng Yongkang** (彭咏康) of Hubei Province (2008), **He Fangwu** (何芳武) of Hunan (2007), and **Jiao Yanshou** (焦延寿) of Shandong (1999).⁴²

Other petitioners were institutionalized against their will in 2012 in retaliation for seeking justice for personal grievances. Beginning in April, **Zhang Jun** (张军) of Shandong was held in a psychiatric hospital for more than three months after trying to expose police misconduct. **Zhang Zhi** (张治) of Hunan was seized in late October and sent to a psychiatric hospital, where she was forced to take medications and receive injections. Police detained Henan petitioner **Wang Qunfeng** (王群凤) in a psychiatric institution for several weeks after she was seized in Beijing in mid-December 2011 by thugs hired by local officials.⁴³

In late October, after more than two decades of advocacy efforts by domestic and international human rights critics and mental health professionals, China adopted a Mental Health Law (MHL), which will go into effect on May 1, 2013. Though having a law is perceived to be better than not having one, the MHL has inspired little confidence among Chinese rights activists who monitor the issue of involuntary psychiatric commitment. As written, the MHL still fails to close loopholes that have allowed authorities, without impunity, to forcibly institutionalize HRDs who do not suffer from any mental illness, with the clear purpose of punishing them for their activism. Under the MHL, it will not be feasible for those committed to institutions to exercise their rights to appeal to judicial authorities for review. In addition, the new law leaves open questions of identifying guardians and limiting their power. These and other factors allow room for the likely continuation of politically-motivated abuses against HRDs through forced psychiatric confinement.⁴⁴

Flawed Local Elections Exclude Independent Candidates, CCP Transition Perpetuates One-Party Rule

China's officially self-proclaimed experiment in “participatory governance”—holding elections for local People's Congress delegates in 2011 and 2012—proved largely to have been a failure in allowing citizens any meaningful exercise of their right to vote and to run for legislative seats. The elections were marred by flagrant violations of Chinese electoral laws, particularly when independent candidates, who had no affiliation with nor endorsement from the CCP, attempted to run against candidates hand-picked by CCP officials. Chinese activists who monitored the elections found that citizens who tried to register as independent candidates were systematically harassed and eventually barred from running. In violation of China's Constitution, which

protects peaceful assembly and association, meetings held to publicize their candidacy and explain the voting process were often disrupted by police. When voting days arrived all over the country, independent candidates were detained, kept away, left off ballots, and even physically assaulted. Other blatant electoral irregularities came to light, including the stuffing of ballot boxes in favor of CCP candidates.

“There was no hint of democracy at all but merely going through the motions. If voters ‘accidentally’ elected candidates when democrats took advantage of ‘loopholes,’ voting results would be tossed out if officials did not like the candidates.”

—A human rights activist

While detailing these rampant abuses, a report on the elections—produced by Chinese activists and scholars in cooperation with CHRD—also highlighted accomplishments achieved through campaigning and the electoral process. The report hailed the unprecedented number of people who tried to run as independent candidates, and maintained that their campaigns showed the will of Chinese citizens to participate in democratic governance and test out the limited political rights provided by China’s laws and Constitution. (Drawing from numerous sources, CHRD

estimates that approximately 2,000 citizens attempted to run as independent candidates in the elections.⁴⁵) In addition, the report explained how the strategies of independent candidates, such as shrewd use of social media, greatly helped to inform citizens about the importance of voting. Nevertheless, the report concludes that the frustration of such candidates in the face of suppression shows that local People’s Congress elections cannot be conducted fairly and freely under China’s one-party rule.⁴⁶

When elections were held in Chengdu in Sichuan in February 2012, authorities issued unheard-of requirements in order to block independent candidates from registering their candidacies while engaging in other abuses. Challenging the requirements’ legality, independent candidates one day tried to approach government officials but were dispersed by security personnel, who severely beat and injured one candidate.⁴⁷ On election days in Chengdu, independent candidates were widely harassed, voting was conducted without sufficient publicity and oversight, and election officials even offered money to residents to entice them to vote. Unidentified individuals (likely dispatched by government authorities) closely monitored independent candidates, some of whom were inexplicably photographed as they voted at the polls. Activist **Chen Qian** (陈茜), who tried to run as an independent candidate, reported that she was placed under surveillance the day before an election. Government officials and police took another independent candidate, **Wang Rongwen** (王荣文), to a voting location, forced her to cast a ballot, and then dragged her away and kept her incommunicado for a short period.

A common problem was the difficulties and risks faced by critics who challenged the lack of oversight and credible procedures necessary to verify election results. In September 2011, Guangdong activist **Li Biyun** (李碧云) protested a local election over procedural irregularities, and then scuffled with a voting official who claimed to have been injured by her; Li was subsequently detained for about seven months on a charge of “undermining elections.” In detention, Li suffered from various illnesses and was restricted from seeing her attorneys. She was finally released on bail in April 2012 so she could obtain necessary medical treatment in a hospital.⁴⁸

Nowhere was the hollowness of “democratic participation with Chinese characteristics” seen more in 2012 than in the leadership transition of the CCP. In mid-November, the new seven-member Standing Committee of the CCP Politburo was ceremoniously revealed at the 18th Party Congress, after years of speculation and intra-party power struggles. The drama’s most public and disturbing story line was the toppling in March of **Bo Xilai** (薄熙来), who was all but set to attain a seat on the Standing Committee before being deposed as Party Secretary in Chongqing amid corruption scandals and a murder charge against his wife.

Lacking any popular mandate, **Xi Jinping** (习近平) and **Li Keqiang** (李克强) assumed the CCP’s top two positions of power before a backdrop of extreme political suppression. In the name of ensuring a “harmonious” transition, authorities engaged in weeks-long nationwide security operations to silence perceived dissent, with no threat deemed too small for police to spring into action. Thousands of Chinese citizens were deprived of their liberties, and police killed at least two petitioners in the frenzy of “stability maintenance.”⁴⁹ Many activists in Beijing often under surveillance were subjected to greater controls, including activist **Hu Jia** (胡佳), dissident **Zhang Zuhua** (张祖桦); **Xu Zhiyong** (许志永), a founder of the NGO Open Constitution Initiative; house church member **Xu Yonghai** (徐永海); and human rights lawyers **Jiang Tianyong** (江天勇), **Li Xiongbing** (黎雄兵), and **Li Fangping** (李方平).

“The rights defense environment keeps getting worse, perhaps due to the 18th Party Congress, with a lot of people detained and punished. I was under house arrest and followed by police the whole year.”

—A human rights activist

In Shenzhen in southern China, activist **Li Zhengran** (李峥然) was forced out of the city, and cartoonist **Cheng Tao** (成涛) was whisked away from his home in the middle of the night. Authorities in Guangzhou restricted the movements of scholar and filmmaker **Ai Xiaoming** (艾晓明) and lawyer **Tang Jingling** (唐荆陵), and forcibly sent many activists back to their hometowns. Police in Sichuan and Guizhou applied greater pressure on HRDs, including the oft-harassed members of the Guizhou Human Rights Forum. Shanghai police summoned writer **Li Huaping** (李化平) for questioning on suspicion of “disrupting social order” after Li had returned from a backpacking tour around China that included visits to locations of well-known human rights cases. To demonstrate that “sensitive” timing could be everything, two farmers in Shanghai were taken into custody in late October for applying—but for the 69th time—to hold a public demonstration about land seizures.⁵⁰

As 2012 came to a close, China’s new leaders had made no clear indication that they were willing to halt their government’s constant breaches of its international and constitutional commitments to human rights. By and large, the heads of the world’s largest and longest-standing police state appear poised to maintain current policies and follow the path of their predecessors, foiling efforts at fundamental political reforms that would allow Chinese citizens to truly “have a voice” in governance.

Recommendations

In order for Chinese human rights defenders to carry out their work promoting human rights in a freer and safer environment, the Chinese government must:

- Ratify the International Covenant on Civil and Political Rights, respect the Chinese Constitution, and implement the country's two National Human Rights Action Plans;
- Abolish the extrajudicial Re-education through Labor system and all other forms of administrative detention and illegal, make-shift detention facilities, known as "black jails";
- Revise Article 73 of the Criminal Procedure Law so that "residential surveillance" cannot be used to allow authorities to disappear an individual; hold legally accountable any individuals responsible for disappearing HRDs; and sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance;
- Revise the Mental Health Law to accord with the Convention on the Rights of Persons with Disabilities, namely by prohibiting the involuntary commitment of people on the basis of psychosocial disabilities and ensuring that individuals who are involuntary committed have access to legal counsel and judicial review; and
- Implement the Electoral Law of the National People's Congress and Local People's Congresses of the People's Republic of China⁵¹ to ensure that all Chinese citizens can freely exercise their rights to vote and run for seats in local legislative bodies, and seek legal accountability of anyone, including government officials, who is suspected of violating the law.

Notes

¹ The partial statistics for 2012 were compiled by examining the year's issues of "China Rights Defense Development Brief" (中国维权动态), which include reports gathered by the Rights Defense Network (维权网), as well as information provided by Civil Rights & Livelihood Watch (民生观察) and Human Rights Campaign in China (权利运动), among other organizations. The partial data can be viewed on CHRDR's site. For more information on the state of human rights defense in China in 2011, see: CHRDR, ["We can dig a pit and bury you alive": Annual Report on the Situation of Human Rights Defenders in China, 2011.](#)

² In preparation for this report, CHRDR interviewed 15 Chinese HRDs from across civil society, and posed questions about 2012 that focused on significant rights campaigns or events, emerging trends and the general state of the civil rights movement, comparisons between 2011 and 2012, and local People's Congress elections. The quotes from HRDs that appear in this report are either excerpted from these interviews or, in one case, taken from a previous report.

³ Recorded number of instances of restricted movement and/or detention in 2011 and 2012, respectively, were: administrative detention (89 and 120), criminal detention (72 and 90), and detention in psychiatric institutions (7 and 8). For 2011, the network recorded 24 individual cases for "enforced disappearances—all due to the Jasmine Crackdown—while the number recorded for the entire year of 2012 was 75.

⁴ Individuals subjected to "soft detention" are guarded by police stationed outside their homes. Though some may occasionally 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. Most 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 may be extended for months or even years.

⁵ For examples of self-immolations, attempted suicides, and deaths during demolition projects, see: CHRDR, "One Self-Immolation Attempted, One Threatened Over Demolitions in Henan Province," [China Human Rights Briefing January 4-9, 2012](#); CHRDR, "Two Fujian Petitioners Detained After Expressing Grievance in Front of US Embassy, Including One Who Ingested Pesticide," [China Human Rights Briefing February 28-March 5, 2012](#); CHRDR, ["Reckless Act of Local Officials' Aggression: Hunan Petitioner Crushed to Death by Construction Vehicle \(Video & Photos\)."](#) September 27, 2012.

⁶ See [regulations](#) (in Chinese).

⁷ For more information on the suppression and rights violations of Tibetans in 2012, see: CHRDR, "Gansu Authorities Seize Monks From Bora Monastery After Peaceful March," [China Human Rights Briefing March 20-26, 2012](#); CHRDR, "Chinese Authorities Launch 'Strike Hard' Campaign in Tibetan Areas of Gansu Province," [China Human Rights Briefing April 3-10, 2012](#); CHRDR, "Sichuan Authorities Forcibly Close School Specializing in Tibetan Education," [China Human Rights Briefing April 18-23, 2012](#); CHRDR, "Sichuan Government's Rule on NGO Registration Jeopardizes Civil Society Work in Tibetan Area," [China Human Rights Briefing May 4-8, 2012](#); CHRDR, "Tibetans Get Severe Prison Terms for Drango Protests, At Least One Sentenced to Life," [China Human Rights Briefing May 9-14, 2012](#); CHRDR, "Farming Boycott Held to Protest Detentions in Tibetan Village in Sichuan," [China Human Rights Briefing May 9-14, 2012](#); CHRDR, "Chinese Authorities Push Debilitating 'Legal Education' Campaign in Tibet," [China Human Rights Briefing May 15-22, 2012](#); CHRDR, "Authorities in Tibet Ban Certain Groups From Taking Part in Religious Activities," [China Human Rights Briefing May 23-28, 2012](#); CHRDR, "TAR Government Seeks to Bolster Media Censorship, Protect 'State Secrets,' Further Limit Internet Use," [China Human Rights Briefing July 27-August 2, 2012](#); CHRDR, "Chinese Authorities' Familiar Tactic: Threaten, Investigate Self-Immolator's Family," [China Human Rights Briefing August 3-9, 2012](#); CHRDR, "Gansu Officials Send Out Armed Forces to Tibetan Festival, Warn Against Immolations & Other Forms of Protest," [China Human Rights Briefing August 17-23, 2012](#); CHRDR, "Senior Monk in Sichuan Tortured, Sentenced to Seven Years for Disseminating Information," [China Human Rights Briefing August 17-23, 2012](#); CHRDR, "Four Tibetans Given Harsh Prison Sentences After Secret Trials in Sichuan," [China Human Rights Briefing October 2-10, 2012](#); CHRDR, "Gansu Authorities Impose Information Blockade, Other Restrictions After Self-Immolations," [China Human Rights Briefing November 3-8, 2012](#); CHRDR, "More Tibetan Monks Sentenced for Alleged Involvement in January Protests," [China Human Rights Briefing November 9-16, 2012.](#)

⁸ CHRDR, "Shenzhen Authorities Impose Fine, Order Closure of Labor Rights NGO," [China Human Rights Briefing October 2-10, 2012](#); CHRDR, "Authorities Pressured Hotel to Cancel NGO's Room Reservations, Group Files Suit," [China Human Rights Briefing December 14-20, 2012.](#)

⁹ For more on the system of "movement management and control," see Aizhixing's [report](#) (in Chinese).

¹⁰ CHRDR, ["Human Rights Day 2012: Free Liu Xiaobo!"](#) December 7, 2012; CHRDR, [Update to UN on Liu Xiaobo & Liu Xia](#), July 25, 2012; CHRDR, [Prisoner of Conscience – Liu Xiaobo](#); CHRDR, [Prisoner of Conscience – Chen Wei](#); CHRDR, [Prisoner of Conscience – Chen Xi](#); CHRDR, [Prisoner of Conscience – Li Tie](#); CHRDR, [Prisoner of Conscience – Guo Quan](#).

¹¹ CHRDR, [Prisoner of Conscience – Zhu Yufu](#); CHRDR, [Prisoner of Conscience – Ni Yulan](#).

¹² CHRDR, [Update to UN on Gao Zhisheng](#), July 23, 2012; CHRDR, [Prisoner of Conscience – Gao Zhisheng](#).

¹³ CHRDR, "Chen Kegui Gets 39-Month Sentence in Retaliatory Act Against Chen Guangcheng," [China Human Rights Briefing November 29-December 5, 2012](#); CHRDR, ["Chen Guangcheng: A Special Bulletin – Updates on Situation of Chen Guangcheng & His Family Members, Relatives & Supporters Since Chen's Flight for Freedom."](#) January 31, 2013 (updated).

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- ¹⁸ CHR, “Guangzhou Netizen Xu Lin Released Into Soft Detention After Secret Residential Surveillance,” [China Human Rights Briefing July 7-12, 2012](#).
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- ²⁵ *The New York Times*, “Opposition to Labor Camps Widens in China,” December 14, 2012.
- ²⁶ For more information about China’s first UPR, see: CHR, [UN Human Rights Council Universal Periodic Review of China: Summary, Analysis, and Suggestions for Follow-up](#),” February 11, 2009.
- ²⁷ See [news report](#) (in Chinese).
- ²⁸ The “Two Meetings,” which take place annually in Beijing during March, refer to the meetings of the National People’s Congress and the Chinese People’s Political Consultative Conference.
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⁴¹ CHRDR submitted its August 2012 report to the UN Committee on the Rights of Persons with Disabilities prior to the [review](#) in September 2012 of China’s compliance with the [Convention on the Rights of Persons with Disabilities](#). China ratified the Convention in 2008.

⁴² CHRDR, [Submission to UN on Individuals Subjected to Involuntary Psychiatric Commitment](#), September 14, 2012.

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⁵¹ For full text, see: [Electoral Law of the National People’s Congress and Local People’s Congresses of the People’s Republic of China](#).