

Chapter 2. Civil & Political Rights

2.1. Elections & Political Participation

7 Recommendations Assessed:

186.168 (Russia), 171 (India), 172 (Uganda), 173 (Uganda), 222 (Austria), 228 (Vietnam), and 232 (Germany)

China's Replies:

6 recommendations *accepted*

168, 171, 172, 173, 222 & 228

1 recommendation *not accepted*

232

NGO Assessment:

China has *not implemented any of these recommendations*

Since the 2013 UPR review of China, China has not implemented any of the six recommendations related to elections and political participation, including the role of women in public affairs. Furthermore, China did not accept Germany's recommendation to "[e]nsure democratic participation of members of all ethnic minorities and allow unhindered access to all minority areas, including Tibet" (186.232).¹

In this area, three of the six recommendations are "poor" because of the presumption that citizens' in China have rights that do not exist and in the absence of those achievements, it makes little sense to ask the state to "further guarantee" those rights (173); because there are few measures to ensure participation in decision-making by any citizens, including by ethnic minorities, so it makes no sense to take "further" measures in that

regard (222); and because continuing a system that has not provided autonomy in ethnic areas and has been the foundation for human rights violations in China is counter to the goals of the UPR (228).²

Women continue to be underrepresented in the Chinese Communist Party (CCP), and government and legislative bodies at all levels. Chinese authorities have not fully implemented election laws, and the CCP has excessive influence over who can be a candidate in elections. Party and governmental interference in people's congress and village elections has been pervasive, and political institutions have not complied with international norms. CCP and government officials often retaliate against independent candidates, including through harassment, detentions, and prison sentences. In addition, discrimination against ethnic and decision-making bodies affecting religious minorities continues to be a concern.

To understand the situation in China, a brief description of elections in China is necessary. China only has direct elections for people's congress delegates in local townships, counties, municipal districts, and cities not divided into districts. Above these levels, including at the national level, there are no direct elections; congress delegates are selected by people's congresses at the next lower level.³ Direct elections are also held at the lowest administrative levels for village committees and urban community-level "residence committees." Village-level administration is particularly complex—involving Party, village committee, and village "supervision" and "assembly" groups⁴—but according to law, the Party committees play the leading role.⁵

Low Women's' Public Participation & Election Laws Not Fully Implemented

Women in China continue to be underrepresented in Party and government leadership positions, a fact that the Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern about in its 2014 Concluding Observations.⁶ Chinese authorities have not met the 30 percent goal for women's participation in government and political agencies, which was set out in the 1995 Beijing Declaration and Platform for Action, and reiterated in China's 2011-2020 Women's Development Program.⁷ Underrepresentation is particularly grave at the top. There has never been a woman on the Party Central Committee, and as of March 2015, only two of 25 ministry-level agencies had women leaders, and there were no women provincial-level CCP secretaries.⁸

Since the 2013 UPR review, Chinese authorities have not made additional efforts to ensure equal political participation for women in China's legislative and advisory bodies at all levels, and women continue to be underrepresented;⁹ hence, China has not implemented India's recommendation (171). In the 12th National People's Congress (NPC) (2013-2018), women delegates hold 23.4 percent of the seats and just 15.5 percent of the NPC Standing Committee positions, a decrease from the previous Congress. The percentage of women in the advisory body, the Chinese People's Political Consultative Conference (CPPCC), is even less; women hold just 17.8 percent of the total seats, and only 11.8 percent of the CPPCC Standing Committee positions.¹⁰ According to official Chinese statistics, the percentage of women in the NPC has hovered around 21 percent since the late 1970s.¹¹

Authorities have not implemented the two recommendations from Uganda (172 and 173) because they have not fully implemented the 2010 revisions to the Organic Law of Villagers Committees; nor have they taken additional measures since then, thereby not taking steps to ensure equal representation for women in village committees.¹² The percentage of women on village committees has not changed much since the early 1990s; in 2014, the national average percentage of women on village committees was 22.8 percent, an increase of 1.4 percent from 2010, but only 1.8 percent higher than in 1993.¹³ One delegate of the CPPCC noted that, in some provinces, women's representation on village committees had not reached 20 percent, and reports note that committees in other villages have no women representatives at all.¹⁴

Moreover, numerous reports from within China note problems with discrimination against women in elections since 2013.¹⁵ In addition, gender-specific roles in politics also remain deeply ingrained. One Chinese People's Political Consultative Conference (CPPCC) delegate noted that women on village committees still mostly work on family planning policy issues, propagating gender-specific stereotypes.¹⁶ While the percentage of women in urban residence committees in 2014 was 48.9 percent,¹⁷ these committees have always been considered "women's work," and so women traditionally have dominated these committees.¹⁸

No Guarantee of the Rights to Vote & Be Elected

The government has not implemented Uganda's recommendation—that Chinese authorities guarantee citizens' right to vote, to be elected, and to express themselves (186.173)—since the CCP and government officials wield undue influence over who can be a candidate in people's

congress elections. Without protection of the right to be elected, elections in China are not necessarily free and fair, and political institutions do not comply with international standards.¹⁹ Interference by officials in elections includes judging potential candidates using criteria not disclosed to the public or that conflicts with national laws. For example, the 2015 revision to the Election Law for people's congresses included a new provision that gives an "examination committee" the authority to "examine" individuals who win people's congress elections before they assume office.²⁰ The "criteria" the Examination Committee uses are not disclosed to the public, and are above and beyond the scope of the basic criteria in Article 2 of the Election Law.²¹ The additional "examination" further opens the door to arbitrariness and increased government or CCP interference in elections.

This problem of interference also takes place at the village level. Higher-level authorities impose secondary eligibility criteria for candidates that go beyond the law, sometimes under the banner of having members of the committee be "broadly representative." Since the 2013 UPR, officials in some parts of China prohibited certain types of individuals from becoming candidates in, being elected to, or assuming office in village committees by imposing requirements not stipulated in China's Organic Law of Village Committees. These criteria include age, education, and loyalty to the Party line.²² Other arbitrary criteria authorities utilized to prohibit individuals from becoming village committee candidates include, among other activities: the lack of Party membership, alleged distribution of "suggestions that counter Party theories, guidelines, and policies," "creating or disseminating political rumors," or initiating mass incidents or inspiring people to file petitions.²³ Documents from higher-level officials or local leaders outline additional "criteria" that are not included in the Election Law, which local "election work leading small groups" or other Party or government agencies use to "disqualify" individuals from running in elections.²⁴

Reprisals Against Independent Candidates & Election Monitors

As one local observer pointed out, elections have deteriorated to the point that that "not only do people not have the right to participate in elections but even if you are considering it, you may be punished. People are frightened to join elections."²⁵ In 2014, CEDAW expressed its deep concern over reports that women who have stood in elections as independent candidates have been "subjected to abuse and violence."²⁶ In the latest round of people's congress elections in 2016, authorities have cracked down on unsanctioned candidates across the country.²⁷ Some examples of reprisals against independent candidates, their supporters, and election monitors include:

- In June 2016, Guangdong Province authorities detained Wukan Village committee chief, Lin Zulian (林祖恋), assigned him a government-appointed lawyer, likely forced him to make a televised confession—which he later retracted—and then tried and convicted him in September on charges of "bribery."²⁸ Lin received a 37-month sentence and a fine of 200,000 RMB (approx. 29,500 USD),²⁹ and lost his appeal in October.³⁰ Lin's initial detention came just days after he published an open letter saying he would initiate protests and mass-complaints to higher-level authorities regarding continuing illegal land sales and failure to provide compensation for land confiscations in Wukan.³¹ Lin had led

past demonstrations against such land deals, and had been freely elected by his peers in 2012.³²

- In August 2016, local authorities in Zixi County, Jiangxi Province administratively detained Yang Wei (aka, Yang Tingjian, 杨霆剑) for 10 days after he tried to submit an application to become a candidate in people's congress elections in Hecheng Township.³³ Yang has said he would continue his efforts to seek office, despite threats to himself and his family and 24-hour surveillance around his house.³⁴
- In October 2016, officials in Qianjiang City, Hubei Province forced election expert Yao Lifa (姚立法) into a vehicle and took him away³⁵ on the same day he and 57 others declared their candidacy for local people's congress elections.³⁶ Not long before, officials had shut down Yao's popular election monitoring blog, likely for his reporting on Shanghai and Beijing independent candidates.³⁷
- Beijing authorities harassed Ye Jinghuan (野靖环) after she and 17 others issued an open letter declaring their intention to run in elections in October 2016.³⁸ Authorities in Fangshan district, Beijing, followed and prevented Liu Huizhen (刘惠珍), who was among the very few of 60 independent candidates to get onto the ballot, from meeting with voters or carrying through with a rally.³⁹ Beijing police also harassed, intimidated, or beat up other independent candidates to prevent them from running, meeting journalists,⁴⁰ and voters, making campaign speeches,⁴¹ or canvassing.⁴²
- Other recent instances of detention or harassment of independent candidates and their supporters in 2016 include the criminal detention of Guan Guilin (管桂林), a Hunan man, on suspicion of "disrupting elections" after he tried to register as a candidate,⁴³ and the detention of individuals in Shanghai who were handing out flyers in support of one independent candidate.⁴⁴
- In 2014, also in Wukan Village, independent candidates Yang Semaoy (杨色茂) and Hong Ruichao (洪锐潮) were detained on trumped-up bribery charges. Authorities had warned Hong not to participate in the election, but he did anyway and won a seat on the village committee, even though he was detained at the time. In late 2014, courts sentenced Yang to two years' imprisonment and Hong to four years.⁴⁵ Both candidates had been leaders in 2011 demonstrations against land seizures and the death of a villager in custody, and were subsequently voted into the village committee in 2012 elections.⁴⁶

Discrimination Against Minorities & Interference in Decision-making

Discrimination against ethnic and religious minorities in village and people's congress elections and in decision-making bodies continues to be a problem, and China has not implemented recommendations related to this issue made by Austria (222), Viet Nam (228), and Germany (232). CEDAW expressed concern in 2014 over the underrepresentation in political decision-making of ethnic and religious minority women as well as rural and migrant women.⁴⁷ Between 2013 and 2016, some government job postings indicated that only Han Chinese citizens would

be eligible to apply, reducing opportunities for non-Han to participate in decision-making.⁴⁸ In 2014, CCP authorities in a prefecture in the Tibet Autonomous Region (TAR) restricted certain individuals from becoming village committee candidates because they were not Party members, or because they had attended religious gatherings abroad that had been organized by the Dalai Lama.⁴⁹

Authorities in the TAR not only interfere in elections, they also interfere in decision-making at the organizational level, and even intrude at the household level in attempts to monitor political thought and behavior. Party and government officials removed some members of management committees in monasteries and nunneries in the TAR and reportedly replaced them with “government and Party appointees,” and have demand that monks and nuns “demonstrate their support” for the Party.⁵⁰ The intrusion of government and Party officials at the household-level in the TAR, and other areas, is particularly worrisome, because such behavior is likely to stifle freedom of thought and speech. According to a Human Rights Watch report, teams of officials were “categorizing Tibetans according to their religious and political thinking, and establishing institutions to monitor their behavior and opinions.”⁵¹

Suggestions

- Guarantee elections are free and fair and make sure citizens are able to exercise their right to vote and be elected, including by ensuring the implementation of all electoral laws, making all relevant regulations and rules open to the public, and abolishing non-transparent Party “evaluation” processes;
- Ensure women’s equal participation in elections and public affairs, in part by educating and training women regarding political leadership, and by adopting a specific quota system for women members in villagers’ committees and in local and national people’s congresses;
- Guarantee, through legislative and other measures, ethnic and religious minorities equal participation in elections and decision-making;
- Investigate allegations of harassment and violence against potential candidates, candidates, or delegate-elects in elections at all levels, and make public the results of such investigations, prosecute the perpetrators, and compensate the victims.

2.2. Death Penalty

11 Recommendations Assessed:

186.17 (Benin), 18 (Estonia), 107 (New Zealand, Rwanda, Portugal, Argentina, Australia, Spain), 108 (Italy, Switzerland, France, Belgium), 109 (Italy, Bulgaria, Germany, Belgium), 110 (Algeria), 111 (Egypt), 112 (Namibia), 113 (Slovenia), 114 (Chile), and 128 (Norway)

China's Replies:

2 recommendations accepted

110 & 111

9 recommendations not accepted

17, 18, 107, 108, 109, 112, 113, 114 & 128

NGO Assessment:

China has partially implemented recommendations 109 & 110, and has not implemented the other nine recommendations

China did not accept and did not implement most of the 11 recommendations made on the death penalty.

However, we assess that the government has partially implemented two recommendations.⁵² China pledged in 2013, as a candidate in the elections for a Human Rights Council seat, that judicial organs would “continue to strengthen the prudent application of the death penalty.”⁵³ Since then, however, it appears that China has not kept its pledge, nor has it taken seriously most recommendations about the death penalty made during its 2nd UPR. The trend of small reductions in the number of annual executions seems to have stalled, non-transparency remains the rule, various reform measures have been extraneous or inadequate, and China’s application of the death penalty does not conform to international standards.

Stalled Decline in Estimated Number of Executions

Chinese authorities continue to classify information about executions as a state secret.⁵⁴ In 2015, the Committee Against Torture (CAT) expressed concern over the “lack of specific data on the application of the death penalty,” which prevented the Committee from verifying whether legislative reforms are being implemented in practice.⁵⁵ According to NGO estimates,

China executes more people per year than all other countries combined.⁵⁶ While Chinese authorities have gradually provided more data on individual executions over the past five years, reporting is selective and limited information is still only available about a very small percentage of executions.⁵⁷ In addition, since the Supreme People’s Court (SPC) took back the authority to review death penalty cases, it has rejected the penalty in a small percentage of cases.⁵⁸ According to one NGO’s analysis of 525 cases reviewed by the SPC of individuals facing the death penalty between April 2011 and November 2015, the SPC rejected the penalty in only 11 cases, a rate of 2 percent. This rate, though based on what is understood as incomplete data, is significantly lower than the 10 percent figure reportedly provided by SPC officials.⁵⁹

Extraneous Measures to Reduce Crimes Punishable by Death

Although China did not take action to implement the majority of UPR recommendations on the death penalty, Chinese authorities have reduced the number of crimes punishable by death, thereby partially implementing recommendation 186.109 (Italy, Bulgaria, Germany, Belgium). During the November 2013 Third Plenum of the 18th Chinese Communist Party Central Committee, the Party issued a decision that included language on reducing the crimes punishable by death.⁶⁰ Following this, in 2015, the National People’s Congress passed the Ninth

Amendment to the Criminal Law, which reduced the number of crimes punishable by death by nine (55 reduced to 46).⁶¹ However, these reductions do not appear to be meaningful and impactful; Chinese press reports, cited in an Amnesty International report, acknowledged that “the nine crimes were rarely used” so the reductions would likely have little impact on the total number of executions.⁶² In 2015, the two UN special rapporteurs on summary executions and on torture welcomed China’s measures (to reduce the number of crimes punishable by death), but the latter also urged the Chinese government to take “further steps towards abolishing the death penalty...”⁶³

Death Penalty Implementation & Review Do Not Conform to International Standards

In 2012, China issued new provisions in the amended Criminal Procedure Law that restricted the application of the death penalty.⁶⁴ One Chinese scholar and expert on the death penalty concluded, however, that these provisions and other measures have not been fully implemented, and that there has been little or no improvement in China’s application of the death penalty.⁶⁵ After 2013 and China’s 2nd UPR, the government made fewer efforts to reform the use of the death penalty than it reportedly had in previous years. In the 2012-2015 National Human Rights Action Plan (NHRAP), China made a vague pledge that “more strict standards will be adopted” with regard to evidence used in capital cases, without detailing what these standards would be or how they would be measured.⁶⁶ The official assessment of the implementation of this plan simply reiterates mostly pre-2013 judicial interpretations passed, regulatory measures put in place, and institutional changes, but does not discuss how all of these measures have been implemented in practice.⁶⁷ In January 2015, the SPC issued so-called “new” measures, which simply clarified existing procedures for how defense lawyers may present their opinion to judges during the SPC review of death sentences.⁶⁸

In June 2016, the SPC instructed second-instance courts to, in principle, review capital crime cases remanded by the SPC instead of just returning the case to the court of first-instance, except under special circumstances.⁶⁹ Some believe this process may help to reduce local government protectionism leading to interference in court cases.⁷⁰ Nevertheless, in 2015-2016, some Chinese scholars reportedly expressed concerns about the lack of clear legal standards in the death penalty review process. They called on officials to issue guidelines for sentencing, expressed concerns about the sufficiency of procedures relating to meaningful representation by lawyers, and called on the government to be more transparent about statistical data on the review of capital cases.⁷¹

Application of the death penalty in China still does not conform to international standards. China has signed but not ratified the International Covenant on Civil and Political Rights (ICCPR), the major covenant with provisions pertaining to application of the death penalty.⁷² Having signed the ICCPR, the Chinese government is obliged to not take measures that defeat the treaty’s purpose, but China’s application of the death penalty fails to conform to the ICCPR in multiple ways.⁷³ For example, the ICCPR stipulates death sentences “may be imposed only for the most serious crimes...,” but China continues to condemn to death individuals for non-violent and economic crimes.⁷⁴ Furthermore, the ICCPR stipulates that “no one shall be arbitrarily deprived of his life,” which has been interpreted to mean States should guarantee the right to a fair defense.⁷⁵ In China, the judiciary is subservient to the CCP, the legal system lacks political

independence,⁷⁶ and state-run media may influence outcomes in death penalty cases,⁷⁷ so there is no guarantee of a fair trial for those facing a possible death sentence. Chinese authorities also continue to use torture to extract confessions and use them in court convictions, including those leading to executions.⁷⁸ There are other issues inherent in the judicial system that prevent defendants from receiving a fair trial, including the lack of the assumption of innocence and standards of evidence to eliminate reasonable doubt, inhumane treatment of detainees on death row, and denial of their rights to see and communicate with family members.⁷⁹

Inadequacies of other measures from the Chinese government also undermine the right to a fair defense in death penalty cases:

- The 2012 revisions to the CPL stipulate that legal aid agencies assign an attorney to a defendant facing capital punishment in a lower court trial, but this does not apply when the case comes under the mandatory SPC review.⁸⁰
- Measures issued in early 2015 by the SPC, further clarifying the role of lawyers in final death penalty reviews, are too weak and exclusory to help ensure a fair legal defense for detainees facing execution.⁸¹
- The government has proposed instituting a ranking system for lawyers; however, if enacted, there is fear it could be used to prohibit certain lawyers from representing their defendants in death penalty cases.⁸²

Additionally, China lacks a system whereby death row inmates may apply for a pardon, and executions typically take place a short period after the SPC conducts its review. The NGO Dui Hua Foundation reviewed about 500 SPC review verdicts and found that, on average, executions take place within two months of the SPC verdict, indicating sometimes there is a time lag between a SPC verdict and the signing of the warrant of execution.⁸³ By law, executions should take place within seven days after the SPC president issues a warrant of execution after the SPC finishes its review of a case.⁸⁴

In 2016, public outcry erupted over the case of Jia Jinglong (贾敬龙), who was executed in November 2016 after he killed a village chief who had arranged for Jia's house to be demolished just before Jia's wedding.⁸⁵ Many Chinese and international law experts found it problematic that authorities executed Jia Jinglong so soon after the lawyer received the verdict, and argued that the court did not sufficiently weigh mitigating circumstances in his case or adhere to the state policy stipulating caution in death penalty cases.⁸⁶ Initially, calls for a delay included an opinion piece in government-affiliated media, but following the execution, state media published articles justifying the SPC's decision, perhaps to counter the public uproar.⁸⁷

In 2015, CAT encouraged China to "establish a moratorium on executions and commute all existing death sentences," as well as accede to the Second Optional Protocol of ICCPR on abolishing the death penalty.⁸⁸ However, the government has not implemented these recommendations.

Suggestions

- Increase transparency regarding the number of executions and individuals sentenced to death and repeal the classification of executions as a state secret;
- Implement a five-year moratorium on executions and ensure humanitarian treatment of death penalty convicts;
- Eliminate all non-violent crimes from the list of crimes to which the death penalty applies; and eliminate “Strike Hard” campaigns and abolish policies dictating that murder cases must be solved;
- Impose a six-year time limitation between a death sentence and an execution;
- Establish a system allowing pardons for death row prisoners and establish a three-tiered appeals process in death penalty cases.

2.3. Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment

5 Recommendations Assessed:

186.49 (Mexico), 51 (Denmark), 52 (Afghanistan), 64 (Kenya), and 117 (Germany and France)

China's Replies:

5 recommendations accepted

49, 51, 52, 64, 117

2 already implemented

49 & 117

1 being implemented

51

NGO Assessment:

China has partially implemented recommendation 117, and has not implemented the other 4 recommendations

The Chinese government has been party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (Convention) since 1988. Yet it continues to violate provisions of the Convention.⁸⁹ The government has not implemented the 2013 UPR recommendations concerning compliance with the Convention and other human rights treaties, even though it “accepted” and claimed to be “implementing” Denmark’s recommendation (186.51) concerning the exclusion of torture-extracted evidence in court and Mexico’s (49) concerning the harmonization of the definition of torture in Chinese law with the Convention.⁹⁰

Due to the government’s lack of cooperation with the Committee Against Torture (CAT) and its treatment of data on torture cases as a “state secret” (see Section 1.3), it is nearly impossible to obtain the necessary information for assessing whether the government is “considering” views of UN treaty bodies and other human rights mechanisms (64). As discussed in Sections

1.1 and 1.3, the Chinese government has refused to sign the Optional Protocol to the Convention against Torture, which would obligate China to allow unrestricted access to data on individual cases, including their treatment, and all places of detention.⁹¹ In addition, China has refused to allow a visit by the Special Rapporteur on Torture since the last visit in 2005.⁹²

There is no clear and comprehensive definition of torture in Chinese law. Even though national legislators in 2014 amended the definition in both the Criminal Law (CL) and Criminal Procedure Law (CPL), these still fall short of complying with the definition in the Convention. Chinese law still only criminalizes some forms of physical mistreatment, and does not consider psychological abuse as torture.⁹³ Also, while a Supreme People’s Court (SPC) interpretation issued in 2012 recognized the infliction of severe “mental pain” as an act of torture, it does not define what constitutes “mental pain,” nor elaborate on behavior that could inflict such pain.⁹⁴

Reiterating its longstanding concern about this issue, CAT noted in 2015 that China’s legal “provisions do not include all the elements of the definition of torture set out in Article 1 of the Convention.” CAT also noted the Criminal Law’s provisions that prohibit torture “may not cover all public officials and persons acting in an official capacity,...do not address the use of torture for purposes other than extracting confessions,” and “restricts the scope of the crime to the actions of officers of an institution of confinement or of other detainees at the instigation of those officers.”⁹⁵ The restriction on pursuing prosecution on torture allegations only for official state agents effectively leaves immune from criminal prosecution alleged torturers at illegal makeshift detention facilities (i.e. “black jails”) or psychiatric institutions, where government officials have

ordered Chinese citizens to be detained in significant numbers.⁹⁶ (See Section 2.4)

In responding to UPR recommendations, China claimed that it had amended laws and regulations to prohibit the use of evidence obtained through torture in criminal cases. The government responded to Mexico's recommendation (49) that the "amended Criminal Procedure Law of China further makes it clear that confessions obtained through extortion or other illegal means should be excluded."⁹⁷ In addition, China responded to Denmark's recommendation (51) by claiming that the amended Public Security Organs Regulations on Procedures for Handling Criminal Cases stipulates that such "illegal evidence...shall be excluded in accordance with law, and shall not be used as the basis for the approval of an arrest and prosecution review."⁹⁸ Besides the above provisions, judicial bodies issued two SPC "opinions" in 2010 and 2013 that elaborate on the types of coercion prohibited in criminal investigations.⁹⁹

While the Chinese government has tried to codify the exclusion of torture-extracted evidence in criminal cases, authorities have not fully implemented the relevant provisions and rules in practice. The information provided by the government for the CAT review in 2015 listed just five cases (that occurred between 2011 and 2013) where courts had thrown out such evidence.¹⁰⁰

We have documented cases where courts have allowed evidence gained through torture to be introduced in trials, declined requests by lawyers to exclude the admissibility of such evidence, or interrupted testimony by defendants about mistreatment they suffered to force them to confess.¹⁰¹ Even the Chinese government itself continues to recognize this problem and the need for further progress. A 2014 report in a state-run publication noted that courts continue to admit evidence extracted from torture.¹⁰² In October 2016, central authorities jointly issued an opinion about criminal procedure reform focusing on eliminating suspects' self-incrimination through coercive means.¹⁰³

In concluding its 2015 review, CAT expressed its concern that the government had not provided sufficient data on instances in which the exclusionary rule has been invoked and the outcome of those cases. CAT was also concerned over reports that Chinese courts often shift the burden of proof of torture allegations back to defendants in exclusionary procedures, and dismissed lawyers' requests to exclude confessions extracted through torture.¹⁰⁴

In failing to enforce laws and regulations prohibiting the use of torture to gather evidence, China has fallen short of achieving goals outlined in the government's National Human Rights Action Plan (NHRAP) (2012-2015). In that plan, the government claimed that, besides other measures, "the function rooms of the case investigation areas will be established in line with the procedures of case investigation, where permanent sound and video recording as well as video surveillance systems will be installed for real-time monitoring and control over the whole course of law enforcement and investigation to prevent any violation of the legitimate rights and interests of citizens."¹⁰⁵

In interviews that CHRD conducted for a civil society report for CAT's 2015 review, Chinese criminal lawyers told CHRD that, despite an amended CPL provision that encourages the use of audio and video equipment to record criminal interrogations, this provision does not mandate their use. This allows officials to disregard it without facing any consequences. Such equipment

is only sporadically installed in detention facilities or interrogation chambers. According to these lawyers, even in places where such equipment is installed, police have turned them off during interrogations, only taped portions of the interrogations, or deleted potentially incriminating footage. In addition, vague legal provisions as well as lax implementation of laws and regulations have made it difficult for lawyers to obtain video evidence if their clients allege mistreatment. In court proceedings, video footage from prisons and detention facilities has rarely been used to substantiate a defendant's allegations of torture, much less to prosecute alleged abusers.¹⁰⁶

Our documentation has shown that China has failed to establish mechanisms within law-enforcement and criminal justice systems to ensure that measures to curb torture are implemented. Specifically, the government has not provided protection for criminal suspects during interrogations, established receptive channels for alleged torture victims to safely file complaints, or criminally prosecuted state torturers. Few victims of alleged torture in China file complaints or seek accountability, for reasons that underscore a lack of public confidence in the country's law-enforcement and justice systems. Specifically, those who wish to seek justice confront numerous obstacles: ineffective legal and administrative channels for filing such allegations, a strong possibility of reprisals, and the absence of state bodies that can investigate torture allegations with independence from CCP influence. Few state agents accused of acts of torture have been criminally prosecuted or punished in China, and those who are convicted are given light punishments relative to the severity of their crimes, thus creating a cycle of impunity for torturers.¹⁰⁷ China's failures to enforce laws and regulations related to the prosecution of state agents accused of committing torture undermines the State pledges made in the NHRAP.¹⁰⁸

Suggestions

- Include a comprehensive definition of torture in both the Criminal Procedure Law and Criminal Law that conforms with the Convention against Torture and covers all the elements contained in Article 1 of the Convention;
- Strictly enforce relevant legal provisions to ensure that illegal evidence extracted through torture is excluded in court trials, and hold state agents criminally accountable for committing acts of torture;
- Establish effective and confidential monitoring procedures in all incarceration facilities, and ensure that any designated monitoring body can function with independence;
- Withdraw its reservation to Article 20 of the Convention, declare in favor of Articles 21 and 22, and sign and ratify OPCAT.

2.4. Administrative Detention: Involuntary Commitment to Psychiatric Institutions

6 Recommendations Assessed:

186.115 (USA), 116 (UK), 117 (Germany, France), 118 (Sweden), 122 (Canada), and 127 (USA)

China's Replies:

2 recommendations accepted

117 & 118

1 being implemented

118

4 recommendations not accepted

115, 116, 122 & 127

NGO Assessment:

China has partially implemented recommendations 117, 118 & 127, and has not implemented the other three recommendations

Overall, China has not made substantial progress in fully implementing recommendations made on abolishing all administrative detention systems during the second UPR. We acknowledge the positive step made when the Re-education Through Labor system, a form of administrative detention, was abolished in 2013.¹⁰⁹ However, other forms of administrative and extra-judicial detention continue to be used, including involuntary commitment in psychiatric institutions. A plausible explanation for the ongoing use of forced institutionalization is that, so far as their tools for political persecution are concerned, Chinese authorities are actually trying to fill the void left after the abolition of Re-education through Labor.

The government accepted Sweden's recommendation (186.118) that China should "[e]nsure that any reformed prison or compulsory care system meets international human rights standards, and abolish system of arbitrary detention, including Re-Education Through Labour." In responding to this recommendation, the government claimed that it was implementing this and pointed out

that "[t]he amended Criminal Procedure Law of China clearly stipulates that compulsory mental health treatment for mentally ill people should be decided by courts."¹¹⁰ The government also responded to Canada's recommendation (122) that China must "[r]elease all people in administrative detention for political reasons" by repeating its response given to the United States (115): "There is no one in China who is kept in administrative detention for political reasons."¹¹¹

The government's statements do not reflect the fact that other forms of administrative detention remain in operation, and also that the amended CPL has not been fully implemented in regard to involuntary psychiatric commitment, which remains a common form of extra-judicial detention for activists and government critics in China. Despite enacting its first Mental Health Law (MHL) in May 2013, the government has failed to halt this method of political persecution. The MHL stipulates that forced psychiatric commitment be based on a diagnosis by a qualified physician, and only in very limited situations while following a "voluntary" principle.¹¹² Government bodies are only permitted to intervene under two very narrow scenarios: public security organs can intervene if there has been two diagnostic conclusions that the individual has a serious mental disorder and their guardians object to in-patient care; and an individual's workplace, village committee, or residential committee can act as a guardian if closer guardians cannot be located.¹¹³ In criminal cases, the CPL only permits a court to approve an involuntary commitment on the recommendation of a procuratorate, and does not allow government officials or public security police to act unilaterally to institutionalize anyone.¹¹⁴

Because the MHL does not require a court order, police or other government officials who send someone to a psychiatric institution usually do not have one. Since the MHL took effect, on May 1, 2013, government officials or police have continued to commit petitioners, human rights activists, and critics of the government to psychiatric hospitals against their will, without obtaining a diagnosis of mental illness from qualified physicians (or where no perceived threat of violence exists). The Chinese NGO Civil Rights and Livelihood Watch has documented hundreds of cases in China of forced psychiatric detention on political grounds between 2009 to 2016.¹¹⁵ Cases show that authorities have ordered hospital personnel to detain such individuals and medicate them as they see fit in order to “discipline” them or make them obey rules in the institutions.¹¹⁶ One example is Xing Shiku (邢世库), a labor activist who has been detained in a psychiatric hospital in Heilongjiang Province since 2009.¹¹⁷ Chinese authorities continue to defy an “opinion” issued by the UN Working Group on Arbitrary Detention in May 2014 that called for Xing to be freed.¹¹⁸

Individuals forced into psychiatric commitments on political grounds are subjected to a wide range of rights abuses. Besides illegal detention, they are usually deprived of visitors, including legal counsel, and are blocked from seeking judicial review of their institutionalization.¹¹⁹ These practices clearly violate the Mental Health Law. Under Article 37 of the MHL, the treatment facilities and their staff must inform the patient or their guardian of their rights during diagnosis and treatment. Under Article 46, a patient’s communications and meetings with visitors must not be limited except when temporary measures are needed due to “acute onset of symptoms” or to “avoid obstructing treatment.” Detainees can also face myriad physical abuses, often used as punishment, that constitute torture or other forms of cruel, inhumane, and degrading treatment. These include beatings, forced injections of unidentifiable drugs, electric shocks, and having their hands, legs, and torsos tied up to hospital beds.¹²⁰

UN human rights treaty bodies have repeatedly raised serious concerns over these above practices and made specific recommendations for their abolition. CAT raised concern in its November 2015 review of China that involuntary psychiatric commitment breaches the Convention against Torture (Articles 2, 11, and 16). CAT noted that “compulsory psychiatric institutionalization” has been “allegedly used to detain [criminal] suspects without accountability,” and that “local police impose such measures without any judicial process.”¹²¹ CAT further stated that the Chinese government has not responded with clarity to inquiries about forced psychiatric commitment.¹²²

In 2012, the UN Committee on the Rights of Persons with Disabilities (CRPD) raised concern that involuntary confinement is used as a tool to maintain public security, and was “disturbed” that individuals with “actual or perceived impairments” had been subjected to such detentions, which violates the Convention on the Rights of Persons with Disabilities in regards to liberty and security of persons, and freedom from torture (Articles 14 and 15). CRPD recommended the government abolish all forms of involuntary civil commitment based on actual or perceived impairments and cease subjecting such individuals to therapies,¹²³ but Chinese authorities have ignored these recommendations.

Suggestions

- Abolish all forms of extra-judicial detention;
- Ensure all institutions of compulsory care meet international human rights standards and protect the rights of those committed in such institutions, including granting access to legal counsel, visitors, and periodic judicial review;
- Release all individuals held in extra-judicial detention facilities, including psychiatric institutions, for political reasons, including religious practitioners, dissidents, petitioners, journalists, human rights defenders, and their family members.

2.5. Freedom of Expression & Internet Use

21 Recommendations Assessed:

186.136 (Australia), 137 (Spain), 148 (Nigeria), 149 (Ireland), 151 (Costa Rica, Poland, Sweden), 152 (Sweden), 153 (Denmark), 154 (Norway), 155 (Germany), 156 (Czech Republic), 157 (Côte d'Ivoire), 158 (Poland), 159 (France), 160 (Austria), 161 (Estonia), 165 (Myanmar), 166 (Ethiopia), 168 (Russia), 169 (Chile), 170 (Australia), and 173 (Uganda)

China's Replies:

13 recommendations accepted
136, 148, 149, 154, 155, 157, 158, 165, 166, 168, 169, 170 & 173

3 being implemented
149, 158 & 170

8 recommendations not accepted
137, 151, 152, 153, 156, 159, 160 & 161

NGO Assessment:

China has *partially implemented* recommendation 166, has *not implemented* the other 20 recommendations

Recommendations 162 (Viet Nam), 163 (Bangladesh), and 164 (Cuba) are *inappropriate* [not assessed]

The Chinese government “accepted” most of the UPR recommendations concerning freedom of expression, including Internet use, but has only *partially implemented* one—on continuing “the spread of Internet connections through the rural areas” (Ethiopia).¹²⁴ We consider three of the “accepted” recommendations *inappropriate*, since they express unprincipled support for government control of expression and information on the Internet (from Viet Nam, Bangladesh, and Cuba).¹²⁵ China has *not implemented* any of the eight recommendations that it did not accept.

Since 2013, the government has intensified its suppression on freedom of expression, leveraging laws and policies to control access to and sharing of information on the Internet, and escalating criminal persecution of speech. The Xi Jinping leadership has adopted a zero-tolerance policy towards expression of political dissent, including criticisms and complaints about government policies, especially online. This concerning development goes against a 2009 resolution of the UN Human Rights Council, reconfirming that governments should refrain from imposing restrictions on “[d]iscussion of government policies and political debate; reporting on human rights, government activities and corruption in government...”¹²⁶ In 2014, the Committee on Economic, Social and Cultural Rights urged China “to take effective measures to remove restrictions on freedom of expression and information.”¹²⁷

Internet users have grown rapidly in China in recent years. According to government data, by the end of 2015, China’s online population had reached 688 million, and the “Internet penetration rate” had reached 50.3 percent.¹²⁸ However, the Chinese government has

also increased its heavy monitoring and censorship on the Internet through an extensive cyber-policing apparatus. The “Great Firewall” severely restricts online information that can be accessed within the country.

The stifling environment for free expression undermines the government’s claim that it Australia’s recommendation (170) to “increase transparency of traditional and social media by guaranteeing the rights of Chinese citizens to freely critique any state organ or functionary” is “being implemented.”

Legal Tools Targeting Free Expression

A judicial interpretation issued in September 2013 by the Supreme People's Court and Supreme People's Procuratorate expanded the scope of the crime "picking quarrels and provoking trouble" (Article 293(4) Criminal Law) so that "cyberspace" is now considered a "public place."¹²⁹ In expanding the law from the previous application restricted only to acts in physical locations, authorities have another domestic loophole to punish online expression, including speech that involves critical comments on party leaders or government policies.

The government has issued new regulations or campaigns to tighten restrictions on media, the use of cell phones, and social media tools since the 2013 UPR. In June 2014, China's major media regulator, the State Administration of Press, Publication, Radio, Film and Television, issued a notice that forbids journalists working for state media from publishing "critical reports" without approval of their employers, thus elevating the need for official media outlets to self-censor.¹³⁰ In June 2014, the Ministry of Public Security announced a campaign against "online crime" that allows police to monitor online messages, including texts on cell phones.¹³¹ The campaign supposedly focused on "traditional crimes that endanger social order," such as disseminating information that "endangers national security," but authorities did not define what these "traditional crimes" were or what constitutes "illegality."¹³² Regulations that took effect in August 2014 further restricted the use of China's instant message services to share news and information without government authorization.¹³³ More recently, "Regulations on Internet Publishing Services Administration," which took effect in March 2016, have placed vaguely worded limitations on the scope of content that can be published online, targeting materials that would allegedly involve "politically sensitive" issues.¹³⁴

Several new pieces of adopted legislation (listed below) have further reduced—or will reduce—the already restricted space for free expression. A common element among these laws is the criminalization of speech in the name of "national security," a term that is nebulously defined in the legislation, thus opening the door for the government to target its critics.

- China's Counterespionage Law, passed and enacted in November 2014, allows national security agencies to confiscate or shut down telecommunications equipment if authorities find that an organization or individual is "harming national security."¹³⁵
- The National Security Law, passed and enacted in July 2015, targets "dissemination of unlawful and harmful information on the Internet" without clearly defining "unlawful information."¹³⁶
- The Ninth Amendment to the Criminal Law, which was adopted in November 2015, for the first time specifically criminalizes the online dissemination of "false" information, in particular about "danger, epidemics, disasters or security alerts."¹³⁷
- The Counter-Terrorism Law, passed in December 2015 and enacted January 1, 2016, prohibits behavior that "distorts or slanders national laws, policies, or administrative regulations," and provides for large-scale police monitoring and surveillance, both online and offline.¹³⁸

- The National Cyber Security Law, passed in November 2016 and to take effect in June 2017, stipulates that individuals and groups should “observe public order and respect social morality...and must not use the [Internet] to engage in activities upsetting social order, [and] harming the public interest...” The law prohibits individuals or groups from establishing “websites and communication groups” for “spreading...information related to unlawful and criminal activities,” which may provide authorities a pretext to criminalize online sharing about human rights cases or public protest. Under the law, the State Council may approve of restricting network communications (i.e., cutting off of the Internet) in certain regions if it deemed it necessary for protecting “social public order.”¹³⁹
- The Film Industry Promotion Law, passed in November 2016 and to take effect in March 2017, forbids film content based on political criteria that are open to authorities’ interpretation, including if material harms the “dignity, honor and interests” of the country, or if it foments opposition to China’s law or Constitution, harms state unity or security, threatens sovereignty or territorial integrity, or exposes national secrets.¹⁴⁰

These laws and regulations demonstrate that the Chinese government has taken steps in the wrong direction from revising its laws and reforming its law-enforcement and criminal judicial systems towards compliance with international standards for protection freedom of expression and the press, as stipulated in the International Covenant on Civil and Political Rights.¹⁴¹

Censorship & Speech Crimes

Authorities have detained and imprisoned individuals for exercising free expression by accusing them of committing various crimes, including “inciting subversion of state power,” “defamation,” and “illegal business activity.”¹⁴² In the fall of 2014, dozens of activists were held on suspicion of “picking quarrels and provoking trouble” after they posted online messages expressing support for the Hong Kong pro-democracy protests.¹⁴³

In widely publicized free speech cases emblematic of the government’s criminalization of information-sharing and free expression, Chinese courts in 2015 convicted the veteran dissident journalist Gao Yu (高瑜) and the outspoken human rights lawyer Pu Zhiqiang (浦志强).¹⁴⁴ Authorities have also penalized some of China’s most influential bloggers whose commentaries on social and political affairs have attracted enormous public attention—detaining them, closing down their social media accounts, and in some cases, forcing them to confess on state television.¹⁴⁵ This retaliation is because these online users expressed or shared views on subjects that the government considers “sensitive.”

China insisted in its response to UPR recommendations on Internet freedom that it has “the responsibility to prevent the flooding of harmful information and take steps to fight cybercrimes.”¹⁴⁶ The government has jailed journalists, including bloggers and online commentators, for allegedly divulging “state secrets” or “endangering national security.” According to a press freedom NGO estimate in December 2015, China had the highest number of jailed journalists of any country, and nearly a quarter of the world’s total.¹⁴⁷ The Internet

writers imprisoned in 2016 for their free expression include Chen Shuqing (陈树庆), Lü Gengsong (吕耿松), and Zhang Shengyu (张圣雨). They are serving punishments of 10.5 years, 11 years, and four years, respectively, after being sentenced in 2016 for alleged offenses tied to “subversion.”¹⁴⁸

In its own assessment of its National Human Rights Action Plan (2012-15), the government asserted that “the Internet information platform has enriched channels through which citizens can have their voices heard” and “express criticisms and suggestions on the work of the governments.”¹⁴⁹ The government has clearly failed to achieve the targets outlined in the plan, namely “safeguarding the legitimate rights and interests of news agencies, journalists, editors and other persons concerned;”¹⁵⁰ and to “take effective measures to ensure that all channels of self-expression are unblocked,” including “opening up the channels for people to criticize, give advice to, complain of, accuse and impeach state organs and state functionaries.”¹⁵¹

Suggestions

- Amend laws and remove restrictions on freedom of information, expression, and on the media, including the Internet and social media, that are not in accordance with the International Covenant on Civil and Political Rights and Universal Declaration on Human Rights;
- Release those being held in detention or in prison for exercising their right to freedom of expression and press;
- Take steps to ensure that all persons including bloggers, journalists and human rights defenders, can freely exercise their right to freedom of expression, online and offline, without fear of censorship or persecution.

2.6. Freedom of Peaceful Assembly & Association

7 Recommendations Assessed:

186.136 (Australia), 137 (Spain), 148 (Nigeria), 149 (Ireland), 150 (Netherlands), 159 (France), and 167 (Germany)

China's Replies:

5 recommendations accepted

136, 148, 149, 150 & 167

3 being implemented

149 & 167

2 recommendations not accepted

137 & 159

NGO Assessment:

China has not implemented any of these recommendations

Severely Curtailed Right to Freedom of Peaceful Assembly

China has not implemented any of the UPR recommendations made on respecting the right to freedom of peaceful assembly. The government accepted Germany's recommendation (186.167), to "[r]efrain from impeding civil society and respect its international obligations," and claimed it was "being implemented." However, Chinese law provides little protection for the right to peaceful assembly, and Chinese citizens who try to exercise this right continue to risk being subjected to police harassment or criminal prosecution. The government has taken no steps to implement Australia's recommendation (136) to expedite legal or institutional reform to "fully protect in law and practice" the right to peaceful assembly.

In rejecting Spain's recommendation (137) on ending criminal prosecutions of individuals exercising their rights, the government cited domestic legislation, and claimed "the exercise of the above-mentioned freedoms shall abide by the Constitution and laws, and shall not harm the national, social, collective interests and the legitimate rights of other citizens."¹⁵² China continues to restrict freedom of peaceful assembly in law and practice under the pretext of concerns about national security, social order, or "collective interest."

Though China's Constitution recognizes the right to peaceful assembly, domestic laws and regulations curtail, prevent, or obstruct the actual enjoyment of this right. In practice, police routinely punish those who exercise this right or prosecute them on the grounds that they have engaged in "criminal activities." China's Law on Assemblies, Processions, and Demonstrations includes stipulations that do not comply with international standards.¹⁵³ For instance, specific provisions ban demonstrations by targeting their political content, explicitly prohibiting gatherings that oppose the "Cardinal Principles" of the Constitution, which demand the upholding of the "people's democratic dictatorship" and the leadership of the Chinese Communist Party (Article 4).¹⁵⁴ In 2013, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association noted that China has prohibited and repressed peaceful assemblies because "the message conveyed do not please the authorities."¹⁵⁵

Under China's Law on Assemblies, all public gatherings must get prior approval from the police, who virtually never grant permission unless the events are organized by the government (Article 7). Both law and practice clearly violate the international norm of a "presumption in favor" of peaceful assemblies that is "clearly and explicitly established in law."¹⁵⁶ Furthermore, the law prescribes criminal and administrative penalties for those who demonstrate illegally, which have

been routinely used to send peaceful protesters to detention or prison, often on charges of “disrupting” social or public order or “picking quarrels and provoking trouble.”¹⁵⁷

In addition, China’s Criminal Law allows for the continued deprivation of the right to peaceful assembly, among other civil and political rights, for individuals who have served prison time for “seriously disrupting public order” or crimes in the category of “endangering national security,” charges commonly used against political dissidents and human rights activists.¹⁵⁸ The UN Working Group on Arbitrary Detention criticized the provisions on deprivation of such rights and national security crimes when they were first introduced in 1997.¹⁵⁹

Some legislative changes since the 2013 UPR have further restricted the right to peaceful assembly. In 2015, authorities adopted an amendment to the Criminal Law, which targets those who “organize” or “provide funding” for public gatherings with a prison sentence of up to three years.¹⁶⁰ Such individuals could face charges for alleged offenses of disrupting public or social order. The amended provision would allow for the prosecution of those “behind the scenes” who “organize” or “fund” a demonstration but are themselves not present.

Thousands of demonstrations take place in China every year, the vast majority of which are peaceful. Some Chinese citizen journalists have documented “mass incidents,”¹⁶¹ or large-scale protests, on an online blog.¹⁶² Compared to 2014, they tracked a 34 percent increase in such incidents in 2015, when they also documented over 14,000 individual detentions related to these events.¹⁶³ Authorities arrested two citizen-journalists on suspicion of “picking quarrels and provoking trouble” in July 2016, in likely retaliation for their work in documenting protests.¹⁶⁴

Beginning in January 2013, there were many spontaneous peaceful protests over a range of issues, including calls for the government to ratify the ICCPR, for the end of government corruption, and for public disclosure of top leaders’ financial assets. Many of the participants were associated with (or inspired by) the “New Citizens’ Movement,” a loose network of activists working on rule-of-law issues. CHRD documented 70 individuals detained for their roles in these peaceful rallies in 2013, of whom 50 were convicted of crimes.¹⁶⁵ In several “Urgent Actions” issued by multiple UN Special Procedures in 2013-14, the mandate holders expressed concern that the arrest and detention of some of these individuals was in retaliation for their “exercising their fundamental rights to freedom of opinion and expression and peaceful assembly.”¹⁶⁶ Data gathered by CHRD show that about a quarter of the 2,761 documented cases of arbitrary detention of human rights defenders from 2012 to 2015 involved individuals detained after exercising their peaceful assembly rights.¹⁶⁷

NGOs & Further Restrictions on Freedom of Association

China has seriously curtailed the right to freedom of association and shrunk the space for civil society since the 2013 UPR. Though China “accepted” Australia’s recommendation to “fully protect [the right to freedom of association] in law and in practice” (136), it has instead adopted new legislation and continued practices to further infringe on this basic liberty. In fact, despite “accepting” the Netherlands’ recommendation—to “[a]llow national and international NGOs to play a full and active role in promoting and protecting human rights” (150)—China has essentially taken action in the opposite direction.

Two new laws—the Charity Law, which went into effect on September 1, 2016,¹⁶⁸ and the Overseas NGO Management Law, which takes effect on January 1, 2017¹⁶⁹—legalize draconian government restrictions on the right to freedom of association, making it even more difficult for independent local and international NGOs to operate in China. Both laws ban NGOs from harming “national security,” a vaguely defined and legally nebulous concept in Chinese law, and contain restrictions on funding for NGOs. In both laws, the lack of a clear definition of what activities constitute “endangering national security” gives police greater power to prevent and obstruct the operation of civil society groups.

A positive element of the Charity Law is that it allows charities to register directly with the Ministry of Civil Affairs, without needing a government sponsor, as was previously required, though the Ministry still has control over approving registration. Overall, however, this law is expected to further weaken independent non-profit groups by restricting their access to domestic funding.¹⁷⁰ The law has a vague and broad scope, with a catchall provision that covers “any other public interest activities” and thus appears to be applicable to all non-profit advocacy and service-provider groups. The law restricts all online fundraising to government-registered charities while levelling heavy fines to non-registered and/or non-profit groups that try to raise money online. It can be used to criminalize the operations or fundraising by independent groups and activists based on vague and unsubstantiated accusations of “endangering national security.”

The Overseas NGO Management Law, which is ostensibly aimed at restricting international NGOs working in China, will also have the effect of practically cutting off funding for independent Chinese NGOs.¹⁷¹ Under this law, the Ministry of Public Security will have authority to register and supervise foreign-based NGOs operating inside China. It bans registered overseas NGOs and those with a temporary permit from conducting activities that “endanger national security.” The law grants police the power to shut down activities without an appeals process, and bans Chinese NGOs from receiving any funding from, or conducting “activities” with, unregistered overseas NGOs or those that have not received a temporary activity permit. Since the law was adopted, three UN special experts have called on China to repeal it, citing “fear that the excessively broad and vague provisions, and administrative discretion given to the authorities in regulating the work of foreign NGOs can be wielded as tools to intimidate, and even suppress, dissenting views and opinions in the country.”¹⁷²

Also in 2016, the government posted for comments a draft revision of Regulations on the Registration and Administration of Social Groups (1998) and two new regulations tied to the Charity Law.¹⁷³ Major proposed changes include adding Chinese Communist Party (CCP) cells to social organizations (Article 4) and mandating that organizations in-house CCP activities performing political functions.¹⁷⁴ These proposed changes, if adopted, are likely to have an intimidating effect on NGOs by installing in-house CCP surveillance. The two new Charity Law regulations, which were quickly passed and went into effect on September 1, 2016, established in more detail the huge barriers to independent NGOs that try to obtain legal registration as charitable organizations in order to engage in fundraising.¹⁷⁵

China’s new laws and regulations contravene the “general principles” on “protecting civic space and the right to access resources” issued by the UN special rapporteur on the rights to peaceful assembly and association in 2014. These principles emphasize that “the ability to seek, receive

and use resources is inherent to the right to freedom of association and essential to the existence and effective operations of any association.”¹⁷⁶

UN human rights bodies have warned against the kind of behavior that has become standard by the Chinese government, namely citing “national security” as the pretext to restrict civil liberties, often by passing laws that include vague, overly broad definitions of “national security.” In this regard, China has clearly defied a September 2014 Human Rights Council resolution urging governments to stop targeting civil society actors and organizations through legislation on counter-terrorism, national security, and funding for civil society development.¹⁷⁷

Since 2014, police have investigated and effectively shut down many independent Chinese NGOs, often focusing on their funding sources. These include rights-based groups working to promote a broad range of human rights, including education and health rights, LGBT rights, women’s rights, labor rights, and environmental protection, even groups that had previously been lauded for their work in state media.¹⁷⁸ Police detained some NGO staff members or legal advisors for alleged financial crimes, including “illegal business activity.”¹⁷⁹ Several of these organizations have practically ceased operation due to pressure from authorities. Such groups include the anti-discrimination group Yirenping, the social policy research and advocacy think tank Transition Institute, rural education providers Liren Libraries, disability rights group Zhongyixing, labor rights organizations Panyu Workers Center and the Nanfeiyan Social Worker Center,¹⁸⁰ and women’s rights organizations Weizhiming Women’s Center and Beijing Zhongze Women’s Legal Counseling and Service Center.¹⁸¹ The government’s policies and behavior toward women’s rights groups, in particular, run counter to a recommendation made by CEDAW in its November 2014 Concluding Observations, in which it urged China to review its regulations on registering NGOs in order to make it easier for such groups to operate.¹⁸²

From March 2013 to March 2015, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association sent 22 written communications to the Chinese government in relation to individual cases involving deprivation of the right to peaceful assembly and association.¹⁸³

Suggestions

- Expedite legal and institutional reforms to fully protect in law and in practice freedom of association and peaceful assembly;
- Stop all criminal prosecutions, arrests and all other forms of intimidation of individuals as a result of the peaceful exercise of their rights to freedom of association and peaceful assembly;
- Allow national and international NGOs to play a full and active role in promoting and protecting human rights, specifically by removing legislative obstacles to NGO funding, ensuring registration to all categories of NGOs and social organizations, and expanding their freedom to operate freely and effectively;

- Ensure accountability for state agents that deny citizens the rights to freedom of association and peaceful assembly.

2.7. Freedom of Religion

14 Recommendations Assessed:

186.55 (Slovakia), 136 (Australia), 137 (Spain), 138 (Poland), 139 (Malaysia), 140 (Austria), 142 (Canada), 143 (Italy), 144 (Namibia), 145 (Saudi Arabia), 147 (Uganda), 169 (Chile), 181 (Jordan), and 235 (France)

China's Replies:

11 recommendations *accepted*
55, 136, 138, 139, 140, 143, 144, 145, 147, 169 & 181

2 *being implemented*
138 & 181

3 recommendations *not accepted*
137, 142 & 235

NGO Assessment:

China has *partially implemented* recommendations 145 & 181, has *not implemented* the other 12 recommendations

Recommendation 141 (Comoros) is *inappropriate* [not assessed]

Further Limits on Religious Freedom & Practice

Since 2013, religious freedom in China has deteriorated dramatically, even though China “accepted” over half of the recommendations related to protecting the rights to hold religious beliefs and engage in religious activities.¹⁸⁴

While China’s Constitution protects “normal” religious belief “in principle,” it also restricts religious practices that “disturb public order” or “interfere with the state’s system of education,” but without defining these exceptions (Article 36).¹⁸⁵ In practice, authorities ban some religious groups completely, deny registration of other groups, and rarely recognize groups outside of the five main approved religions.

Since the 2013 UPR, central and local authorities have implemented repressive policies that have systematically curtailed religious freedom; they have disrupted and demolished churches; imposed ongoing restrictions on Tibetan Buddhists and Uyghur Muslims; and imprisoned Falun Gong practitioners. The actions taken by the government are contrary to pledges concerning the protection and promotion of religious freedom, which China made in its National Human Rights Action Plan (2012-15).¹⁸⁶ The government restricts religious activities, including by continuing to prohibit nearly 90

million Chinese Communist Party (CCP) members from believing in or practicing religion, further banning religious activities for Christians, reducing the size of Tibetan Buddhist schools, and restricting Muslims from completing their pilgrimages. In addition, Chinese authorities have continued to target and criminally prosecute religious leaders on religious and political charges.¹⁸⁷

Since the 2013 UPR, China has adopted the National Security Law, Counter-Terrorism Law, Cyber Security Law, and amended its Criminal Law, which all contain provisions Chinese authorities use to legitimize ongoing systematic suppression of religious, cultural, and ethnic minorities.¹⁸⁸ In particular, the National Security Law includes a broad and ill-defined definition of “national security,” and provisions that would allow criminal prosecution of dissenting views, religious beliefs, and information online.¹⁸⁹ Through such laws and prevailing practices, China has suppressed religious freedoms in the name of “national security,” making the recommendation by Comoros (186.141) “inappropriate,” as it asks China to “guarantee freedom of religion in respect of national unity and the territorial integrity of the country.”

In a move to further criminalize religious expression and free speech, China drafted revisions to its “Regulations on Religious Affairs” in September 2016, that could, if passed and implemented, expand monitoring of religious schools, strengthen Internet censorship over religious writing and news sites, and expand restrictions on contacting religious groups overseas.¹⁹⁰ The Regulations appear to have been revised not to protect, but to curtail the interests and rights of religious practitioners, which runs counter to the Chinese government’s pledge in its newest National Human Rights Action Plan (2016-2020).¹⁹¹

When China accepted the UPR recommendation to “take the necessary measures to ensure that the rights to freedom of religion, culture and expression are fully observed and protected in every administrative entity of China” (138), the State remarked that both citizens and civil servants enjoy freedom of religion.¹⁹² In reality, however, China has not implemented this recommendation, which it also claims has been implemented, as there has been a long-standing ban on CCP members practicing religion.¹⁹³ Public servants must “uphold Marxism-Leninism and Mao Zedong thought,” and government officials are under the administration of the CCP, and a criteria for many government positions is CCP membership.¹⁹⁴ Therefore, the required atheism for Party members also directly spills into the administration of government.¹⁹⁵

Top Chinese officials have reemphasized the policy of banning CCP members from practicing religion. In September 2014, at a national meeting on religious affairs, President Xi Jinping reportedly reaffirmed atheism as a ground rule of the Party. In an opinion piece published that November, Zhu Weiqun (朱维群), the director of the Subcommittee for Ethnic and Religious Affairs, condemned Party members who harbor religious beliefs and practice religion.¹⁹⁶ In 2016, the offices of the Central Party Committee and State Council jointly issued an opinion stipulating that even retired civil servants must not engage in religious activities or adopt religious faith, because they remain Party members.¹⁹⁷

Tibetan Buddhists

Punishment against religious leaders in the Tibet Autonomous Region (TAR) has been a part of the government’s systematic repression of ethnic Tibetans. According to the NGO Tibetan Center for Human Rights and Democracy, more than 140 Tibetan monks and nuns have been detained since 2013, and 80 percent of them are still in custody and have not been brought before a judge.¹⁹⁸ Many Tibetan monks, including Karma Tsewang, who was sentenced to 2.5 years in prison in late 2014, have been denied medical treatment, access to legal counsel, family visitation, and been subjected to inhumane punishment. In the past two years, three Tibetan political prisoners have died in custody after years of torture and mistreatment: Goshul Lobsang and Tenzin Choedak, in 2014, and monk Tenzin Delek Rinpoche, in July 2015.¹⁹⁹ The government refused to allow the family of Tenzin Delek Rinpoche to bury his body according to Tibetan religious customs.²⁰⁰

Government control of Tibetan monasteries has continued to expand, as authorities have issued new directives that impose stricter surveillance on monks and followers, tightened restrictions on religious activities and monastic staff, and forced monks and nuns to attend mandatory programs that promote CCP and pro-government ideology. Since 2011, Buddhist temples in Tibet have been required to replace their traditional self-governing bodies with a government-appointed

“Monastery Management Committee.”²⁰¹ This committee consists of Party members stationed at each temple to oversee and report daily activities to higher government organs as well as review and approve any religious activity. The government has publicly commended some committees and officials for their performance and compliance.²⁰²

In September 2015, authorities in one Tibetan county issued a comprehensive notice (called Document No. 224) that further restricted the autonomy of monasteries and religious leaders, including strictly limiting mobility, interaction with practitioners, financial management, and topics addressed in religious services.²⁰³ The directive details harsh punitive measures against anyone, including Party officials, who does not fully implement or follow the provisions in the notice.²⁰⁴

In July 2016, authorities demolished monastic dwellings at the largest Tibetan Buddhist Academy in Larung Gar, Sichuan Province, an action that reduced the academy’s monastic staff by half.²⁰⁵ Authorities also have instituted measures to restrict, control, and monitor the travel of Tibetans to Lhasa, the center of Tibetan Buddhism in the TAR; they have prevented some Tibetans from taking a pilgrimage to temples in the city, and required those who are granted permission to go to Lhasa to register with police.²⁰⁶

Uyghur Muslims

Since the 2013 UPR, central and provincial authorities in the Xinjiang Uyghur Autonomous Region have passed measures and increased efforts to restrict freedom of religion, affecting followers of Islam. In November 2014, authorities revised the region’s regulations to further limit religious practices by making previous measures and directives more legally binding.²⁰⁷ Authorities also continued to try to restrict children from participating in religious practices, and detained individuals who brought religious materials home for their children.²⁰⁸ State media reported in January 2016 that the regional people’s congress will begin drafting regulations about “religious extremism.”²⁰⁹ In March 2016, during China’s annual session of the National People’s Congress, the Party Secretary of Xinjiang announced that authorities will continued a “strike hard” anti-terror campaign, which was first launched in 2014, in order to impose more stringent restrictions on Uyghur Muslims.²¹⁰

This “strike hard” campaign in Xinjiang has been marked by a growing presence of military troops, increased reports of arrests of alleged “terrorists,” restrictions on travel, and intensified limits on religious expression, practices, and mosque activities. According to an overseas Uyghur rights organization, the number of soldiers dispatched has increased during “sensitive” periods, and Uyghurs are then subjected to heightened surveillance and more arbitrary detentions.²¹¹ In late 2015, troops were seen assaulting four young Uyghurs on a public street and arresting seven Uyghurs afterward, accusing them of “illegal assembly and obstructing official business.”²¹² In January 2016, authorities in Kashgar City detained at least 16 Uyghurs for having religious publications for children.²¹³

In addition, new government rules in Xinjiang punish acts that “encourage” youth to practice religion. Two new sets of rules adopted by the Standing Committee of Xinjiang People’s Congress in September 2016 expose deep-seated government concerns that contact with religion

works to foster unrest in and beyond the region. Under these new regulations, Xinjiang police can jail people for “encouraging” or “forcing” youth to take part in religious activities. The rules are likely to further restrict religious expression while increasing ethnic tensions.²¹⁴

Authorities have continued efforts to ban various forms of religious expression among Uyghur Muslims, such as the growing of beards for men and wearing of veils and burqas for women.²¹⁵ In Urumqi, Xinjiang’s capital, officials implemented a directive in 2015 to ban full-face and full-body coverings in all public places, including schools, hospitals, public transportation, government buildings, and businesses. A fine of up to approximately 800 USD or criminal charges could be imposed on individuals who refuse to comply.²¹⁶ In the same year, authorities sentenced a husband and wife in Kashgar City to six and two years, respectively, for keeping a beard and wearing a face-covering veil. The Kashgar City government also implemented a directive requiring every household in the city to sign an agreement to “de-radicalize.”²¹⁷

Mosques are also under constant surveillance, and the content of prayers lead by imams, religious leaders, must be approved by Chinese authorities. Traditionally, mosques do not close, but in recent years, the government has mandated they shorten their operating hours.²¹⁸ One mosque in Chengdu, Sichuan Province, has been listed for demolition to make way for real estate development. This has spurred an online petition by many people seeking to save this important historical landmark, which is sacred to Uyghur Muslims.²¹⁹ Authorities also have continued to shut down unauthorized “preaching sites.”²²⁰

In addition, contrary to a white paper on religious freedom released by the Chinese government in June 2016, officials continue to prohibit Muslims from observing Ramadan in Xinjiang, as the local government forbids CCP members, civil servants, teachers, and students from fasting.²²¹ Civil servants, in particular, are also not allowed to enter mosques, since the Party requires its members to abandon religious faith and practice. Moreover, mobility for Uyghurs inside and out of China has been greatly restricted, as they are barred from travelling freely to other places of worship, including to make a pilgrimage to Mecca. Instead, State officials have organized and monitored such trips.²²²

Christians

Chinese authorities continue to exert undue influence over Christian religious practices, including by trying to control the process through which Catholic bishops are chosen.²²³ Both the State-sanctioned churches (known as “patriotic churches”) and non-sanctioned ones (known as underground or “house churches”) have faced more scrutiny and constraints in recent years. Government officials in Zhejiang and Sichuan have launched a provincial-wide campaign called “Five Entries and Five Transformations” to expand government control over State-sanctioned churches.²²⁴ Zhejiang authorities openly interfere with and prohibit church activities, control church finances, change architectural designs of religious buildings, impose mandatory lectures by government officials, and force church members to meetings with officials to discuss their beliefs.²²⁵

Although house churches are not allowed to register in China, at least half of the country’s nearly 70 million Christian adherents attend such churches.²²⁶ New amendments to the “Regulations on

Religious Affairs” will effectively make house churches illegal, as all churches will be pressed to register.²²⁷ The government has also pressured house churches to become State-sanctioned, so authorities can monitor and control them more tightly. Church leaders and members have been punished for refusing to register with the government. Three houses churches in Zhejiang and Guizhou, for instance, were banned from holding services for congregations while pastors and members were criminally detained after they refused to follow orders from local authorities pressing them to become government-approved entities.²²⁸

In Zhejiang, the provincial government issued an urban planning directive in 2013 that has since targeted both patriotic and underground churches, where officials have ordered the forced removal of crosses and demolition of buildings under the pretext of urbanization and redevelopment.²²⁹ According to the Christian Council of Zhejiang, authorities removed more than 1,200 crosses between 2014 and 2015.²³⁰ Pastors and church members who tried to defend their churches were criminally detained on charges of “disturbing public order” or “financial mismanagement,” and their lawyers also have been prosecuted.²³¹

The scope of the crackdown has extended beyond Zhejiang to other regions, where leaders of Christian communities have been given long prison sentences that are tied to their religious activities. Christian and activist Hu Shigen (胡石根), an elder in house churches in Beijing, was detained for more than one year and then sentenced to seven-and-a-half years in 2016 after a court convicted him of “subversion of state power.”²³² In Henan Province, pastor Zhang Shaojie (张少杰) was sentenced in 2014 to 12 years for “fraud” and “gathering a crowd to disrupt social order.”²³³

Falun Gong

The Chinese government continues to persecute Falun Gong practitioners, as well as the activists and lawyers who try to defend their rights. The government banned Falun Gong in 1999, and fifteen years later in 2014, a government body called China Anti-Cult Association officially listed Falun Gong as one of 20 “cults” and began a sweeping crackdown against them.²³⁴ Thousands of practitioners reportedly were arrested that year, and more than 600 of them sentenced to prison and several received 12-year prison terms.²³⁵ The same year, Jiangxi-based activists Liu Ping (刘萍) and Wei Zhongping (魏忠平) were convicted of “using a cult to undermine implementation of the law”; Liu had posted a story online about a Falun Gong practitioner being abused by authorities, and Wei had mentioned Falun Gong during a media interview. Lawyers who have represented Falun Gong practitioners have also been subjected to government retaliation.²³⁶

Suggestions

- Allow all Chinese citizens to fully exercise freedom of religion, such that they can practice their religions without fear of government reprisal;
- Release all prisoners of conscience who have been punished for the peaceful exercise of their religion, and allow members of ethnic minority groups to move freely inside and travel outside of China without restrictions based on their religion or ethnicity.

2.8. Independence of Lawyers & Access to Justice

13 Recommendations Assessed:

186.50 (Niger), 55 (Slovakia), 115 (USA), 117 (Germany, France), 123 (Timor-Leste), 124 (Singapore), 125 (Kyrgyzstan), 126 (Nigeria), 129 (Hungary), 130 (Cape Verde), 131 (Finland, Canada), 132 (Timor-Leste), and 134 (Djibouti)

China's Replies:

12 recommendations *accepted*

50, 55, 117, 123, 124, 125, 126, 129, 130, 131, 132 & 134

2 *already implemented*

117 & 123

1 recommendation *not accepted*

115

NGO Assessment:

China has *partially implemented* recommendation 117 & has *not implemented* the other 12 recommendations

Since the 2013 UPR, human rights lawyers in China have faced a severe government crackdown, rule of law reform has stalled, and the environment for practicing law has rapidly deteriorated.²³⁷ The reality on the ground contrasts sharply with the government's acceptance of UPR recommendations that urged China to respect due process rights and protect lawyers so they could practice their profession freely and independently. The deteriorating situation also diverges greatly from the promise China made in its "voluntary pledge" to the Human Rights Council when it bid for a HRC seat in 2013—to "push forward reform of the judicial system"²³⁸—as well as China's National Human Rights Action Plan (2012-2015).

In recent years, the Chinese government has released new regulations ostensibly aimed at safeguarding the rights of lawyers. However, in reality these new regulations and legislative changes could instead lead to the criminalization of lawyers for their speech in court, and weaken the fragile regulatory framework for protecting lawyers.

In July 2015, the government launched a sweeping crackdown on lawyers who challenged police or judicial authorities' abuses of their clients' legal rights. The

crackdown has affected more than 300 lawyers and activists, and exemplifies the deteriorating situation for the independence of the legal profession in China. Meanwhile, the number of cases involving human rights lawyers facing criminal prosecution continues to grow. CHRD has documented dozens of cases of violent assaults on lawyers who tried to carry out their professional duties, yet perpetrators of these acts have rarely been held accountable.

New Laws & Regulations Targeting Human Rights Lawyers

Several existing national laws and government regulations purportedly stipulate the rights and responsibilities of lawyers—the Lawyer's Law (2007), the Criminal Procedure Law (2012), and several regulations issued by the Ministry of Justice.²³⁹ Yet, despite a specific provision in the Lawyer's Law with language on protecting the lawyers' right to practice law and prohibiting interference in their work,²⁴⁰ other legislative changes and government regulations have, on paper and in practice, overridden any safeguards for lawyers laid out in the law.

The justice ministry's "Measures for the Annual Inspection and Evaluation of Law Firms" (2010) have been heavily criticized by lawyers and legal scholars for establishing an administrative system of license renewal that the government and state-controlled "lawyers'

associations” have used to intimidate or penalize lawyers for exercising independence in defending clients.²⁴¹ In November 2016, revisions to two Ministry of Justice measures, on the management of law firms and the practice of law by lawyers, went into effect. These measures seriously undermine the independence of lawyers with new restrictions on lawyers’ freedom of expression, assembly, and association.²⁴² In October 2016, 168 Chinese lawyers signed an open letter calling for measures on law firms to be repealed, as the new provisions could lead to lawyers being dismissed by their law firms for expressing dissent or challenging abuses of their clients’ rights, for gathering to discuss defense strategies, or for complaining about abusive police behavior.²⁴³

Amendments to the Criminal Law that went into effect in 2015 have codified the criminalization of lawyers’ speech in court trials. Specifically, the changes to the crime of “disrupting courtroom order” grant authorities broad powers to interpret lawyers’ speech as “insulting,” “threatening,” or “disruptive”—an offense punishable by up to three years in prison (Article 309). Alleged violators of this provision can also face disbarment. The law now provides a legal pretext for judges to expel lawyers from courtrooms for challenging the legality of court proceedings when defending their clients. Such incidents took place between April and June 2015, just prior to the launch of the crackdown on lawyers.²⁴⁴ CAT expressed concerns about Article 309’s overbroad language in its December 2015 Concluding Observations, stating that it is “open to abusive interpretation and application” and could deter lawyers from raising criminality in their clients’ defense “for fear of reprisals.”²⁴⁵

In September 2015, the Supreme People’s Court, the Supreme People’s Procuratorate, the Ministry of Public Security, the Ministry of State Security, and the Ministry of Justice jointly issued “Provisions on Ensuring the Practice Rights of Lawyers in Accordance with Law.”²⁴⁶ These provisions include many stipulations that were already included in existing laws and regulations, but which had been largely disregarded by authorities. One welcome step is that they include new language on ending violence against lawyers. However, the provisions fail to specify an independent body to investigate such allegations,²⁴⁷ and authorities turned away four lawyers who tried to utilize a new complaints system in June 2016.²⁴⁸

The provisions were put into effect just months after police, judicial authorities, and state-run media began an apparently coordinated crackdown on human rights lawyers through mass detentions, raids, interrogation, and other forms of intimidation and persecution. Many lawyers were portrayed as “criminals” in official media, including through “confessions” on state television. Furthermore, the new provisions have been clearly violated by authorities in numerous cases, and authorities have dismissed complaints by lawyers and families, who also faced retaliation for expressing concerns about the crackdown. In 2016, detention center officials in Tianjin continued to block lawyers and families from visiting the detainees seized in July 2015, but began stating a new reason—that the detainees had “fired” lawyers hired by the families. Police cited this justification in at least 11 cases, without allowing a meeting between the lawyers and the detainees or a signed written document to verify such claims, as stipulated by the new provisions.²⁴⁹

The Ongoing Harsh Crackdown on Lawyers

To assess China's implementation of the UPR recommendations about protecting lawyers, we must draw attention to the ongoing crackdown against human rights lawyers. Since the outset of the crackdown, police have ignored or perverted Chinese laws and the country's constitution, and are suspected of gross abuse of power. Beginning in July 2015, police summoned more than 300 lawyers and activists for interrogation, put many under secret detention, and convicted several. Police raided the offices of three Beijing law firms, including Fengrui Law Firm, Globe-Law Law Firm, and Action to Redress Grievance Office. Authorities eventually narrowed in on several lawyers, including Li Heping (李和平), Wang Yu (王宇), Wang Quanzhang (王全璋), and Zhou Shifeng (周世锋), all known for their work defending politically-sensitive cases and challenging the abuse of their clients' rights. In August 2016, authorities convicted four for "subversion of state power" in widely criticized show trials lasting just a few hours.²⁵⁰ At the release of this report, 13 individuals remain in police custody, and 11 are missing after being "released" on bail or following a suspended sentence.²⁵¹

UN human rights bodies and experts have made public statements highly critical of the crackdown. The High Commissioner for Human Rights said in a February 2016 statement he was "deeply concerned" by the crackdown, and called on the government to release the detainees "immediately and without conditions."²⁵² CAT highlighted its concerns over the crackdown in its 2015 Concluding Observations.²⁵³ Five UN Special Rapporteurs issued a joint statement days after the crackdown began declaring that lawyers ought "to be protected not harassed," and expressed "dismay" at the scale of the state suppression.²⁵⁴

Lawyers who were briefly detained in July 2015 continue to face pressure from police, judicial authorities and lawyers' associations, including with threats to withdraw their representation of still-detained lawyers.²⁵⁵ Two lawyers of detainees—Wang Qiushi (王秋实), the lawyer for lawyer Wang Quanzhang, and Ren Quanniu (任全牛), the lawyer for paralegal Zhao Wei (赵威)—were themselves taken into custody in January and July 2016, respectively.²⁵⁶ In the six months following the start of the crackdown in July 2015, Chinese authorities banned 24 human rights lawyers from traveling abroad because of their profession, with the bans still in place at the time of this report's release.²⁵⁷ Additionally, family members of the detained lawyers have faced "collective punishment" by virtue of their association, including travel restrictions, CCTV cameras installed outside their homes, evictions from residences, denied admission to schools, and, in some cases, brief periods of detention and house arrest.²⁵⁸

China accepted Timor-Leste's recommendation (186.123) to "[a]djust and specify the applicable conditions and stipulations for the adoption of compulsory measures such as arrest, release on bail pending trial and residential surveillance" and claimed that it was "already implemented."²⁵⁹ However, the crackdown against lawyers involved serious breaches of China's legal provisions, and the twisting of legal loopholes to deny basic due process rights in adopting compulsory measures on those affected.²⁶⁰ For the first six months of detention, families received no notification of their loved ones' whereabouts or status, as authorities exploited a heavily criticized provision in the Criminal Procedure Law (CPL) to put detainees under "residential surveillance in a designated location."²⁶¹ Police used both loopholes and illegal means to deprive

the vast majority of detainees of the right to legal counsel of their choice, raising concerns that the individuals may have been subjected to torture or other inhumane and degrading treatment.²⁶² Further raising suspicion of torture or mistreatment, authorities aired “confessions” of some of the detainees on state television, including lawyer Wang Yu in August 2016 after she had been granted “bail.”²⁶³ Eleven individuals, including Wang Yu, have still not been allowed to contact their supporters or family after being “released.”²⁶⁴ Authorities also undermined the detainees’ presumption of innocence by smearing their names in state media prior to formal arrest or trial.²⁶⁵

Deteriorating Conditions for the Legal Profession

As described above, the rapidly worsening conditions have made practicing criminal law a politically high-risk profession in China. Lawyers who represent detained dissidents, activists, or other lawyers tend to have little access to their clients within the initial 48 hours of detention, even though these standards are stipulated in the CPL and Lawyers’ Law. In a number of well-documented cases, this denied access has lasted for weeks or even months.²⁶⁶ Exploiting loopholes in the law, police often cite concerns of “national security” in rejecting lawyers’ requests to meet detainees.²⁶⁷ Furthermore, police have vastly expanded the scope of the law by denying lawyers’ visits to detainees held on suspicion of many other offenses that do not involve “national security,” including “disturbing public order” and “picking quarrels and provoking trouble.”²⁶⁸

When lawyers challenge police or judicial officials’ breaches of the law, by speaking up publicly, filing complaints to authorities, or raising objections in court hearings, they put themselves at great risk of physical assault by state agents. From March 2013 to October 2016, CHRD documented 29 such incidents—involving 38 lawyers—with none of the alleged perpetrators facing criminal charges. In only one case did the local authorities investigate and offer compensation to the assaulted lawyer, while claiming that the officer involved merely “misused force” and did not press for criminal prosecution.²⁶⁹

For years, the annual license review by judicial authorities has been used by the government to intimidate lawyers who are outspoken or provide legal counsel to detained dissidents or human rights activists. For instance, the licenses of lawyers Wang Quanping (王全平) and Liu Shuqing (刘书庆) were cancelled in 2014 and 2016, respectively, in reprisal for challenging abuses of their clients’ rights at detention facilities or in trial proceedings.²⁷⁰ In February 2015, more than 100 lawyers sent an open letter to the National People’s Congress, calling on the legislative body to repeal the 2010 Ministry of Justice measures that put in place this annual review, arguing they are outside the scope of the Lawyer’s Law.²⁷¹ At least 38 Chinese lawyers pledged not to take part in the review in 2016.²⁷²

Even before the July 2015 crackdown, Chinese authorities had resorted to criminal prosecution to rein in lawyers who challenged their obstruction of justice.²⁷³ For example, police criminally detained four lawyers in 2014 after they agreed to represent clients detained in politically-sensitive cases.²⁷⁴ One of these lawyers, Xia Lin (夏霖), received a 12-year prison sentence in September 2016.²⁷⁵ A criminal conviction will cost a prosecuted lawyer’s career, as their license to practice law will be permanently cancelled. In one case, Shandong lawyer Shu Xiangxin (舒向

新) had faced years of threats from authorities to suspend his law license for representing clients challenging government officials for profiting from forced evictions. Finally, authorities abruptly detained, tried, and convicted him. He completed a six-month prison sentence in July 2016, and can no longer obtain a license to practice law.²⁷⁶

Suggestions

- Ensure lawyers can exercise their profession unhindered and free from violence and intimidation, and repeal legislations that interfere in the independence of lawyers in violation of international standards;
- Remove administrative obstacles, such as the annual inspection of lawyers and law firms, and any regulations that can be used to intimidate or penalize lawyers for practicing their profession;
- Guarantee access to prompt and effective investigation by an independent and impartial body of allegation of obstruction of lawyers' access to their clients, and close loopholes in law and regulations that grant police broad powers to use "national security" in denying detainees' access to lawyers;
- Promptly investigate allegations of violence and intimidation against lawyers.

2.9. Human Rights Defenders: Persecution & Reprisals

10 Recommendations Assessed:

186.61 (Czech Republic), 62 (Switzerland), 115 (USA), 131 (Finland, Canada), 148 (Nigeria), 149 (Ireland), 156 (Czech Republic), 158 (Poland), 160 (Austria), and 168 (Russia)

China's Replies:

7 recommendations accepted
61, 62, 131, 148, 149, 158, 168

1 already implemented
62

2 being implemented
149 & 158

3 recommendations not accepted
115, 156 & 160

NGO Assessment:

China has not implemented any of these recommendations

Recommendation 146 (Saudi Arabia) is inappropriate [not assessed]

The Chinese government has escalated its crackdown on civil society and systematically persecuted human rights defenders in the past few years. Chinese citizens who seek to cooperate with UN human rights mechanisms have faced serious reprisals. Draconian laws and regulations have been adopted to legitimize the harshest suppression since mid-1990s.

China's hostility towards human rights defenders has become ever more evident in international human rights fora. In November 2015, China rejected a resolution recognizing the role of HRDs and the need to protect them, which was voted on in the UN General Assembly. After failing to use its political might to squash the resolution entirely, China voted against it with just 14 other UN Member States.²⁷⁷

China "accepted" eight recommendations related to providing a safe environment for human rights defenders, including protecting them from reprisals for their lawful activities. However, the government has not implemented any of these recommendations. Furthermore, China accepted Saudi Arabia's recommendation, which could not be assessed because it is unprincipled.

Gross & Systematic Persecution of Human Rights Defenders

The Chinese government has intensified its persecution of human rights defenders (HRDs) since the 2013 UPR. The Government crackdown on civil society in China has escalated under Xi Jinping, who became president in March 2013.²⁷⁸ Human rights activists, lawyers, journalists, dissidents, and other members of civil society have faced severe restrictions on their liberty, perhaps in greater numbers and intensity than at any time since the mid-1990s, or in the aftermath of the 1989 suppression on pro-democracy protests. Since 2013, several nationwide raids and arrests targeted activists who held rallies or online petitions to promote a range of human rights concerns, such as urging the government to ratify the ICCPR, cleaning up government corruption, expressing support to pro-democracy protests in Hong Kong, and calling for justice for the 1989 Tiananmen Massacre.²⁷⁹

Using its judicial system tightly controlled by the Chinese Communist Party, the government has criminally prosecuted many HRDs while systematically depriving them of due process rights. CHRD documented over 1,000 cases from 2014-2015 alone of Chinese HRDs being deprived of their liberty and/or tortured in reprisal for their human rights advocacy activities.²⁸⁰ The

government has further curtailed the three basic liberties necessary for HRDs to promote and protect human rights—freedom of expression, peaceful assembly, and association (see Sections 2.5 and 2.6). Those who exercise these liberties faced prosecution under newly amended or adopted laws. Authorities sent them to jail after convicting them of crimes such as “inciting subversion against state power,” “leaking state secrets,” “disrupting public order,” “picking quarrels and instigating trouble,” “fraud,” and “illegal business activity.”

China has passed or amended several laws and regulations that directly affect activists and lawyers who promote and protect human rights. Two new laws—the Charity Law, which went into effect on September 1, 2016,²⁸¹ and the Overseas NGO Management Law, which takes effect on January 1, 2017²⁸²—restrict the activities of Chinese civil society figures who work with independent local and international NGOs. Both laws ban NGOs from “harming national security,” a vaguely defined legal concept that essentially gives police more power to obstruct the operation of these groups as well as persecute their staff members and associates.²⁸³ (See more on these laws in Section 2.6.)

Some Criminal Law (CL) amendments, which took effect in November 2015, also target Chinese rights defenders.²⁸⁴ One change expands the scope of the crimes involving “disrupting social order”—which authorities have applied when persecuting HRDs—to ban “organizing or funding others to illegally assemble several times.” Such an activity is now punishable by up to three years in prison in the “most serious” circumstances (Article 290). (See Section 2.5) Another change to the CL effectively criminalizes defense lawyers’ speech if they challenge court procedures or treatment of their clients during trials, which rights defense lawyers in China increasingly do since their clients’ due process rights are so often violated in the criminal justice system (Article 309). With the amendment, speech interpreted as “insulting,” “threatening,” or “disruptive” could constitute a “crime” punishable by up to three years in prison. (See Section 2.8.)

China’s Counter-Terrorism Law, passed in December 2015, contains provisions that can be used to further monitor, censor, and criminalize the work of rights defenders. Activists, who often challenge state policies and practices through their advocacy, can be accused of behavior prohibited by the law, such as expression that allegedly “distorts or slanders national laws, policies, or administrative regulations.”²⁸⁵ In addition, many provisions in the National Security Law, passed in July 2015, target activists, netizens/bloggers, and journalists, among others whose activities might be perceived by authorities as challenging the CCP’s power.²⁸⁶ (See more on these laws in Section 2.5.)

Authorities have increasingly become intolerant of women’s rights advocacy and arrested several women’s rights HRDs and shut down NGOs working on women’s rights since the 2013 UPR (see also Section 2.6).²⁸⁷ Guangdong police detained women’s rights activist Su Changlan (苏昌兰) in October 2014 and put her on trial in April 2016.²⁸⁸ In 2015, police detained five female activists working on women’s and LGBT rights issues in a series of coordinated raids prior to a planned anti-sexual harassment campaign for International Women’s Day.²⁸⁹ The detention of the “Five Feminists,” as they became known, marked a new level of government intolerance women’s rights HRDs; state media had previously lauded some of these women for their advocacy work promoting women’s rights and health rights.²⁹⁰

Police or state-hired thugs have resorted to physical violence against HRDs including human rights lawyers who represent clients in “politically sensitive” cases. Since late 2013, CHRD has documented 29 incidents of such assaults against such lawyers.²⁹¹ Many of the lawyers have sustained serious injuries from the assaults, including broken bones and concussions (see Section 2.8).²⁹² None of the perpetrators of these alleged incidents of violence have faced criminal prosecution, thus allowing state agents to act with impunity.²⁹³

The lack of such investigation and prosecution contradicts the government’s claim in response to Poland’s recommendation (158) to “ensure that proper investigations are conducted in all cases of attacks on journalists, media workers and human rights defenders” that it is “being implemented.” In concluding its review on China in November 2015, CAT reiterated its recommendation that the State party “ensure the prompt, thorough and impartial investigation of all the human rights violations perpetrated against lawyers, that those responsible are tried and punished in accordance with the gravity of their acts and that the victims obtain redress.”²⁹⁴

The persecution and harassment of HRDs contradict China’s claim that “[t]here is no so-called issue of suppressing ‘human rights defenders’” in its response to Ireland’s recommendation (149).²⁹⁵ It also contradicts China’s claim “there are no arbitrary or extrajudicial detentions in China” in response to not accepting the United States’ recommendation (115) to “end the use of harassment, detention, arrest, and extralegal measures” to control and silence HRDs and their families.²⁹⁶ China reiterated its rejection of the crackdown on HRDs in reply to the Czech Republic’s recommendation (156) to “release all human rights defenders,” which it did not accept.

With this backdrop, Saudi Arabia’s recommendation—“Strengthen legislation to prevent the unlawful from undermining other people’s interests in the name of human rights defenders” (146)—stands out as particularly *inappropriate* for UPR. It uses the vague wording of “other people’s interests” to supersede protection for human rights defenders, and apparently supports legislations aimed at criminalizing defending human rights. The Saudi recommendation is one example of UN Member States’ promotion of an anti-human rights agenda in an international platform devoted to protecting and promoting human rights.

Reprisals Against HRDs Cooperating With UN Rights Bodies

China accepted two UPR recommendations regarding civil society participation: “ensure that its citizens can freely engage in the UPR process” (61, Czech Republic) and “ensure that human rights defenders can exercise their legitimate activities, including participation in international mechanisms, without being subjected to reprisals” (62, Switzerland). The Chinese government also claimed to have already implemented the second recommendation and stated that: “No one suffers reprisal for taking part in lawful activities or international mechanisms. As for the individuals or organizations engaging in illegal activities in the name of safeguarding human rights, they will be duly prosecuted by the Chinese government will enforce punishment according to law.”

In practice, however, China continues to systematically and aggressively obstruct civil society participation in UN human rights activities and cooperation with UN rights bodies. At the same time, the Chinese government retaliates against defenders seeking to engage with the UN because such efforts are deemed “illegal.” Without an independent judiciary process and law enforcement to hold the government accountable and protect citizens’ rights, China has labeled HRDs’ actions to peacefully exercise their human rights as illegal activities to punish and silence them.

As a member of Human Rights Council (HRC), China has an obligation to ensure its citizens to freely engage in the UPR process and to fully cooperate with UN mechanisms, including special procedures, treaty bodies, the HRC and OHCHR. Its failures in implementing UPR recommendations about civil society participation and reprisals speaks clearly about its unfitness to sit on the HRC.²⁹⁷

Multiple factors have created insurmountable obstacles for defenders in China to take part in UN human rights activities, including human rights training and the UPR process at home and abroad. Non-transparency on the part of China’s political system, as well as the denial of information to the public, lack of press freedom, and government reprisals against citizens who request information or seek to cooperate with the UN, are some of the main factors.

Cooperation with UN human rights mechanisms, particularly the UPR process, has proved to be a risky endeavor—even fatal—for defenders in China. Reprisals against them for attempting to or for engaging with UN mechanisms take many forms, including intimidation, blocked travel, and detention. In the worst case, one activist, Cao Shunli (曹顺利), was subjected to torture and as a result died in police custody half a year after she was detained.²⁹⁸ Chinese authorities seized Cao as she attempted to board a plane to participate in a human rights training and a session of the HRC before the second cycle of China’s UPR in 2013. At the detention center, she was deprived of medical treatment as her health deteriorated. Her death is the clearest example of the Chinese government’s aggressive reprisals against defenders who seek to engage with the UPR process.²⁹⁹

After her death, Cao’s family, lawyers, and supporters repeatedly called for an independent investigation and autopsy, but authorities harassed, threatened, and even detained several colleagues to silence them.³⁰⁰ Up to date, no official or government body has been held responsible for her death in custody. Close associates of Cao Shunli who participated in campaigns calling for inclusion also faced repercussions from authorities in 2014. One Beijing-based activist was put under criminal detention, and another activist was repeatedly locked up in psychiatric facilities between 2009 and 2013.³⁰¹ Government retaliation against defenders remains rampant in part because of the absence of accountability measures to hold government personnel responsible for subjecting defenders to reprisals, and the alarming pattern has continued since China’s first UPR in 2009.³⁰²

Chinese authorities in 2014 retaliated against other activists who called on the government to uphold its international rights commitments. Police in Henan Province blocked HIV/AIDS activist Wang Qiuyun (王秋云) from travelling to Geneva to attend Committee on the Elimination of Discrimination against Women (CEDAW)’s review of China’s record on

women's rights.³⁰³ Local authorities confiscated her passport after she was granted a visa. In addition, one week after the CEDAW review, police in Hubei Province seized women's rights activist Ye Haiyan (叶海燕) and put her under administrative detention. Ye had tried to draw attention to the review and its lack of civil society participation.³⁰⁴

Several other HRDs also faced various obstacles when traveling to attend trainings on human rights in 2014 or were subjected to harassment after they returned from such activities. In some instances, police visited their families or workplaces and made threats while a number of activists or lawyers who had in the past attended trainings found themselves under criminal detention or in prison, though authorities had seized or convicted them under other pretexts.³⁰⁵ In June 2015, police barred one activist from attending a human rights training in Geneva and seized him from his home before questioning him for 12 hours. During the interrogation, police asked extensively about the training. Police confiscated his passport and other personal belongings.³⁰⁶ In September 2015, authorities barred four human rights lawyers from traveling to attend a workshop to prepare a civil society report for Committee Against Torture (CAT)'s review of China, which occurred in November, on the grounds that their attendance might "endanger national security."³⁰⁷

In March 2016, national security officers intimidated one activist and barred one rights lawyer from traveling on grounds of "endangering national security" after they both planned to participate in a training program on cooperating with UN human rights mechanisms. Authorities explicitly threatened the activist not to engage in such activities and denied the lawyer from boarding his flight at an airport in China.³⁰⁸

Civil society participation in UPR and treaty body reviews at the national level had also met with persistent suppression. Since the first UPR and throughout the second cycle, authorities refused HRDs' requests to disclose information concerning the preparation of the state report and the "national human rights action plan."³⁰⁹ The government failed to solicit consultation from civil society and repeatedly harassed those who pressed for more transparency.

In the spring of 2015, HRDs submitted over a hundred Open Government Information (OGI) requests to the ministries of justice, public security, and foreign affairs to request information on data China sent to CAT. Government authorities responded to these requests by intimidating, interrogating, or even detaining those who made the requests on suspicion for "disturbing public order."³¹⁰ In government responses to these requests, authorities at the Ministry of Foreign Affairs (MFA) uniformly stated that the requested data falls out of the scope of open government information disclosure. Stonewalled by such responses, some activists filed lawsuits against the MFA, citing violations of OGI regulations. Chinese courts, however, did not accept the administrative lawsuits, claiming that private citizens cannot file litigation against "diplomatic actions" such as the preparation and submission of state reports to the UN, including for the UPR and CAT reviews.³¹¹

In 2016, one activist submitted dozens of OGI requests for information about the government's claim that it had conducted "human rights education," seeking verification of the contents of such education/training programs for law enforcement and judicial officials. As a direct consequence, the activist was visited by police and harassed multiple times.³¹²

Many similar incidences of government obstruction and reprisals have taken place during the past decade, including intimidation, harassment, travel bans, arbitrary detention, beatings, forced disappearances, and torture for their efforts to participate in or cooperate with international human rights mechanisms. Some defenders lost their jobs, lawyers' licenses delayed or barred from practicing law, or had their passports confiscated.³¹³

Since the 2013 UPR, UN rights bodies continued to raise concerns about the pattern of government obstruction of civil society cooperation with the UN and reprisals against HRDs who seek to participate in UN rights activities.

- In its 2015 Concluding Observations, CAT reiterated its concerns that seven human rights defenders were prevented from traveling or detained. The Committee urged the State party to investigate the aforementioned cases and report back to the Committee.³¹⁴ CAT also expressed concerns over China's investigation procedures and obstacles family members face for pressing for an independent autopsy.³¹⁵
- CEDAW, in its 2014 Concluding Observations, expressed concerns that some reports submitted by NGOs were censored by State agents and that travel restrictions were imposed on at least one woman human rights activist who intended to brief the Committee and to observe the review. CEDAW recommended China to "take all measures necessary to protect women human rights defenders, including those who have provided information to the Committee," lift travel restrictions in the future, and investigate allegations of State censorship of NGO reports.³¹⁶
- In a 2015 report on cooperation with UN, the Secretary-General noted with concern that China has not responded to requests for an investigation and its findings of Cao Shunli's death.³¹⁷
- From mid-July 2013 onward, UN experts released four joint urgent letters and two press releases regarding mistreatment toward Cao Shunli, with the UN experts urging the Chinese government to release Cao and provide adequate medical treatment.³¹⁸
- The Working Group on the Issue of Discrimination against Women in Law and in Practice also urgently called China to provide adequate medical attention for Cao during the mandate's visit in December 2013.³¹⁹

Suggestions

- End all forms of reprisal against Chinese citizens who seek to participate in, or cooperate with, UN human rights mechanisms, ensure their freedom and safety, without subjecting them to reprisal;
- Facilitate the development, in law and practice, of a safe and enabling environment in which human rights defenders can operate without fear, obstruction, and threats;

- Release all detained and imprisoned human rights defenders including lawyers for promoting and protecting human rights;
- Ensure that proper investigations are conducted in all cases of retaliation and attacks on human rights defenders including lawyers, including “collective punishment” against family members including children, and bring those responsible to justice.

¹ In response to why it did not accept recommendation 232 (Germany), the government said, “China implements the system of regional ethnic autonomy. Ethnic minority areas formulate relevant policies according to their local characteristics.” UN Human Rights Council, “Report of the Working Group on the Universal Periodic Review, China, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review,” A/HRC/25/5/Add.1, 2014.

² Recommendation 222 (Austria) is considered “poor” since it assumes conditions that do not exist, including “measures to allow ethnic minorities to preserve their cultural identity.” The full recommendation reads: “Take further legislative and practical measures to allow ethnic minorities to preserve their cultural identity, to fully exercise their human rights and to ensure their participation in decision-making, in accordance with the Chinese Constitution.”

³ National People’s Congress of the People’s Republic of China, “About Congress: Local People’s Congress and Their Standing Committees,” (accessed July 20, 2016), http://www.npc.gov.cn/englishnpc/about/2007-11/20/content_1373254.htm.

⁴ Congressional-Executive Commission on China (CECC), 2011 Annual Report, October 10, 2011, pp. 163-164, <https://www.cecc.gov/sites/chinacommission.house.gov/files/2011%20CECC%20Annual%20Report.pdf>.

⁵ See: Article 3, Organic Law of the Villagers Committees of People’s Congress of China (2010 Amendment), (中华人民共和国村民委员会组织法), (1998 amended 2010), http://www.gov.cn/flfg/2010-10/28/content_1732986.htm

⁶ Committee on the Elimination of Discrimination against Women (CEDAW), Concluding Observations on the Combined Seventh and Eighth Periodic Reports of China, CEDAW/C/CHN/CO/7-8, November 14, 2014, paras. 30-31. See also: CECC, 2015 Annual Report, October 8, 2015, p. 172, <http://www.cecc.gov/sites/chinacommission.house.gov/files/2015%20Annual%20Report.pdf>.

⁷ National Bureau of Statistics, “2014 Statistical Report on The Implementation of the ‘China Women’s Development Plan 2011-2020’ (2014年《中国妇女发展纲要(2011-2020年)》实施情况统计报告), November 27, 2015, Chap. 4 Sec. 4, http://www.stats.gov.cn/tjsj/zxfb/201511/t20151127_1282257.html.

⁸ CECC, 2015 Annual Report, p. 76.

⁹ For example, authorities made no changes to the language in the 2015 revisions to the PRC Law on Elections of the NPC and Local People’s Congresses at All Levels (Election Law) to try to encourage higher female representation. The language has been the same since 2004, when authorities added an amendment that stipulates “[a]mong the deputies to the National People’s Congress and local people’s congresses at various levels, there shall be an appropriate number of women deputies, and the proportion thereof shall be raised gradually.” Election Law of the National People’s Congress and Local People’s Congresses at All Levels of the People’s Republic of China (授权发布：中华人民共和国全国人民代表大会和地方各级人民代表大会选举法), (1979, amended 2015), http://news.xinhuanet.com/legal/2015-08/30/c_128180126.htm.

¹⁰ National Bureau of Statistics, “2014 Statistical Report on The Implementation of the ‘China Women’s Development Plan 2011-2020’ (2014年《中国妇女发展纲要(2011-2020年)》实施情况统计报告).

¹¹ National Bureau of Statistics, “Number of Deputies to All the Previous National People’s Congresses,” China Statistical Yearbook 2014, 2014, Table 24-1, <http://www.stats.gov.cn/tjsj/ndsj/2014/indexeh.htm>.

¹² The 2010 revisions stipulated that village committees “should” have women members and that women should make up at least one-third of the total number of representatives on the Villagers’ Representatives’ Conference; China has not even met this meager goal. Article 9, Organic Law of the Villagers Committees of People’s Congress of China (中华人民共和国村民委员会组织法).

¹³ National Bureau of Statistics, “2014 Statistical Report on The Implementation of the ‘China Women’s Development Plan 2011-2020’ (2014年《中国妇女发展纲要(2011-2020年)》实施情况统计报告), November 27, 2015, Chap. 4 Sec. 4; Dui Hua Foundation, “Measures on the Custody and Education of Prostitutes and their Clients: State Council Decree of the People’s Republic of China No. 127,” September 4, 1993, <http://www.duihuaresearch.org/2013/12/custody-and-education-worse-than.html>; People’s CPPCC Net, “Village Committee End of Term Elections Should Raise the Percentage of Women,” (村委会换届选举应提高女性比例), March 03, 2014, <http://www.rmzxb.com.cn/2014qqlh/hxy/z/300930.shtml>.

¹⁴ Rights Defense Network (RDN), “China Election Monitor (2015), No. 4, Discrimination Against Women in the Hebei, Beiding Anxin County Government Led Village Election” (中国选举观察 (2015) 之四——河北保定安新县政府指导的村官选举歧视妇女 (图) (之二)), April 6, 2015, http://wqw2010.blogspot.ca/2015/04/2015_6.html; RDN, “China Election Monitor (2014), No. 63, Guangxi, Guilin, Chuazhou County Government Let Election Discriminated Against Women” (中国选举观察 (2014) 之六十三——广西桂林全州县政府指导的村官选举歧视妇女), February 15, 2015, http://wqw2010.blogspot.ca/2015/02/2014_15.html.

¹⁵ RDN, “China Election Monitor (2015), No. 4, Discrimination Against Women in the Hebei, Beiding Anxin County Government Led Village Election” (中国选举观察 (2015) 之四——河北保定安新县政府指导的村官选举歧视妇女 (图)

(之二) 》; RDN, “China Election Monitor (2014), No. 63, Guangxi, Guilin, Chuankou County Government Let Election Discriminated Against Women” (中国选举观察 (2014) 之六十三——广西桂林全州县政府指导的村官选举歧视妇女); RDN, “China Election Monitor (2014) No. 60, Henan Ye County Government-Led Village Election Discriminated Against Women” (中国选举观察 (2014) 之六十——河南省叶县政府指导的村官选举歧视妇女), January 25, 2015, http://wqw2010.blogspot.ca/2015/01/2014_25.html.

¹⁶ People’s CPPCC Net, “Village Committee End of Term Elections Should Raise the Percentage of Women” (村委会换届选举应提高女性比例)。

¹⁷ National Bureau of Statistics, “2014 Statistical Report on The Implementation of the ‘China Women’s Development Plan 2011-2020’ (2014年《中国妇女发展纲要(2011-2020年)》实施情况统计报告), November 27, 2015, Chap. 4 Sec. 4

¹⁸ Asian Development Bank, “Country Gender Assessment: People’s Republic of China,” December 2006, p. 54, <http://www.adb.org/sites/default/files/institutional-document/32230/cga-prc.pdf>.

¹⁹ Specifically, China’s political institutions do not conform with the standards set forth in Article 21 of the Universal Declaration of Human Rights, which stipulates that the “will of the people” should be “expressed in periodic and genuine elections which shall be by universal and equal suffrage.” Article 21, Universal Declaration on Human Rights, <http://www.un.org/en/universal-declaration-human-rights/>.

²⁰ Article 46, Election Law of the National People’s Congress and Local People’s Congresses at All Levels of the People’s Republic of China (授权发布：中华人民共和国全国人民代表大会和地方各级人民代表大会选举法)。

²¹ The criteria made public in the Election Law stipulate that a potential candidate must not have had their political rights taken away and they are at least 18 years of age. Article 3, Election Law of the National People’s Congress and Local People’s Congresses at All Levels of the People’s Republic of China (授权发布：中华人民共和国全国人民代表大会和地方各级人民代表大会选举法)。

²² Other “criteria,” not included in the Election Law are often found in documents discussing the “Five Elect, Seven Don’t Elect” or “Five Elect, Eight Don’t Elect,” and are raised by local “election work leading small groups” or other Party or government agencies in several provinces that “disqualify” individuals to run in elections. Officials who have not strongly implemented higher-level Party Committee directives” or have “outdated thinking” are also disqualified. RDN, “China Election Monitor Bulletin, (2015), No. 29, A Citizen-Elected Village Chief Sues Ministry of Civil Affairs Agency for Denying His Eligibility To Run Because He Was Not a Party Member (选举观察简报之二十九——前民选村长控告民政机构以非党员名义剥夺其选举资格), May 8, 2015, http://wqw2010.blogspot.ca/2015/05/blog-post_17.html; RDN, “China Election Monitor (2015), No. 11, Hebei Province Chengde County Government Led Village Elections Illegal,” May 17, 2015, http://wqw2010.blogspot.ca/2015/05/2015_17.html; RDN, “China Election Monitor (2015), No. 30, ‘Five Elects, Eight Don’t Elects,’ Violate the Constitution and the Election Law” (中国选举观察 (2015) 之十一——河北省承德县政府指导的村官选举是非法的), May 17, 2016, http://wqw2010.blogspot.ca/2015/05/blog-post_560.html; RDN, “China Election Monitor (2015) No. 25, Fujian Province, Pingnan County Government Led Resident Committee Election Suspected of Being Illegal (No. 1)” (中国选举观察 (2015) 之二十五——福建屏南县政府指导的居委会选举涉嫌违法 (之一)), August 17, 2015, http://wqw2010.blogspot.com.br/2015/08/2015_17.html; RDN, “China Election Monitor (2015) No. 25, Fujian Province, Pingnan County Government Led Resident Committee Election Suspected of Being Illegal (No. 1)” (中国选举观察 (2015) 之二十五——福建屏南县政府指导的居委会选举涉嫌违法 (之一)), August 17, 2015, http://wqw2010.blogspot.com.br/2015/08/2015_17.html; CECC, 2014 Annual Report, October 9, 2014, p 142, http://www.cecc.gov/sites/chinacommission.house.gov/files/2014%20annual%20report_0.PDF.

²³ CECC, 2014 Annual Report, p 142.

²⁴ These criteria include having “out of plan” children, participating in “illegal religious activities,” “interfering in elections” (a charge often used against independent candidates). In addition, local Party committees have issued rules that do not conform to the Organic Law or had undue influence over, or “led” village committee elections. RDN, “China Election Monitor (2015), No. 12 (2015), Chinese Communist Party Members From Village Committee Organization in Yong Nian County Zhenxi Village illegally Led Elections for Village Officials” (中国选举观察 (2015) 之二十五——福建屏南县政府指导的居委会选举涉嫌违法 (之一)), May 20, 2015, http://wqw2010.blogspot.ca/2015/05/2015_20.html; RDN, “China Election Monitor (2014), No. 56, Jinan City, Central District Government-Led Elections Illegal, Lead to Mass Complaints to Higher-Level Officials” (中国选举观察 (2014) 之五十六——济南市市中区政府指导非法选举引发村民集体上访 (之三)), December 28, 2014, http://wqw2010.blogspot.ca/2014/12/2014_28.html; CECC, 2015 Annual Report, pp. 240-241.

²⁵ CHRD interview 2016.

²⁶ CEDAW, Concluding Observations on the Combined Seventh and Eight Periodic Reports of China, para. 30.

- ²⁷ Javier C. Hernández, “‘We have a Fake Election’: China Disrupts Local Campaigns,” *The New York Times*, November 15, 2016, <http://www.nytimes.com/2016/11/16/world/asia/beijing-china-local-elections.html>.
- ²⁸ In June 2016, government/Party officials in Wukan, Guangdong province detained and later arrested Lin Zulian. A district court in Foshan City tried Lin on September 9, 2016, and found him guilty of the two bribery counts but acquitted him of a charge of rigging tenders. Thousands of citizens in Wukan joined mass demonstrations that began on June 19, 2016, demanding Lin’s release, which peaked at 8,000 in mid-August. Lin Zulian was among the villager candidates who had been leaders in the 2011 prolonged demonstrations against land seizures and the death of a villager in custody and were subsequently voted into the village committee in 2012 elections. Yang Fan (扬帆), “Former Village Chief Sentenced to Three Years and One Months’ Imprisonment for Crimes, Villagers Initiate a Merchants Strike and Demonstration Activities In Support of Lin Zulian” (乌坎前村支书罪成获刑3年1个月 村民发起罢市游行活动声援林祖恋), *Radio Free Asia*, September 8, 2016, <http://www.rfa.org/mandarin/yataibaodao/renquanfazhi/yf2-09082016095246.html>; Qiao Long, “Jailed Former Head of China’s Rebel Village Retracts ‘Confession,’” *Radio Free Asia*, October 12, 2016, <http://www.rfa.org/english/news/china/wukan-trial-10122016134225.html>.
- ²⁹ CHRD, *China Human Rights Briefing September 13-20, 2016*, <https://www.nchrd.org/2016/09/chrb-police-stamp-out-protests-in-wukan-village-new-developments-in-709-crackdown-cases-913-20-2016/>.
- ³⁰ *Radio Free Asia*, “Former Village Secretary Lin Zulian Loses Appeal, Affirms Original Verdict” (乌坎前村书记林祖恋败诉维持原判), October 20, 2016, <http://www.rfa.org/cantonese/news/wukan-10202016103457.html?encoding=simplified>.
- ³¹ *Al Jazeera*, “China Wukan Leader Arrested Ahead of Planned Protests,” June 18, 2016, <http://www.aljazeera.com/news/2016/06/china-wukan-leader-arrested-160619034526131.html>; RDN, “China Elections Monitor, Wukan’s Lin Zulian To Be Tried in Foshan Courtroom on September 8” (乌坎林祖恋案9月8日将在佛山开庭), September 6, 2016, <http://wqw2010.blogspot.com.br/2016/09/98.html>; *Radio Free Asia*, “Wukan Villager Protests Uncontainable, Lin Zulian To Be Tried This Thursday” (乌坎村民游行不遏 林祖恋料周四开审), September 6, 2016, <http://www.rfa.org/cantonese/news/wukan-09062016094007.html>; RDN, “China Election Monitor, Wukan Bulletin, Villagers in Wukan Have Taken to the Streets in Spontaneous Protest Continuously for 74 Days (No. 4)” (中国乌坎维权快讯——村民自发连续游行示威已七十四天(之四)), September 1, 2016, http://wqw2010.blogspot.com.br/2016/09/blog-post_63.html.
- ³² CECC, 2014 Annual Report, pp. 142-143.
- ³³ He had tried to submit his application at the township level first but was blocked by township officials, so he tried to submit it at the county-level. In early September, Yang said he would continue his efforts to seek office, despite threats to himself and his family and 24-hour surveillance around his house. Qiao Long, “Independent People’s Congress Election Hopeful Jailed in China’s Jiangxi,” *Radio Free Asia*, August 25, 2016, <http://www.rfa.org/english/news/china/independent-peoples-congress-election-hopeful-jailed-in-chinas-jiangxi-08252016105705.html>; RDN, “People’s Congress Delegate Independent Candidate Yang Wei (Yang Tingjian) Administratively Detained for 10 Days by Jiangxi Province, Zixi County Public Security Bureau” (江西人大代表独立候选人杨微(杨霆剑)遭江西省资溪县公安局行政拘留十天), August 24, 2016, http://wqw2010.blogspot.com/2016/08/blog-post_68.html.
- ³⁴ Qiao Long, “Independent Candidate Vows to Fight Local Election in China’s Jiangxi,” *Radio Free Asia*, September 6, 2016, <http://www.rfa.org/english/news/china/election-09062016122823.html>.
- ³⁵ RDN, “Hubei Qianjiang City People’s Congress Independent Candidate, Former People’s Congress Delegate, Well Known Elections Expert, Yao Lifa Kidnapped Forced to Leave Qianjiang” (湖北潜江市人大代表独立候选人、前人大代表、著名选举专家姚立法先生遭绑架强制离开潜江) November 2, 2016, http://wqw2010.blogspot.com/2016/11/blog-post_2.html.
- ³⁶ RDN, “Declaration of Yao Lifa and 58 Others To Run In the Hubei Qianjiang City People’s Congress Elections” (湖北潜江市姚立法等58位竞选市人大代表的宣言), November 1, 2016, <http://wqw2010.blogspot.com/2016/11/58.html>; RDN, “China Election Monitor (2016) No. 21: Japanese Television Station (NTV) Blocked From Interviewing Beijing Independent Candidate Ye Qinghuan” (中国选举观察(2016)之二十一:日本电视(NTV)采访北京独立候选人野靖环受阻), October 18, 2016, <http://wqw2010.blogspot.com/2016/10/2016ntv.html>; RDN, “Zhu Xiuling: Beijing People’s Congress Independent Candidate Fan Sujun’s Elder Sister Blocked From Conducting Election Campaigning” (朱秀玲:北京人大代表独立候选人范素君大姐进行选举宣传遭阻拦破坏), November 1, 2016, http://wqw2010.blogspot.com/2016/11/blog-post_67.html.
- ³⁷ RDN, “China Elections Expert, Previous People’s Congress Delegate in Qianjiang City, Yao Lifa’s Wangyi Blog ‘China Elections Monitor’ Shut Down” (中国选举专家、前潜江市人大代表姚立法先生的网易博客“中国选举观察”被封杀), October 16, 2016, http://wqw2010.blogspot.ca/2016/10/blog-post_89.html.
- ³⁸ RDN, “China Elections Monitor (2016), No. 21: Japanese TV (NTV) Blocked From Meeting Beijing Independent Candidate Ye Jinghuan” (中国选举观察(2016)之二十一:日本电视(NTV)采访北京独立候选人野靖环受阻); RDN, “China Elections Monitor (2016) No. 21: 18 Independent Candidates in Beijing Issue Joint Declaration of Their Intent to Participate in Elections” (

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³⁹ RDN, “Beijing Fangshan District Independent Candidate Liu Huizhen November 8, 2016, Record of Movements: Personal Freedom Restricted” (北京房山区独立候选人刘惠珍2016年11月八日出行记: 人身自由遭侵害), November 9, 2016, <http://wqw2010.blogspot.com/2016/11/2016118.html>; Tom Mitchell, Lone Beijing Independent Intimidated Ahead of China Elections,” *Financial Times*, November 4, 2016, <https://www.ft.com/content/ccac1148-a248-11e6-82c3-4351ce86813f>; Javier C. Hernández, “‘We have a Fake Election’: China Disrupts Local Campaigns,” *The New York Times*; Helene Franchienu and Christopher Bodeen, “China Harasses Independent Candidates for Low-Level Offices,” *Associated Press*, November 15, 2016, <http://bigstory.ap.org/article/e6ac147b9f4e4489a1e682348478d18b/china-harasses-independent-candidates-low-level-offices>.

⁴⁰ BBC, “BBC stopped from visiting China independent candidate,” November 17, 2016, <http://www.bbc.com/news/world-asia-38005603?sthisfb%3%80%82%E7%8E%B0%E5%9C%A8%E6%AD%A3%E5%9C%A8%E6%8E%A8%E7%89%B9%E4%B8%8A%E7%83%AD%E6%8E%A8%E3%80%82>.

⁴¹ RDN, “Beijing People’s Congress (58 People) Independent Candidates: Strongly Protest The Beating of Beijing Independent Candidate Li Meiqing by Thugs” (北京人大代表 (58人) 独立候选人: 强烈抗议黑社会成员殴打北京独立候选人李美青), November 10, 2016, http://wqw2010.blogspot.com/2016/11/58_10.html; RDN, “Beijing Police Wantonly Interfere in Grassroots People’s Congress Delegate Elections, Completely Restrict Freedom of 18 Independent Candidates” (北京警方肆意破坏干扰基层人大代表选举 18名独立候选人全部被限制自由), October 24, 2016, <http://wqw2010.blogspot.com/2016/10/18.html>.

⁴² Authorities detained human rights lawyer Cheng Hai for several days because of his canvassing efforts in his bid to run for office. Yang Fan, “Police in Shanghai, Beijing Detain More Independent Election Candidates,” *Radio Free Asia*, November 14, 2016, <http://www.rfa.org/english/news/china/election-detentions-11142016160141.html>.

⁴³ Authorities later changed the charges to “using a cult organization to undermine implementation of the law,” a charge often leveled against Falun Gong practitioners. RDN, “Hunan, Hengyang City, Qidong County People’s Congress Independent Election Candidate Guan Guilin Criminally Detained After Being Administratively Detained” (湖南衡阳祁东县人大代表独立参选人管桂林被行政拘留后又遭刑事拘留), October 14, 2016, http://wqw2010.blogspot.ca/2016/10/blog-post_67.html.

⁴⁴ Authorities detained Zheng Peipei, Xu Peiling, and Cui Fofang when they were handing out leaflets to canvass on November 13th for Feng Zhenghu’s candidacy. As of November 14, the three were still under detention. Yang Fan, “Police in Shanghai, Beijing Detain More Independent Election Candidates,” *Radio Free Asia*.

⁴⁵ Yang Fan, “China Jails Two Former Wukan Village Protest Leaders for ‘Graft,’” *Radio Free Asia*, October 10, 2014, <http://www.rfa.org/english/news/china/wukan-10102014124824.html>.

⁴⁶ CECC, 2014 Annual Report, pp. 141-142.

⁴⁷ CEDAW, Concluding Observations on the Combined Seventh and Eight Periodic Reports of China, para. 30.

⁴⁸ CECC, 2015 Annual Report, p. 289.

⁴⁹ Ibid, 240-241.

⁵⁰ CECC, 2014 Annual Report, p. 179.

⁵¹ Human Rights Watch, “‘China: ‘Benefit the Masses’ Campaign Surveilling Tibetans,” June 19, 2013, <https://www.hrw.org/news/2013/06/18/china-benefit-masses-campaign-surveilling-tibetans>.

⁵² We consider four recommendations to be “poor” because authorities have not indicated abolishing the death penalty is a goal, so they cannot “continue” efforts that don’t exist (186.107), and it is impossible to know whether authorities have “considered” abolition of or a moratorium on the death penalty (186.107 and 114). In addition, there is a problematic presumption that current stipulations on evidence are sufficient and have been implemented (186.110), and the problematic presumption of the existence and implementation of “legal safeguards” in the absence of an examination of the adequacy of such “safeguards” (186.111)

⁵³ UN General Assembly, “Note verbale dated 5 June 2013 from the Permanent Mission of China to the United Nations addressed to the President of the General Assembly,” A/68/90.

⁵⁴ Congressional-Executive Commission on China (CECC), “Criminal Justice,” 2015 CECC Annual Report, p. 8, <http://www.cecc.gov/sites/chinacommission.house.gov/files/documents/2015%20AR%20Criminal%20Justice.pdf>.

⁵⁵ Committee Against Torture (CAT), Concluding observations on the fifth periodic report of China, CAT/C/CHN/CO/5, February 2016, para. 49.

⁵⁶ Estimates by one NGO suggest that since 2013, the downward trend in executions that began in the early 2000s appears to have stalled. Dui Hua estimates that there have been approximately 2,400 executions per year in 2013, 2014, and 2015. Dui Hua Foundation, “China Executed 2,400 People in 2013,” http://duihua.org/wp/?page_id=9270; Dui Hua Foundation, “Can Recognizing Poverty Reduce Executions in China?,” June 9, 2016, <http://www.duihuahrjournal.org/2016/06/can-recognizing->

[poverty-reduce.html](#); A Chinese organization puts the estimate higher, at 4,000 or more cases each year. China Against the Death Penalty, “Overview of China’s Death Penalty 2015” (中国死刑概述2015), March 23, 2016, <http://www.chcadp.org/index.php?a=shows&catid=48&id=2667>; James Griffiths, “China is the World’s Top Executioner, But It Doesn’t Want You To Know That,” *CNN*, April 7, 2016, <http://www.cnn.com/2016/04/06/asia/china-death-penalty/>.

⁵⁷ Dui Hua Foundation, “China’s Average ‘Death Row’ Prisoner Waits 2 Months for Execution,” April 27, 2016, <http://www.duihuaresearch.org/2016/04/chinas-average-death-row-prisoner-waits.html>.

⁵⁸ This figure is also down from the 15 percent reported in the first few years the SPC began to review cases. *Ibid*.

⁵⁹ *Ibid*.

⁶⁰ Chinese Communist Party Central Committee, “Decision on Major Issues Concerning Comprehensively Deepening Reforms,” adopted November 12, 2013, Sec. 9(34), http://www.china.org.cn/china/third_plenary_session/2013-11/16/content_30620736.htm.

⁶¹ Offenses whose maximum punishment was reduced from death to life imprisonment in 2015 are: smuggling of weapons, ammunition, nuclear materials and counterfeit currency; the counterfeiting of currency; fraudulently raising funds; arranging for a person or forcing a person to carry out prostitution; the obstruction of duty of a police officer; and creating rumors during wartime to mislead people. Ninth Amendment to the Criminal Law of the People’s Republic of China (中华人民共和国刑法修正案(九)), November 2015, <http://npc.people.com.cn/n/2015/1126/c14576-27857512.html>.

⁶² Amnesty International, “China 2015-2016,” The State of the World’s Human Rights Report 2015/16, <https://www.amnesty.org/en/countries/asia-and-the-pacific/china/report-china/>.

⁶³ UN Office of the High Commissioner for Human Rights (OHCHR), “UN Human Rights Experts Welcome Encouraging Steps Away From Death Penalty in China and India,” September 11, 2015, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16412&LangID=E>.

⁶⁴ Dui Hua Foundation, “China’s New Criminal Procedure Law: Death Penalty Procedures,” April 3, 2012, http://www.duihuahrjournal.org/2012/04/chinas-new-criminal-procedure-law-death_03.html; Information Office of the State Council, Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012-2015), June 2016 Chap. III Sec. 3, http://english.gov.cn/archive/white_paper/2016/06/15/content_281475372197438.htm.

⁶⁵ CHRD interview with Chinese legal scholar, 2016.

⁶⁶ Information Office of the State Council of the People’s Republic of China, National Human Rights Action Plan (2012-2015), Chap. II Sec. 3, <http://www.china-un.ch/eng/rqrd/jblc/t953936.htm>.

⁶⁷ Apart from the reduction of crimes in the 9th Amendment to the Criminal Law, the government mostly reiterated pre-2013 steps, such as: “In 2012, the Supreme People’s Procuratorate established the Oversight Office on the Review of the Death Penalty, in an effort to strengthen legal supervision procedures on the review of the death penalty. Since 2012, the Supreme People’s Court has issued 56 exemplary cases of guiding importance, with three of them involving criminal acts where the death penalty was applicable. Second trials of death penalty cases have all been conducted in open courts. More importance is given to listening to the opinions of defense lawyers in the course of reviewing death penalty cases. When a higher people’s court reviews a death penalty, for which the defendant didn’t ask for a defense lawyer, it is required to ask legal aid agencies to designate a lawyer for defense service.” Information Office of the State Council, Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012-2015), Chap. III Sec. 3;

⁶⁸ Supreme People’s Court, “SPC Measures on Hearing Defense Opinions In Final Review of Death Penalty Cases” (最高人民法院关于办理死刑复核案件听取辩护律师意见的办法), January 29, 2015, http://www.legaldaily.com.cn/index_article/content/2015-01/29/content_5950322.htm; CECC, 2015 Annual Report, pg. 9.

⁶⁹ Supreme People’s Court, “Reply Concerning issues related to the Application of Article 225 (para 2) of the Criminal Procedure Law” (最高人民法院关于适用刑事诉讼法第二百二十五条第二款有关问题的批复), June 23, 2016, <http://www.court.gov.cn/zixun-xiangqing-22501.html>.

⁷⁰ One scholar believes the interpretation could be a positive development because it may help to reduce government interference in court cases, especially those that relate to the interests of officials. The court’s interpretation was issued as an “official response” to answer a “request for instructions” from a lower court. Susan Finder, “Supreme People’s Court Tweaks Capital Punishment Review Procedure,” Supreme People’s Court Monitor, June 27, 2016, <https://supremepeoplescourtmonitor.com/2016/06/27/supreme-peoples-court-tweaks-capital-punishment-review-procedure/>.

⁷¹ CECC China, 2016 Annual Report, October 8, 2016, pg. 107 (original sources include, Shan Yuxiao, “Tsinghua Scholar Calls on the Supreme People’s Court To Make Public Annual Data on Death Penalty Review Cases,” *Caixin*, October 19, 2015; Zhao Bingzhi and Xu Wenwen, “Observations and Reflections on Death Penalty Reform in the ‘Ninth Amendment to the Criminal Law,’” *Legal Forum*, No. 1 (2016), 34; Li Wenchao, “The Flaws and Ways of Improving the Death Penalty Review Process,” *Journal of Hubei Correspondence University*, Vol. 29, No. 9 (2016), 92. 167; Tang Tong, “Research on the Supervision of the

Death Penalty Review Process by the Procuratorate,” Culture and History Vision (March 2016), 45; Feng Yun, “Discussion of the Right of Defense in the Death Penalty Review Process,” People’s Tribune, April 2016, 124; Wang Yanling, “Thoughts on the Current Status and Ways To Improve Our Nation’s Death Penalty Review Procedure” Shanxi Youth, No. 5 (2016), 102.)

⁷² In response to Recommendation 186.1, Chinese authorities have only stated that China is still making judicial and administrative reforms to prepare for the ratification of the ICCPR but that they have not set a specific timetable for ratification; See also, Article 6, International Covenant on Civil and Political Rights, 1976, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

⁷³ As laid out in Article 18, Vienna Convention on the Law of Treaties, 1969, <http://www.oas.org/legal/english/docs/Vienna%20Convention%20Treaties.htm>.

⁷⁴ Amnesty International, “Death Penalty 2016: Alarming Surge in Recorded Executions Sees Highest Toll in More Than 25 Years,” April 6, 2016, <http://www.amnestyusa.org/news/press-releases/death-penalty-2016-alarming-surge-in-recorded-executions-sees-highest-toll-in-more-than-25-years>.

⁷⁵ International Bar Association, “The Death Penalty Under International Law: A Background Paper to the IBAHRI Resolution on the Abolition of the Death Penalty,” May 2008, pp. 3-5, <http://www.ibanet.org/Document/Default.aspx?DocumentUid=5482860b-b9bc-4671-a60f-7b236ab9a1a0>.

⁷⁶ Anthony Lin, “Innocence Project Movement in China Rises to Aid the Wrongfully Convicted,” *ABA Journal*, December 1, 2015, http://www.abajournal.com/magazine/article/innocence_project_movement_in_china_rises_to_aid_the_wrongfully_convicted; Sui-Lee Wee, “China’s top court says no to West’s model of judicial independence,” *Reuters*, February 26, 2015, <http://in.reuters.com/article/china-law-idINKBN0LU07M20150226>; Susan Finder, “What China’s Judicial Reform White Paper Says About Its Vision for Its Judiciary,” *Supreme People’s Court Monitor*, April 12, 2016, <https://supremepeoplescourtmonitor.com/2016/04/12/what-chinas-judicial-reform-white-paper-says-about-its-vision-for-its-judiciary/>; CHRD, Joint Civil Society Report Submitted to UN Committee Against Torture, October 2015, <https://www.nchrd.org/2015/11/joint-civil-society-report-submitted-to-un-committee-against-torture-october-2015>, paras. 25-10; CECC, “Judicial Independence in the PRC,” accessed July 22, 2016, <http://www.cecc.gov/judicial-independence-in-the-prc>.

⁷⁷ CHRD interview with Chinese legal scholar, 2016; Michelle Miao, “The Politics of China’s Death Penalty Reform in the Context of Global Abolitionism,” *British Journal of Criminology*, March 1, 2013, pp. 14, 16, http://congres-archives.abolition.fr/IMG/pdf/michelle-miao_reformchina.pdf; Zhang Yan, “Debate Over the Death Penalty for Child Traffickers Goes On,” *China Daily*, August 10, 2015, http://www.chinadaily.com.cn/china/2015-08/10/content_21541734.htm; Robert Weatherley and Helen Pittam, “Money for Life: The Legal Debate in China About Criminal Reconciliation in Death Penalty Cases,” *Asian Perspective* 39, 2015, p. 289, http://www.ames.cam.ac.uk/news-events/files/05_WeatherleyandPittam.pdf.

⁷⁸ Anthony Lin, “Innocence Project Movement in China Rises to Aid the Wrongfully Convicted,”; CHRD, Joint Civil Society Report Submitted to UN Committee Against Torture, paras. 25-30.

⁷⁹ CHRD interview with Chinese legal scholar, 2016.

⁸⁰ Dui Hua Foundation, “During Death Penalty Review, No Right to Legal Aid,” May 6, 2014, <http://www.duihuahrjournal.org/2014/05/during-death-penalty-review-no-right-to.html>.

⁸¹ CHRD, *China Human Rights Briefing January 30-February 5, 2015*, <https://www.nchrd.org/2015/02/chrb-hampered-investigation-into-death-in-custody-ineffective-new-rules-on-lawyers-input-in-capital-cases-130-252015/>.

⁸² Dui Hua Foundation, “China Mulls Ranking System for Lawyers,” January 5, 2016, <http://www.duihuahrjournal.org/2016/01/china-mulls-ranking-system-for-lawyers.html>.

⁸³ Most of the cases reviewed were from between 2013 and 2015 with more than half from 2014. Dui Hua Foundation, “China’s Average ‘Death Row’ Prisoner Waits 2 Months for Execution.”

⁸⁴ Ibid.

⁸⁵ Yang Fan, Qiao Long, Lee Lai, “China Executes Man For Eviction-linked Murder of Local Official,” *Radio Free Asia*, November 15, 2016, <http://www.rfa.org/english/news/china/china-executes-man-for-eviction-linked-murder-of-local-official-11152016093523.html>; Qiao Long (乔龙), “Jia Jinglong Death Penalty Case: Many Well-Known Chinese Legal Experts Sign Joint Letter Imploring the Executioner” (贾敬龙死刑案: 中国多位知名法学专家联名上书吁刀下留人), *Radio Free Asia*, November 14, 2016, <http://www.rfa.org/mandarin/yataibaodao/renquanfazhi/ql2-11142016105307.html>; Canyu, “Regarding the Petition Requesting Amnesty for Immediate Execution of the Death Penalty of Jia Jinglong” (关于请求特赦贾敬龙死刑立即执行的请愿书 (最终1274人签名)), October 28, 2016, <http://canyu.org/n127240c6.aspx>; Catherine Lai, “‘Shocking’ Sentence: Hebei Man Who Killed Village Chief After House Demolition To Be Executed,” *Hong Kong Free Press*, October 22, 2016, <https://www.hongkongfp.com/2016/10/22/shocking-sentence-hebei-man-killed-village-chief-house-demolition-executed/>.

⁸⁶ The mitigating circumstances included that Jia Jinglong had turned himself in, that Jia was a victim of ill-treatment by the village chief, and that Jia did not harm innocent people while committing the crime.

⁸⁷ *China Daily*, “Doubts Over Death Sentence Should Delay Its Execution,” October 24, 2016, http://usa.chinadaily.com.cn/opinion/2016-10/24/content_27148378.htm; Deng Xiaoci, “Premeditation Needed Punishment Despite Forced Demolition: SPC,” November 16, 2016, *Global Times*, <http://www.globaltimes.cn/content/1018081.shtml>; *Xinhua News Agency*, “Why Should Jia Jinglong’s ‘Crime be Punishable by Death,’ Responsible Person for the 3rd High People’s Death Penalty Court Answers Journalists’ Questions Regarding Review of Murder Case,” (贾敬龙为何“罪该处死”? --最高法院三庭负责人就贾敬龙故意杀人死刑复核案问题答记者问), November 15, 2016, http://news.xinhuanet.com/legal/2016-11/15/c_1119912541.htm.

⁸⁸ CAT, Concluding observations on the fifth periodic report of China, para. 50.

⁸⁹ CHRD, Joint Civil Society Report Submitted to UN Committee Against Torture, October 2015, <https://www.nchr.org/2015/11/joint-civil-society-report-submitted-to-un-committee-against-torture-october-2015>.

⁹⁰ Recommendation 186.117 (Germany and France) called on China to “Abolish Re-education through Labour, prevent torture, and immediately inform relatives about arrests and effective legal representation.” We consider this recommendation to be only *partially implemented* because China abolished the RTL system; however, China has not prevented torture.

⁹¹ Article 14, Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, June 2006, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx>.

⁹² The SP on torture made its most recent request for a country visit to China in the first half of 2016. For the report on the SP’s previous visit to China, see: UN Office of the High Commissioner for Human Rights, “Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak - Mission to China,” October 2006, http://ap.ohchr.org/documents/dpage_e.aspx?si=E/CN.4/2006/6/Add.6.

⁹³ Articles 247-8, Criminal Law of the People’s Republic of China (中华人民共和国刑法), (1979, amended 2015), http://www.china.com.cn/policy/txt/2012-01/14/content_24405327_16.htm.

⁹⁴ Article 95, Supreme People’s Court Judicial Interpretation on the Criminal Procedure Law of the People’s Republic of China (最高人民法院关于使用《中华人民共和国刑事诉讼法》的解释), January 2013, http://www.spp.gov.cn/sscx/201502/t20150217_91462.shtml.

⁹⁵ Committee Against Torture (CAT), Concluding observations on the fifth periodic report of China, CAT/C/CHN/CO/5, February 2016, paras. 7-8.

⁹⁶ CHRD, Joint Civil Society Report Submitted to UN Committee Against Torture, paras. 55-58.

⁹⁷ Articles 50, 53-58, 171, Criminal Procedure Law of the People’s Republic of China (中华人民共和国刑事诉讼法), (1996, amended 2012), http://www.gov.cn/flfg/2012-03/17/content_2094354.htm; UN Human Rights Council, “Report of the Working Group on the Universal Periodic Review, China, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review,” A/HRC/25/5/Add.1, 2014.

⁹⁸ UN Human Rights Council, “Report of the Working Group on the Universal Periodic Review, China, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review”; Public Security Organ Regulations on Procedures for Handling Criminal Cases (公安机关办理刑事案件程序规定), 2012, <http://www.mps.gov.cn/n2254314/n2254409/n2254443/n2254452/c3708286/content.html>.

⁹⁹ Supreme People’s Court, Supreme People’s Procuratorate, Ministry of Public Security, Ministry of State Security, Ministry of Justice, “Several Provisions on Intensifying the Legal Supervision of Judicial Functionaries’ Dereliction of Duty in Litigation Activities” (最高人民法院、最高人民检察院、公安部等关于印发《关于对司法工作人员在诉讼活动中的渎职行为加强法律监督的若干规定(试行)》的通知), July 2010, <http://jjw.jiangdu.gov.cn/info.asp?id=222742>.

¹⁰⁰ Response by the Government of the People’s Republic of China to the Committee Against Torture’s List of issues in relation to the fifth periodic report of China, CAT/C/CHN/Q/5/Add.2, October 2015, para. 31.

¹⁰¹ CHRD, Joint Civil Society Report Submitted to UN Committee Against Torture, paras. 25-30.

¹⁰² After reviewing verdicts posted online by the Supreme People’s Court, journalists did not uncover a single instance of a court decision tossing out illegal evidence. See, Ye Zhusheng (叶竹盛) “Why Is It So Hard to Exclude Illegal Evidence” (排除非法证据为何这么难), *South Reviews Magazine*, October 10, 2014, <http://www.nfcmag.com/article/5031.html>.

¹⁰³ Wang Mengyao (王梦遥), “Criminal Procedure Reform: No Self-Incrimination” (刑诉改革：不得强迫自证其罪), *Beijing News*, October 11, 2016, http://epaper.bjnews.com.cn/html/2016-10/11/content_655084.htm?div=-1; Supreme People’s Court, Supreme People’s Procuratorate, Ministry of Public Security, Ministry of State Security, and Justice Ministry, “Opinion

Regarding the Promotion of Reform of the Criminal Procedure System Centered on Trials” (关于推进以审判为中心的刑事诉讼制度改革的意见), October 2016, <http://www.mps.gov.cn/n2254314/n2254409/n4904353/c5515838/content.html>.

¹⁰⁴ Committee Against Torture (CAT), Concluding observations on the fifth periodic report of China, para. 32.

¹⁰⁵ The NHRAP further states: “Preventive and remedial measures against extortion of confession by torture and collecting evidence through other illegal methods will be enforced,” and that “all confessions by suspects and defendants extorted by torture or other illegal methods, as well as testimonies and statements of witnesses or victims collected by violence, threat or other illegal means will be eliminated and not used in working out the verdict.” Information Office of the State Council of the People’s Republic of China, Human Rights Action Plan (2012-2015), Chap. II, Sec. 1.3, <http://www.china-un.ch/eng/rqrd/jblc/t953936.htm>.

¹⁰⁶ CHRD, Joint Civil Society Report Submitted to UN Committee Against Torture, paras. 31-37; Human Rights Action Plan (2012-2015), Chap. II, Sec. 1.

¹⁰⁷ CHRD, Joint Civil Society Report Submitted to UN Committee Against Torture, paras. 70-82.

¹⁰⁸ The NHRAP states that the government will be: “[s]trengthening efforts in investigation and punishment of cases committed by state functionaries involving violations of a citizen’s personal rights....” Human Rights Action Plan (2012-2015), Chap. II, Sec. 1.

¹⁰⁹ Recommendations 186.117 (Germany and France), 118, and 127 have been graded as *partially implemented* because they called for reforms that included asking China to abolish Re-education through Labour, which the government did in 2013. However, recommendation 117 also asked China to “prevent torture, and immediately inform relatives about arrests and effective legal representation;” 118 also asked China to “Ensure that any reformed prison or compulsory care system meets international human rights standards;” and 127 also asked China to “Reform its administrative justice system.” The government has not implemented these elements of the recommendations. *Xinhua News Agency*, “China abolishes reeducation through labor,” December 28, 2013, http://news.xinhuanet.com/english/china/2013-12/28/c_133003042.htm.

¹¹⁰ China’s full reply to Sweden (118): “The amended Criminal Procedure Law of China clearly stipulates that the compulsory mental health treatment for mentally ill people should be decided by courts. At present, the relevant Chinese authorities are formulating rules to regulate the treatment, rehabilitation, management, diagnose and assessment conducted by the institutions of compulsory mental health treatment and the protection of the rights of the people under compulsory mental health treatment. As for re-education through labour, see 186.117.” UN Human Rights Council, “Report of the Working Group on the Universal Periodic Review, China, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review,” A/HRC/25/5/Add.1, 2014.

¹¹¹ China’s full reply to 186.115: “There are no arbitrary or extrajudicial detentions in China. All criminal and security detentions are decided on and implemented based on the Criminal Procedure Law and Law on Public Security Administration of China. According to China’s Constitution and relevant laws, all citizens enjoy freedom of speech, the press, assembly, association and religious belief, and shall not harm the national, social and collective interests and legitimate rights of other citizens when exercising the above-mentioned rights. Illegal and criminal activities shall be prosecuted according to law.” UN Human Rights Council, “Report of the Working Group on the Universal Periodic Review, China, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review.”

¹¹² Specifically, forced psychiatric commitment should only occur when someone is both diagnosed with a “serious mental disorder” and has caused harm to, or is at risk of harming, themselves or others and their guardians agree to in-patient therapy. Articles 30- 36 deal with in-patient therapy. Mental Health Law of the People’s Republic of China (中华人民共和国精神卫生法), 2012, http://www.npc.gov.cn/huiyi/cwh/1129/2012-10/27/content_1741177.htm.

¹¹³ Article 35-36, Mental Health Law of the People’s Republic of China.

¹¹⁴ Article 285, Criminal Procedure Law of the People’s Republic of China (中华人民共和国刑事诉讼法), (1996, amended 2012), http://www.gov.cn/flfg/2012-03/17/content_2094354.htm.

¹¹⁵ Civil Rights & Livelihood Watch, “Database of Forcible Psychiatric Commitment” (被精神病数据库), 2009-2016, <http://www.msguancha.com/plus/list.php?tid=14>.

¹¹⁶ CHRD, *China Human Rights Briefing April 29-May 5, 2016*, <https://www.nchrd.org/2016/05/chrb-forced-psychiatric-commitment-of-dissidents-continues-as-police-act-above-enacted-law-429-55-2016/>.

¹¹⁷ CHRD, Portrait of a Defender - Xing Shiku (邢世库), <https://www.nchrd.org/2016/03/xing-shiku/>.

¹¹⁸ UN Human Rights Council, Opinion No. 8/2014 (China) on Mr Xing Shiku, in Opinions adopted by the Working Group on Arbitrary Detention at its sixty-ninth session, 22 April – 1 May 2014, <https://www.nchrd.org/wp-content/uploads/2013/12/Opinion-No.-8-2014-China.pdf>.

¹¹⁹ See: CHRD, “The Darkest Corners”: Abuses of Involuntary Psychiatric Commitment in China, August 2012, <https://www.nchrd.org/2012/08/the-darkest-corners-abuses-of-involuntary-psychiatric-commitment-in-china/>; CHRD, *China Human Rights Briefing* November 8-13, 2013, <https://www.nchrd.org/2013/11/chrb-six-months-after-mental-health-law-implemented-involuntary-psychiatric-commitment-continues-118-13-2013/>; CHRD, *China Human Rights Briefing* September 12-18, 2014, <https://www.nchrd.org/2014/09/chrb-new-cases-of-forced-psychiatric-commitment-detentions-of-prominent-writer-democracy-activist-912-182014/>; CHRD, *China Human Rights Briefing* May 8-14, 2015, <https://www.nchrd.org/2015/05/chrb-forced-psychiatric-detention-persists-2-years-after-china-enacted-mental-health-law-58-142015/>; CHRD, *China Human Rights Briefing* April 29-May 5, 2016, <https://www.nchrd.org/2016/05/chrb-forced-psychiatric-commitment-of-dissidents-continues-as-police-act-above-enacted-law-429-55-2016/>.

¹²⁰ Ibid.

¹²¹ Committee Against Torture (CAT), Concluding observations on the fifth periodic report of China, December 2015, CAT/C/CHN/CO/5, para 42.

¹²² CAT, Concluding observations on the fifth periodic report of China, paras. 42, 55.

¹²³ Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of China, October 2012, CRPD/C/CHN/CO/1, paras. 25-8.

¹²⁴ According to government data, as of June 2016, only about 31% of rural residents access the Internet; and there are 35% more urban Internet users than rural users. Thus there remains a big digital gap between urban and rural users. *People’s Daily*, “Spread of Rural Internet Access Continues to be Smooth, Gap Between Rural and Urban Areas Still Comparatively Large” (农村互联网普及率保持平稳 城乡差异依然较大), August, 3, 2016, http://country.cnr.cn/gundong/20160803/t20160803_522874080.shtml.

¹²⁵ Furthermore, we also consider five of the 20 recommendations *poor*, since they encourage further development in areas where no prior progress is evident. 186.169- Chile asked China to “[c]ontinue strengthening the protection and promotion of the right of all citizens to publicly express their beliefs and opinions.” 186.154 – Norway asked China to “Further efforts” toward non-existing efforts ever made toward “safeguarding the freedom of expression of all citizens.” 186.157 – Cote d’Ivoire asked China to “Strengthen the measures aimed at guaranteeing freedom of expression and freedom of the press” even though such measures do not exist. 186.165 – Myanmar asked China to “Strengthen institutional guarantees for the legitimate rights and interests of news agencies and journalists” even though News agencies in China are state controlled. Their “legitimate rights and interests” are largely those of the state, which differ from individual journalists’ rights and interests – and journalists’ right to free press has not been protection. 187.173 – Uganda asked China to “further guarantee citizens’ right to express themselves” even though these rights have not been “guaranteed” in China, so it makes little sense to ask the state to “further guarantee” them. Such wording has the effect of misguidedly praising the government.

¹²⁶ UN Human Rights Council, Freedom of Expression resolution, A/HRC/RES/12/16, October 12, 2009.

¹²⁷ Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of China, including Hong Kong, China and Macao, China, CESCR/E/C.12/CHN/2, May, 2014, para. 37.

¹²⁸ Information Office of the State Council, Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012-2015), June 2016, Chap. III, Sec. 7, http://english.gov.cn/archive/white_paper/2016/06/15/content_281475372197438.htm.

¹²⁹ “Supreme People’s Court and Supreme People’s Procuratorate Interpretation on Several Issues Regarding the Applicable Law in Cases of Using Information Networks to Commit Defamation and Other Such Crimes” (两高发布关于办理网络诽谤等刑事案件适用法律若干问题的解释), September 2013, http://www.spp.gov.cn/zdgz/201309/t20130910_62417.shtml.

¹³⁰ State Administration of Press, Publication, Radio, Film and Television, “Notice on Printing and Distributing Measures on Managing Information Obtained by Press Personnel Through Professional Conduct” (关于印发《新闻从业人员职务行为信息管理辦法》的通知), June 30, 2014, <http://www.gapp.gov.cn/news/1663/211792.shtml>; International Federation of Journalists, “China’s Media War: Censorship, Corruption & Control,” 2014, p. 9, http://www.ifj.org/uploads/media/Press_Freedom_in_China_2014_English_Web.pdf.

¹³¹ The anti-crime campaign was called the “Internet Security Comprehensive Special Action.” International Federation of Journalists, “China’s Media War: Censorship, Corruption & Control,” 2014, pg. 41.

¹³² Ibid.

¹³³ Under the regulations, public account users who are not “credentialed” to disseminate news on such services must obtain state approval before they can send out “current political news,” and service providers are required to provide records to the government of public accounts that “engage in public information service activities.” Articles 6-7, “Provisional Regulations to Manage the Development of Instant Messaging Tools in Providing Public Information Services” (即时通信工具公众信息服务发展管理暂行规定), August 2014, <http://politics.people.com.cn/n/2014/0807/c1001-25423647.html>.

- ¹³⁴ Article 24, “Regulations on Internet Publishing Services Administration” (网络出版服务管理规定), March 2016, <http://www.gapp.gov.cn/govpublic/84/1067.shtml>.
- ¹³⁵ Article 13, Counter-espionage Law of the People’s Republic of China (中华人民共和国反间谍法), November 2014, http://news.xinhuanet.com/politics/2014-11/01/c_1113074346.htm.
- ¹³⁶ The law also underscores the government’s intention to determine for citizens what constitutes threats to the country, stipulating that the state is to “strengthen new publicity and guidance of popular opinion on national security.” Articles 25, 76, National Security Law of the People’s Republic of China (中华人民共和国国家安全法), July 2015, http://news.xinhuanet.com/politics/2015-07/01/c_1115787801.htm.
- ¹³⁷ Article 32, Ninth Amendment to the Criminal Law of the People’s Republic of China (中华人民共和国刑法修正案（九）), November 2015, <http://npc.people.com.cn/n/2015/1126/c14576-27857512.html>.
- ¹³⁸ Articles 81(6), 56 (6), Counter-terrorism Law of the People’s Republic of China (反恐怖主义法), December 2015, http://news.xinhuanet.com/politics/2015-12/27/c_128571798.htm.
- ¹³⁹ In terms of Article 58, authorities have long made it a practice to suspend cyber communications channels for periods of time in order to “maintain stability” in China’s restive western regions of Tibet and Xinjiang. Articles 9, 46, 58, Cyber Security Law of the People’s Republic of China (网络安全法), November 2016, http://news.xinhuanet.com/politics/2016-11/07/c_1119867015.htm; Sue-Lin Wong and Michael Martina, “China adopts cyber security law in face of overseas opposition,” *Reuters*, November 7, 2016, <http://www.reuters.com/article/us-china-parliament-cyber-idUSKBN132049>.
- ¹⁴⁰ Film Industry Promotion Law of the People’s Republic of China (中华人民共和国电影产业促进法), November 7, 2016, <http://politics.people.com.cn/n1/2016/1108/c1001-28842894.html>.
- ¹⁴¹ Article 19, International Covenant on Civil and Political Rights, 1966, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.
- ¹⁴² CHRD, “‘Too Risky to Call Ourselves Defenders’: 2015 Annual Report on the Situation of Human Rights Defenders in China,” p. 2, https://www.nchrd.org/wp-content/uploads/2016/02/2015_CHRD-HRD-REPORT_FINAL-ONLINE-1.pdf.
- ¹⁴³ CHRD, Individuals Detained in Mainland China for Supporting Hong Kong Pro-Democracy Protests, (accessed November 10, 2016), <https://www.nchrd.org/2014/10/individuals-detained-in-mainland-china-for-supporting-hong-kong-pro-democracy-protests/>.
- ¹⁴⁴ CHRD, Portrait of a Defender – Gao Yu (高瑜), <https://www.nchrd.org/2014/12/prisoner-of-conscience-gao-yu/>; CHRD, Portrait of a Defender – Pu Zhiqiang (浦志强), <http://www.chrdnet.com/2014/06/prisoner-of-conscience-pu-zhiqiang/>.
- ¹⁴⁵ CHRD, “A Nightmarish Year Under Xi Jinping’s ‘Chinese Dream’: 2013 Annual Report on the Situation of Human Rights Defenders in China,” p. 21, https://www.nchrd.org/wp-content/uploads/2014/03/CHRD_XJP_online.pdf.
- ¹⁴⁶ See China’s position on recommendations 186.159, 160, and 161. UN Human Rights Council, “Report of the Working Group on the Universal Periodic Review, China, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review,” A/HRC/25/5/Add.1, 2014.
- ¹⁴⁷ Committee to Protect Journalists, “China, Egypt imprison record number of journalists,” December 15, 2015, <https://www.cpj.org/reports/2015/12/china-egypt-imprison-record-numbers-of-journalists-jail.php>.
- ¹⁴⁸ CHRD, Prisoner of Conscience – Chen Shuqing (陈树庆), <https://www.nchrd.org/2016/07/chen-shuqing-%E9%99%88%E6%A0%91%E5%BA%86/>; CHRD, Prisoner of Conscience – Lü Gengsong (吕耿松), <https://www.nchrd.org/2016/07/16868/>; Rights Defense Network, “Zhang Rongping (aka Zhang Shengli), Liang Qinhui Sentenced Respectively to 4 Years, 18 Months” (张荣平（张圣雨）、梁勤辉今分别获刑4年和1年6个月), April 8, 2016, <http://wqw2010.blogspot.com/2016/04/416.html>.
- ¹⁴⁹ Information Office of the State Council, Assessment Report on the Implementation of the National Human Rights Action Plan of China (2012-2015), June 2016, Chap. III, Sec 7.
- ¹⁵⁰ National Human Rights Action Plan (2012-2015), Chap. II, Sec. 7, <http://www.china-un.ch/eng/rqrd/jblc/t953936.htm>.
- ¹⁵¹ *Ibid*, Chap. II, Secs. 7-8.
- ¹⁵² The Chinese government’s full response in not accepting Spain’s recommendation (137) was: “In accordance with China’s Constitution and relative legislation, citizens enjoy freedom of speech, association and religious belief. The Chinese government guarantees, in accordance with law, citizens’ rights to exercise these freedoms. Meanwhile, the exercise of the above-mentioned freedoms shall abide by the Constitution and laws, and shall not harm the national, social, collective interests and the legitimate rights of other citizens. Illegal and criminal activities shall be prosecuted according to law.” UN Human Rights Council, “Report

of the Working Group on the Universal Periodic Review: China. Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review,” A/HRC/25/5/Add.1, 2014.

¹⁵³ Law on Assemblies, Processions, and Demonstrations of the People’s Republic of China, 1989, http://www.npc.gov.cn/englishnpc/Law/2007-12/12/content_1383911.htm.

¹⁵⁴ Under Article 21 of the International Covenant on Civil and Political Rights, assembly rights are not absolute but “no restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.” International Covenant on Civil and Political Rights, 1966, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>. China does not have a democratic political system, and the government’s bans on peaceful rallies citing “public safety” or “public order” do not pass the democratic necessity test.

¹⁵⁵ UN Human Rights Council (HRC), Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/23/29, 2013, p. 17, para. 61.

¹⁵⁶ HRC, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/23/39, April 24, 2013, pp. 14-5, para. 50; OSCE / ODIHR Guidelines on Freedom of Peaceful Assembly, 2010 (second ed.), p. 15, para. 21.

¹⁵⁷ Specifically, the four crimes in the Criminal Law commonly used to deprive Chinese citizens of their peaceful assembly rights are: “disrupting public order” (Article 290); “gathering a crowd to disrupt order of a public place” (Article 291); “unlawful assembly” (holding an assembly without an application permit) (Article 296); and “picking quarrels and provoking trouble” (Article 294(4)). “Disrupting public order” (Article 23) and “illegal assembly” (Article 55) can result in detention up to 15 days under the Public Security Administration Punishment Law. Criminal Law of the People’s Republic of China (中华人民共和国刑法), 1979, amended 2015, http://www.china.com.cn/policy/txt/2012-01/14/content_24405327.htm; Public Security Administration Punishment Law of the People’s Republic of China (中华人民共和国治安管理处罚法), 2006, http://big5.gov.cn/gate/big5/www.gov.cn/ziliao/flfg/2005-08/29/content_27130.htm.

¹⁵⁸ The provisions around deprivation of political rights are laid out in Chapter 3, Section 7 of the Criminal Law. Article 54 lays out the rights which will be deprived. Article 56 sets out the crimes which can be punished with deprivation: anyone convicted of an endangering national security crime (Articles 102-122) must be sentenced to a period of deprivation of political rights. Anyone convicted of the crime of seriously undermining public order by intentional homicide, rape, arson, explosion, poisoning or robbery may be sentenced to deprivation of political rights as a supplementary punishment. Anyone sentenced to death or life imprisonment will be deprived of their political rights for life under Article 57. For more on the use of “endangering national security” crimes against human rights defenders, see: CHRD, “Inciting Subversion of State Power”: A Legal Tool for Prosecuting Free Speech in China,” January 8, 2008, <https://chrnet.com/wp-content/uploads/2008/01/One-World-One-Dream-Universal-Human-Rights.pdf>.

¹⁵⁹ UN Commission on Human Rights, “Report submitted by the Working Group on Arbitrary Detention, Addendum: Visit to the People’s Republic of China,” E/CN.4/1998/44/Add.2, December 22, 1997, paras. 48-53.

¹⁶⁰ Article 290, Ninth Amendment to the Criminal Law of the People’s Republic of China, (中华人民共和国刑法修正案（九）), August 30, 2015, http://news.xinhuanet.com/legal/2015-08/30/c_1116414724.htm.

¹⁶¹ There is no legal definition of “mass incident,” but the Chinese Academy of Social Sciences (CASS), which is affiliated with the State Council, defined them as protests with 100 or more people. Hou Liqiang, “Report identifies sources of mass protests,” *China Daily*, April 9, 2014, http://www.chinadaily.com.cn/china/2014-04/09/content_17415767.htm.

¹⁶² The group of journalists operated a YouTube channel, Twitter account, and blog under the name “Not News” (非新闻) or “Wickedonnaa” See: <https://www.youtube.com/channel/UCVMOALB3Ur566lKOHrXJyDQ/>; <https://twitter.com/wickedonnaa>; <https://wickedonna.blogspot.com/>; <https://newsworthknowingcn.blogspot.com/>.

¹⁶³ *Not News* (非新闻), “2015 Statistics” (2015年统计), January 6, 2016, <http://newsworthknowingcn.blogspot.hk/2016/01/2015.html>.

¹⁶⁴ Rights Defense Network, “Arrest Approved for ‘Not News’ Founder Lu Yuyu and Girlfriend Li Tingyu” (“非新闻”创办人卢昱宇及女友李婷玉都已被批准逮捕), July 21, 2016, https://wqw2010.blogspot.hk/2016/07/blog-post_51.html.

¹⁶⁵ CHRD, Individuals Detained in Crackdown on Peaceful Assembly, Association & Expression, (accessed October 21, 2016), <https://chrnet.com/2013/07/individuals-detained-in-crackdown-on-assembly-and-association/>.

¹⁶⁶ Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur (SR) on opinion and expression; SR on peaceful assembly and association; the SR on health; SR on human rights defenders; SR on torture, UA G/SO 218/2 G/SO 217/1 G/SO 214 (67 - 17) Assembly & Association (2010 - 1) Health (2002 - 7) G/SO 214 (107 - 9) G/SO 214 (53 - 24), China 8/2013, 9 August 2013, https://spdb.ohchr.org/hrdb/24th/public_UA_China_09.08.13_%288.2013%29.pdf; WGAD; WGEID; SR on opinion and expression; SR on peaceful assembly and

association; SR on HRDs, UA G/SO 218/2 G/SO 217/1 G/SO 214 (67 - 17) Assembly & Association (2010 - 1) G/SO 214 (107 - 9), China 12/2013, 22 October 2013, https://spdb.ohchr.org/hrdb/24th/public_-_UA_China_22.10.13_%2812.2013%29.pdf; WGAD; SR on opinion and expression; SR on peaceful assembly and association; the SR on health; SR on HRDs; SR on torture, UA, China 10/2014, https://spdb.ohchr.org/hrdb/28th/Public_-_UA_China_30.10.14_%2810.2014%29.pdf.

¹⁶⁷ Deprivation of Liberty and Torture/Other Mistreatment of Human Rights Defenders in China (Partial data 01/01/2012 to 12/31/2015) (accessed October 21, 2016), <https://www.nchrd.org/2016/03/deprivation-of-liberty-and-tortureother-mistreatment-of-human-rights-defenders-in-china-partial-data-updated-6302013/>.

¹⁶⁸ Charity Law of the People's Republic of China (中华人民共和国慈善法), 2016, http://www.npc.gov.cn/npc/dbdhyh/12_4/2016-03/21/content_1985714.htm.

¹⁶⁹ Overseas NGOs' Domestic Activities Management Law of the People's Republic of China (中华人民共和国境外非政府组织境内活动管理法), 2016, http://news.xinhuanet.com/legal/2016-04/29/c_1118765888.htm.

¹⁷⁰ CHRD, *China Human Rights Briefing March 21-31, 2016*, <https://chrdnet.com/2016/03/chrb-new-charity-law-will-further-isolate-weaken-civil-society-in-china-march-21-312016/>.

¹⁷¹ CHRD, "China: Repeal Overseas NGO Law & Protect Freedom of Association," April 28, 2016, <https://chrdnet.com/2016/04/china-repeal-overseas-ngo-law-protect-freedom-of-association/>.

¹⁷² UN Office of the High Commissioner for Human Rights, "China: Newly adopted Foreign NGO Law should be repealed, UN experts urge," May 3, 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19921&LangID=E>.

¹⁷³ The regulations are: Measures on the Administration of Public Fundraising by Charitable Organizations (慈善组织公开募捐管理办法), in force September 1, 2016, <http://www.mca.gov.cn/article/gk/fg/shzzgl/201608/20160800001646.shtml>; Measures for the Designation of Charitable Organizations (慈善组织认定办法), in force September 1, 2016, <http://www.mca.gov.cn/article/gk/fg/shzzgl/201608/20160800001645.shtml>; Regulations on the Registration and Administration of Social Groups (社会团体登记管理条例) (1998), draft revisions released for comment August 1, 2016, http://news.xinhuanet.com/gongyi/2016-08/08/c_129213964.htm.

¹⁷⁴ Other revisions to the Regulations on the Registration and Administration of Social Groups include provisions that a group must make public information about its operations or otherwise face sanctions and likely closure. This includes their rules, directors, funding, organizational structure, and the vague "any information the registration department of the State Council requests" in a working report published before May 31 every year (Article 41). If these groups fail to comply, they would be put in the "abnormal" groups directory, and after two years can have their registration removed (Article 55).

¹⁷⁵ The Measures for the Designation of Charitable Organizations ban social groups from being designated as charitable organizations (thus blocked from fundraising online) if they are included on an "exceptions" list, but it doesn't say how a group is added to this list and if there is an appeals process (Article 5(3)). The Measures on the Administration of Public Fundraising by Charitable Organizations repeat the same restrictions on registration and includes a two-year waiting period before a registered organisation is allowed to do fundraising (Article 5).

¹⁷⁶ UN SR On the rights to freedom of peaceful assembly and of association, "General Principles on Protecting Civic Space and the Right to Access Resources," May 28, 2014, <http://freeassembly.net/news/general-principles-right-to-funding/>.

¹⁷⁷ HRC, Civil Society Space, A/HRC/RES/27/31, September 26, 2014, http://freeassembly.net/wp-content/uploads/2014/11/A_HRC_27_L.24-ENG.pdf.

¹⁷⁸ See: regarding Liren Libraries: Guo Rui, "Rural man opens library for a better future," *China Daily*, March 31, 2011, http://usa.chinadaily.com.cn/epaper/2011-03/31/content_12255217.htm; On former staff of Yirenping: Xu Lin and Li Wenfang, "Toilet occupation group is flushed with success," *China Daily*, February 27, 2012, http://usa.chinadaily.com.cn/china/2012-02/27/content_14696204.htm; Yirenping: Yin Lu, "Fighting for the fairer sex," *Global Times*, May 12, 2014, <http://www.globaltimes.cn/content/859865.shtml>; Yirenping: Zhang Yan, "NGOs feel the squeeze," *Global Times*, May 19, 2010, <http://www.globaltimes.cn/content/533426.shtml>; Zhongze Women's Legal Counselling and Service Center: Zhang Yan, "Legitimacy of a legal center," *Global Times*, May 12, 2010, <http://www.globaltimes.cn/content/531143.shtml>; Transition Institute: Jiang Wanjian, "Researcher sues ministry over special utility fee," *Global Times*, January 28, 2010, <http://www.globaltimes.cn/content/501643.shtml>.

¹⁷⁹ See, for example, the case of Guo Yushan (郭玉闪) and He Zhengjun (何正军) of the Transition Institute, and Chang Boyang (常伯阳), the legal advisor to Zhengzhou Yirenping. CHRD, Submission to UN on Guo Yushan and He Zhengjun – June 20, 2015, <https://chrdnet.com/2015/07/submission-to-un-on-guo-yushan-and-he-zhengjun-june-20-2015/>; CHRD, Portrait of a Defender – Chang Boyang (常伯阳), <https://chrdnet.com/2014/09/prisoner-of-conscience-chang-boyang/>.

¹⁸⁰ More than 20 staff members were taken into custody. Authorities convicted three in September 2016 and handed down suspended sentences, after they confessed. Michael Forsythe, "Labor Activists in China Get Suspended Prison Terms," *The New York Times*, September 26, 2016, <http://www.nytimes.com/2016/09/27/world/asia/china-labor-activists-guangdong->

[sentenced.html? r=0](#); State media aired police accusations against some of the labor rights advocates for “accepting financial support from overseas organizations” and “inciting workers to gather crowds and provoke trouble.” In September 2016, three of them were sentenced to 18 to 36 months’ imprisonment. CHRD, *China Human Rights Briefing January 8-21, 2016*, <https://chrdnet.com/2016/01/chrb-freedom-of-association-under-assault-in-china-arbitrary-detentions-disappearances-18-212016/>; Police also seized and criminally detained a longtime advocate of workers’ rights, Hu Changgen (胡常根), a migrant worker of over 20 years, in June 2016 for voicing dissent and helping other laborers in defending their rights. In the same month, Chinese authorities detained two citizen journalists, one of whom used to be a migrant worker, in apparent reprisal for chronicling public protests including strikes in China and posting the information online. CHRD, *China Human Rights Briefing June 22-30, 2016*, <https://www.nchrd.org/2016/06/chrb-activists-detained-or-facing-trial-for-exercising-free-expression-622-30-2016/>.

¹⁸¹ Vanessa Piao, “Rural Library Chain Closes, Citing ‘Tremendous Pressure,’” *The New York Times*, September 22, 2014, <http://sinosphere.blogs.nytimes.com/2014/09/22/rural-library-chain-closes-citing-tremendous-pressure/? r=0>; CHRD, “Police Detain Two Rights Advocates as NGO Crackdown Intensifies,” June 15, 2015, <https://chrdnet.com/2015/06/police-detain-two-rights-advocates-as-ngo-crackdown-intensifies/>; CHRD, *China Human Rights Briefing January 8-21, 2016*, <https://chrdnet.com/2016/01/chrb-freedom-of-association-under-assault-in-china-arbitrary-detentions-disappearances-18-212016/>; *The Guardian*, “Chinese women’s rights group collapses under official pressure,” June 5, 2015, <http://www.theguardian.com/global-development/2015/jun/05/china-women-rights-group-weizhiming-collapses-official-pressure>; Didi Kirsten Tatlow, China Is Said to Force Closing of Women’s Legal Aid Center,” *The New York Times*, “January 29, 2016, <http://www.nytimes.com/2016/01/30/world/asia/beijing-women-legal-aid-guo-jianmei.html? r=0>.

¹⁸² Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of China, CEDAW/C/CHN/CO/7-8, November 7, 2014, para. 33(c).

¹⁸³ HRC, Report of the SR Maina Kiai, Addendum Observations on communications transmitted to Governments and replies received, A/HRC/26/29/Add.1, June 10, 2014; UN HRC, Report of the SR Maina Kiai, Addendum Observations on communications transmitted to Governments and replies received, A/HRC/29/25/Add.3, June 10, 2015.

¹⁸⁴ In our assessment, the recommendation by Malaysia (139) is “poor” because it urges the “continued promotion” of conditions that do not currently exist. Additionally, the recommendation by Uganda (147) to “Adopt further measures to firmly crack down on cult organizations to safeguard freedom of worship and the normal religious order” is also “poor,” because it supports China’s persecution of Falun Gong, which the government has labelled a “cult,” in the name of “safeguarding” “normal” “religious order.”

¹⁸⁵ Constitution of the People’s Republic of China, (1982, amended 2004), http://www.npc.gov.cn/englishnpc/Constitution/2007-11/15/content_1372964.htm.

¹⁸⁶ China’s National Human Rights Action Plan includes pledges on: protecting citizens from being forced into believing or not believing in religion; protecting normal religious activities; and providing assistance and guaranteeing Muslims can complete their pilgrimages. Information Office of the State Council of the People’s Republic of China, Human Rights Action Plan (2012-2015), Chap. IV, <http://www.china-un.ch/eng/rqrd/jblc/t953936.htm>.

¹⁸⁷ Buddhist leader Wu Zeheng (吴泽恒) was sentenced to life in prison in a closed-door hearing for his beliefs and peaceful activities, including protecting human rights, which date back to his time as a student leader in the 1989 pro-democracy movement. One of the crimes Wu was convicted of was “organizing or using an illegal cult to undermine implementation of the law.” Another Buddhist leader, Xu Zhiqiang (徐志强), was convicted of a political crime in April 2016 and sentenced to four years in prison. CHRD, Portrait of a Defender – Wu Zeheng, <https://www.nchrd.org/2016/07/wu-zeheng/>; CHRD, Portrait of a Defender – Xu Zhiqiang, <https://www.nchrd.org/2016/08/xu-zhiqiang/>.

¹⁸⁸ Effective January 2016, the Counter-terrorism Law could be used to criminalize peaceful activities of ethnic Uyghurs and Tibetans as well as any other political or religious dissidents as “terrorists” while systematically depriving their due process rights. Amendments to China’s Criminal Law, went into effect in November 2015, targets individuals allegedly involved in “cults,” with the maximum punishment being extended to life imprisonment. In addition, the Cyber Security Law legalizes invasive and strict cyber-policing and authorizes shutting off the Internet to entire regions for “security” purposes. This would legalize actions authorities have already taken, such as shutting off the Internet for the entire Xinjiang Uyghur Autonomous Region (comprising one-sixth of Chinese territory) following unrest that occurred in 2009. Counter-terrorism Law of the People’s Republic of China (反恐主义法), 2015, http://news.xinhuanet.com/politics/2015-12/27/c_128571798.htm; Ninth Amendment to the Criminal Law of the People’s Republic of China (中华人民共和国刑法修正案(九)), November 2015, <http://npc.people.com.cn/n/2015/1126/c14576-27857512.html>; Cyber Security Law of the People’s Republic of China (网络安全法), 2016, http://news.xinhuanet.com/politics/2016-11/07/c_1119867015.htm.

¹⁸⁹ In particular, Article 27 of the National Security Law includes provisions on restricting religious or other spiritual practice, such as by “punishing the exploitation of religion to conduct illegal and criminal activities,” “maintaining the normal order of religious activities,” and banning “illegal cult organizations.” National Security Law, 2016. http://news.xinhuanet.com/legal/2015-07/01/c_1115787801_3.htm.

¹⁹⁰ Legislative Affairs Office of the State Council, “Explanation Concerning ‘Draft Revision to Regulations on Religious Affairs (Submission for Review Draft),’” September 2016, <http://zqyj.chinalaw.gov.cn/draftExplain?DraftID=1269>.

¹⁹¹ Information Office of the State Council of the People’s Republic of China, National Human Rights Action Plan (2016-2020), September 29, 2016, http://news.xinhuanet.com/politics/2016-09/29/c_129305934_7.htm

¹⁹² Specifically, authorities responded by saying: “China’s Constitution provides for citizens’ freedom of religious belief. All civil servants in administrative entities are citizens of the People’s Republic of China, and enjoy the freedom of religious belief. The Chinese government does not interfere in their religious belief. Meanwhile, according to the Civil Servant Law of China, the government shall not take religious belief into consideration when recruiting, selecting, and appointing civil servants.” Report of the Working Group on the Universal Periodic Review, China, Addendum, Human Rights Council, A/HRC/25/5/Add.1, February 27, 2014, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/CNSession17.aspx>.

¹⁹³ *Radio Free Asia*, “Warning Over Religious Believers in Chinese Communist Party Ranks,” May 25, 2015, <http://www.rfa.org/english/news/china/china-religion-05252015112309.html>; Matt Sheehan, “China’s Communist Party Bans Believers, Doubles Down on Atheism,” *Huffington Post*, February 2, 2015, http://www.huffingtonpost.com/2015/02/02/china-communist-party-atheism-zhejiang-ban-religious-members-christianity_n_6599722.html.

¹⁹⁴ Article 4, Civil Servant Law of the People’s Republic of China, 2005, http://www.gov.cn/flfg/2005-06/21/content_8249.htm; A 2016 job announcement published by the Civil Service Bureau showed almost all government bodies, including the Public Security Bureau, Ministry of Justice, Supreme People’s Procuratorate, Ministry of Foreign Affairs, and Ministry of Finance, have positions that require CCP membership. “2016 National Civil Service Examination Job Forms Posted” (2016年国家公务员考试职位表已发布), October 13, 2015, <http://www.gjgwy.org/201510/223385.html>.

¹⁹⁵ Eleanor Albert, “Religion in China,” CRF Backgrounders (updated June 10, 2015), <http://www.cfr.org/china/religion-china/p16272>.

¹⁹⁶ Zhu Weiqun, “Principle of ‘Party Members Cannot Have Religious Faith’ Is Unshakeable,” *Global Times*, November 14, 2014, http://opinion.huanqiu.com/opinion_china/2014-11/5201895.html.

¹⁹⁷ Xinhua, “Do a Comprehensive Job on Retirement for Cadres” (中组部：全面做好离退休干部工作), February 4, 2016, http://news.xinhuanet.com/politics/2016-02/04/c_1117996328.htm.

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¹⁹⁹ CHRD and Coalition of NGOs, Information Submission to the UN Committee Against Torture for Consideration in List of Issues, February 2015, para. 17 (c), <http://www.chrdnet.com/2015/02/chrd-information-submission-to-the-un-committee-against-torture-for-the-review-of-the-fifth-periodic-report-of-china-february-2015/>.

²⁰⁰ Andrew Jacobs, “China: 2 Relatives of a Tibetan Monk Who Died in Prison Have Been Arrested,” *The New York Times*, July 18, 2015, <http://www.nytimes.com/2015/07/19/world/asia/china-2-relatives-of-a-tibetan-monk-who-died-in-prison-have-been-arrested.html>.

²⁰¹ “2015 Tibet Autonomous Region List of Outstanding Temple Management Committees and Cadres Stationed at Temples for Excellent Work Performance” (2015年度西藏自治区先进寺庙管理委员会和优秀驻寺干部宗教工作优秀干部名单), November 20, 2015, http://www.tibetculture.net/2012whzx/zx/201511/t20151120_3978948.html.

²⁰² In 2015, as many as 1,300 officials and 138 monastery committees have been listed in such commendation. Ibid.

²⁰³ Other measures included weekly political and legal education class for monastic staff, banning donation and loan, and a prohibition on religious leaders from providing schools or classes. TCHRD, “Document Exposes Intensification of State-sanctioned Religious Repression in Troubled Tibetan County,” November 9, 2015, <http://tchrd.org/document-exposes-intensification-of-state-sanctioned-religious-repression-in-troubled-tibetan-county/>.

²⁰⁴ Monks and nuns are monitored and kept at a fixed number at each monastery; under the new directive, authorities have forcibly evicted some, including nuns over 50 years old. Punitive measures include: financial punishments such as up to six-months pay for a committee member and withholding benefits for monastic staff or banning them from engaging in certain business activities; job termination for officials; closing-down of monastery; and detention of monks who refuse to comply with the directive. “Trampling Religious Freedom and Other Basic Human Rights in Diru County in Tibet” (西藏比如县践踏宗教信仰等基本人权), December 7, 2015, <https://box1.global.ssl.fastly.net/news/gb/pubvp/2015/12/201512070003.shtml>.

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²⁰⁶ Tibetans coming into Lhasa have to first report to a police station, where their identification cards will be taken away, only to be retrieved when they leave the city. In addition, Tibetans from other provinces have to stay at a hotel designated by police. CHRD interview with an ethnic Tibetan living in China, 2016.

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- ²¹² Ibid.
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- ²¹⁴ CHRD, *China Human Rights Briefing October 14-20, 2016*, <https://www.nchrd.org/2016/10/chrb-anti-corruption-activist-imprisoned-police-put-down-mass-environmental-protests-in-xian-1014-20-2016/>.
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- ²³² CHRD, Portrait of a Defender – Hu Shigen (胡石根), <https://www.nchrd.org/2016/01/hu-shigen-%E8%83%A1%E7%9F%B3%E6%A0%B9/>.
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- ²³⁴ *Global Times*, “China Publishes Official List of Cults In the Country, Extreme Cases Are Not Uncommon,” June 7, 2014, <http://world.huanqiu.com/exclusive/2014-06/5013985.html>.
- ²³⁵ Minghui, “2014 Persecution Statistics: 983 Falun Gong Practitioners Tried, 635 Sentenced,” January 15, 2015, <http://en.minghui.org/html/articles/2015/1/15/147980.html>.
- ²³⁶ Four human rights lawyers—Jiang Tianyong (江天勇), Tang Jitian (唐吉田), Wang Cheng (王成), and Zhang Junjie (张俊杰)—were seized, tortured, and administratively detained in Heilongjiang Province after trying to expose a “legal education center,” a black jail in Jiansanjiang City that was mostly holding Falun Gong practitioners. Other lawyers also faced harassment and other forms of mistreatment for taking on Falun Gong cases. See: CHRD, “End Violence Against Human Rights Lawyers,” (Accessed November 10, 2016), <https://www.nchrd.org/2015/10/end-violence-against-human-rights-lawyers/>; CHRD, “China Has Obligation to End Violence Against Lawyers,” April 3, 2014, <https://www.nchrd.org/2014/04/china-has-obligation-to-end-violence-against-lawyers/>.
- ²³⁷ Recommendation 186.117 (Germany and France) called on China to “Abolish Re-education through Labour, prevent torture, and immediately inform relatives about arrests and effective legal representation.” We consider this recommendation to be only *partially implemented* because China abolished the RTL system; however, China has not immediately informed relatives about arrests or provided effective legal representation.
- ²³⁸ UN General Assembly, “Note verbale dated 5 June 2013 from the Permanent Mission of China to the United Nations addressed to the President of the General Assembly,” A/68/90.
- ²³⁹ Law of the People’s Republic of China on Lawyers, 2007, http://www.npc.gov.cn/englishnpc/Law/2009-02/20/content_1471604.htm; Criminal Procedure Law of the People’s Republic of China (中华人民共和国刑事诉讼法), 1979, amended 2012, http://www.gov.cn/flfg/2012-03/17/content_2094354.htm; Administrative Measures for the Practice of Law by Lawyers (律师执业管理办法), 2008, amended 2016, http://www.gov.cn/gongbao/content/2016/content_5113014.htm; Administrative Measures for Law Firms (律师事务所管理办法), 2008, amended 2016, http://www.gov.cn/gongbao/content/2016/content_5109321.htm; Measures for the Annual Inspection and Evaluation of Law Firms (律师事务所年度检查考核办法), 2010, http://www.moj.gov.cn/lsgzgzzds/content/2010-04/09/content_3000046.htm?node=278.
- ²⁴⁰ Article 3 of the Lawyers’ Law states “The legal practice of lawyers according to law shall be protected by law. No unit or individual shall infringe the lawful rights and interests of lawyers.”

²⁴¹ See, Eva Pils, *China's Human Rights Lawyers: Advocacy and Resistance*, 2014, Routledge Press.

²⁴² For full analysis on the Administrative Measures on Law Firms, see: CHRD, China Human Rights Briefing September 21-October 3, 2016, <https://www.nchrd.org/2016/10/chrb-revised-measures-on-law-firms-further-curb-independence-of-chinese-lawyers-921-103-2016/>. The amended Measures on the Practice of Law by Lawyers include a new provision (Article 2) that demands: "As a basic requirement to practise, lawyers should endorse Communist Party leadership and socialist rule of law". Under Chapter 4 of the amended Measures, officials have inserted new clauses that would restrict lawyers' speech, association, assembly (Articles 37, 38, 39, 40).

²⁴³ The Measures have been heavily criticized, and over 400 lawyers have signed a petition to have them repealed. Lucy Hornby and Christian Shepherd, "Chinese lawyers make open protest over online advocacy curbs," *Financial Times*, October 11, 2016, <https://www.ft.com/content/92c9e24e-8f96-11e6-a72e-b428cb934b78>; Zhao Yusha, "Fresh petition urges withdrawal of new regulation on law firms," *Global Times*, October 12, 2016, <http://www.globaltimes.cn/content/1010814.shtml>;

²⁴⁴ Lawyers Dong Qianrong (董前勇) and Wang Yu (王宇) were expelled during a case in Beijing in April 2015, and lawyer Wang Quanzhang (王全璋) was thrown out of a courtroom in Shandong Province in June 2015. CHRD, End Violence Against Human Rights Lawyers, (accessed August 15, 2016), <https://chrdnet.com/2015/10/end-violence-against-human-rights-lawyers/>.

²⁴⁵ Committee Against Torture (CAT), Concluding observations on the fifth periodic report of China, CAT/C/CHN/CO/5, February 2016, para. 18.

²⁴⁶ Supreme People's Court, the Supreme People's Procuratorate, Ministry of Public Security, Ministry of State Security, and Ministry of Justice, "Provisions on Ensuring the Practice Rights of Lawyers in Accordance with Law" (关于依法保障律师执业权利的规定), September 21, 2015, http://www.spp.gov.cn/flfg/gfwj/201509/t20150921_104855.shtml.

²⁴⁷ There are new measures to stop violence, humiliation, threats and reprisals against lawyers (Article 3), but lawyers are not optimistic that they will be enforced. This is because the new system does not set up an independent or impartial body to investigate complaints. Instead, they are handled by the "organ that is handling the case or to its superior organ" or the people's procuratorate (Article 41 and 43). CHRD interview, 2016.

²⁴⁸ Rights Defense Network (RDN), "Four Lawyers Files Request with All China Lawyers Association to Protect Their Rights Over Infringement on Professional Rights of Lawyers" (四律师就多起侵害律师执业权事件赴全国律协要求维权), June 13, 2016, https://wqw2010.blogspot.de/2016/06/blog-post_74.html.

²⁴⁹ Under Article 8 of these provisions, if a criminal suspect or defendant terminates their representation, the detention center must provide a signed written document from the detainee. From January-March 2016, the lawyers of 11 detainees tied to the 709 crackdown were told by detention center staff that their clients had "fired" them. However, authorities did not provide any written documentation and continued to refuse lawyers' requests to visit their clients on the grounds that such meetings would harm "national security." In one case, the newly-appointed attorneys showed a document to the parents of detained paralegal Zhao Wei (赵威), but Zhao's mother said that, besides the signature, the handwriting in the letter—a document that she was not allowed to keep—did not closely resemble her daughter's. See, CHRD, *China Human Rights Briefings March 15 – 21, 2016*, <https://chrdnet.com/2016/03/chrb-forced-switch-to-police-appointed-lawyers-further-erodes-protections-for-detained-rights-defenders-315-321-2016/>.

²⁵⁰ Lawyer Zhou Shifeng was sentenced to seven years in prison. CHRD, "China: End Show Trials, Free Human Rights Lawyers & Other Defenders," August 8, 2016, <https://www.nchrd.org/2016/08/china-end-show-trials-free-human-rights-lawyers-other-defenders/>; European Union External Action Service, "Statement by the Spokesperson on the conviction of Chinese lawyers and other human rights defenders on charges of state subversion," August 5, 2016, http://eeas.europa.eu/statements-eeas/2016/160805_03_en.htm; US State Department, "Sentencing of Lawyers and Rights Activists in China," August 6, 2016, <https://www.state.gov/r/pa/prs/ps/2016/08/260913.htm>.

²⁵¹ CHRD, Individuals Affected by July 9 Crackdown on Rights Lawyers, (accessed November 20, 2016), <https://www.nchrd.org/2015/07/individuals-affected-by-july-10-crackdown-on-rights-lawyers/>.

²⁵² UN Office of the High Commissioner for Human Rights (OHCHR), "UN Human Rights Chief deeply concerned by China clampdown on lawyers and activists," February 16, 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17050&LangID=E>.

²⁵³ CAT, Concluding observations on the fifth periodic report of China, paras. 18-19, 61.

²⁵⁴ OHCHR, "Lawyers need to be protected not harassed" – UN experts urge China to halt detentions," July 16, 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16241&LangID=E>.

²⁵⁵ Two lawyers for Wang Quanzhang withdrew their representation following threats from police. Another lawyer was compelled by police to not take on Wang Yu as a client. CHRD interview, 2016.

²⁵⁶ Wang Qiushi (王秋实) was detained in January 2016 over his alleged involvement in a NGO that was run by Wang Quanzhang and a Swedish national. Ren Quanniu (任全牛) was detained after he raised allegations of sexual harassment of Zhao Wei, and he was missing until November 2016. CHRDR, “Politically Charged Arrests in China Escalate Persecution of Rights Lawyers,” January 14, 2016, <https://www.nchrd.org/2016/01/politically-charged-arrests-in-china-escalate-persecution-of-rights-lawyers/>; CHRDR, *China Human Rights Briefing July 1-13, 2016*, <https://www.nchrd.org/2016/07/chrb-chinas-persecution-of-online-speech-targets-lawyer-migrant-worker-new-un-ruling-on-arbitrary-detention-met-with-defiance-71-13-2016/>; CHRDR, *China Human Rights Briefing September 13-20, 2016*, <https://www.nchrd.org/2016/09/chrb-police-stamp-out-protests-in-wukan-village-new-developments-in-709-crackdown-cases-913-20-2016/>.

²⁵⁷ RDN, “Feng Zhenghu: Citizens’ Right to Leave the Country - 33 Lawyers And Others Restricted From Leaving the Country For Engaging in Rights Defence” (冯正虎：公民出境权——33名律师等人被限制出境及维权表现), February 5, 2016, <http://wqw2010.blogspot.hk/2016/02/33.html>.

²⁵⁸ Some of the punishments include: One wife of a detained lawyer has been banned from travel. Authorities placed the teenage son of two detained lawyers under unlawful de facto house arrest and confiscated his passport. The parents of a detained lawyer have been harassed by police in an attempt to force them to pressure their son to confess, which they refused to do. The son of a detained lawyer has been blocked from attending primary school. Police have placed a security camera outside the door of the home of a detained lawyer’s family. The family of a detained lawyer have been forcibly evicted. Police detained and placed under house arrest several wives of detained lawyers and activists in the first week of August when the first four trial hearings were held. See, Michael Forsythe, “Bao Zhuoxuan, Son of Rights Lawyer Held in China, Is Said to Be Under House Arrest,” *The New York Times*, October 12, 2015, <http://www.nytimes.com/2015/10/13/world/asia/china-bao-zhuoxuan-son-wang-yu-rights-lawyer-house-arrest.html>; RDN, “Wang Quanxiu (Wang Quanzhang’s Older Sister): Record of Events of These Past Two Day” (王全秀 (王全璋姐姐)：发生在这两天的事), April 29, 2016, http://wqw2010.blogspot.se/2016/04/blog-post_434.html; Mimi Lau, “Chinese police hold four wives of rights activists seized in ‘709 crackdown’,” *South China Morning Post*, July 30, 2016, <http://www.scmp.com/news/china/policies-politics/article/1996637/chinese-police-hold-four-wives-rights-activists-seized>; Human Rights Campaign in China, “709 Crackdown: ‘Subversion’ Trial of Zhai Yanmin: Home Searched, Wife’s Cellphone Seized and She is Put Under House Arrest” (“709大抓捕事件”翟岩民涉嫌颠覆国家政权案庭审 住处被抄抄 妻子手机被抢并遭软禁), August 2, 2016, http://www.hrcchina.org/2016/08/709_2.html; Civil Rights & Livelihood Watch, “Family of Lawyer Li Heping Forced to Move and One Day Later Again Chased Away” (李和平律师家属被迫搬家一天后再遭驱赶), August 19, 2016, <http://msguancha.com/a/lanmu4/2016/0819/14811.html>; RDN, “Chen Guiqiu (Lawyer Xie Yang’s wife) 709 Detainees Family Are Guilty by Association, Go on Holiday Yet No Freedom?” (陈桂秋 (谢阳律师妻子)：709案当事人家属被株连, 休假也没有自由?), August 25, 2016, https://wqw2010.blogspot.hk/2016/08/709_52.html; RDN, “709 Crackdown Notice: Guilt by Association Targets Preschooler – Wang Quanzhang’s son already enrolled in school but national security prevent him from attending” (709大抓捕通报：株连肆虐以至幼儿, 王全璋律师儿子入学报名已办妥手续被国保阻挠致无法入学), August 31, 2016, https://wqw2010.blogspot.hk/2016/08/709_31.html; RDN, “Yuan Shanshan: Situation of Lawyer Xie Yanyi’s Family” (原珊珊：谢燕益律师家庭近况), September 14, 2016, <https://wqw2010.blogspot.hk/2016/09/2016914.html>.

²⁵⁹ The full response from the Chinese government: “Based on the amended Criminal Procedure Law, Chinese public security organs have revised the Regulations on Procedures of Handling Criminal Cases for Public Security Organs, including revising the applicable conditions of bail, residential surveillance and arrest, and imposing a stricter requirement on the duration between arrest and custody.” “Report of the Working Group on the Universal Periodic Review: China. Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review,” A/HRC/25/5/Add.1. February 27, 2014.

²⁶⁰ Police have willfully disregarded rights enshrined in the Constitution, Criminal Procedure Law, Criminal Law, and Lawyers Law. CHRDR, *China Human Rights Briefing August 12-20, 2015*, <https://chrdnet.com/2015/08/chrb-what-happened-to-the-detained-lawyers-18-held-in-secret-several-accused-of-endangering-national-security-812-202015/>.

²⁶¹ A de facto form of incommunicado detention, the UN called on the Chinese government to repeal this provision “as a matter of urgency.” CAT, Concluding observations on the fifth periodic report of China, para. 15.

²⁶² Police initially cited provisions on national security to deny lawyers’ visits with their clients before claiming that at least 11 individuals had “fired” their family-appointed lawyers in 2016 and instead engaged government-approved lawyers. CHRDR, “Gallery: Chinese Police Deny Requests for Lawyer Visits With Detainees,” <https://chrdnet.com/2015/12/gallery-chinese-police-deny-requests-for-lawyer-visits-with-detainees/>; CHRDR, *China Human Rights Briefing March 15-21, 2016*; CHRDR, Individuals Affected by July 9 Crackdown on Rights Lawyers, (accessed November 11, 2016), <https://www.nchrd.org/2015/07/individuals-affected-by-july-10-crackdown-on-rights-lawyers/>. At the time of this report’s release, only two individuals in the crackdown have been granted access to a lawyer of their choice, Wang Fang (王芳) and Yin Xu’an (尹旭安), but neither are held in Tianjin Municipality where the majority of the cases are being tried. CHRDR, Portrait of a Defender – Wang Fang, <https://www.nchrd.org/2016/08/wang-fang/>; CHRDR, Portrait of a Defender – Yin Xu’an, <https://www.nchrd.org/2016/08/yin-xuan/>.

²⁶³ *Xinhua News Agency*, “Following Beijing Fengrui Law Firm Case: Law Firm Director Zhou Shifeng Confesses” (北京锋锐律所案追踪: 律所主任周世锋认罪忏悔), July 18, 2015, <http://politics.people.com.cn/n/2015/0719/c1001-27325554.html>.

²⁶⁴ As of November 20, 2016, they are: Gou Hongguo (沟洪国), Zhai Yanmin (翟岩民), Bao Longjun (包龙军), Gao Yue (高月), Li Shuyun (李姝云), Liu Yongping (刘永平), Lin Bin (林斌), Wang Yu (王宇), Zhao Wei (赵威), Huang Liqun (黄力群), Zhang Kai (张凯). CHRD, “Individuals Affected by July 9 Crackdown on Rights Lawyers,” (accessed November 20, 2016); Ng Yik-tung and Lee Lai, “Bailed’ Chinese Rights Lawyers Under Round-The-Clock Surveillance,” *Radio Free Asia*, September 21, 2016, <http://www.rfa.org/english/china-lawyers-09212016102201.html>.

²⁶⁵ *Xinhua News Agency*, “Ministry of Public Security Exposes Dark Secrets of ‘Rights Defense’” (公安部揭开“维权”事件黑幕), July 11, 2015, <http://politics.people.com.cn/n/2015/0712/c1001-27290030.html>; *Legal Daily*, “Explaining the ‘Rights Defense’ Ring in One Graphic” (一图读懂“维权”圈), July 13, 2015, http://www.legaldaily.com.cn/zt/content/2015-07/13/content_6168094.htm?node=73108; CHRD, “China: Halt Police Operations Targeting Human Rights Lawyers as ‘National Security’ Threat,” July 13, 2015, <https://www.nchrd.org/2015/07/china-halt-police-operations-targeting-human-rights-lawyers-as-national-security-threat/>.

²⁶⁶ At the time of this report’s release, the following eight individuals have not been granted access to a lawyer since being taken into custody between May–October 2015. Li Chunfu (李春富), Li Heping (李和平), Liu Sixin (刘四新), Tang Zhishun (唐志顺), Wang Quanzhang (王全璋), Wu Gan (吴淦), Xie Yanyi (谢燕益), and Xing Qingxian (幸清贤). CHRD, Individuals Affected by July 9 Crackdown on Rights Lawyers, (accessed November 20, 2016); CHRD, “Gallery: Chinese Police Deny Requests for Lawyer Visits With Detainees.”

²⁶⁷ Under Article 37 of the CPL, lawyers’ visits with clients held on suspicion of crimes endangering national security, terrorism, or involving significant amounts of bribes must first be approved by investigating organs. See also, CHRD, “Gallery: Chinese Police Deny Requests for Lawyer Visits With Detainees.”

²⁶⁸ The “Ministry of Public Security Provision on Procedures for Handling Criminal Cases” detail the procedures for investigating organs to approve or reject lawyers’ requests to visit clients held on suspicion of national security or terrorism. However, it goes on to give an expanded definition of crimes that “endanger national security” in Article 374: Crimes of “endangering national security” in this provision include those included in 102-112 of the Criminal Law as well as other crimes that endanger national security: terrorist activities, including generating terror in society, endangering public safety, or threatening state agencies or foreign organizations; use of violent, destructive, or threatening means to plot to kill or injure people, inflict serious harm, damage public infrastructure, create social chaos; and other serious crimes that harm social stability. “Ministry of Public Security Provision on Procedures for Handling Criminal Cases” (公安机关办理刑事案件程序规定), <http://www.mps.gov.cn/n2254314/n2254409/n2254443/n2254452/c3708286/content.html>; For example, police at Daye City Detention Center in Hubei Province denied lawyer Lin Qilei (蔺其磊)’s request to visit his client Yin Xu’an on April 6, 2016. Yin is held on suspicion “picking quarrels and provoking troubles.” RDN, “Hubei Human Rights Defender Yin Xu’an Case Notice –Lawyer Not Allowed Visit” (湖北人权捍卫者尹旭安案情通报——律师仍无法获见), April 7, 2016, http://wqw2010.blogspot.no/2016/04/blog-post_7.html; Officials from Zhengzhou No. 3 Detention Center in Henan Province denied lawyers’ visits for 10 weeks to eight activists and two lawyers held on suspicion of crimes of “illegal business activity” and “picking quarrels and provoking troubles.” CHRD, *China Human Rights Briefing July 4-10, 2014*, <https://www.nchrd.org/2014/07/chrb-curtailling-church-based-rights-activism-authorities-sentence-christian-pastor-to-12-years-in-prison-july-4-7-2014/>.

²⁶⁹ CHRD, End Violence Against Human Rights Lawyers, (accessed October 13, 2016), <https://chrdnet.com/2015/10/end-violence-against-human-rights-lawyers/>.

²⁷⁰ CHRD and Coalition of NGOs, “Information Submission to the UN Committee Against Torture for Consideration in List of Issues,” February 9, 2015, para 6 (c), <https://chrdnet.com/2015/02/chrd-information-submission-to-the-un-committee-against-torture-for-the-review-of-the-fifth-periodic-report-of-china-february-2015/>; CHRD, *China Human Rights Briefing January 28-February 3, 2016*, <https://chrdnet.com/2016/02/chrb-government-reprisals-assault-imprisonment-torture-cancellation-of-a-lawyers-license-128-242016/>.

²⁷¹ RDN, “121 Mainland Lawyers: Repeal Ministry of Justice ‘Method of Law Firms Annual Review Examination’ Application” (121名大陆律师: 撤销司法部《律师事务所年度检查考核办法》的申请书), February 28, 2015, <http://wqw2010.blogspot.se/2015/02/121.html>.

²⁷² RDN, “38 Chinese Lawyers Issue Joint Statement About Not Participating in Illegal Annual Assessment and Examination, Jointly Boycott Illegal Annual Assessment and Examination (中国38名律师联署不参加违法年度检查考核声明, 共同抵制违法的年度检查考核), April 18, 2016, <http://wqw2010.blogspot.com/2016/04/38.html>.

²⁷³ For example, lawyer Pu Zhiqiang (浦志强) spent 19 months in detention over comments he made on social media, before being convicted of two crimes and given a suspended sentence in December 2015. Authorities used the social media comments to

find a way to silence an outspoken lawyer. Judicial authorities then revoked his law license in April 2016. CHRD, Portrait of a Defender – Pu Zhiqiang (浦志强), <https://chrdnet.com/2014/06/prisoner-of-conscience-pu-zhiqiang/>.

²⁷⁴ They are: lawyers Chang Boyang (常伯阳), Ji Laisong (姬来松), Xia Lin (夏霖) and Yu Wensheng (余文生). Chang and Ji had represented individuals detained for commemorating the 25th anniversary of June 4th and the clients of Xia Lin and Yu Wensheng were taken into custody for supporting Occupy Hong Kong. CHRD, *China Human Rights Briefing June 28-July 3, 2014*, <http://chrdnet.com/2013/06/chrb-detention-of-a-dozen-activists-in-shanghai-following-their-call-on-xi-jinping-to-respect-human-rights-june-28-june-29-2014/>; CHRD, Individuals Detained in Mainland China for Supporting Hong Kong Pro-Democracy Protests, (Accessed October 27, 2016), <http://www.chrdnet.com/2014/10/individuals-detained-in-mainland-china-for-supporting-hong-kong-pro-democracy-protests/>.

²⁷⁵ CHRD, “China: Overturn Unjust Verdict & Release Lawyer Xia Lin,” September 22, 2016, <https://www.nchrd.org/2016/09/china-overturn-unjust-verdict-release-lawyer-xia-lin/>.

²⁷⁶ CHRD, *China Human Rights Briefing January 1-7, 2016*, <https://chrdnet.com/2016/01/chrb-torture-of-chinese-human-rights-lawyer-emblematic-of-persistent-pattern-of-official-reprisal-abuse-11-7-2016/>; CHRD, Portrait of a Defender – Shu Xiangxin (舒向新), <https://chrdnet.com/2016/01/shu-xiangxin-%E8%88%92%E5%90%91%E6%96%B0/>.

²⁷⁷ UN General Assembly Third Committee, “Recognizing the role of human rights defenders and the need for their protection,” A/C.3/70/L.46/Rev.1, November 18, 2015, http://www.un.org/ga/search/view_doc.asp?symbol=A/C.3/70/L.46/Rev.1.

²⁷⁸ CHRD, “Silencing the Messenger: 2014 Annual Report on the Situation of Human Rights Defenders,” p. 3, <https://www.nchrd.org/wp-content/uploads/2015/03/Silencing-the-Messenger-CHRD-2014-Annual-Report-on-the-Situation-of-Human-Rights-Defenders-in-China2.pdf>.

²⁷⁹ CHRD, Individuals Detained in Mainland China for Supporting Hong Kong Pro-Democracy Protests, (Accessed November 11, 2016), <https://www.nchrd.org/2014/10/individuals-detained-in-mainland-china-for-supporting-hong-kong-pro-democracy-protests/>; CHRD, Individuals Detained in Crackdown on Peaceful Assembly, Association & Expression, (Accessed November 11, 2016), <https://www.nchrd.org/2013/07/individuals-detained-in-crackdown-on-assembly-and-association/>; CHRD, Information on Suppression Related to June Fourth, 2007-2016, <https://www.nchrd.org/category/june-fourth/>.

²⁸⁰ CHRD, Deprivation of Liberty and Torture/Other Mistreatment of Human Rights Defenders in China (partial data), (Accessed November 11, 2016), <https://www.nchrd.org/2016/03/deprivation-of-liberty-and-tortureother-mistreatment-of-human-rights-defenders-in-china-partial-data-updated-6302013/>.

²⁸¹ Charity Law of the People’s Republic of China, (中华人民共和国慈善法), 2016, http://www.npc.gov.cn/npc/dbdhh/12_4/2016-03/21/content_1985714.htm.

²⁸² People’s Republic of China Overseas NGOs’ Domestic Activities Management Law, (中华人民共和国境外非政府组织境内活动管理法), 2016, http://news.xinhuanet.com/legal/2016-04/29/c_1118765888.htm.

²⁸³ CHRD, *China Human Rights Briefing March 21-31, 2016*, <https://chrdnet.com/2016/03/chrb-new-charity-law-will-further-isolate-weaken-civil-society-in-china-march-21-312016/>; CHRD, “China: Repeal Overseas NGO Law & Protect Freedom of Association,” April 28, 2016, <https://chrdnet.com/2016/04/china-repeal-overseas-ngo-law-protect-freedom-of-association/>.

²⁸⁴ CHRD, “China: Drop Draft Criminal Law Amendments & Protect Human Rights,” August 5, 2015, <https://www.nchrd.org/2015/08/china-drop-draft-criminal-law-amendments-protect-human-rights/>; Ninth Amendment to the Criminal Law of the People’s Republic of China (中华人民共和国刑法修正案（九）), November 2015, <http://npc.people.com.cn/n/2015/1126/c14576-27857512.html>.

²⁸⁵ Articles 81(6), Anti-terrorism Law of the People’s Republic of China (反恐主义法), December 2015, http://news.xinhuanet.com/politics/2015-12/27/c_128571798.htm.

²⁸⁶ National Security Law of the People’s Republic of China (中华人民共和国国家安全法), July 2015, http://news.xinhuanet.com/politics/2015-07/01/c_1115787801.htm.

²⁸⁷ See CHRD 2013, 2014, and 2015 Annual Reports. CHRD, “A Nightmarish Year Under Xi Jinping’s “Chinese Dream”: 2013 Annual Report on the Situation of Human Rights Defenders in China,” <https://www.nchrd.org/2014/03/a-nightmarish-year-under-xi-jinpings-chinese-dream-2013-annual-report-on-the-situation-of-human-rights-defenders-in-china/>; CHRD, ““Silencing the Messenger: 2014 Annual Report on the Situation of Human Rights Defenders in China,” <https://www.nchrd.org/2015/03/silencing-the-messenger-2014-annual-report-on-the-situation-of-human-rights-defenders-in-china/>; CHRD, ““Too Risky to Call Ourselves Defenders”: CHRD 2015 Annual Report on the Situation of Human Rights Defenders in China,” <https://www.nchrd.org/2016/02/too-risky-to-call-ourselves-defenders-chrds-2015-annual-report-on-the-situation-of-human-rights-defenders-in-china/>.

²⁸⁸ At the time of this report’s release, Su had still not received a verdict in her case. Her health has seriously deteriorated due to hygiene conditions and lack of appropriate medical treatment in the detention center. She has been hospitalized multiple times

but authorities have repeatedly denied her lawyer's applications for bail on medical grounds. CHRD, Portrait of a Defender – Su Changlan (苏昌兰), <https://www.nchrd.org/2015/05/prisoner-of-conscience-su-changlan/>.

²⁸⁹ The women are: Li Tingting (李婷婷), Wang Man (王曼), Wei Tingting (韦婷婷), Wu Rongrong (武嵘嵘), and Zheng Churan (郑楚然). CHRD, Portrait of a Defender – Li Tingting, <https://chrdnet.com/2015/05/prisoner-of-conscience-li-maizi/>; CHRD, Portrait of a Defender – Wu Rongrong, <https://chrdnet.com/2015/05/prisoner-of-conscience-wu-rongrong/>; CHRD, *China Human Rights Briefing, March 6-12, 2015*, <https://chrdnet.com/2015/03/chrb-5-womens-lgbt-rights-activists-detained-in-escalating-clampdown-on-ngos-36-1215/>.

²⁹⁰ The women were held in custody for 37 days before being released on bail. Some were physically and psychologically mistreated in custody, and all remained criminal suspects until a year later. CHRD, *China Human Rights Briefing March 13-19, 2015*, <https://www.nchrd.org/2015/03/chrb-concerns-over-health-of-detained-woman-activist-anniversary-of-cao-shunli-death-313-192015/>; Didi Kirsten Tatlow, "Police Remove Bail Conditions on 5 Chinese Feminists Detained Last Year," *The New York Times*, April 13, 2016, <http://www.nytimes.com/2016/04/14/world/asia/china-feminist-five-beijing.html>.

²⁹¹ CHRD, End Violence Against Human Rights Lawyers, (accessed November 11, 2016), <https://chrdnet.com/2015/10/end-violence-against-human-rights-lawyers/>; CHRD, Joint Civil Society Report Submitted to UN Committee Against Torture, October 2015, paras. 22-24, <https://chrdnet.com/2015/11/joint-civil-society-report-submitted-to-un-committee-against-torture-october-2015>.

²⁹² In the most violent incidents, attackers have wielded weapons, including knives and batons. Common types of mistreatment of rights lawyers included: torture, shackling during arbitrary detention, punching, kicking, choking, scratching, ripping off of clothes, and verbal abuse and threats. Ibid.

²⁹³ Ibid.

²⁹⁴ Committee Against Torture (CAT), Concluding observations on the fifth periodic report of China, CAT/C/CHN/CO/5, February 2016, para. 19.

²⁹⁵ UN Human Rights Council, "Report of the Working Group on the Universal Periodic Review, China, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review," A/HRC/25/5/Add.1, 2014.

²⁹⁶ Ibid.

²⁹⁷ For more on China's unsuitability for a seat on the HRC, see: CHRD, "UN Member States: Vote "No" and End China's Membership on UN Human Rights Council," October 25, 2016, <https://www.nchrd.org/2016/10/un-member-states-vote-no-and-end-chinas-membership-on-un-human-rights-council/>.

²⁹⁸ CHRD, "Cao Shunli (曹顺利) & Her Legacy," April 21, 2014, <https://www.nchrd.org/2014/04/prisoner-of-conscience-cao-shunli/>.

²⁹⁹ CHRD, "The Chinese Government Must End Reprisals Against Activists Demanding Participation in UPR," July 4, 2013, <https://www.nchrd.org/2013/07/the-chinese-government-must-end-reprisals-against-activists-demanding-participation-in-upr/>.

³⁰⁰ CHRD, "Cao Shunli (曹顺利) & Her Legacy," April 21, 2014.

³⁰¹ CHRD, "Silencing the Messenger: 2014 Annual Report on the Situation of Human Rights Defenders in China," p. 25.

³⁰² CHRD, "Activist Chen Jianfang Disappeared, Police Raided Residence – Chinese Authorities Intensify Reprisals Ahead of UN Human Rights Council Election," November 5, 2013, <https://www.nchrd.org/2013/11/activist-chen-jianfang-disappeared-police-raided-residence-chinese-authorities-intensify-reprisals-ahead-of-un-human-rights-council-election/>.

³⁰³ CHRD, *China Human Rights Briefing October 31-November 6, 2014*, <https://www.nchrd.org/2014/11/chrb-womens-rights-defenders-face-reprisals-over-un-review-1031-1162014/>.

³⁰⁴ Ibid.

³⁰⁵ CHRD, "Silencing the Messenger: 2014 Annual Report on the Situation of Human Rights Defenders in China," p. 25.

³⁰⁶ Deng Chuanbin (邓传彬), "Activist Interrogated and Prevented from Attending Human Rights Training in Geneva," *China Change*, June 11, 2015, <https://chinachange.org/2015/06/11/activist-interrogated-and-prevented-from-attending-human-rights-training-in-geneva/>.

³⁰⁷ CHRD interview, 2015.

³⁰⁸ CHRD interview, 2016.

³⁰⁹ CHRD, "China Must Stop Excluding Civil Society From UN Human Rights Review," October 7, 2013, <https://www.nchrd.org/2013/10/china-must-stop-excluding-civil-society-from-un-human-rights-review/>.

³¹⁰ CHRD, *China Human Rights Briefing October 22-29, 2015*, <https://www.nchrd.org/2015/10/chinese-government-refuses-to-disclose-data-on-torture-for-un-review-citizens-face-reprisals-for-seeking-information-1022-29-2015/>.

³¹¹ CHRD, Gallery: Chinese Government's Denial of "Open Information" on Torture Cases, December 24, 2015, <https://www.nchrd.org/2015/12/gallery-chinese-governments-denial-of-open-information-on-torture-cases/>.

³¹² CHRD interview with the activist, 2016.

³¹³ CHRD, Submission to UN on Reprisals Against HRDs – March 6, 2012, <https://www.nchrd.org/2012/03/submission-to-un-on-reprisals-against-hrds-march-6-2012/>.

³¹⁴ CAT, Concluding observations on the fifth periodic report of China, paras. 38-39.

³¹⁵ *Ibid*, para. 24.

³¹⁶ Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of China, CEDAW/C/CHN/CO/7-8, November 2014, paras. 32-33.

³¹⁷ Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General, A/HRC/30/29, August 2015. Annex, para 1.

³¹⁸ Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General, A/HRC/27/38, August 2014. para. 17.

³¹⁹ UN Human Rights Council, Report of the Working Group on the issue of discrimination against women in law and in practice, A/HRC/26/39/Add.2, June 2014, para. 67.